

منهاج الوصول إلى استخراج أحكام الشريعة من القرآن ومن صحيح سنن الرسول

Deriving Legal Rulings

Kāmil Muḥammad Muḥammad ʿĀmir · The Electric Collective for Rigorous Islamic Science

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Editorial preface

This edition translates the entire recovered ten-post witness. It contains the introduction to the series, the author's introduction, general introductions, "Facts to Establish Before the Investigation", the requirements governing the procedure, its general and particular provisions, all thirteen surviving appendices, and the complete concluding collection of numbered reports. The last two forum posts form one continuous report collection. Nothing is omitted merely because it repeats an earlier quotation. This completeness statement concerns the recovered witness, not every instalment announced in the wider series.

Kamil Muhammed Muhammed Amir proposes an explicit, consistently applicable procedure by which jurists should derive rulings from revelation. He presents that procedure as a contract between the jurist and those who ask him for a ruling. His opening sections explain why he believes that the Prophetic explanation must provide a way to resolve disagreement, and why later Muslims are not excluded from understanding transmitted evidence more accurately than an earlier recipient. These are the author's claims, retained in his own voice.

Source and dates

The source is the author's ten-post Fiqhweb thread, published on 5 February 2019. The complete recovered Arabic witness and raw HTML are preserved with checksums. His preface bears both 20 Jumada al-Ula 1440 and 20 January 2019; the supplied dates are retained without silent correction. An earlier Djelfa witness is indexed with a first-edition date of 1436 AH / 2015, but its full text could not be retrieved for collation. It has not been used to fill or rewrite this witness. Nor have the subjects announced in the opening programme been invented as missing chapters.

Translation and presentation

Translated directly from Arabic by **GPT 6.1 sol (Codex)**, without a Bedrock or other external translation-service call. This is an unreviewed draft. Complete Arabic paragraphs accompany the English; marginal source IDs identify the working records. The original numbering and quoted references are retained. The author's report collections remain where he placed them. Added Qur'an.com and Sunnah.com references and translator's notes appear as labelled footnotes. Forum reply headers, empty formatting records and alignment and heading markup are omitted; decorative dividers become rules and section titles receive book typography. The original Arabic witnesses and working-source maps remain available for verification. Progress is recorded against the entire recovered source. The earlier opening-sections draft is superseded by this complete-witness edition.

The project commissioner's confirmed permission basis is preserved in `source/permissions.json`. No separate author-issued licence is inferred.

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MODERN ZAHIRI VOICES — TRANSLATION DRAFT

مقدمة السلسلة

Introduction to the Series

Kāmil Muḥammad Muḥammad ʿĀmir · Arabic–English parallel edition

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[Introduction to the Series][1]

In the name of Allah, the Most Merciful, the Ever Merciful.

Praise be to Allah, who says in His Book: ‘Those who conceal the clear proofs and guidance We have sent down, after We have made them plain to people in the Book—Allah curses them, and those who curse curse them’ [Al-Baqarah 2:159]. He, exalted is He, also says: ‘Those who conceal what Allah has sent down of the Book and sell it for a paltry price consume nothing in their bellies but fire. Allah will neither speak to them on the Day of Resurrection nor purify them, and theirs is a painful punishment’ [Al-Baqarah 2:174]. The Prophet ﷺ said: ‘When Allah intends good for someone, He gives him understanding of the religion.’ (1)[2]

I bear witness that there is no god but Allah alone, without partner, and I bear witness that Muhammed is His servant and Messenger.

To proceed:

This is neither a series on the foundations of jurisprudence nor a book on particular legal rulings. Rather, it consists of procedures for deriving rulings from the Qur’an and the authentic Sunnah of the Messenger ﷺ. Through it I have sought the explanation of the Messenger ﷺ which our Lord has promised us, saying: ‘We have sent down the Reminder to you so that you may explain to people what has been sent down to them’ [An-Nahl 16:44]. He, exalted is He, also says: ‘We have sent down the Book to you only so that you may explain to them that over which they differ, and as guidance and mercy for people who believe’ [An-Nahl 16:64].[3]

He ﷺ explained to us, with the utmost clarity, how to escape disagreement, and left us upon the clear, white way, whose night is like its day. (2)

[مقدمة السلسلة]

بسم الله الرحمن الرحيم

الحمدُ لله الذى قال فى كتابه: {إِنَّ الَّذِينَ يَكْتُمُونَ مَا أَنْزَلْنَا مِنَ الْبَيِّنَاتِ وَالْهُدَى مِنْ بَعْدِ مَا بَيَّنَّاهُ لِلنَّاسِ فِي الْكِتَابِ أُولَئِكَ يَلْعَنُهُمُ اللَّهُ وَيَلْعَنُهُمُ اللَّاعِنُونَ } [البقرة: 159] وقال سبحانه وتعالى: {إِنَّ الَّذِينَ يَكْتُمُونَ مَا أَنْزَلَ اللَّهُ مِنَ الْكِتَابِ وَيَشْتَرُونَ بِهِ ثَمَنًا قَلِيلًا أُولَئِكَ مَا يَأْكُلُونَ فِي بُطُونِهِمْ إِلَّا النَّارَ وَلَا يُكَلِّمُهُمُ اللَّهُ يَوْمَ الْقِيَامَةِ وَلَا يُزَكِّيهِمْ وَلَهُمْ عَذَابٌ أَلِيمٌ } [البقرة: 174] وقال عليه السلام: مَنْ يُرِدْ اللَّهُ بِهِ خَيْرًا يُفَقِّهْهُ فِي الدِّينِ(1)

وَأَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ، وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ.

أما بعد:

فهذه ليست سلسلة فى أصول الفقه، وليست كتاباً فى فروع الفقه، ولكنها برامج فى كيفية استخراج الأحكام من القرآن ومن صحيح سنة الرسول عليه السلام، أردتُ بها البحث عن بيان الرسول عليه السلام؛ والذى وعدنا ربنا به إذ يقول: {وَأَنْزَلْنَا إِلَيْكَ الذِّكْرَ لِتُبَيِّنَ لِلنَّاسِ مَا نُزِّلَ إِلَيْهِمْ}[النحل: 44] ويقول تعالى: {وَمَا أَنْزَلْنَا عَلَيْكَ الْكِتَابَ إِلَّا لِتُبَيِّنَ لَهُمُ الَّذِي اخْتَلَفُوا فِيهِ وَهُدًى وَرَحْمَةً لِقَوْمٍ يُؤْمِنُونَ } [النحل: 64]

فقد بين لنا عليه السلام كيفية التخلص من الإختلاف بأوضح بيان، وتركنا عَلَى الْبَيْضَاءِ لَيْلُهَا كَنَهَارِهَا(2)

[1] **Translator’s note (L0):** Source: Kamil Muhammed Muhammed Amir, Fiqhweb, post-25180. Forum publication: 5 February 2019. Original source and attribution are documented in the editorial preface.

[2] **Qur’an references (L2):** Qur’an 2:159 (Al-Baqarah); Qur’an 2:174 (Al-Baqarah).

L7 I have divided this series into several instalments, prefacing them with a number of introductions and essays.

L8 To make each instalment a self-contained unit, I would repeat certain provisions in more than one instalment whenever necessary.

L9 I have placed the basic procedure for deriving rulings in the final instalment, because it is connected with all the preceding instalments, introductions and provisions.

L10 **Introductions**

L11 **Introduction to the Series**

L12 **Author's Introduction**

L13 **General Introduction**

L14 **Before the Procedures**

L15 **Linguistic Investigations**

L16 **Methods of Scientific Inquiry**

L17 **May the Inductive Method Be Used to Derive Rulings from the Qur'an and Authentic Sunnah?**

L18 **Do We Rely upon Arab Modes of Expression to Understand the Texts?**

L19 **The Procedures**

L20 **Facts to Establish Before the Procedure**

L21 **Requirements Which the Provisions of the Procedure Must**

هذا، وقد قسمتُ تلك السلسلة إلى عدة حلقات، وقدمتُ لها بعدة مقدمات، وعدة مقالات.

وحتى تكون كل حلقة وحدة مستقلة؛ فكنتُ أكرر بعض البنود فى أكثر من حلقة إذا استدعى الأمر ذلك.

وقد جعلتُ البرنامج الأساسى لاستخراج الأحكام فى الحلقة الأخيرة من السلسلة لارتباطه بجميع الحلقات والمقدمات والبنود السابقة.

المقـــــــــــــدمات

مقدمة السلسلة

مقدمة المؤلف

مقدمة عامـــــة

ما قبـــــــــــل البرامج

مباحث لغوية

مناهج البحث العلمي

هل يجوز استخدام المنهج الاستقرائي فى استخراج الأحكام من القرآن وصحيح السنة؟

هل نستند إلى أساليب العرب فى فهم النصوص؟

البرامـــــــــــــج

حقائق بين يدي البرنامج

الشروط الواجب توافرها فى بنود البرنامج

[3] **Qur'an references (L5):** Qur'an 16:44 (An-Nahl); Qur'an 16:64 (An-Nahl).

Satisfy

L22 **How to Read the Texts**

L23 **The Obligation to Follow the Apparent Wording without Reinterpretation or Substitution**

L24 **Instalments of the Series**

L25 **General and Particular Wording in the Messenger's Explanation ﷺ**

L26 **A Sound Account of Unqualified and Qualified Wording**

L27 **The Messenger's Explanation ﷺ of How to Recognise the Abrogating and the Abrogated**

L28 **An Investigation of Commands and Prohibitions**

L29 **A Clear Account of the Actions of the Best of Messengers**

L30 **The Companions' Evidences for Deriving Rulings**

L31 **Training the Student to Resolve Apparent Conflicts**

L32 **The Procedure for Deriving Rulings**

L33 ---

L34 **Hadith Reports**

L35 (1) Ibn Shihab reported: Humayd ibn Abd al-Rahman said that he heard Muawiya delivering a sermon and saying: 'I heard the Prophet ﷺ say: "When Allah intends good for someone, He gives him understanding of the religion. I am only a distributor; Allah is the giver. This community will remain steadfast upon Allah's command, unharmed by those who oppose them, until Allah's command comes."' [Al-Bukhari, Book of Knowledge,

كيفية قرأءة النصوص

وجوب الأخذ بظاهر اللفظ دون تأويل أو تبديل

حلقـات السـلسـلة

العموم والخصوص فى بيان الرسول عليه السلام.

القول السديد فى الإطلاق والتقييد

بيان الرسول عليه السلام فى معرفة الناسخ من المنسوخ

بحث فى الْأَوَامِرُ وَالنَّوَاهِي

القول المبين فى أفعال خير المرسلين

أدلة الأصحاب لاستخراج الأحكام

تدريب الطالب لحل إشكال ما يظن به التعارض

برنامج استخراج الأحكام

الأحاديث

(1) " عَنْ ابْنِ شِهَابٍ قَالَ قَالَ حُمَيْدُ بْنُ عَبْدِ الرَّحْمَنِ سَمِعْتُ مُعَاوِيَةَ خَطِيبًا يَقُولُ سَمِعْتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ مَنْ يُرِدْ اللَّهُ بِهِ خَيْرًا يُفَقِّهْهُ فِي الدِّينِ وَإِنَّمَا أَنَا

chapter: When Allah intends good for someone, He gives him understanding of the religion.][4]

قَاسِمٌ وَاللَّهُ يُعْطِي وَلَنْ تَزَالَ هَذِهِ الْأُمَّةُ قَائِمَةً عَلَى أَمْرِ اللَّهِ لَا يَضُرُّهُمْ مَنْ خَالَفَهُمْ حَتَّى يَأْتِيَ أَمْرُ اللَّهِ" [البخاري: كِتَاب الْعِلْمِ، بَاب مَنْ يُرِدْ اللَّهُ بِهِ خَيْرًا يُفَقِّهْهُ فِي الدِّينِ]

L36 (2) Abd al-Rahman ibn Amr al-Sulami reported that he heard al-Irbad ibn Sariya say: 'The Messenger of Allah ﷺ admonished us with an admonition which brought tears to our eyes and made our hearts tremble. We said: "Messenger of Allah, this is surely a farewell admonition. What do you enjoin upon us?" He said: "I have left you upon the clear, white way, whose night is like its day. None deviates from it after me but one who is doomed. Those of you who live will see much disagreement. Adhere, then, to what you know of my Sunnah and the sunnah of the rightly guided, rightly directed caliphs. Cling to it with your molar teeth. You must obey, even if it be an Abyssinian slave; the believer is like a camel led by the nose: wherever it is led, it follows."' [Sunan Ibn Majah, Book of the Introduction, chapter: Following the sunnah of the rightly guided caliphs.][5]

(2)"عَنْ عَبْدِ الرَّحْمَنِ بْنِ عَمْرٍو السُّلَمِيِّ أَنَّهُ سَمِعَ الْعِرْبَاضَ بْنَ سَارِيَةَ يَقُولُ وَعَظَنَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَوْعِظَةً ذَرَفَتْ مِنْهَا الْعُيُونُ وَوَجِلَتْ مِنْهَا الْقُلُوبُ فَقُلْنَا يَا رَسُولَ اللَّهِ إِنَّ هَذِهِ لَمَوْعِظَةُ مُوَدِّعٍ فَمَاذَا تَعْهَدُ إِلَيْنَا قَالَ قَدْ تَرَكْتُكُمْ عَلَى الْبَيْضَاءِ لَيْلُهَا كَنَهَارِهَا لَا يَزِيغُ عَنْهَا بَعْدِي إِلَّا هَالِكٌ مَنْ يَعِشْ مِنْكُمْ فَسَيَرَى اخْتِلَافًا كَثِيرًا فَعَلَيْكُمْ بِمَا عَرَفْتُمْ مِنْ سُنَّتِي وَسُنَّةِ الْخُلَفَاءِ الرَّاشِدِينَ الْمَهْدِيِّينَ عَضُّوا عَلَيْهَا بِالنَّوَاجِذِ وَعَلَيْكُمْ بِالطَّاعَةِ وَإِنْ عَبْدًا حَبَشِيًّا فَإِنَّمَا الْمُؤْمِنُ كَالْجَمَلِ الْأَنِفِ حَيْثُمَا قِيدَ انْقَادَ"[سنن ابن ماجه: كِتَاب الْمُقَدِّمَةِ، بَاب اتِّبَاعِ سُنَّةِ الْخُلَفَاءِ الرَّاشِدِينَ الْمَهْدِيِّينَ]

[4] **Hadith references (L35):** Sahih al-Bukhari 71; Mishkat al-Masabih 200.
[5] **Hadith references (L36):** Sunan Ibn Majah 43.



MODERN ZAHIRI VOICES — TRANSLATION DRAFT

مقدمة المؤلف

Author’s Introduction

Kāmil Muḥammad Muḥammad ʿĀmir · Arabic–English parallel edition

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[مقدمة المؤلف]

بسم الله الرحمن الرحيم

الحمد لله وكفى، وصلاة وسلامًا على عباده الذين اصطفى، ثم أما بعد:

لقد وقفتُ كثيراً عند قوله تعالى: {فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ} ، وقرأتُ قول ربى سبحانه وتعالى: {وَمَا أَنْزَلْنَا عَلَيْكَ الْكِتَابَ إِلَّا لِتُبَيِّنَ لَهُمُ الَّذِي اخْتَلَفُوا فِيهِ }؛ فتيقنتُ أن بيان الرسول عليه السلام موجود لمن طلبة؛ ليبين لنا الذى اختلفنا فيه؛ فهل يمكننا البحث عن هذا البيان؛ لنعلم القولَ الحقَ فيما اختلف فيه العلماء ؟

قلتُ فى نفسى: هذا مطلبٌ بعيد المنال فى هذا العصر؛ وتأكد ذلك عندى عندما قال لى قائل: نحن لم نُرزق من العقل والفهم ما يمكننا من فهم آيات القرآن وأحاديث الرسول عليه السلام.....!!

ولكن تذكرتُ قول رسولنا عليه السلام "..... فَلْيُبَلِّغْ الشَّاهِدُ الْغَائِبَ فَرُبَّ مُبَلَّغٍ أَوْعَى مِنْ سَامِعٍ...." [البخاري :كِتَاب الْحَجِّ؛بَاب الْخُطْبَةِ أَيَّامَ مِنًى]

وقوله عليه السلام: "نَضَّرَ اللَّهُ امْرَأً سَمِعَ مِنَّا حَدِيثًا فَحَفِظَهُ حَتَّى يُبَلِّغَهُ فَرُبَّ حَامِلِ فِقْهٍ إِلَى مَنْ هُوَ أَفْقَهُ مِنْهُ وَرُبَّ حَامِلِ فِقْهٍ لَيْسَ بِفَقِيهٍ"[سنن أبي داود: كِتَاب الْعِلْمِ؛ بَاب فَضْلِ نَشْرِ الْعِلْمِ][صحيح وضعيف سنن أبي داود (8/ 160) تحقيق الألباني : صحيح ابن ماجة (230)]

[Author's Introduction][1]

In the name of Allah, the Most Merciful, the Ever Merciful.

Praise be to Allah—and sufficient is He. Blessings and peace upon His servants whom He has chosen. To proceed:

I have often paused over His words, exalted is He: 'If you dispute over anything, refer it to Allah and the Messenger.' I have read the words of my Lord, glorified and exalted is He: 'We have sent down the Book to you only so that you may explain to them that over which they differ.' I therefore became certain that the explanation of the Messenger ﷺ exists for whoever seeks it, to make plain that over which we differ. Can we, then, search for this explanation, so that we may know the true position concerning the matters over which the scholars have disagreed?[2]

I said to myself: this is a goal beyond reach in our age. This impression was strengthened when someone told me: 'We have not been endowed with the intellect and understanding that would enable us to understand the verses of the Qur'an and the hadiths of the Messenger ﷺ!'

But I remembered the words of our Messenger ﷺ: '…Let those who are present convey it to those who are absent. Someone to whom it is conveyed may understand it better than someone who heard it…' [Al-Bukhari, Book of Hajj, chapter: The sermon during the days of Mina.]

And his words ﷺ: 'May Allah make radiant a person who hears a hadith from us and preserves it until he conveys it. Someone who carries understanding may convey it to one who understands better than he does, and someone who carries understanding may not himself possess understanding.' [Sunan Abi Dawud, Book of Knowledge, chapter: The merit of spreading

[1] **Translator's note (L37):** Source: Kamil Muhammed Muhammed Amir, Fiqhweb, post-248215. Forum publication: 5 February 2019. Original source and attribution are documented in the editorial preface.

[2] **Qur'an references (L40):** Qur'an 4:59 (An-Nisa); Qur'an 16:64 (An-Nahl).

knowledge; Sahih wa-Daif Sunan Abi Dawud, 8:160, al-Albani's assessment: Sahih Ibn Majah, no. 230.]

L44 And his words ﷺ: 'At the beginning of every hundred years Allah sends to this community someone who renews its religion for it.' [Sunan Abi Dawud, Book of Battles, chapter: What is related concerning the turn of the century; Sahih wa-Daif Sunan Abi Dawud, 9:291, al-Albani's assessment: authentic.] My hope of seeking the Messenger's explanation ﷺ returned. For many long years I turned the pages of books of hadith and legal theory, and sat in the lecture halls of the Faculty of Sharia at al-Azhar University and of the Higher Institute of Islamic Studies in Zamalek, Cairo, listening to a scholar or questioning a teacher!

L45 Yes, I knew that the matter was not easy. Yet my Lord, majestic and exalted is He, has promised: 'Those who strive for Us—We shall surely guide them to Our ways.' He has said: 'Compete, then, in good deeds. To Allah you will all return, and He will inform you concerning that over which you differed.' The promise of my Lord, glorified is He, made me set to work in earnest to seek this explanation.[3]

L46 I remembered the words of my Lord, mighty and majestic is He: 'Do they not reflect upon the Qur'an, or are there locks upon their hearts?' And His words: 'Allah burdens no soul beyond its capacity. To its credit is what it has earned, and against it is what it has earned. Our Lord…' And His words: 'Allah burdens no soul beyond what He has given it.' I said to the person who had spoken to me: if understanding the rulings of the Qur'an were beyond our capacity, our Lord, glorified is He, would not have commanded us to reflect upon it. If understanding the Prophet's words ﷺ were beyond our capacity, our Lord would neither have commanded him to explain nor commanded us to obey him. Is it reasonable that our minds should be too narrow to comprehend what Allah has obliged us to reflect upon and accept,

[3] **Qur'an references (L45):** Qur'an 29:69 (Al-'Ankabut); Qur'an 5:48 (Al-Ma'idah).

وقوله عليه السلام: "إِنَّ اللَّهَ يَبْعَثُ لِهَذِهِ الْأُمَّةِ عَلَى رَأْسِ كُلِّ مِائَةِ سَنَةٍ مَنْ يُجَدِّدُ لَهَا دِينَهَا" [سنن أبي داود: كِتَاب الْمَلَاحِمِ، بَاب مَا يُذْكَرُ فِي قَرْنِ الْمِائَةِ][صحيح وضعيف سنن أبي داود (9/ 291): تحقيق الألباني: صحيح] فعاد إلى الأمل فى البحث عن بيان الرسول عليه السلام، فجلستُ سنوات طوال، أُقلب فى صفحات كتب الأحاديث، وكتب الأصول، وأجلس فى مدرجات كلية الشريعة بجامعة الأزهر ومدرجات المعهد العالى للدراسات الإسلامية بالزمالك بالقاهرة، أستمع إلى عالم أو أُسَائِل أستاذاً.....!

نعم، علمتُ أن الأمر ليس يسيراً ولكن وعد ربى جل وعلا بقوله تعالى: {وَالَّذِينَ جَاهَدُوا فِينَا لَنَهْدِيَنَّهُمْ سُبُلَنَا} وقوله تعالى: {فَاسْتَبِقُوا الْخَيْرَاتِ إِلَى اللَّهِ مَرْجِعُكُمْ جَمِيعًا فَيُنَبِّئُكُمْ بِمَا كُنْتُمْ فِيهِ تَخْتَلِفُونَ} أقول إن وعد ربى سبحانه جعلنى أُشَمِّر عن ساعد الجد للبحث عن هذا البيان.

وتذكرتُ قول ربى عزَّ وجلَّ: {أَفَلَا يَتَدَبَّرُونَ الْقُرْآنَ أَمْ عَلَى قُلُوبٍ أَقْفَالُهَا} وقوله سبحانه: {لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا وُسْعَهَا لَهَا مَا كَسَبَتْ وَعَلَيْهَا مَا اكْتَسَبَتْ رَبَّنَا } وقوله سبحانه {لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَا آتَاهَا}، فقلتُ لقائلى: لولا أن في وسعنا الفهم لأحكام القرآن، ما أمرنا ربى سبحان بتدبره، ولولا أن في وسعنا الفهم لأقوال النبي عليه السلام، ما أمره ربى بالبيان، ولا أمرنا بطاعته، فهل يعقل أن تضيق عقولنا عن فهم ما افترض الله تعالى علينا تدبره والأخذ به، وتتسع عقولنا لفهم مختصرات المذاهب، وما ضمن لنا الله سبحانه وتعالى العون على فهم تلك المختصرات، كما ضمن لنا فهم كلامه أنه سبحانه لا يكلفنا إلا وسعنا.

yet broad enough to comprehend the abridged manuals of the schools? Allah, glorified and exalted is He, has not guaranteed us help in understanding those manuals as He has guaranteed our understanding of His words, for He burdens us only within our capacity.[4]

L47 Allah, mighty and majestic is He, commands us to do nothing without providing the means of reaching it, making them easy and explaining them: 'We have certainly made the Qur'an easy for remembrance; is there anyone who will take heed?'[5]

L48 Knowledge of the rulings of the verses and hadiths which we have been commanded to accept is clear to whoever seeks it. As for the authors of abridgements and concise manuals—may Allah, glorified and exalted is He, have mercy upon them—whom we have not been commanded to follow, there is no way to assert with certainty that understanding them lies within our capacity.

L49 If we search the Sunnahs of the Messenger ﷺ, we shall find the method Allah has promised us, in His words: 'So that you may explain to them that over which they differ,' and: 'If you dispute over anything, refer it to Allah and the Messenger.' It is inconceivable that we should refer a disagreement to Allah and the Messenger only to disagree once more![6]

L50 Suppose we had been there, beyond the walls of Medina or outside the Meccan sanctuary, and the Companions had obeyed the Messenger ﷺ and conveyed all the hadiths to us. What, I ask, would we have done?

L51 Let us live those days. Let us gather the verses and the Sunnahs of the Messenger ﷺ and follow his explanation of how we are to read and understand the texts, so that we do not disagree!

L52 Let every student of knowledge formulate a method for drawing rulings

[4]**Qur'an references (L46):** Qur'an 47:24 (Muhammad); Qur'an 2:286 (Al-Baqarah); Qur'an 65:7 (At-Talaq).

[5]**Qur'an references (L47):** Qur'an 54:17 (Al-Qamar); Qur'an 54:22 (Al-Qamar); Qur'an 54:32 (Al-Qamar); Qur'an 54:40 (Al-Qamar).

[6]**Qur'an references (L49):** Qur'an 16:64 (An-Nahl); Qur'an 4:59 (An-Nisa).

إن الله عزوجل لا يأمرنا بشئ إلا وقد سبب لنا طرق الوصول إليه وسهلها وبينها، {وَلَقَدْ يَسَّرْنَا الْقُرْآنَ لِلذِّكْرِ فَهَلْ مِنْ مُدَّكِرٍ}

إن معرفة أحكام الآيات والأحاديث التي أمرنا بقبولها بَيِّنَة لمن طلبها؛ وأما ما لم نؤمر باتباعه من أصحاب المختصرات والمتون ـ رحمهم الله سبحانه وتعالى ـ فلا سبيل إلى القطع بأن فهمه ممكن لنا.

إننا إن بحثنا فى سنن الرسول عليه السلام؛ فسنجد المنهاج الذى وعدنا الله به؛ لقوله تعالى: {لِتُبَيِّنَ لَهُمُ الَّذِي اخْتَلَفُوا فِيهِ} وقوله تعالى : {فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ} فلا يعقل أن نرد الخلاف لله والرسول ثم نختلف مرة أخرى !

ترى لو كنا هنالك خلف أسوار المدينة، أو خارج الحرم المكى؛ وقد استجاب الصحابة للرسول عليه السلام؛ وبلَّغُوا إلَيْنَا جميع الأحاديث؛ أقول: تُرى ماذا كنا فاعلين؟

فلنعِش تلك الأيام، ونجمع الآيات وسنن الرسول عليه السلام، ونتبع بيان الرسول صلى الله عليه وسلم لنا فى قراءة وفهم النصوص حتى لا نختلف!!

وليضع كل طالب علم منهاجاً لاستقاء الأحكام من تلك النصوص؛ مستلهماً هدى الرسول عليه السلام، وبحيث تكون بنود هذا المنهاج مطردة وصادقة ولا تتخلف أبداً مهما كان المستخدم لها !!!

from these texts, taking inspiration from the guidance of the Messenger ﷺ. Its provisions must be consistently applicable and true, never failing, whoever uses them!

This is what I have wished to advocate and to pursue. I have pledged to myself, and pledge to everyone whom my Lord enables to read this, that I shall cite only an unambiguous verse or an authentic hadith, together with the explanation given by our Messenger ﷺ.

My Lord!

O Allah, this is my effort, and I have intended only good. O Allah, if I have been right, it is through Your mercy and favour; if I have erred, You are Forgiving and Merciful.

Cairo

20 Jumada al-Ula 1440[7]

20 January 2019

هذا ما أردتُ الدعوة إليه، والسعى إلى السير فيه، وقد عاهدتُ نفسى، وأعاهد من يُقَدِّرُ له ربى بالإطلاع عليه:أن لا أستشهدُ إلا بآية محكمة، أو حديثٌ صحيح، وبالبيان الذى بينه رسولنا عليه السلام.

ربى

اللهم إن هذا جهدى، وما أردتُ إلا الخير .... اللهم إن أصبتُ فبرحمتك وفضلك .... وإن أخطأتُ فإنك غفورٌ رحيم.

القاهرة

20 الأولى جمادى 1440

20 يناير 2019

[7] **Translator's note (L57):** The Hijri and Gregorian dates are printed on separate lines in the source. Their pairing is retained as supplied, without silently converting one into the other.



MODERN ZAHIRI VOICES — TRANSLATION DRAFT

مقدمات عامـــــــــــة

General Introductions

Kāmil Muḥammad Muḥammad ʿĀmir · Arabic–English parallel edition

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[General Introductions][1]

In the name of Allah, the Most Merciful, the Ever Merciful.

Praise be to Allah, who has favoured us by preserving the Reminder, saying: ‘It is We who have sent down the Reminder, and We shall surely preserve it’ [Al-Hijr 15:9]. Praise be to Allah, who says in His Book: ‘We have certainly made the Qur’an easy for remembrance; is there anyone who will take heed?’ [Al-Qamar 54:17]. I bear witness that there is no god but Allah alone, without partner, and that Muhammed is His servant and Messenger. Our Lord, majestic and exalted is He, sent him to explain to people what Allah has sent down to us, saying: ‘We have sent down the Reminder to you so that you may explain to people what has been sent down to them’ [An-Nahl 16:44].[2]

He, exalted is He, also says: ‘We have sent down the Book to you only so that you may explain to them that over which they differ, and as guidance and mercy for people who believe’ [An-Nahl 16:64].[3]

May Allah grant him blessings, peace and benediction, and his family, his Companions and whoever follows his guidance until the Day of Judgement.

To proceed:

Allah, glorified and exalted is He, says: ‘Why should a group from every company of them not go forth to gain understanding of the religion and warn their people when they return to them, so that they may beware?’ [At-Tawbah 9:122]. (Appendix 1)[4]

The Messenger of Allah ﷺ encouraged us to gain understanding of the religion and seek knowledge, saying: ‘When Allah intends good for someone,

[1] **Translator’s note (L59):** Source: Kamil Muhammed Muhammed Amir, Fiqhweb, post-248216. Forum publication: 5 February 2019. Original source and attribution are documented in the editorial preface.

[2] **Qur’an references (L61):** Qur’an 15:9 (Al-Hijr); Qur’an 54:17 (Al-Qamar); Qur’an 54:22 (Al-Qamar); Qur’an 54:32 (Al-Qamar); Qur’an 54:40 (Al-Qamar); Qur’an 16:44 (An-Nahl).

[3] **Qur’an references (L62):** Qur’an 16:64 (An-Nahl).

[4] **Qur’an references (L65):** Qur’an 9:122 (At-Tawbah).

[مقدمات عامـــــــــــة]

بسم الله الرحمن الرحيم

الحمد لله الذى أنعم علينا بحفظ الذكر فقال تعالى: {إِنَّا نَحْنُ نَزَّلْنَا الذِّكْرَ وَإِنَّا لَهُ لَحَافِظُونَ } [الحجر: 9] والْحَمْدُ لِلَّهِ الَّذِي قال فى كتابه: {وَلَقَدْ يَسَّرْنَا الْقُرْآنَ لِلذِّكْرِ فَهَلْ مِنْ مُدَّكِرٍ} [القمر: 17] وَأَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ، وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ، أرسله ربنا جلَّ وعلا ليبين للناس ما أنزله الله إلينا فقال تعالى:{وَأَنْزَلْنَا إِلَيْكَ الذِّكْرَ لِتُبَيِّنَ لِلنَّاسِ مَا نُزِّلَ إِلَيْهِمْ}[النحل: 44]

وقال تعالى: {وَمَا أَنْزَلْنَا عَلَيْكَ الْكِتَابَ إِلَّا لِتُبَيِّنَ لَهُمُ الَّذِي اخْتَلَفُوا فِيهِ وَهُدًى وَرَحْمَةً لِقَوْمٍ يُؤْمِنُونَ } [النحل: 64]

وصلى وسلّم وبارك عليه وعلى آله وصحبه ومن اهتدى بهداه إلى يوم الدين .

أما بعد

يقول الله سبحانه وتعالى: {فَلَوْلَا نَفَرَ مِنْ كُلِّ فِرْقَةٍ مِنْهُمْ طَائِفَةٌ لِيَتَفَقَّهُوا فِي الدِّينِ وَلِيُنْذِرُوا قَوْمَهُمْ إِذَا رَجَعُوا إِلَيْهِمْ لَعَلَّهُمْ يَحْذَرُونَ} [التوبة: 122] (ملحق 1)

وندبنا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ على التفقه فى الدين وطلب العلم فقال عليه السلام: “مَنْ يُرِدْ اللَّهُ بِهِ خَيْرًا يُفَقِّهْهُ فِي الدِّينِ”(1) وقال عليه السلام: “وَمَنْ سَلَكَ طَرِيقًا يَلْتَمِسُ فِيهِ عِلْمًا سَهَّلَ اللَّهُ لَهُ بِهِ طَرِيقًا إِلَى الْجَنَّةِ”(2)

He gives him understanding of the religion.' (1) He also said: 'Whoever follows a path seeking knowledge, Allah thereby makes a path to Paradise easy for him.' (2)[5]

L67 Our Messenger ﷺ commanded the Companions to convey from him, and commanded his community to listen to the Companions and convey from them. He said: 'You hear; you will be heard; and those who hear from you will be heard.' (3) The Companions—may Allah be pleased with them—and the community obeyed the Messenger's command ﷺ. Those who were present conveyed to those who were absent, until all the sayings of the Messenger ﷺ reached us.

L68 **Section**

L69 He ﷺ told us that, in any age, someone to whom a report is conveyed may understand and comprehend it better than its first hearer. The Messenger of Allah ﷺ said: '…Let those who are present convey it to those who are absent. Someone to whom it is conveyed may understand it better than someone who heard it…' (4)

L70 He ﷺ also said: 'May Allah make radiant a person who hears a hadith from us and preserves it until he conveys it. Someone who carries understanding may convey it to one who understands better than he does, and someone who carries understanding may not himself possess understanding.' (5) O Allah, grant blessings and benediction to him, his family, his Companions and whoever follows his guidance until the Day of Judgement.

L71 **Section**

L72 Someone to whom a report is conveyed may understand it better than someone who heard it. A Muslim at the end of time may understand the text better than its first transmitter. He ﷺ said: 'A transmitter may convey it to someone who understands it better,' and: 'Someone who carries understanding may convey it to one who understands better than he does.' Yes, a Companion may convey to another Companion who understands the text better than the first transmitter; a Companion may convey to a Successor who un-

[5] **Hadith references (L66):** Riyad as-Salihin 1381.

ولقد أمر رسولُنا عليه السلام الصحابةَ بالتبليغ عنه، وأَمَرَ أُمَّتَه بالإستماع إلى الصحابة، والتبليغ عنهم، فقال عليه السلام: "تَسْمَعُونَ وَيُسْمَعُ مِنْكُمْ وَيُسْمَعُ مِمَّنْ سَمِعَ مِنْكُمْ"(3) وقد التزم الصحابة رضوان الله عليهم والْتَزَمَتْ الأمةُ بأمر الرسول عليه السلام؛ فمن شهد بلَّغ من غاب حتى وصلت إلينا جميع أقوال الرسول عليه السلام.

فصـــــل

أخبرنا عليه السلام بأن المُبَلَّغ فى أى زمان قد يكون أفقه وأوعى من المستمع الأول؛ فقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "..... فَلْيُبَلِّـغْ الشَّاهِدُ الْغَائِبَ فَرُبَّ مُبَلَّغٍ أَوْعَى مِنْ سَامِعٍ...."(4)

وقال عليه السلام: "نَضَّرَ اللَّهُ امْرَأً سَمِعَ مِنَّا حَدِيثًا فَحَفِظَهُ حَتَّى يُبَلِّغَهُ فَرُبَّ حَامِلِ فِقْهٍ إِلَى مَنْ هُوَ أَفْقَهُ مِنْهُ وَرُبَّ حَامِلِ فِقْهٍ لَيْسَ بِفَقِيهٍ"(5)؛ فصلِ اللهم وبارك عليه وعلى آله وصحبه ومن تبِع هداه إلى يوم الدين.

فصـــــــــــل

رُبَّ مُبَلَّغٍ أَوْعَى مِنْ سَامِعٍ؛ فرُبَّ مسلم فى آخر الزمان يكون أوعى للنص من المُبَلِّـغ الأول؛ فقال عليه السلام: رُبَّ مُبَلَّـغٍ يُبَلِّغُهُ لِمَنْ هُوَ أَوْعَى لَهُ و رُبَّ حَامِلِ فِقْهٍ إِلَى مَنْ هُوَ أَفْقَهُ مِنْهُ؛ نعم، رُبَّ صحابى يُبَلِّـغ صحابى آخر يكون أوعى للنص من المُبَلِّـغ الأول؛ و رُبَّ صحابى يُبَلِّـغ تابعى فيكون هذا التابعى أوعى للنص من الصحابى؛

derstands the text better than that Companion; and a Muslim at the end of time may understand the text better than its first transmitter. This is what the Messenger ﷺ told his Companions—may Allah be pleased with them: 'Someone who carries understanding may convey it to one who understands better than he does.'

He ﷺ told us that my Lord, glorified is He, sends from among these recipients someone who renews the community's religion for it. The hadith states: 'At the beginning of every hundred years Allah sends to this community someone who renews its religion for it.' (6)

Section

The texts of the Qur'an and authentic Sunnah suffice for the matters before us and whatever new events arise. All the verses concerning rulings, together with the enormous body of authentic hadiths, undoubtedly suffice for the matters before us and whatever new events arise, through Allah's promise to us: 'We have neglected nothing in the Book' [Al-Anam 6:38].[6]

The matter, then, is straightforward. He, glorified and exalted is He, says: 'Say: Obey Allah and the Messenger. If they turn away, Allah does not love the disbelievers' [Al Imran 3:32].[7]

He, exalted is He, says: 'He has explained to you in detail what He has forbidden you' [Al-Anam 6:119].[8]

He, glorified and exalted is He, says: 'Whatever the Messenger gives you, take it; and whatever he forbids you, refrain from it' [Al-Hashr 59:7].[9]

He ﷺ said: '…When I forbid you something, avoid it; and when I command you to do something, do as much of it as you can.' (7)

و رُبَّ مسلم فى آخر الزمان يكون أوعى للنص من المُبَلِّـغ الأول ..... هكذا قال الرسول عليه السلام لصحابته عليهم رضوان الله رُبَّ حَامِلِ فِقْهٍ إِلَى مَنْ هُوَ أَفْقَهُ مِنْهُ.

وأخبر عليه السلام أن ربى سبحانه يبعث من هؤلاء المُبَلَّغين من يجدد للأمة أمر دينها ففى الحديث "إِنَّ اللَّهَ يَبْعَثُ لِهَذِهِ الْأُمَّةِ عَلَى رَأْسِ كُلِّ مِائَةِ سَنَةٍ مَنْ يُجَدِّدُ لَهَا دِينَهَا"(6)

فصـــــــــــــــل

نصوص القرآن وصحيح السنة تكفى ما بيننا وما يَجدُّ من أحداث، فجميع آيات الأحكام، مع الرصيد الهائل من الأحاديث الصحيحة، لا شك أنها تكفى ما بيننا، وما يَجِدُّ من أحداث بوعد الله سبحانه لنا: {مَا فَرَّطْنَا فِي الْكِتَابِ مِنْ شَيْءٍ} [الأنعام: 38]

الأمر إذاً يسير، يقول سبحانه وتعالى: {قُلْ أَطِيعُوا اللَّهَ وَالرَّسُولَ فَإِنْ تَوَلَّوْا فَإِنَّ اللَّهَ لَا يُحِبُّ الْكَافِرِينَ} [آل عمران: 32]

ويقول تعالى: {وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ} [الأنعام: 119]

ويقول سبحانه وتعالى: {وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا} [الحشر: 7]

ويقول عليه السلام "..... فَإِذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَاجْتَنِبُوهُ وَإِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ"(7)

[6] **Qur'an references (L75):** Qur'an 6:38 (Al-An'am).
[7] **Qur'an references (L76):** Qur'an 3:32 (Ali 'Imran).
[8] **Qur'an references (L77):** Qur'an 6:119 (Al-An'am).
[9] **Qur'an references (L78):** Qur'an 59:7 (Al-Hashr).

L80 Thus, the matters before us and whatever new matters arise cannot fall outside the following:

L81 A command from Allah and His Messenger, of which we perform as much as we can.

L82 A prohibition which Allah, glorified and exalted is He, has explained in detail, from which we must refrain.

L83 A matter Allah has left unproscribed for us, which we may do or leave undone, by the explicit wording of His statement: ‘He is the One who created for you everything upon the earth’ [Al-Baqarah 2:29].[10]

L84 A Muslim must therefore know the commands Allah has given him and perform as much of them as he can, in accordance with the Prophet’s words ﷺ: ‘…When I command you to do something, do as much of it as you can.’ (7) A Muslim must refrain from what has been expressly forbidden to him. Our Lord, majestic and exalted is He, has promised to explain forbidden things to us in detail, without ambiguity, saying: ‘He has explained to you in detail what He has forbidden you’ [Al-Anam 6:119]. The Prophet ﷺ said: ‘…When I forbid you something, avoid it.’ (7)[11]

L85 Everything apart from commands and what has been expressly forbidden to us is left unproscribed and permissible, in accordance with His words: ‘He is the One who created for you everything upon the earth’ [Al-Baqarah 2:29], and the words attributed to the Prophet ﷺ in the report which Abu al-Darda relates from him: ‘What Allah has made lawful in His Book is lawful; what He has forbidden is forbidden; and what He has said nothing about is left unproscribed. Accept, then, the latitude Allah has granted you: “Your Lord is never forgetful.”’ (8)[12]

L86 **Section**

L87 **We Must Refer Disputes to Allah and the Messenger**

[10] **Qur’an references (L83):** Qur’an 2:29 (Al-Baqarah).
[11] **Qur’an references (L84):** Qur’an 6:119 (Al-An’am).
[12] **Qur’an references (L85):** Qur’an 2:29 (Al-Baqarah); Qur’an 19:64 (Maryam).

فجميع ما بيننا وما يُسْتَجَدُّ لن يخرجَ عن:

أمر من الله ورسوله نفعل منه ما استطعنا.

نهى فَصَلَهُ الله سبحانه وتعالى علينا الانتهاء عنه.

عفوٌ من الله لنا مباح فعله وتركه بنص قوله تعالى: {هُوَ الَّذِي خَلَقَ لَكُمْ مَا فِي الْأَرْضِ جَمِيعًا} [البقرة: 29]

فيجب على المسلم أن يعرف الأوامر التي أمره الله بها ويفعل منها ما يستطيع لقوله عليه السلام: "....وَإِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ"(7) ويجب على المسلم أن ينتهي عمَّا فُصِّلَ له تحريمه فقد وعدنا ربنا جلَّ وعلا بأن يُفَصِّل لنا المحرمات تفصيلاً لا لبس فيه؛ فقال تعالى: {وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ} [الأنعام : 119] وقال عليه السلام:"...فَإِذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَاجْتَنِبُوهُ"(7)

وما عدا الأوامر وما فُصِّلَ لنا تحريمه فهو عفو مباح؛ لقوله تعالى: {هُوَ الَّذِي خَلَقَ لَكُمْ مَا فِي الْأَرْضِ جَمِيعًا} [البقرة : 29] ولقوله عليه السلام فيما يرويه أبو الدرداء ويرفعه: " ما أحل الله في كتابه فهو حلال و ما حرم فهو حرام و ما سكت عنه فهو عفو ، فاقبلوا من الله عافيته {وَمَا كَانَ رَبُّكَ نَسِيًّا}"(8)

فصـــــــــــــل

يجب علينا ردّ النزاع إِلَى اللَّهِ وَالرَّسُولِ

قال تعالى: {يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا } [النساء: 59] فلنبدأ بطاعة الله سبحانه وطاعة الرسول عليه السلام وأولى الأمر.

فإن اختلفنا ....إن اختلف أبوبكر رضى الله عنه والفاروق عمر رضى الله عنه فيسبى أبو بكر نساء المرتدين ويردهن عمر(9) ؛ وإن اختلف علىّ وعثمان رضى الله عنهما فى المتعة فى الحج(10) ؛ إن اختلف الإمام مالك والشافعى رحمهما الله فى زكاة الغنم(11).

أقول إن نختلف فالرد يجب أن يكون لله والرسول؛ فَلْنَرُدّ الإختلاف كما أمرنا الله سبحانه وتعالى.

لاشك أن الصحابة رضى الله عنهم لم يعرفوا كل الأحاديث، وكان كل صحابى يضع لنفسه منهاجاً يسير عليه فى استخراج أو استنباط الأحكام فى حياة الرسول عليه السلام، وبعد موته عليه السلام.

فصـــــــــل

لا بد أن يكون هناك طريقة واضحة بيَّنها الرسولُ عليه السلام تُجنبنا الإختلاف

يقول تعالى:{وَأَنْزَلْنَا إِلَيْكَ الذِّكْرَ لِتُبَيِّنَ لِلنَّاسِ مَا نُزِّلَ إِلَيْهِمْ} [النحل: 44]

L88 He, exalted is He, says: ‘You who believe, obey Allah and obey the Messenger and those in authority among you. If you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day. That is better, and best in outcome’ [An-Nisa 4:59]. Let us begin, then, by obeying Allah, glorified is He, the Messenger ﷺ and those in authority.[13]

L89 If we disagree—if Abu Bakr and al-Faruq Umar, may Allah be pleased with them, disagree, so that Abu Bakr takes the apostates’ women captive and Umar returns them (9); if Ali and Uthman, may Allah be pleased with them, disagree over combining umra with hajj (10); if Imam Malik and al-Shafii, may Allah have mercy upon them, disagree over zakat on sheep (11)—[14]

L90 I say: if we disagree, referral must be to Allah and the Messenger. Let us refer the disagreement as Allah, glorified and exalted is He, has commanded us.

L91 There is no doubt that the Companions, may Allah be pleased with them, did not know every hadith. Each Companion would lay down for himself a method to follow in deriving or inferring rulings, during the lifetime of the Messenger ﷺ and after his death.

L92 ## Section

L93 ## There Must Be a Clear Method Explained by the Messenger ﷺ Which Spares Us Disagreement

L94 He, exalted is He, says: ‘We have sent down the Reminder to you so that you may explain to people what has been sent down to them’ [An-Nahl 16:44].[15]

[13] **Qur’an references (L88):** Qur’an 4:59 (An-Nisa).

[14] **Translator’s note (L89):** The author’s reference (9), reproduced in the reports below, concerns the sale of slave women who had borne their masters’ children. It does not itself recount the preceding claim about captives from the apostasy wars. Both the claim and its supplied reference are retained.

L95 He, exalted is He, says: ‘We have sent down the Book to you only so that you may explain to them that over which they differ’ [An-Nahl 16:64].[16]

L96 There must, then, be a method, procedure or clear course explained by the Messenger ﷺ which spares us disagreement: ‘That over which they differ.’[17]

L97 The problem—or, rather, the issue—has now become a serious search for these procedures in the texts of the Book and authentic Sunnah, so that we do not disagree!

L98 It is recognised practice in scientific research, in every field, for a student’s dissertation or research project to be preceded by a protocol drawn up before the research begins. This protocol is a contract between the student and the committee supervising and examining the research.

L99 There must therefore be a protocol, or contract, between us and the jurist, which he undertakes to follow when deriving rulings and fatwas. He is thereby protected against deviation, and we against his favouring a relative or friend. What procedure, then, should we now follow in order to derive rulings without disagreeing, drawing upon the guidance of the Messenger ﷺ in this? For he left us ‘upon the clear, white way, whose night is like its day.’ (12)

L100 The series The Paths to Derivation is simply a proposed method or protocol to serve as a contract between the public and the jurists.

L101 The intended aim of this series is to arrive at the true method which the Messenger ﷺ explained to us, enabling us to derive practical legal rulings from the Qur’an and authentic Sunnah by a course which spares us disagreement.

L102 Allah knows the purpose behind this undertaking, and He, glorified and exalted is He, guides to the straight path.

[15] **Qur’an references (L94):** Qur’an 16:44 (An-Nahl).
[16] **Qur’an references (L95):** Qur’an 16:64 (An-Nahl).
[17] **Qur’an references (L96):** Qur’an 16:64 (An-Nahl).

وقال تعالى: {وَمَا أَنْزَلْنَا عَلَيْكَ الْكِتَابَ إِلَّا لِتُبَيِّنَ لَهُمُ الَّذِي اخْتَلَفُوا فِيهِ } [النحل: 64]

إذن لا بد أن يكون هناك منهج أو برنامج أو طريقة واضحة بيَّنها الرسولُ عليه السلام تُجنبنا الإختلاف { الَّذِي اخْتَلَفُوا فِيهِ }

المشكلة أو قل القضية الآن أصبحت فى البحث بِجِد عن هذه البرامج فى نصوص الكتاب وصحيح السنة؛ حتى لا نختلف!

إنه من المتعارف عليه فى الأبحاث العلمية فى كافة المجالات أن يكون هناك بروتوكول بين يدى الرسالة أو البحث الذى يقدمه الطالب قبل البدء فى بحثه؛ إن هذا البرتوكول هو عقد بين الطالب ولجنة متابعة البحث ومناقشته.

فيجب أن يكون هناك بروتوكول أو عقد بيننا وبين الفقيه، يلتزم به الفقيه فى استخراج الأحكام والفتاوى فيأمن الزيغ، ونأمن نحن مجاملة الفقيه لقريب أو صديق. فما هو البرنامج الذى نتبعه الآن حتى نستخرج الأحكام دون أن نختلف، مستعينين بهدى الرسول عليه السلام فى ذلك؛ فلقد تركنا عَلَى الْبَيْضَاءِ لَيْلُهَا كَنَهَارِهَا“(12)

إن سلسلة مناهج الوصول ما هى إلا منهاج أو بروتوكول مقترح ليكون عقداً بين الجمهور وبين الفقهاء.

إن الغاية المتوخاة من هذه السلسلة التوصل إلى المنهاج الصادق الذى بينه لنا الرسول عليه السلام؛ والذى يمكننا من استخراج الأحكام الشرعية العملية من القرآن وصحيح السنة؛ بطريقة تجنبنا الإختلاف.

هذا والله من وراء القصد وهو سبحانه وتعالى الهادى لسواء السبيل.

Appendices

Appendix 1

Entry 1328 in Mujam al-Furuq al-Lughawiyya by Abu Hilal al-Hasan al-Askari, who died around 395 AH, states: ‘The distinction between taifa and jamaa: a taifa originally means a group whose characteristic is travelling about the lands on a journey… In the Sharia, taifa may designate one person. Allah, mighty and majestic is He, says: “If two taifas of the believers fight, reconcile them” [Al-Hujurat 49:9]. There is no disagreement that when two people fight, this ruling applies to them. Concerning His words, mighty and majestic is He, “Let a taifa of the believers witness their punishment” [An-Nur 24:2], it is reported that one person was intended. He said that accepting one person is permissible, as indicated by His words: “The believers should not all go forth. Why should a taifa from every company of them not go forth to gain understanding of the religion and warn their people when they return to them, so that they may beware?” [At-Tawbah 9:122]—that is, so that they should beware. He thus made acting upon the report of a taifa obligatory, although a taifa may be one person.’ End of quotation.[18]

Allah, glorified and exalted is He, has obliged every community gathered in a village or town to send forth a group to gain understanding of the religion. Going forth is an obligation upon the whole community until some undertake it, whereupon it falls away from the rest.

The Companions, may Allah be pleased with them, did this. Abu Qilaba reported: ‘Malik related to us: We came to the Prophet ﷺ as young men of much the same age, and stayed with him for twenty days and nights. The Messenger of Allah ﷺ was merciful and gentle. When he thought that we longed—or yearned—for our families, he asked whom we had left behind, and we told him. He said: “Return to your families, stay among them, teach them and instruct them.” He mentioned things which I remember—or do not

[18] **Qur’an references (L106):** Qur’an 49:9 (Al-Hujurat); Qur’an 24:2 (An-Nur); Qur’an 9:122 (At-Tawbah).

الملاحق

(ملحق 1)

قال فى معجم الفروق اللغوية لأبى هلال الحسن العسكري (المتوفى: نحو 395ه)
1328: الفرق بين الطائفة والجماعة: أن الطائفة في الاصل الجماعة التي من شأنها الطوف في البلاد للسفر ..... و الطائفة في الشريعة قد تكون إسما لواحد قال الله عزوجل: { وَإِنْ طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْلِحُوا بَيْنَهُمَا} [الحجرات: 9] ولا خلاف في أن إثنين إذا اقتتلا كان حكمهما هذا الحكم وروي في قوله عزوجل:{ وَلْيَشْهَدْ عَذَابَهُمَا طَائِفَةٌ مِنَ الْمُؤْمِنِينَ} [النور: 2] أنه أراد واحداً وقال يجوز قبول الواحد بدلالة قوله تعالى: {وَمَا كَانَ الْمُؤْمِنُونَ لِيَنْفِرُوا كَافَّةً فَلَوْلَا نَفَرَ مِنْ كُلِّ فِرْقَةٍ مِنْهُمْ طَائِفَةٌ لِيَتَفَقَّهُوا فِي الدِّينِ وَلِيُنْذِرُوا قَوْمَهُمْ إِذَا رَجَعُوا إِلَيْهِمْ لَعَلَّهُمْ يَحْذَرُونَ} [التوبة: 122] أي ليحذروا فأوجب العمل في خبر الطائفة، وقد تكون الطائفة واحدا . أ.ه.

لقد فرض الله سبحانه وتعالى على كل جماعة مجتمعة في قرية أو مدينة أن ينفر منها طائفة للتفقه فى الدين، فهذا النفار فرض على الجماعة كلها حتى يقوم بها بعضهم فيسقط عن الباقين.

وقد فعل ذلك الصحابة رضى الله عنهم " فعَنْ أَبِي قِلَابَةَ قَالَ حَدَّثَنَا مَالِكٌ أَتَيْنَا إِلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَنَحْنُ شَبَبَةٌ مُتَقَارِبُونَ فَأَقَمْنَا عِنْدَهُ عِشْرِينَ يَوْمًا وَلَيْلَةً وَكَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ رَحِيمًا رَفِيقًا فَلَمَّا ظَنَّ أَنَّا قَدْ اشْتَهَيْنَا أَهْلَنَا أَوْ قَدْ اشْتَقْنَا سَأَلَنَا عَمَّنْ تَرَكْنَا بَعْدَنَا فَأَخْبَرْنَاهُ قَالَ ارْجِعُوا إِلَى أَهْلِيكُمْ فَأَقِيمُوا فِيهِمْ وَعَلِّمُوهُمْ وَمُرُوهُمْ وَذَكَرَ أَشْيَاءَ أَحْفَظُهَا أَوْ لَا أَحْفَظُهَا وَصَلُّوا كَمَا رَأَيْتُمُونِي أُصَلِّي فَإِذَا

remember—and said: “Pray as you have seen me pray. When prayer comes, let one of you call the adhan and let the eldest of you lead you.”’ [Al-Bukhari, Book of the Adhan, chapter: The adhan for a traveller…][19]

L109 Izz al-Din Ibn al-Athir, who died in 630 AH, said in Usd al-Ghaba fi Marifat al-Sahaba: ‘Malik ibn al-Huwayrith ibn Ashyam al-Laythi… He was one of the people of Basra. He came to the Prophet ﷺ with young men from his people. He taught them the prayer and ordered him to teach his people when they returned to them… He died in Basra in the year ninety-four.’

L110

L111 ## Hadith Reports

L112 (1) Abd Allah ibn Amir al-Yahsabi said: ‘I heard Muawiya say: “Beware of hadith reports, except a report known in the time of Umar, for Umar would make people fear Allah, mighty and majestic is He. I heard the Messenger of Allah ﷺ say: ‘When Allah intends good for someone, He gives him understanding of the religion.’ And I heard the Messenger of Allah ﷺ say: ‘I am only a keeper of the treasury. Whoever I give to willingly will be blessed in it; whoever I give to because of his asking and greed is like someone who eats without being satisfied.’”’ [Muslim, Book of Zakat, chapter: The prohibition of asking.][20]

L113 (2) Abu Hurayra reported that the Messenger of Allah ﷺ said: ‘Whoever relieves a believer of a distress of this world, Allah will relieve him of a distress of the Day of Resurrection. Whoever makes things easy for someone in difficulty, Allah will make things easy for him in this world and the Hereafter. Whoever conceals a Muslim’s faults, Allah will conceal his faults in this world and the Hereafter. Allah helps His servant so long as the servant helps his brother. Whoever follows a path seeking knowledge, Allah thereby

[19] **Hadith references (L108):** Sahih al-Bukhari 631; Sahih al-Bukhari 7246.
[20] **Hadith references (L112):** Sahih Muslim 1037a.

حَضَرَتْ الصَّلَاةُ فَلْيُؤَذِّنْ لَكُمْ أَحَدُكُمْ وَلْيَؤُمَّكُمْ أَكْبَرُكُمْ” [البخاري: كِتَاب الْأَذَانِ، بَاب الْأَذَانِ لِلْمُسَافِرِ .....]

قال عز الدين ابن الأثير (المتوفى: 630هـ) فى كتابه أسد الغابة في معرفة الصحابة:“ مالك بْن الحويرث بْن أشيم الليثي ..... وهو من أهل البصرة، قدم علَى النَّبِيّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي شبابة من قومه، فعلمهم الصلاة، وأمره بتعليم قومهم إذا رجعوا إليهم..... وَتُوُفِّيَ بِالْبَصْرَةِ سَنَةَ أَرْبَعٍ وَتِسْعِينَ.

الأحاديث

(1) عَنْ عَبْدِ اللَّهِ بْنِ عَامِرٍ الْيَحْصَبِيِّ قَالَ سَمِعْتُ مُعَاوِيَةَ يَقُولُا إِيَّاكُمْ وَأَحَادِيثَ إِلَّا حَدِيثًا كَانَ فِي عَهْدِ عُمَرَ فَإِنَّ عُمَرَ كَانَ يُخِيفُ النَّاسَ فِي اللَّهِ عَزَّ وَجَلَّ سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهُوَ يَقُولُ مَنْ يُرِدْ اللَّهُ بِهِ خَيْرًا يُفَقِّهْهُ فِي الدِّينِ وَسَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ إِنَّمَا أَنَا خَازِنٌ فَمَنْ أَعْطَيْتُهُ عَنْ طِيبِ نَفْسٍ فَيُبَارَكُ لَهُ فِيهِ وَمَنْ أَعْطَيْتُهُ عَنْ مَسْأَلَةٍ وَشَرَهٍ كَانَ كَالَّذِي يَأْكُلُ وَلَا يَشْبَعُ [مسلم: كِتَاب الزَّكَاةِ، بَاب النَّهْيِ عَنْ الْمَسْأَلَةِ]

(2)“ عَنْ أَبِي هُرَيْرَةَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَنْ نَفَّسَ عَنْ مُؤْمِنٍ كُرْبَةً مِنْ كُرَبِ الدُّنْيَا نَفَّسَ اللَّهُ عَنْهُ كُرْبَةً مِنْ كُرَبِ يَوْمِ الْقِيَامَةِ وَمَنْ يَسَّرَ عَلَى مُعْسِرٍ يَسَّرَ اللَّهُ عَلَيْهِ فِي الدُّنْيَا وَالْآخِرَةِ وَمَنْ سَتَرَ مُسْلِمًا سَتَرَهُ اللَّهُ فِي الدُّنْيَا وَالْآخِرَةِ وَاللَّهُ فِي عَوْنِ الْعَبْدِ مَا كَانَ الْعَبْدُ فِي عَوْنِ أَخِيهِ وَمَنْ سَلَكَ طَرِيقًا يَلْتَمِسُ فِيهِ عِلْمًا سَهَّلَ اللَّهُ لَهُ بِهِ طَرِيقًا إِلَى الْجَنَّةِ وَمَا اجْتَمَعَ قَوْمٌ فِي بَيْتٍ مِنْ بُيُوتِ اللَّهِ يَتْلُونَ كِتَابَ اللَّهِ

makes a path to Paradise easy for him. Whenever people gather in one of Allah's houses, reciting Allah's Book and studying it together, tranquillity descends upon them, mercy envelops them, angels surround them and Allah mentions them among those who are with Him. Whoever is held back by his deeds will not be advanced by his lineage.' [Muslim, Book of Remembrance, Supplication, Repentance and Seeking Forgiveness, chapter: The merit of gathering to recite the Qur'an and for remembrance.][21]

وَيَتَدَارَسُونَهُ بَيْنَهُمْ إِلَّا نَزَلَتْ عَلَيْهِمْ السَّكِينَةُ وَغَشِيَتْهُمْ الرَّحْمَةُ وَحَفَّتْهُمْ الْمَلَائِكَةُ وَذَكَرَهُمْ اللَّهُ فِيمَنْ عِنْدَهُ وَمَنْ بَطَّأَ بِهِ عَمَلُهُ لَمْ يُسْرِعْ بِهِ نَسَبُهُ" [مسلم: كِتَاب الذِّكْرِ وَالدُّعَاءِ وَالتَّوْبَةِ وَالِاسْتِغْفَارِ، بَاب فَضْلِ الِاجْتِمَاعِ عَلَى تِلَاوَةِ الْقُرْآنِ وَعَلَى الذِّكْرِ]

L114 (3) Ibn Abbas reported that the Messenger of Allah ﷺ said: 'You hear; you will be heard; and those who hear from you will be heard.' [Sunan Abi Dawud, Book of Knowledge, chapter: The merit of spreading knowledge; Sahih wa-Daif Sunan Abi Dawud, al-Albani's assessment: authentic; Sahih Ibn Hibban, Book of Knowledge, section: Muslims hearing the Sunnahs, succeeding generations from earlier generations; al-Taliqat al-Hisan ala Sahih Ibn Hibban, al-Albani's annotation: authentic.]

(3)" عَنْ ابْنِ عَبَّاسٍ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَسْمَعُونَ وَيُسْمَعُ مِنْكُمْ وَيُسْمَعُ مِمَّنْ سَمِعَ مِنْكُمْ" [سنن أبي داود: كِتَاب الْعِلْمِ، بَاب فَضْلِ نَشْرِ الْعِلْمِ] [صحيح وضعيف سنن أبي داود: تحقيق الألباني :صحيح] [صحيح ابن حبان: كتاب العلم، ذكر الإخبار عن سماع المسلمين السنن خلف عن سلف][التعليقات الحسان على صحيح ابن حبان: تعليق الشيخ الألباني: صحيح]

L115 (4) Abu Bakra, may Allah be pleased with him, said: 'The Prophet ﷺ addressed us on the Day of Sacrifice. He said: "Do you know what day this is?" We said: "Allah and His Messenger know best." He remained silent until we thought he would give it another name. He said: "Is it not the Day of Sacrifice?" We said: "Yes." He said: "What month is this?" We said: "Allah and His Messenger know best." He remained silent until we thought he would give it another name. He said: "Is it not Dhu al-Hijja?" We said: "Yes." He said: "What town is this?" We said: "Allah and His Messenger know best." He remained silent until we thought he would give it another name. He said: "Is it not the Sacred Town?" We said: "Yes." He said: "Your blood and your property are sacred to you, as sacred as this day of yours, in this month of yours, in this town of yours, until the day you meet your Lord. Have I conveyed the message?" They said: "Yes." He said: "O Allah, bear witness. Let those who are present convey it to those who are absent. Someone to whom it is conveyed may understand it better than someone who heard it. Do not

(4) "عَنْ أَبِي بَكْرَةَ رَضِيَ اللَّهُ عَنْهُ قَالَ خَطَبَنَا النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَوْمَ النَّحْرِ قَالَ أَتَدْرُونَ أَيُّ يَوْمٍ هَذَا قُلْنَا اللَّهُ وَرَسُولُهُ أَعْلَمُ فَسَكَتَ حَتَّى ظَنَنَّا أَنَّهُ سَيُسَمِّيهِ بِغَيْرِ اسْمِهِ قَالَ أَلَيْسَ يَوْمَ النَّحْرِ قُلْنَا بَلَى قَالَ أَيُّ شَهْرٍ هَذَا قُلْنَا اللَّهُ وَرَسُولُهُ أَعْلَمُ فَسَكَتَ حَتَّى ظَنَنَّا أَنَّهُ سَيُسَمِّيهِ بِغَيْرِ اسْمِهِ فَقَالَ أَلَيْسَ ذُو الْحِجَّةِ قُلْنَا بَلَى قَالَ أَيُّ بَلَدٍ هَذَا قُلْنَا اللَّهُ وَرَسُولُهُ أَعْلَمُ فَسَكَتَ حَتَّى ظَنَنَّا أَنَّهُ سَيُسَمِّيهِ بِغَيْرِ اسْمِهِ قَالَ أَلَيْسَتْ بِالْبَلْدَةِ الْحَرَامِ قُلْنَا بَلَى قَالَ فَإِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ عَلَيْكُمْ حَرَامٌ كَحُرْمَةِ يَوْمِكُمْ هَذَا فِي شَهْرِكُمْ هَذَا فِي بَلَدِكُمْ هَذَا إِلَى يَوْمٍ تَلْقَوْنَ رَبَّكُمْ أَلَا هَلْ بَلَّغْتُ قَالُوا نَعَمْ قَالَ اللَّهُمَّ اشْهَدْ فَلْيُبَلِّغْ الشَّاهِدُ الْغَائِبَ فَرُبَّ مُبَلَّغٍ أَوْعَى مِنْ سَامِعٍ فَلَا تَرْجِعُوا بَعْدِي كُفَّارًا يَضْرِبُ بَعْضُكُمْ رِقَابَ بَعْضٍ" [البخاري: كِتَاب الْحَجِّ،بَاب الْخُطْبَةِ أَيَّامَ مِنًى]

[21] **Hadith references (L113):** Sahih Muslim 2699a; Mishkat al-Masabih 204; Riyad as-Salihin 1381.

return after me to unbelief, striking one another's necks.'" [Al-Bukhari, Book of Hajj, chapter: The sermon during the days of Mina.][22]

L116 (5) Abd al-Rahman ibn Aban reported from his father, from Zayd ibn Thabit, who said: 'I heard the Messenger of Allah ﷺ say: "May Allah make radiant a person who hears a hadith from us and preserves it until he conveys it. Someone who carries understanding may convey it to one who understands better than he does, and someone who carries understanding may not himself possess understanding."' [Sunan Abi Dawud, Book of Knowledge, chapter: The merit of spreading knowledge; Sahih wa-Daif Sunan Abi Dawud, 8:160, al-Albani's assessment: Sahih Ibn Majah, no. 230.][23]

L117 (6) '...From Abu Hurayra, as far as I know, from the Messenger of Allah ﷺ, who said: "At the beginning of every hundred years Allah sends to this community someone who renews its religion for it."' [Sunan Abi Dawud, Book of Battles, chapter: What is related concerning the turn of the century; Sahih wa-Daif Sunan Abi Dawud, 9:291, al-Albani's assessment: authentic; al-Sahiha, no. 599; Sahih al-Jami al-Saghir, no. 1874.][24]

L118 (7) Abu Hurayra reported that the Prophet ﷺ said: 'Leave me as I leave you. Those before you perished only through their questioning and their disagreement with their prophets. When I forbid you something, avoid it; and when I command you to do something, do as much of it as you can.' [Al-Bukhari, Book of Adherence to the Book and Sunnah, chapter: Following the Sunnahs of the Messenger of Allah ﷺ.][25]

L119 (8) Abu al-Darda, may Allah be pleased with him, attributed this hadith to the Prophet: 'What Allah has made lawful in His Book is lawful; what He has forbidden is forbidden; and what He has said nothing about is latitude granted to you. Accept the latitude Allah has granted, for Allah is never for-

(5) " عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبَانَ عَنْ أَبِيهِ عَنْ زَيْدِ بْنِ ثَابِتٍ قَالَ سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ نَضَّرَ اللَّهُ امْرَأً سَمِعَ مِنَّا حَدِيثًا فَحَفِظَهُ حَتَّى يُبَلِّغَهُ فَرُبَّ حَامِلِ فِقْهٍ إِلَى مَنْ هُوَ أَفْقَهُ مِنْهُ وَرُبَّ حَامِلِ فِقْهٍ لَيْسَ بِفَقِيهٍ " [سنن أبي داود: كِتَاب الْعِلْمِ؛ بَاب فَضْلِ نَشْرِ الْعِلْمِ][صحيح وضعيف سنن أبي داود (8/ 160) تحقيق الألباني : صحيح ابن ماجة (230)]

(6) "..... عَنْ أَبِي هُرَيْرَةَ فِيمَا أَعْلَمُ عَنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: "إِنَّ اللَّهَ يَبْعَثُ لِهَذِهِ الْأُمَّةِ عَلَى رَأْسِ كُلِّ مِائَةِ سَنَةٍ مَنْ يُجَدِّدُ لَهَا دِينَهَا" [سنن أبي داود: كِتَاب الْمَلَاحِمِ؛ بَاب مَا يُذْكَرُ فِي قَرْنِ الْمِائَةِ][صحيح وضعيف سنن أبي داود (9/ 291) تحقيق الألباني : صحيح ، الصحيحة (599) // صحيح الجامع الصغير (1874)]

(7)" عَنْ أَبِي هُرَيْرَةَ عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ دَعُونِي مَا تَرَكْتُكُمْ إِنَّمَا هَلَكَ مَنْ كَانَ قَبْلَكُمْ بِسُؤَالِهِمْ وَاخْتِلَافِهِمْ عَلَى أَنْبِيَائِهِمْ فَإِذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَاجْتَنِبُوهُ وَإِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ" [البخاري: كِتَاب الِاعْتِصَامِ بِالْكِتَابِ وَالسُّنَّةِ؛ بَاب الِاقْتِدَاءِ بِسُنَنِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ]

(8) " عن أبي الدرداء رضي الله عنه ، رفع الحديث قال : « ما أحل الله في كتابه فهو حلال ، وما حرم فهو حرام ، وما سكت عنه فهو عافية ، فاقبلوا من الله العافية ، فإن الله لم يكن نسيا » ثم تلا هذه الآية (وما كان ربك نسيا) « هذا حديث صحيح الإسناد ولم يخرجاه » [المستدرك على الصحيحين للحاكم: كتاب التفسير؛ تفسير سورة مريم] [قال الألباني في " السلسلة الصحيحة " 5 / 325 : أخرجه الدارقطني

[22] **Hadith references (L115):** Sahih al-Bukhari 1741; Sahih Muslim 1679d.
[23] **Hadith references (L116):** Sunan Abi Dawud 3660.
[24] **Hadith references (L117):** Sunan Abi Dawud 4291.
[25] **Hadith references (L118):** Sahih al-Bukhari 7288.

getful.' He then recited this verse: 'Your Lord is never forgetful.' 'This hadith has an authentic chain, although the two did not include it.' [Al-Hakim, Al-Mustadrak ala al-Sahihayn, Book of Quranic Commentary, commentary on Surah Maryam. Al-Albani said in Al-Silsila al-Sahiha, 5:325: 'Al-Daraqutni included it in his Sunan, 2:137, no. 12, and al-Hakim, 2:375; through him al-Bayhaqi, 10:12… Al-Hakim said: "Its chain is authentic," and al-Dhahabi agreed. Al-Bazzar said: "Its chain is sound."'][26]

في " سننه " (2 / 137 / 12) و الحاكم (2 / 375) و عنه البيهقي (10 / 12) .....و قال الحاكم : " صحيح الإسناد " . و وافقه الذهبي . و قال البزار : " إسناده صالح "]

L120 (9) Jabir ibn Abd Allah said: 'We used to sell slave women who had borne their masters' children during the time of the Messenger of Allah ﷺ and Abu Bakr. When Umar came, he forbade their sale.' [Sahih Ibn Hibban, Book of Emancipation, chapter: The slave woman who has borne her master's child—authentic; al-Taliqat al-Hisan ala Sahih Ibn Hibban, al-Albani's annotation: authentic.]

(9)" عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: كُنَّا نَبِيعُ أُمَّهَاتِ الْأَوْلَادِ عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وسلم وأبي بَكْرٍ فَلَمَّا كَانَ عُمَرُ نَهَى عَنْ بيعهنَّ" [صحيح ابن حبان: كتاب العتق،باب أم الولد صحيح] [التعليقات الحسان على صحيح ابن حبان، تعليق الشيخ الألباني: صحيح]

L121 (10) Amr ibn Murra reported from Said ibn al-Musayyab: 'Ali and Uthman, may Allah be pleased with them, met at Usfan. Uthman was forbidding tamattu or umra. Ali said: "Why do you forbid something which the Messenger of Allah ﷺ did?" Uthman said: "Leave us alone." Ali said: "I cannot leave you alone." When Ali saw this, he entered ihram for both together.' [Muslim, Book of Hajj, chapter: The permissibility of tamattu.]

(10)"عَنْ عَمْرِو بْنِ مُرَّةَ عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ قَالَ اجْتَمَعَ عَلِيٌّ وَعُثْمَانُ رَضِيَ اللَّهُ عَنْهُمَا بِعُسْفَانَ فَكَانَ عُثْمَانُ يَنْهَى عَنْ الْمُتْعَةِ أَوْ الْعُمْرَةِ فَقَالَ عَلِيٌّ مَا تُرِيدُ إِلَى أَمْرٍ فَعَلَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَنْهَى عَنْهُ فَقَالَ عُثْمَانُ دَعْنَا مِنْكَ فَقَالَ إِنِّي لَا أَسْتَطِيعُ أَنْ أَدَعَكَ فَلَمَّا أَنْ رَأَى عَلِيٌّ ذَلِكَ أَهَلَّ بِهِمَا جَمِيعًا" [مسلم: كِتَاب الْحَجِّ، بَاب جَوَازِ التَّمَتُّعِ]

L122 (11) 'There is no disagreement that zakat is due on grazing livestock—that is, livestock which pasture—when its conditions are fulfilled. There is disagreement concerning livestock which are fed for all or part of the year, and those used for ploughing, carrying loads and the like. Our school holds that zakat is due on both these categories as well, contrary to Abu Hanifa and al-Shafii. Our evidence is the general scope of the Prophet's express statement ﷺ: "For every forty sheep, one sheep."' [Al-Kharashi's commentary on Mukhtasar Khalil, Book of Zakat, chapter: Zakat is due on the minimum liable number of livestock. The work is Sharh Mukhtasar

(11) "لَا خِلَافَ أَنَّ الزَّكَاةَ تَجِبُ فِي السَّائِمَةِ وَهِيَ الَّتِي تَرْعَى إذَا تَوَفَّرَتْ فِيهَا الشُّرُوطُ وَاخْتُلِفَ فِي الْمَعْلُوفَةِ فِي الْحَوْلِ، أَوْ بَعْضِهِ وَالْعَامِلَةِ فِي حَرْثٍ، أَوْ حَمْلٍ وَنَحْوِهِمَا فَمَذْهَبُنَا وُجُوبُ الزَّكَاةِ فِيهِمَا أَيْضًا خِلَافًا لِأَبِي حَنِيفَةَ وَالشَّافِعِيِّ لَنَا عُمُومُ مَنْطُوقِ قَوْلِهِ - عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ -: «فِي كُلِّ أَرْبَعِينَ شَاةً شَاةٌ" [شرح مختصر خليل للخرشي: بَابُ الزَّكَاةُ: بَابٌ تَجِبُ زَكَاةُ نِصَابِ النَّعَمِ][الكتاب: شرح مختصر خليل للخرشي لمحمد بن عبد الله الخرشي المالكي أبو عبد الله (المتوفى: 1101هـ)]

[26]**Qur'an references (L119):** Qur'an 19:64 (Maryam).

Khalil li-l-Kharashi, by Muhammed ibn Abd Allah al-Kharashi al-Maliki, Abu Abd Allah, who died in 1101 AH.]

L123 (12) Abd al-Rahman ibn Amr al-Sulami reported that he heard al-Irbad ibn Sariya say: 'The Messenger of Allah ﷺ admonished us with an admonition which brought tears to our eyes and made our hearts tremble. We said: "Messenger of Allah, this is surely a farewell admonition. What do you enjoin upon us?" He said: "I have left you upon the clear, white way, whose night is like its day. None deviates from it after me but one who is doomed. Those of you who live will see much disagreement. Adhere, then, to what you know of my Sunnah and the sunnah of the rightly guided, rightly directed caliphs. Cling to it with your molar teeth. You must obey, even if it be an Abyssinian slave; the believer is like a camel led by the nose: wherever it is led, it follows."' [Sunan Ibn Majah, Book of the Introduction, chapter: Following the sunnah of the rightly guided caliphs; Sahih wa-Daif Sunan Ibn Majah, al-Albani's assessment: authentic.]

(12) عَنْ عَبْدِ الرَّحْمَنِ بْنِ عَمْرٍو السُّلَمِيِّ أَنَّهُ سَمِعَ الْعِرْبَاضَ بْنَ سَارِيَةَ يَقُولُ وَعَظَنَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَوْعِظَةً ذَرَفَتْ مِنْهَا الْعُيُونُ وَوَجِلَتْ مِنْهَا الْقُلُوبُ فَقُلْنَا يَا رَسُولَ اللَّهِ إِنَّ هَذِهِ لَمَوْعِظَةُ مُوَدِّعٍ فَمَاذَا تَعْهَدُ إِلَيْنَا قَالَ قَدْ تَرَكْتُكُمْ عَلَى الْبَيْضَاءِ لَيْلُهَا كَنَهَارِهَا لَا يَزِيغُ عَنْهَا بَعْدِي إِلَّا هَالِكٌ مَنْ يَعِشْ مِنْكُمْ فَسَيَرَى اخْتِلَافًا كَثِيرًا فَعَلَيْكُمْ بِمَا عَرَفْتُمْ مِنْ سُنَّتِي وَسُنَّةِ الْخُلَفَاءِ الرَّاشِدِينَ الْمَهْدِيِّينَ عَضُّوا عَلَيْهَا بِالنَّوَاجِذِ وَعَلَيْكُمْ بِالطَّاعَةِ وَإِنْ عَبْدًا حَبَشِيًّا فَإِنَّمَا الْمُؤْمِنُ كَالْجَمَلِ الْأَنِفِ حَيْثُمَا قِيدَ انْقَادَ" [سنن ابن ماجه : كِتَاب الْمُقَدِّمَةِ ، بَاب اتِّبَاعِ سُنَّةِ الْخُلَفَاءِ الرَّاشِدِينَ الْمَهْدِيِّينَ] [صحيح وضعيف سنن ابن ماجة : تحقيق الألباني : صحيح]



MODERN ZAHIRI VOICES — TRANSLATION DRAFT

حقائق بين يدي البحث

Facts to Establish Before the Investigation

Kāmil Muḥammad Muḥammad ʿĀmir · Arabic–English parallel edition

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[Facts to Establish Before the Investigation][1]

In the name of Allah, the Most Merciful, the Ever Merciful.

Praise be to Allah, who says in His Book: ‘Today I have perfected your religion for you, completed My favour upon you, and approved Islam for you.’ I bear witness that there is no god but Allah alone, without partner, and that Muhammed is His servant and Messenger. Our Lord, majestic and exalted is He, sent him to explain what Allah has sent down to us, saying: ‘We have sent down the Reminder to you so that you may explain to people what has been sent down to them.’ He also says: ‘We have sent down the Book to you only so that you may explain to them that over which they differ, and as guidance and mercy for people who believe.’ May Allah grant him blessings, peace and benediction, and his family, his Companions and whoever follows his guidance until the Day of Judgement.[2]

To proceed:

The religion has been completed. There is therefore no event or act without a ruling in the Qur’an and Sunnah. He, glorified is He, has commanded us to convey this religion.

Allah, glorified is He, has commanded us to use reason and the senses. We find no distinction between the commands of the Qur’an and those of the Messenger ﷺ. Obedience to the Messenger ﷺ is unrestricted: no human being, whoever he may be, can restrict what my Lord, glorified and exalted is He, has left unrestricted. The hadiths of our Messenger ﷺ also stand on one level. There is no distinction between reports below the threshold of mass transmission (ahad) and mass-transmitted reports (mutawatir), since

[1] **Translator’s note (L124):** Source: Kamil Muhammed Muhammed Amir, Fiqhweb, post-248217. Forum publication: 5 February 2019. Original source and attribution are documented in the editorial preface.

[2] **Qur’an references (L126):** Qur’an 5:3 (Al-Ma’idah); Qur’an 16:44 (An-Nahl); Qur’an 16:64 (An-Nahl).

[حقائق بين يدي البحث]

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الحمد لله القائل فى كتابه {الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتْمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيتُ لَكُمُ الْإِسْلَامَ}، وَأَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ، وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ، أرسله ربنا جلَّ وعلا ليبين لنا ما أنزله الله الينا فقال تعالى: {وَأَنْزَلْنَا إِلَيْكَ الذِّكْرَ لِتُبَيِّنَ لِلنَّاسِ مَا نُزِّلَ إِلَيْهِمْ} وقال تعالى: {وَمَا أَنْزَلْنَا عَلَيْكَ الْكِتَابَ إِلَّا لِتُبَيِّنَ لَهُمُ الَّذِي اخْتَلَفُوا فِيهِ وَهُدًى وَرَحْمَةً لِقَوْمٍ يُؤْمِنُونَ } وصلى وسلّم وبارك عليه وعلى آله وصحبه ومن اهتدى بهداه إلى يوم الدين .

أما بعد:

فقد أَكْتمَلَ الدين، فلا يوجد حدث أو فعل ليس له حكم فى القرآن والسنة، وأمرنا سبحانه بتبليغ هذا الدين.

لقد أمرنا الله سبحانه باستعمال العقل والحواس، فلم نجد فرق بين أوامر القرآن وأوامر الرسول عليه السلام، فطاعة الرسول عليه السلام مطلقة ولا يستطيع بشر مهما كان أن يقيد ما أطلقه ربى سبحانه وتعالى، وأيضاً أحاديث رسولنا عليه السلام فى مرتبة واحدة فلا فرق بين أحاديث الآحاد و الحديث المتواتر لأمره سبحانه لنا بقبول نذارة النافر للتفقه فى الدين.

He, glorified is He, commands us to accept the warning of the person who goes forth to gain understanding of the religion.[3]

L130 There is no disagreement within the Sharia. Rulings were not revealed all at once. The Companions, the Successors and the Successors' successors did not know every ruling or every hadith. When they found no hadith on a question, they exercised judgement and expressed an opinion. Every Companion, Successor or jurist would therefore establish a method for himself to follow. Those methods were not discussed or studied, and so they disagreed. But Allah has favoured us with the recording of the Sunnah, and my Lord's promise to preserve the Reminder has been fulfilled. We must therefore refuse to acquiesce in disagreement.

L131 If my Lord wills, these facts will be discussed in the following sections:

L132 (1) Allah, glorified and exalted is He, has completed the religion for us.

L133 (2) There is no event or act without a ruling in the Qur'an and Sunnah.

L134 (3) The command to convey the sayings of the Messenger ﷺ applies generally to all Muslims.

L135 (4) Allah, glorified is He, has commanded us to use reason and the senses.

L136 (5) There is no distinction between the commands of the Qur'an and those of the Messenger ﷺ.

L137 (6) Ahad and mutawatir hadiths stand on one level.

L138 (7) There is no disagreement within the Sharia.

L139 (8) Rulings were not revealed all at once.

L140 (9) The Companions, the Successors and the Successors' successors did not know every ruling or every hadith.

[3]**Translator's note (L129):** Ahad denotes reports which do not meet the conditions of mutawatir, or mass, transmission. It does not necessarily mean that only one transmitter or one route exists. The claim that both categories stand on one level is the author's argument.

لا اختلاف فى الشريعة، فالأحكام لم تنزل دفعة واحدة، والصحابةُ والتابعون وتابعو التابعين لا يعرفون جميع الأحكام ولا جميع الأحاديث، فاجتهدوا وقالوا بالرأى عندما لا يجدوا حديث فى المسألة، فكان كل صحابى أو تابعى أو فقية يضع لنفسه منهاج يَسِيرُ عليه، ولم تناقش أو تدرس تلك المناهج، فاختلفوا ولكن قد من الله علينا بتدوين السنة وتحقق وعد ربى بحفظ الذكر؛ فيجب علينا أن لا نُقِرّ الإختلاف.

وإن شاء ربى سوف تناقش تلك الحقائق فى الفصول الآتية:

(1) لقد أَكْمَلَ الله سبحانه وتَعَالَى لنا الدِين.

(2) لا يوجد حدث أو فعل ليس له حكم فى القرآن والسنة.

(3) الأمرُ بتبليغ أقوال الرسول عليه السلام عامٌّ لجميع المسلمين.

(4) لقد أمرنا الله سبحانه باستعمال العقل والحواس.

(5) لا فرق بين أوامر القرآن وأوامر الرسول عليه السلام.

(6) أحاديث الآحاد و الحديث المتواتر فى مرتبة واحدة.

(7) لا اختلاف فى الشريعة.

(8) لم تنزل الأحكام دفعة واحدة.

(9) الصحابةُ والتابعون وتابعو التابعين لا يعرفون جميع الأحكام ولا جميع الأحاديث.

(10) Every Companion, Successor or jurist would establish a method for himself to follow.

(11) We must refuse to acquiesce in disagreement.

The First Fact

Allah, glorified and exalted is He, has completed the religion for us. Nothing may therefore be added to, or subtracted from, what my Lord has completed.

Allah, glorified and exalted is He, says: 'Today I have perfected your religion for you, completed My favour upon you, and approved Islam as your religion' [Al-Maidah 5:3].[4]

This verse was revealed to the Prophet ﷺ while he was standing at Arafat on a Friday. (1) After this verse, nothing further concerning the lawful and the forbidden was revealed. (2)

The Second Fact

There is not, and never will be, an event or act, at any time or place, without a ruling in the Qur'an and Sunnah.

Human social, physiological and biological needs have not changed, and will not change. They existed in the Messenger's time ﷺ. The Sharia settled the law governing these needs and established legislation for them. My Lord, majestic and exalted is He, says: 'We have neglected nothing in the Book' [Al-Anam 6:38]. Our Messenger ﷺ says: 'I have left you upon the clear, white way, whose night is like its day. None deviates from it after me but one who is doomed.' (3) What event or act could exist, at any time or place, without a ruling in the Qur'an and Sunnah? What, then, is meant by the claim that the texts are finite whereas events are infinite?[5]

(10) كل صحابى أو تابعى أو فقية كان يضع لنفسه منهاج يَسِيرُ عليه.

(11) يجب علينا أن لا نُقِرّ الإختلاف.

الحقيقة الأولى

لقد أَكْمَلَ اللهُ سبحانه وتَعَالَى لنا الدِين،فلا زيادة عليه ولا نقصان على ما أكمله ربى سبحانه وتعالى.

قال الله سبحانه وتعالى: {الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتْمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيتُ لَكُمُ الْإِسْلَامَ دِينًا } [المائدة : 3]

لقد نزلت تلك الآية عَلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهُوَ قَائِمٌ بِعَرَفَةَ يَوْمَ جُمُعَةٍ(1) ولَمْ يَنْزِل بَعْد هَذِهِ الْآيَة شَيْء مِنْ الْحَلَال وَالْحَرَام(2)

الحقيقة الثانية

لا يوجد ولن يوجد حدث أو فعل فى أى زمان، أو فى أى مكان، وليس له حكم فى القرآن والسنة.

إن حاجات الإنسان الإجتماعية والفسيولوجية، والبيولوجية .....؛ لم، ولن تتغير، لقد كانت موجودة فى عصر الرسول عليه السلام، وأحكمت الشريعة فقه هذه الحاجات، وسنت لها التشريعات؛ وربى جل وعلا يقول: {مَا فَرَّطْنَا فِي الْكِتَابِ مِنْ شَيْءٍ} [الأنعام: 38]، ورسولنا عليه السلام يقول: "قَدْ تَرَكْتُكُمْ عَلَى الْبَيْضَاءِ لَيْلُهَا كَنَهَارِهَا لَا يَزِيغُ عَنْهَا بَعْدِي إِلَّا هَالِكٌ"(3)؛ فما هو الحدث أو الفعل الذى يمكن أن يوجد فى أى زمان، أو فى أى مكان، وليس له حكم فى القرآن والسنة؛ وما معنى قول القائل النصوص متناهية والأحداث غير متناهية؟

[4] **Qur'an references (L145):** Qur'an 5:3 (Al-Ma'idah).
[5] **Qur'an references (L149):** Qur'an 6:38 (Al-An'am).

L150 All acts which occur in existence can fall only into the following categories:

إن جميعُ الأفعال التي تقع فى الوجودِ لن تعدوا:

L151 A command from Allah and His Messenger, of which we perform as much as we can. He ﷺ says: '…When I command you to do something, do as much of it as you can.' (4) Who, then, can impose upon us an obligation which Allah and His Messenger have not imposed? Has He, glorified is He, not said: 'Or have they partners who have legislated for them, as religion, what Allah has not authorised?' [Ash-Shura 42:21]. Has He not said: 'We have explained everything in detail' [Al-Isra 17:12]?[6]

أمرٌ من الله ورسوله، نفعل منه ما نستطيع؛ يقول عليه السلام "...وَإِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ" (4) فمن ذا الذى يستطيع أن يفرض علينا فرضاً لم يفرضه الله ورسوله؛ ألم يقل سبحانه:{ أَمْ لَهُمْ شُرَكَاءُ شَرَعُوا لَهُمْ مِنَ الدِّينِ مَا لَمْ يَأْذَنْ بِهِ اللَّهُ } [الشورى: 21]، ألم يقل سبحانه: { وَكُلَّ شَيْءٍ فَصَّلْنَاهُ تَفْصِيلًا} [الإسراء: 12]

L152 A prohibition which Allah, glorified and exalted is He, has explained in detail, which we must avoid. He says: 'He has explained to you in detail what He has forbidden you' [Al-Anam 6:119]. The Prophet ﷺ says: '…When I forbid you something, avoid it.' (4) Can a human being, then, prohibit something whose prohibition has not been explained to us?[7]

نهىٌ فَصَّلَهُ اللهُ سبحانه وتعالى، علينا اجتنابه، قال تعالى: {وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ} [الأنعام: 119] ويقول عليه السلام "... فَإِذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَاجْتَنِبُوهُ"(4) ؛فهل يمكن لبشر أن يحرم شيئاً لم يُفَصَّل لنا تحريمه؟

L153 All remaining things and events in the universe are left unproscribed by Allah: we may do them or leave them undone, by His explicit words: 'He is the One who created for you everything upon the earth' [Al-Baqarah 2:29], and: 'Have you not seen that Allah has subjected to you whatever is in the heavens and whatever is upon the earth?' [Luqman 31:20].[8]

وباقى ما فى الكون من أشياء وأحداث فعفوٌ من الله، مباحٌ لنا فعلُه وتركُه؛ بنص قوله تعالى: {هُوَ الَّذِي خَلَقَ لَكُمْ مَا فِي الْأَرْضِ جَمِيعًا} [البقرة: 29] وقوله تعالى:{أَلَمْ تَرَوْا أَنَّ اللَّهَ سَخَّرَ لَكُمْ مَا فِي السَّمَاوَاتِ وَمَا فِي الْأَرْضِ } [لقمان: 20]

L154 He ﷺ says: '…When I forbid you something, avoid it; and when I command you to do something, do as much of it as you can.' (4)

ويقول عليه السلام "... فَإِذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَاجْتَنِبُوهُ وَإِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ" (4)

L155 A Muslim must therefore know the commands Allah has given him and perform as much of them as he can. He ﷺ says: '…When I command you to do something, do as much of it as you can.'

فيجب على المسلم أن يعرف الأوامر التى أمره الله بها ويفعل منها ما يستطيع، يقول عليه السلام: "..... وَإِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ "

L156 A Muslim must refrain from what has been expressly forbidden to him. Our Lord, majestic and exalted is He, has promised to explain forbidden things to us in detail, without ambiguity, saying: 'He has explained to you in detail

و يجب على المسلم أن ينتهى عمَّا فُصِّلَ له تحريمه، فقد وعدنا ربنا جلَّ وعلا بأن يُفَصِّل لنا المحرمات تفصيلاً لا لبس فيه فقال تعالى: {وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ} [الأنعام : 119] و يقول عليه السلام: " فَإِذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَاجْتَنِبُوهُ "

[6] **Qur'an references (L151):** Qur'an 42:21 (Ash-Shuraa); Qur'an 17:12 (Al-Isra).
[7] **Qur'an references (L152):** Qur'an 6:119 (Al-An'am).
[8] **Qur'an references (L153):** Qur'an 2:29 (Al-Baqarah); Qur'an 31:20 (Luqman).

what He has forbidden you' [Al-Anam 6:119]. The Prophet ﷺ says: 'When I forbid you something, avoid it.'[9]

L157 Everything apart from commands and what has been expressly forbidden to us is left unproscribed and permissible. He ﷺ says: 'What Allah has made lawful in His Book is lawful; what He has forbidden is forbidden; and what He has said nothing about is left unproscribed. Accept, then, the latitude Allah has granted you: "Your Lord is never forgetful."' (5)[10]

L158 ## The Third Fact

L159 The command to convey the sayings of the Messenger ﷺ applies generally to all Muslims; it is not the exclusive preserve of any particular class of Muslims.

L160 During the Farewell Pilgrimage, the Messenger ﷺ commanded Muslims generally—the unlearned and the learned, the young and the old, men and women: '…Let those who are present convey it to those who are absent. Someone to whom it is conveyed may understand it better than someone who heard it…' (6) So it was. The Companions, may Allah be pleased with them, obeyed this command and conveyed to those who were absent: those absent in place, throughout the earth, and those absent in time, the generations after them. He ﷺ says: '…Let those who are present convey it to those who are absent…' (6)

L161 He ﷺ says: 'You hear; you will be heard; and those who hear from you will be heard.' (7)

L162 The matter, then, is to follow the hadiths. This is the command of Allah, glorified and exalted is He, and of the Messenger ﷺ.

L163 ## The Fourth Fact

L164 Allah, glorified is He, has commanded us to use reason and the senses. He, exalted is He, says: 'Then He fashioned him and breathed into him of His spirit, and gave you hearing, sight and hearts. Little thanks you give!'

[9] **Qur'an references (L156):** Qur'an 6:119 (Al-An'am).
[10] **Qur'an references (L157):** Qur'an 19:64 (Maryam).

وما عدا الأوامر وما فُصِّلَ لنا تحريمه فهو عفو مباح؛ يقول عليه السلام " ما أحل الله في كتابه فهو حلال و ما حرم فهو حرام و ما سكت عنه فهو عفو ، فاقبلوا من الله عافيته {وَمَا كَانَ رَبُّكَ نَسِيًّا}"(5)

الحقيقة الثالثة

الأمرُ بتبليغ أقوال الرسول عليه السلام عامٌّ لجميع المسلمين وليس حِكْراً على فئة معينة من المسلمين.

فالرسول عليه السلام فى حجة الوداع أَمَرَ عموم المسلمين، الجاهل والعالم، الصغير والكبير، الرجل والمرأة ".... فَلْيُبَلِّـغْ الشَّاهِدُ الْغَائِبَ فَرُبَّ مُبَلَّغٍ أَوْعَى مِنْ سَامِعٍ ...."(6) وكان..... والتزم الصحابة رضى الله عنهم بهذا الأمر وبلَّغُوا الغائبَ ؛ بلَّغوا الغائبَ عن المكان فى كافّة بقاع الأرض، وبلَّغوا الغائب عن الزمان؛ فبلَّغوا من بعدهم من الأجيال. يقول عليه السلام: ".... فَلْيُبَلِّـغْ الشَّاهِدُ الْغَائِبَ ..." (6)

ويقول عليه السلام: "تَسْمَعُونَ وَيُسْمَعُ مِنْكُمْ وَيُسْمَعُ مِمَّنْ يَسْمَعُ مِنْكُمْ"(7)

فكأن القضية إذن اتباع الأحاديث. هذا أمرُ اللهِ سبحانه وتعالى وأمر الرسولِ عليه السلام.

الحقيقة الرابعة

لقد أمرنا الله سبحانه باستعمال العقل والحواس؛ فقال تعالى: {ثُمَّ سَوَّاهُ وَنَفَخَ فِيهِ مِن رُّوحِهِ وَجَعَلَ لَكُمُ السَّمْعَ وَالأَبْصَارَ وَالأَفْئِدَةَ قَلِيلاً مَّا تَشْكُرُونَ}[السجدة 9] وقال

[As-Sajdah 32:9]. He, glorified and exalted is He, also says: 'Have We not given him two eyes, a tongue and two lips, and shown him the two paths?' [Al-Balad 90:8–10].[11]

L165 Allah has reminded us of His favour in giving us reason and the senses. He, glorified and exalted is He, condemns those who do not benefit from them: 'We have created for Hell many of the jinn and humankind. They have hearts with which they do not understand, eyes with which they do not see, and ears with which they do not hear. They are like livestock—rather, they are further astray. They are the heedless' [Al-Araf 7:179].[12]

L166 He, exalted is He, says: 'They will say: Had we listened or used our reason, we would not have been among the people of the Blaze' [Al-Mulk 67:10].[13]

L167 ## The Fifth Fact

L168 There is no distinction between the commands of the Qur'an and those of the Messenger ﷺ as regards the obligation to obey. Likewise, there is no distinction between what Allah, glorified and exalted is He, has forbidden and what the Messenger ﷺ has forbidden as regards the obligation to obey.

L169 Allah, glorified and exalted is He, says: 'Say: Obey Allah and the Messenger. If they turn away, Allah does not love the disbelievers' [Al Imran 3:32].[14]

L170 He, exalted is He, says: 'You who believe, obey Allah and His Messenger, and do not turn away from him while you hear. Do not be like those who say: We hear, while they do not hear' [Al-Anfal 8:20–22].[15]

L171 He, exalted is He, says: 'Say: Obey Allah and obey the Messenger. If you

سبحانه وتعالى:{أَلَمْ نَجْعَلْ لَهُ عَيْنَيْنِ() وَلِسَانًا وَشَفَتَيْنِ() وَهَدَيْنَاهُ النَّجْدَيْنِ} [البلد:8-10]

لقد امْتَنَّ الله علينا بما أعطانا من العقل والحواس وذَمَّ سبحانه وتعالى من لم ينتفع بهما فقال تعالى:{ وَلَقَدْ ذَرَأْنَا لِجَهَنَّمَ كَثِيراً مِّنَ الْجِنِّ وَالإِنْسِ لَهُمْ قُلُوبٌ لاَّ يَفْقَهُونَ بِهَا وَلَهُمْ أَعْيُنٌ لاَّ يُبْصِرُونَ بِهَا وَلَهُمْ آذَانٌ لاَّ يَسْمَعُونَ بِهَآ أُوْلَئِكَ كَالأَنْعَامِ بَلْ هُمْ أَضَلُّ أُوْلَئِكَ هُمُ الْغَافِلُونَ}[الأعاف 179]

وقال تعالى:{ وَقَالُواْ لَوْ كُنَّا نَسْمَعُ أَوْ نَعْقِلُ مَا كُنَّا فِي أَصْحَابِ السَّعِيرِ}[الملك 10]

الحقيقة الخامسة

لا فرق بين أوامر القرآن وأوامر الرسول عليه السلام فى وجوب الطاعة، وكذلك لا فرق بين ما نهى الله سبحانه وتعالى عنه وبين ما نهى عنه الرسول عليه السلام فى وجوب الطاعة.

يقول الله سبحنه وتعالى: {قُلْ أَطِيعُوا اللَّهَ وَالرَّسُولَ فَإِنْ تَوَلَّوْا فَإِنَّ اللَّهَ لَا يُحِبُّ الْكَافِرِينَ} [آل عمران: 32]

وقال تعالى: {يَاأَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَرَسُولَهُ وَلَا تَوَلَّوْا عَنْهُ وَأَنْتُمْ تَسْمَعُونَ (20) وَلَا تَكُونُوا كَالَّذِينَ قَالُوا سَمِعْنَا وَهُمْ لَا يَسْمَعُونَ (21) } [الأنفال: 20 - 22]

وقال تعالى: {قُلْ أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ فَإِنْ تَوَلَّوْا فَإِنَّمَا عَلَيْهِ مَا حُمِّلَ وَعَلَيْكُمْ مَا حُمِّلْتُمْ وَإِنْ تُطِيعُوهُ تَهْتَدُوا وَمَا عَلَى الرَّسُولِ إِلَّا الْبَلَاغُ الْمُبِينُ(54) } [النور: 54]

[11] **Qur'an references (L164):** Qur'an 32:9 (As-Sajdah); Qur'an 90:8 (Al-Balad); Qur'an 90:9 (Al-Balad); Qur'an 90:10 (Al-Balad).

[12] **Qur'an references (L165):** Qur'an 7:179 (Al-A'raf).

[13] **Qur'an references (L166):** Qur'an 67:10 (Al-Mulk).

[14] **Qur'an references (L169):** Qur'an 3:32 (Ali 'Imran).

[15] **Qur'an references (L170):** Qur'an 8:20 (Al-Anfal); Qur'an 8:21 (Al-Anfal); Qur'an 8:22 (Al-Anfal).

turn away, he is responsible only for what he has been charged with, and you for what you have been charged with. If you obey him, you will be guided. The Messenger is responsible only for conveying clearly' [An-Nur 24:54].[16]

وقال تعالى: { يَاأَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَلَا تُبْطِلُوا أَعْمَالَكُمْ (33) } [محمد: 33]

L172 He, exalted is He, says: 'You who believe, obey Allah and obey the Messenger, and do not render your deeds void' [Muhammed 47:33].[17]

وقال عز وجل} : وَمَا كَانَ لِمُؤْمِنٍ وَلاَ مُؤْمِنَةٍ إِذَا قَضَى اللَّهُ وَرَسُولُهُ أَمْراً أَن يَكُونَ لَهُمُ الْخِيَرَةُ مِنْ أَمْرِهِمْ وَمَن يَعْصِ اللَّهَ وَرَسُولَهُ فَقَدْ ضَلَّ ضَلاَلاً مُّبِيناً{[الأحزاب:36].

L173 He, mighty and majestic is He, says: 'It is not for a believing man or a believing woman, when Allah and His Messenger have decided a matter, to have any choice in their affair. Whoever disobeys Allah and His Messenger has strayed into manifest error' [Al-Ahzab 33:36].[18]

وقال تعالى: {يَاأَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا} [النساء: 59]

L174 He, exalted is He, says: 'You who believe, obey Allah and obey the Messenger and those in authority among you. If you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day. That is better, and best in outcome' [An-Nisa 4:59].[19]

ويقول تعالى: {وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا} [الحشر: 7]

L175 He, exalted is He, says: 'Whatever the Messenger gives you, take it; and whatever he forbids you, refrain from it' [Al-Hashr 59:7].[20]

ويقول الله تعالى: {مَّنْ يُطِعِ الرَّسُولَ فَقَدْ أَطَاعَ اللَّهَ وَمَن تَوَلَّى فَمَآ أَرْسَلْنَاكَ عَلَيْهِمْ حَفِيظاً }[النساء:80]، ولا خلاف في أنه لا فرق بين وجوب طاعة قولِ الله عز وجل: {وَأَقِيمُواْ الصَّلاَةَ}[النور:56]، وبين وجوب طاعة الرسول عليه السلام في كيفية إقامة الصلاة.

L176 Allah, exalted is He, says: 'Whoever obeys the Messenger has obeyed Allah. As for whoever turns away, We have not sent you as a guardian over them' [An-Nisa 4:80]. There is no disagreement that the obligation to obey Allah's words, mighty and majestic is He, 'Establish the prayer' [An-Nur 24:56], is no different from the obligation to obey the Messenger ﷺ concerning how to perform the prayer.[21]

ويقول عليه السلام:" ..... أَلاَ وَإِنَّ مَا حَرَّمَ رَسُولُ اللَّهِ صلى الله عليه وسلم مِثْلُ مَا حَرَّمَ اللَّهُ"(8)

L177 He ﷺ says: '…Indeed, what the Messenger of Allah ﷺ has forbidden is like what Allah has forbidden.' (8)

[16]**Qur'an references (L171):** Qur'an 24:54 (An-Nur).
[17]**Qur'an references (L172):** Qur'an 47:33 (Muhammad).
[18]**Qur'an references (L173):** Qur'an 33:36 (Al-Ahzab).
[19]**Qur'an references (L174):** Qur'an 4:59 (An-Nisa).
[20]**Qur'an references (L175):** Qur'an 59:7 (Al-Hashr).
[21]**Qur'an references (L176):** Qur'an 4:80 (An-Nisa); Qur'an 24:56 (An-Nur).

L178 Obedience to the Messenger ﷺ is unrestricted. What is the matter with people who restrict that obedience by conditions for which Allah has sent down no authority? Is there a verse, or an authentic hadith, which restricts that obedience?

L179 ## The Sixth Fact

L180 Ahad and mutawatir hadiths stand on one level as regards the obligation to obey.

L181 The Qur'an makes no distinction between them. He, exalted is He, says: 'The believers should not all go forth. Why should a group from every company of them not go forth to gain understanding of the religion and warn their people when they return to them, so that they may beware?' [At-Tawbah 9:122]. In the Arabic language, taifa means one person or more. (Appendix 1)[22]

L182 ## The Seventh Fact

L183 ## There Is No Disagreement within the Sharia

L184 Islamic jurisprudence does not contain two contradictory positions on one thing, such that one jurist says: this is lawful, while another says of the same thing: this is forbidden; or one says: this is obligatory, while the other says: this is not obligatory.

L185 ## The Eighth Fact

L186 Rulings were not revealed all at once, but over twenty-three years. Muslim customs consequently did not change suddenly. Everyone continued with society's traditions and usages until a ruling came to move them from their previous practice, such as drinking wine (9) or not standing at Arafat. (10)

L187 A Companion might therefore relate an action he saw the Messenger ﷺ perform before legislation, while another Companion related the Messenger's ruling ﷺ after legislation. Ibn Abbas says that he saw the Messenger ﷺ drink standing (12), as does Ali, may Allah be pleased with him (13), whereas

[22] **Qur'an references (L181):** Qur'an 9:122 (At-Tawbah).

إن طاعة الرسول عليه السلام مطلقة، فما بال أقوام قَيَّدُوا تلك الطاعة بقيود ما أنزل الله بها من سلطان، فهل توجد آية، أو حديث صحيح يُقَيِّدُ تلك الطاعة؟

الحقيقة السادسة

أحاديث الآحاد و الحديث المتواتر فى مرتبة واحدة فى وجوب الطاعة.

فالقرآن لم يفرق بينهم، قال تعالى: {وَمَا كَانَ الْمُؤْمِنُونَ لِيَنْفِرُوا كَافَّةً فَلَوْلَا نَفَرَ مِنْ كُلِّ فِرْقَةٍ مِنْهُمْ طَائِفَةٌ لِيَتَفَقَّهُوا فِي الدِّينِ وَلِيُنْذِرُوا قَوْمَهُمْ إِذَا رَجَعُوا إِلَيْهِمْ لَعَلَّهُمْ يَحْذَرُونَ} [التوبة : 122] والطائفة تعنى الواحد أو أكثر فى لغة العرب (ملحق 1).

الحقيقة السابعة

لا اختلاف فى الشريعة

فليس في الفقه الإسلامى قولان مختلفان لشيئ واحد؛ بحيث يقول فقيه هذا حلال، ويقول فقيه آخر هذا حرام لنفس الشيئ؛ أو يقول أحدهما هذا فرض ويقول الآخر هذا ليس بفرض.

الحقيقة الثامنة

لم تنزل الأحكام دفعة واحدة ولكنها نزلت خلال 23 عاماً، وبالتالى لم تتغير عادات المسلمين فجأة؛ فالجميع ثابت على تقاليد المجتمع وأعرافه حتى يأتى حكم ينقله عمَّا كان عليه؛ كشرب الخمر(9) وعدم الوقوف بعرفة(10)

فالصحابى قد يروى ما شاهده من فعل الرسول عليه السلام قبل التشريع، وقد يروى صحابى آخر حكم الرسول عليه السلام بعد التشريع؛ فابن عباس يقول أنه شاهد الرسول عليه السلام يشرب واقفاً(12) وكذلك علىٌّ رضى الله عنه(13) وأَنَسٍ يروى عن

Anas relates from the Prophet ﷺ that he forbade a man to drink standing. (14) Abd Allah ibn Umar says that he saw the Messenger of Allah ﷺ relieving himself with his back to the qibla and his face towards Syria (15), whereas Abu Ayyub relates the Prophet's words ﷺ: 'When one of you goes to relieve himself, let him neither face the qibla nor turn his back towards it. Face east or west.' (16)

L188 One Companion might relate a hadith containing a particular ruling, while another related a hadith containing a ruling additional to that narrated by the first.

L189 Abu Said al-Khudri related the hadith: 'Water is required only because of water.' (17) This report does not mention the ruling on intercourse without ejaculation. Lady Aisha relates a more general hadith: 'When he sits between her four limbs and circumcision meets circumcision, the full ritual bath becomes obligatory.' (18)[23]

L190 The Messenger ﷺ did not gather the Muslims every day to recount the rulings to them. Rather, he would command or forbid something, and whichever Companions were present would hear him. Whoever was absent would consequently not know that command or prohibition, and would remain upon the practice preceding this new legislation.

L191 A Companion might therefore relate an abrogated hadith because its abrogator had not reached him, while another Companion related the later hadith which abrogated the earlier ruling.

L192 Several Companions might also relate several hadiths containing different rulings concerning the same thing.

L193 The Sunnah has been recorded, praise be to Allah. The Companions con-

[23]**Translator's note (L189):** "Water" in the quoted formula refers respectively to the washing required for ritual purification and to seminal fluid. The quotation's compressed wording is retained; the following report supplies the contrast concerning intercourse without ejaculation.

النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ نَهَى أَنْ يَشْرَبَ الرَّجُلُ قَائِمًا(14) ، و عَبْدُ اللَّهِ بْنِ عُمَرَ يقول أنه رأى رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقْضِي حَاجَتَهُ مُسْتَدْبِرَ الْقِبْلَةِ مُسْتَقْبِلَ الشَّأْمِ"(15) وأبو أيوب يروى قول النبى عليه السلام " إِذَا أَتَى أَحَدُكُمْ الْغَائِطَ فَلَا يَسْتَقْبِلِ الْقِبْلَةَ وَلَا يُوَلِّهَا ظَهْرَهُ شَرِّقُوا أَوْ غَرِّبُوا"(16)

وقد يذكر الصحابى حديث فيه حكم معين ويذكر صحابى آخر حديث فيه حكم زائد عمّا رواه الصحابى الأول.

فقد روى أبو سعيد الْخُدْرِيِّ حديث "إِنَّمَا الْمَاءُ مِنْ الْمَاءِ"(17) وهذا الحديث لم يذكر حكم الإكسال، فتروى السيدة عائشة حديث أعمّ من ذلك "إِذَا جَلَسَ بَيْنَ شُعَبِهَا الْأَرْبَعِ وَمَسَّ الْخِتَانُ الْخِتَانَ فَقَدْ وَجَبَ الْغُسْلُ"(18)

الرسول عليه السلام لم يجمع المسلمين كل يوم ليقص عليهم الأحكام؛ ولكنه عليه السلام يأمر بالشيئ أو ينهى عن شيئ فيسمعه من كان حاضراً من الصحابة؛ وبالتالى لم يعرف من لم يكن حاضراً هذا الأمر أو النهى فيظل على ما كان قبل تشريع هذا الحكم الجديد.

فقد يروى الصحابى حديث منسوخ لأنه لم يبلغه الناسخ، ويروى صحابى آخر الحديث المتأخر والذى فيه نسخ الحكم المتقدم.

وقد يروى عدد من الصحابة عدة أحاديث بأحكام مختلفة لنفس الشيئ.

دُوِّنَتْ السنةُ والحمد لله وبلَّغ الصحابة جميع الأحاديث، وحفظ ربنا جلَّ وعلا الذكر ووصلتنا جميع الأحاديث والحمد لله.

veyed all the hadiths, our Lord, majestic and exalted is He, preserved the Reminder, and all the hadiths have reached us. Praise be to Allah.

The Ninth Fact

L194

L195 The Companions, may Allah be pleased with them, the Successors, their successors and all the imams—may Allah be pleased with them—did not know every ruling or every hadith before the Sunnah was recorded.

L196 Now that Allah has favoured us, the Sunnah has been recorded and Allah has preserved the Reminder for us, we do not adopt the Companions' opinions or actions. We must accept only what they report from the Messenger ﷺ. Likewise, we do not adopt the opinions of the Successors or the imams—may Allah be pleased with them—but accept the texts of the Qur'an and authentic Sunnah which they conveyed to us.

L197 The Companions—may Allah be pleased with them—were constantly occupied. Only a few were with the Messenger ﷺ at any given time. Not every Companion knew every ruling or every hadith. After the Messenger's death ﷺ, the Companions dispersed through the lands. Each town came to possess a body of hadiths unavailable in another town. The Successors consequently could not know all the hadiths, for the Sunnah had not yet been recorded. When a question was put to a Companion, Successor or scholar, he would search the Qur'an and Sunnah. If he possessed a text, he ruled by it; if not, he asked the people in his town. If he still found nothing, he exercised judgement and expressed his opinion. More than this lay beyond his capacity, although it was certain that in another town, with another jurist, a hadith existed on that question. This follows from my Lord's promise, majestic and exalted is He, to preserve the Reminder: 'It is We who have sent down the Reminder, and We shall surely preserve it' [Al-Hijr 15:9]. The Prophet ﷺ says: '…When a judge gives judgement, exercising his judgement, and is right, he has two rewards. When he gives judgement, exercising his judgement, and errs, he has one reward…' (19)[24]

[24]**Qur'an references (L197):** Qur'an 15:9 (Al-Hijr).

الحقيقة التاسعة

الصحابةُ رضى الله عنهم، والتابعون، وتابعو التابعين، و جميع الأئمة عليهم رضوان الله (قبل تدوين السنة) لا يعرفون جميع الأحكام ولا جميع الأحاديث.

فبعد أن من الله علينا ودونت السنة وحفظ الله لنا الذكر؛ فلا نأخذ بآراء الصحابة، ولا بأفعالهم، ولكن يجب ألّا نأخذ إلا بروايتهم عن الرسول عليه السلام، وكذلك لا نأخذ بآراء التابعين ولا الأئمة عليهم رضوان الله؛ ولكن نأخذ بما نقلوه الينا من نصوص القرآن وصحيح السنة.

إن الصحابة عليهم رضوان الله كانوا فى شغل دائم، وما كان يجلس مع الرسول عليه السلام إلا العدد القليل فى كل وقت؛ فما كان كل الصحابة يعرفون جميع الأحكام، ولا كل الأحاديث؛ وبعد موت الرسول عليه السلام تفرق الصحابة فى البلاد وأصبح فى كل بلد مجموعة من الأحاديث ليست موجودة فى البلد الآخر؛ وعليه لم يتمكن التابعون من معرفة جميع الأحاديث ، فلم تكن السنة مدونة فى تلك الآونة، فكان الصحابى أو التابعى أو العالم تعرض علية المسألة؛ فيبحث فى القرآن والسنة؛ فإن كان معه نصٌّ حكم به، وإن لم يجد سأل من كان فى بلدته، فإن لم يجد، اجتهد وقال برأيه، وليس فى وسعه أكثر من ذلك مع اليقين بأن هناك فى بلد آخر عند فقيه آخر يوجد حديث فى تلك القضية؛ هذا لوعد ربى جلَّ وعلا بحفظ الذكر {إِنَّا نَحْنُ نَزَّلْنَا الذِّكْرَ وَإِنَّا لَهُ لَحَافِظُونَ} [الحجر: 9] ويقول عليه السلام: "..... إِذَا حَكَمَ الْحَاكِمُ فَاجْتَهَدَ ثُمَّ أَصَابَ فَلَهُ أَجْرَانِ وَإِذَا حَكَمَ فَاجْتَهَدَ ثُمَّ أَخْطَأَ فَلَهُ أَجْرٌ.."(19)

الحقيقة العاشرة

The Tenth Fact

Every Companion, Successor or jurist would establish a method for himself to follow. Those methods were not discussed, nor did scholars record them. The first to recognise this was Imam al-Shafii, may Allah have mercy upon him. He wrote his famous Epistle on legal theory, explaining how to derive rulings when an authentic hadith proves difficult for the jurist to obtain. He and the other imams—may Allah be pleased with them—would often say: 'If the hadith is authentic, that is my school.' (Appendix 2)

The Eleventh Fact

On the basis of the foregoing, we must refuse to acquiesce in disagreement.

Allah, glorified is He, says: 'You who believe, obey Allah and obey the Messenger and those in authority among you. If you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day. That is better, and best in outcome' [An-Nisa 4:59].[25]

Yes, we obey those in authority concerning what they agree upon. If they dispute over anything—if Abu Bakr and Umar disagree, may Allah be pleased with them; if Ibn Umar and Ibn Abbas disagree, may Allah be pleased with them; if Malik and al-Shafii disagree, may Allah be pleased with them—I say: if the scholars disagree, our Lord, glorified and exalted is He, has obliged us to return to the verses of the Qur'an and the authentic Sunnahs of the Messenger ﷺ.

If this is so, the Messenger ﷺ must have explained how we are to make this referral so that we do not disagree! We must therefore seek out that manner of proceeding. If we leave every jurist or scholar to read the Quranic verses and hadiths and understand them in his own way, even if it accords with Arab modes of expression, we shall disagree once again. That is neither our Lord's command to us nor His promise that disagreement should disappear!

[25] **Qur'an references (L202):** Qur'an 4:59 (An-Nisa).

كل صحابي أو تابعي أو فقية كان يضع لنفسه منهاج يَسِيرُ عليه، ولم تُناقش تلك المناهج، ولم يدونها العلماء، وأول من تنبه إلى هذا الإمام الشافعي رحمه الله، فكتب رسالته المشهورة في أصول الفقه، وشرح فيها كيفية استخراج الأحكام عندما يعزّ على الفقيه الحديث الصحيح، ولطالما قال هو وباقي الأئمة رضى الله عنهم "إذا صح الحديث فهو مذهبي" (ملحق 2)

الحقيقة الحادية عشر

وبناءً على ماسبق، يجب علينا أن لا نُقِرّ الإختلاف

يقول الله سبحانه : { يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا } [النساء : 59]

نعم، نطيع أولى الأمر فيما اتفقوا عليه، فإن تنازعوا في شيئ: إن اختلف أبو بكر وعمر رضى الله عنهما، إن اختلف ابن عمر وابن عباس رضى الله عنهم، إن اختلف مالك والشافعي رضى الله عنهما ، أقول: إن اختلف العلماء فقد فَرَضَ ربُّنا سبحانه وتعالى علينا أن نرجع إلى آيات القرآن وصحيح سنن الرسول عليه السلام.

إن كان هذا، فلابد أن يكون الرسول عليه السلام قد بيَّن لنا كيفية هذا الردّ حتى لا نختلف! فيجب البحث عن هذه الكيفية، فلو تركنا كل فقيه أو عالم يقرأ آيات القرآن والأحاديث ويفهمها بطريقته الخاصة حتى لو كانت تتفق مع أساليب العرب، لاختلفنا مرة أُخرى وليس هذا أَمْرُ ربِنا لنا، ولا وعدُ ربِنا لنا بأن يزول الاختلاف!

Appendices

Appendix 1

The Distinction between Taifa and Jamaa

Mujam al-Furuq al-Lughawiyya by Abu Hilal al-Hasan al-Askari, who died around 395 AH, states: 'A taifa originally means a group whose characteristic is travelling about the lands on a journey… In the Sharia, taifa may designate one person. Allah, mighty and majestic is He, says: "If two taifas of the believers fight, reconcile them" [Al-Hujurat 49:9]. There is no disagreement that when two people fight, this ruling applies to them. Concerning His words, mighty and majestic is He, "Let a taifa of the believers witness their punishment" [An-Nur 24:2], it is reported that one person was intended. He said that accepting one person is permissible, as indicated by His words: "The believers should not all go forth. Why should a taifa from every company of them not go forth to gain understanding of the religion and warn their people when they return to them, so that they may beware?" [At-Tawbah 9:122]—that is, so that they should beware. He thus made acting upon the report of a taifa obligatory, although a taifa may be one person.' End of quotation.[26]

Appendix 2

The Imams' Statements on the Obligation to Follow the Sunnah And to Abandon Their Own Statements Which Contradict It

Imam Abu Hanifa

Ibn Abidin says in Al-Durr al-Mukhtar wa-Hashiyat Ibn Abidin (Radd al-

[26] **Qur'an references (L209):** Qur'an 49:9 (Al-Hujurat); Qur'an 24:2 (An-Nur); Qur'an 9:122 (At-Tawbah).

الملاحق

(ملحق 1)

الفرق بين الطائفة والجماعة

قال فى معجم الفروق اللغوية لأبى هلال الحسن العسكري (المتوفى: نحو 395ه): أن الطائفة في الاصل الجماعة التي من شأنها الطوف في البلاد للسفر ..... و الطائفة في الشريعة قد تكون إسما لواحد قال الله عزوجل " {وَإِنْ طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْلِحُوا بَيْنَهُمَا} [الحجرات: 9] ولا خلاف في أن إثنين إذا اقتتلا كان حكمهما هذا الحكم وروي في قوله عزوجل: {وَلْيَشْهَدْ عَذَابَهُمَا طَائِفَةٌ مِنَ الْمُؤْمِنِينَ} [النور: 2] أنه أراد واحدا وقال يجوز قبول الواحد بدلالة قوله تعالى: {وَمَا كَانَ الْمُؤْمِنُونَ لِيَنْفِرُوا كَافَّةً فَلَوْلَا نَفَرَ مِنْ كُلِّ فِرْقَةٍ مِنْهُمْ طَائِفَةٌ لِيَتَفَقَّهُوا فِي الدِّينِ وَلِيُنْذِرُوا قَوْمَهُمْ إِذَا رَجَعُوا إِلَيْهِمْ لَعَلَّهُمْ يَحْذَرُونَ} [التوبة: 122] أي ليحذروا فأوجب العمل في خبر الطائفة، وقد تكون الطائفة واحدا.أ.ه.

(ملحق 2)

أقوال الأئمة في وجوب اتّباع السُّنَّةِ وتَركِ أقوالِهم المخالفَةِ لَها

الإمام ابو حنيفة

قال ابن عابدين فى "الدر المختار وحاشية ابن عابدين (رد المحتار) (1/ 67)" .....وَنَظِيرُ هَذَا مَا نَقَلَهُ الْعَلَّامَةُ بِيرِيّ فِي أَوَّلِ شَرْحِهِ عَلَى الْأَشْبَاهِ عَنْ شَرْحِ الْهِدَايَةِ لِابْنِ الشِّحْنَةِ،

Muhtar), 1:67: '…A parallel is what the learned Biri transmits at the beginning of his commentary on Al-Ashbah from Ibn al-Shihna's commentary on Al-Hidaya. Its wording is: "If a hadith is authentic and contradicts the school, the hadith is to be followed. That becomes his school, and his follower does not cease to be a Hanafi by acting upon it. It is authentically reported from him that he said: 'If the hadith is authentic, that is my school.' Ibn Abd al-Barr related this from Abu Hanifa and other imams.'" End of quotation.

L215 In Ibn Abd al-Barr's Al-Intiqa fi Fadail al-Thalatha al-Aimma al-Fuqaha, p. 145: '…I heard Abu Hanifa say: A person who gives fatwas from my books may not do so until he knows the basis upon which I spoke.'

L216 Imam Malik ibn Anas, May Allah Have Mercy upon Him

L217 Ibn Abi Hatim says in Al-Jarh wa-l-Tadil, 1:31, in the chapter on Malik's following the reports of the Messenger of Allah ﷺ and withdrawing his fatwa when a contrary report from the Prophet ﷺ was related to him: 'Abd al-Rahman related to us: Ahmad ibn Abd al-Rahman, Ibn Wahb's nephew, related to us: I heard my uncle say: I heard Malik asked about passing the fingers between the toes during ablution. He said: "People are not required to do that." I left him until the people had dispersed somewhat, then said: "We have a Sunnah concerning that." He said: "What is it?" I said: "Al-Layth ibn Sad, Ibn Lahia and Amr ibn al-Harith related to us, from Yazid ibn Amr al-Maafiri, from Abu Abd al-Rahman al-Hubuli, from al-Mustawrid ibn Shaddad al-Qurashi, who said: 'I saw the Messenger of Allah ﷺ rub between his toes with his little finger.'" He said: "This hadith is sound. I had never heard it before this moment." Afterwards I heard him asked about it, and he instructed people to pass their fingers between their toes.'

L218 3. Al-Shafii, May Allah Have Mercy upon Him

وَنَصُّهُ: إذَا صَحَّ الْحَدِيثُ وَكَانَ عَلَى خِلَافِ الْمَذْهَبِ عُمِلَ بِالْحَدِيثِ، وَيَكُونُ ذَلِكَ مَذْهَبَهُ وَلَا يَخْرُجُ مُقَلِّدُهُ عَنْ كَوْنِهِ حَنَفِيًّا بِالْعَمَلِ بِهِ، فَقَدْ صَحَّ عَنْهُ أَنَّهُ قَالَ: إذَا صَحَّ الْحَدِيثُ فَهُوَ مَذْهَبِي. وَقَدْ حَكَى ذَلِكَ ابْنُ عَبْدِ الْبَرِّ عَنْ أَبِي حَنِيفَةَ وَغَيْرِهِ مِنْ الْأَئِمَّةِ. اهـ.

وفى كتاب الانتقاء في فضائل الثلاثة الأئمة الفقهاء لابن عبد البر- (ص: 145) ".....سَمِعتُ ابا حنيفَة يَقُول لايحل لِمَنْ يُفْتِي مِنْ كُتُبِي أَنْ يُفْتِيَ حَتَّى يَعْلَمَ مِنْ أَيْنَ قُلْتُ"

الإمام مالك بن أنس رحمه الله.

قال ابن أبى حاتم فى كتابه الجرح والتعديل (1/ 31) فى باب ما ذكر من اتباع مالك لأثار رسول الله صلى الله عليه وسلم ونزوعه عن فتواه عند ما حُدِّث عن النبي صلى الله عليه وسلم خلافه:" حدثنا عبد الرحمن نا أحمد بْنُ عَبْدِ الرَّحْمَنِ ابْنُ أَخِي ابْنِ وَهْبٍ قَالَ سَمِعْتُ عَمِّي يَقُولُ سَمِعْتُ مَالِكًا سُئِلَ عَنْ تَخْلِيلِ أَصَابِعِ الرِّجْلَيْنِ فِي الْوُضُوءِ فَقَالَ: لَيْسَ ذَلِكَ عَلَى النَّاسِ، قَالَ فَتَرَكْتُهُ حَتَّى خَفَّ النَّاسُ فَقُلْتُ لَهُ: عِنْدَنَا فِي ذَلِكَ سنة، فقال: وماهي؟ قلت حدثنا الليث ابن سَعْدٍ وَابْنُ لَهِيعَةَ وَعَمْرُو بْنُ الْحَارِثِ عَنْ يَزِيدَ بْنِ عَمْرٍو الْمَعَافِرِيِّ عَنْ أَبِي عَبْدِ الرَّحْمَنِ الْحُبُلِيِّ عَنِ الْمُسْتَوْرِدِ بْنِ شَدَّادٍ الْقُرَشِيِّ قَالَ رَأَيْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُدَلِّكُ بِخِنْصَرِهِ مَا بَيْنَ أَصَابِعِ رِجْلَيْهِ.فَقَالَ: إِنَّ هَذَا الْحَدِيثَ حَسَنٌ، وَمَا سَمِعْتُ بِهِ قَطُّ إِلا السَّاعَةَ. ثُمَّ سَمِعْتُهُ بَعْدَ ذَلِكَ يسأل فيأمر بتخليل الاصابع"

3- الشافعي رحمه الله:

As for Imam al-Shafii, may Allah have mercy upon him, many statements are transmitted from him on this subject.

Ibn Hazm says in Al-Ihkam fi Usul al-Ahkam, 6:118: '…Yet they acknowledge that the jurists whom they imitate reject imitation and forbade their followers to imitate them. The strongest of them in this respect was al-Shafii, may Allah have mercy upon him. His insistence upon following authentic reports and accepting what the proof required surpassed that of others. He repudiated anyone who imitated at all and openly declared this. May Allah benefit him by it and make his reward immense, for he was a cause of much good.'

Al-Nawawi says in Al-Majmu Sharh al-Muhadhdhab, 1:63: 'It is authentically reported that al-Shafii, may Allah have mercy upon him, said: "If you find in my book something contrary to the Sunnah of the Messenger of Allah ﷺ, adopt the Sunnah of the Messenger of Allah ﷺ and leave my statement." It is related from him: "If a hadith is authentic and contradicts my statement, act upon the hadith and leave my statement," or he said: "That is my school." This meaning is related in different wordings. Our colleagues acted upon it concerning tathwib, stipulating release from ihram on account of illness, and other matters known in the school's books… A number of our early colleagues, when they found a question on which a hadith contradicted al-Shafii's school, acted upon the hadith and gave fatwas according to it, saying: "Al-Shafii's school is whatever agrees with the hadith."'

4. Ahmad ibn Hanbal, May Allah Have Mercy upon Him

Ibn al-Qayyim says in Ilam al-Muwaqqiin an Rabb al-Alamin, 2:139: 'Ahmad distinguished imitation from following. Abu Dawud said: "I heard him say: 'Following is for a person to follow what comes from the Prophet ﷺ and his Companions; thereafter he has a choice concerning the Successors.' He also said: 'Do not imitate me, Malik, al-Thawri or al-Awzai. Take from where they took.' He said: 'It is a sign of a person's scant understanding that he imitates men in his religion.'"'

وأما الإمام الشافعي رحمه الله، فالنقول عنه في ذلك كثرة:

يقول ابن حزم فى الإحكام في أصول الأحكام (6/ 118) "....هذا وهم يقرون أن الفقهاء الذين قلدوا مبطلون للتقليد وأنهم قد نهوا أصحابهم عن تقليدهم وكان أشدهم في ذلك الشافعي فإنه رحمه الله بلغ من التأكيد في اتباع صحاح الآثار والأخذ بما أوجبته الحجة حيث لم يبلغ غيره وتبرأ من يقلد جملة وأعلن بذلك نفعه الله به وأعظم أجره فلقد كان سببا إلى خير كثير"

قال النووى فى كتابه المجموع شرح المهذب (1/ 63):"صَحَّ عَنْ الشَّافِعِيِّ رَحِمَهُ اللَّهُ أَنَّهُ قَالَ إذَا وَجَدْتُمْ فِي كِتَابِي خِلَافَ سُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقُولُوا بِسُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَدَعُوا قَوْلِي: وَرُوِيَ عَنْهُ إذَا صَحَّ الْحَدِيثُ خِلَافَ قَوْلِي فَاعْمَلُوا بِالْحَدِيثِ وَاتْرُكُوا قَوْلِي أَوْ قَالَ فَهُوَ مَذْهَبِي وَرُوِيَ هَذَا الْمَعْنَى بِأَلْفَاظٍ مُخْتَلِفَةٍ: وَقَدْ عَمِلَ بِهَذَا أَصْحَابُنَا فِي مَسْأَلَةِ التَّثْوِيبِ وَاشْتِرَاطِ التَّحَلُّلِ مِنْ الْإِحْرَامِ بِعُذْرِ الْمَرَضِ وَغَيْرِهِمَا مِمَّا هُوَ مَعْرُوفٌ فِي كُتُبِ الْمَذْهَبِ ... .وَكَانَ جَمَاعَةٌ مِنْ مُتَقَدِّمِي أَصْحَابِنَا إذَا رَأَوْا مَسْأَلَةً فِيهَا حَدِيثٌ وَمَذْهَبُ الشَّافِعِيِّ خِلَافُهُ عَمِلُوا بِالْحَدِيثِ وَأَفْتَوْا بِهِ قَائِلِينَ مَذْهَبُ الشَّافِعِيِّ مَا وَافَقَ الْحَدِيثَ".

4- أحمد بن حنبل رحمه الله:

قال ابن القيم فى إعلام الموقعين عن رب العالمين (2/ 139):"وَقَدْ فَرَّقَ أَحْمَدُ بَيْنَ التَّقْلِيدِ وَالِاتِّبَاعِ فَقَالَ أَبُو دَاوُد: سَمِعْتُهُ يَقُولُ: الِاتِّبَاعُ أَنْ يَتَّبِعَ الرَّجُلُ مَا جَاءَ عَنْ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَعَنْ أَصْحَابِهِ، ثُمَّ هُوَ مِنْ بَعْدُ فِي التَّابِعِينَ مُخَيَّرٌ، وَقَالَ أَيْضًا: لَا

تُقَلِّدْنِي وَلَا تُقَلِّدْ مَالِكًا وَلَا الثَّوْرِيَّ وَلَا الْأَوْزَاعِيَّ، وَخُذْ مِنْ حَيْثُ أَخَذُوا وَقَالَ: مِنْ قِلَّةِ فِقْهِ الرَّجُلِ أَنْ يُقَلِّدَ دِينَهُ الرِّجَالَ.

L224 Al-Fullani says in Iqaz Himam Uli al-Absar li-l-Iqtida bi-Sayyid al-Muhajirin wa-l-Ansar, p. 99: 'Those who adhere to their schools must therefore give fatwas on the basis of the Book, Sunnah and scholars' statements, so that they may thereby know what is and is not their imam's school. This is contrary to the constant practice of later jurists of the four schools: confining themselves to abridgements devoid of evidence and turning completely away from books of hadith, disagreement, hadith principles and legal theory. In this condition, they are the most ignorant of people concerning their imams' schools, with compounded ignorance. Some opinions they believe to be their imams' schools contradict the Book, Sunnah or consensus, while the imams disclaim everything which contradicts the Book, Sunnah and consensus. Al-Shafii, may Allah have mercy upon him, said: "There is no one who does not miss and remain unaware of a Sunnah of the Messenger of Allah ﷺ." Ibn Daqiq al-Id, may Allah have mercy upon him, collected in a large volume the questions on which the position of each of the four imams contradicted authentic hadith, individually or collectively. At its beginning he stated that attributing these questions to the mujtahid imams was forbidden, and that jurists who imitated them must know these questions so that they did not attribute them to the imams and lie about them. His pupil al-Udfuwi transmitted this from him. I copied it from the notebook of Shaykh Isa al-Thaalibi al-Jafari, Algerian by origin and Meccan at his death, may Allah have mercy upon him.'

قال الفُلَّاني فى كتابه إيقاظ همم أولي الأبصار للاقتداء بسيد المهاجرين والأنصار (ص 99): "فَتعين على المتمسكين بمذاهبهم أَن يفتوا بِالْكتاب وَالسّنة وأقوال الْعلمَاء ليعلموا بذلك مَا هُوَ مَذْهَب لإمامهم وَمَا لَيْسَ مذهبا لإمامهم؛ خلاف مَا لهج بِهِ الْمُتَأَخّرُونَ من فُقَهَاء الْمَذَاهب الْأَرْبَعَة من اقتصارهم على المختصرات الخالية عَن الدَّلِيل وإعراضهم كل الْإِعْرَاض عَن كتب الحَدِيث وَالْخلاف وأصول الحَدِيث وَالْفِقْه فهم على هَذَا اجهل النَّاس لمذاهب أئمتهم جهلا مركبا لِأَن الآراء الَّتِي يَعْتَقِدُونَ أَنَّهَا مَذَاهِب أئمتهم بَعْضهَا مُخَالف للْكتاب اَوْ السّنة أَو الْإِجْمَاع وَالْأَئِمَّة بريئون من كل مَا يُخَالف الْكتاب وَالسّنة وَالْإِجْمَاع وَقد قَالَ الشَّافِعِي رَحمَه الله تَعَالَى مَا من أحد إِلَّا وَتذهب عَلَيْهِ سنة لرَسُول الله صلى الله عَلَيْهِ وَسلم وتعزب عَنهُ وَقد جمع ابْن دَقِيق الْعِيد رَحمَه الله تَعَالَى الْمسَائِل الَّتِي خَالف مَذْهَب كل وَاحِد من الْأَئِمَّة الْأَرْبَعَة الحَدِيث الصَّحِيح انفرادا واجتماعا فِي مُجَلد ضخم وَذكر فِي أَوله أَن نِسْبَة هَذِه الْمسَائِل إِلَى الْأَئِمَّة الْمُجْتَهدين حرَام وَأَنه يجب على الْفُقَهَاء المقلدين لَهُم مَعْرفَتهَا لِئَلَّا يعزوها إِلَيْهِم فيكذبوا عَلَيْهِم هَكَذَا نَقله عَنهُ تلْمِيذه الأدفوي نقلته من تذكرة الشَّيْخ عِيسَى الثعالبي الْجَعْفَرِي الجزائري منشأ الْمَكِّيّ وَفَاة رَحمَه الله تَعَالَى".

L225 For all these reasons, the imams' followers did not adopt all their imams' statements. They abandoned many when it became clear that they contradicted the Sunnah.

ولذلك كله كان أتباع الأئمة لا يأخذون بأقوال أئمتهم كلها؛ بل قد تركوا كثيراً منها لَمَّا ظهر لهم مخالفتها للسنة:

L226 Muhammed ibn al-Hasan says in Al-Asl, known as Al-Mabsut, by al-Shaybani, 1:447: 'I said: "Is there a prayer for seeking rain?" He said: "There

is no prayer for seeking rain, only supplication." I said: "Do you not consider that people should gather for prayer, with the imam reciting aloud?" He said: "I do not consider that. We have received only that the Messenger of Allah ﷺ went out and supplicated. We have received that Umar ibn al-Khattab, may Allah be pleased with him, ascended the pulpit, supplicated and asked for rain. We have received no prayer concerning it, except one anomalous hadith which is not to be followed." I said: "Is it recommended that the imam, or anyone among the people, reverse his cloak on that occasion?" He said: "No." This is Abu Hanifa's position. Muhammed ibn al-Hasan said: "I consider that the imam should pray for rain in a manner resembling the Eid prayer, beginning with the prayer before the sermon. He should not pronounce the additional takbirs as in the two Eids, for we have received that the Messenger of Allah ﷺ prayed when seeking rain, and that Ibn Abbas ordered it. He should reverse his cloak, putting its left side on the right and its right side on the left. In this matter one follows only the Sunnah and the recognised reports. This is not obligatory upon those behind the imam."'

L227 Zayn al-Din ibn Ibrahim ibn Muhammed, known as Ibn Nujaym al-Misri, who died in 970 AH, says in Al-Bahr al-Raiq Sharh Kanz al-Daqaiq, 17:359: 'If you ask: "How could the shaykhs give fatwas contrary to the Supreme Imam's position when they are imitators?" I reply: "This troubled me for a long time. I saw no answer except what I have now understood from their words: they transmitted from our colleagues that no one may give a fatwa according to our position until he knows its basis. Al-Sirajiyya even relates that this is why Isam ibn Yusuf al-Balkhi disagreed with the imam. He often gave fatwas contrary to him because he did not know the evidence, while other evidence became apparent to him and he gave fatwas accordingly."'

L228

L229 **Hadith Reports**

قَالَ مُحَمَّد بن الْحسن فى الأصل المعروف بالمبسوط للشيباني (1/ 447): "قلت فَهَل فِي الاسْتِسْقَاء صَلَاة قَالَ لَا صَلَاة فِي الاسْتِسْقَاء إِنَّمَا فِيهِ الدُّعَاء قلت وَلَا ترى بِأَن يجمع فِيهِ للصَّلَاة ويجهر الإِمَام بِالْقِرَاءَةِ قَالَ لَا أرى ذَلِك إِنَّمَا بلغنَا عَن رَسُول الله صلى الله عَلَيْهِ وَسلم أَنه خرج فَدَعَا وبلغنا عَن عمر بن الْخطاب رَضِي الله عَنهُ أَنه صعد الْمِنْبَر فَدَعَا واستسقى وَلم يبلغنَا فِي ذَلِك صَلَاة إِلَّا حَدِيثا وَاحِدًا شاذا لَا يُؤْخَذ بِهِ قلت فَهَل يسْتَحبّ أَن يقلب الإِمَام أَو أَحد من الْقَوْم رِدَاءَهُ فِي ذَلِك قَالَ لَا وَهَذَا قَول أبي حنيفَة وَقَالَ مُحَمَّد بن الْحسن أرى أَن يُصَلِّي الإِمَام فِي الاسْتِسْقَاء نَحوا من صَلَاة الْعِيد يبْدَأ بِالصَّلَاةِ قبل الْخطْبَة وَلَا يكبر فِيهَا كَمَا يكبر فِي الْعِيدَيْنِ لأَنَّهُ بلغنَا عَن رَسُول الله صلى الله عَلَيْهِ وَسلم أَنه صلى فِي الاسْتِسْقَاء وبلغنا عَن ابْن عَبَّاس أَنه أَمر بذلك ويقلب رِدَاءَهُ فِي ذَلِك وَقَلبه أَن يَجْعَل الْجَانِب الْأَيْسَر على الْأَيْمن والأيمن على الْأَيْسَر وَإِنَّمَا تتبع فِي هَذِه السّنة والْآثَار الْمَعْرُوفَة وَلَيْسَ يجب ذَلِك على من خلف الإِمَام"

قال زين الدين بن إبراهيم بن محمد، المعروف بابن نجيم المصري (المتوفى: 970هـ) فى كتابه البحر الرائق شرح كنز الدقائق (17/ 359):فَإِنْ قُلْتَ : كَيْفَ جَازَ لِلْمَشَايِخِ الْإِفْتَاءُ بِغَيْرِ قَوْلِ الْإِمَامِ الْأَعْظَمِ مَعَ أَنَّهُمْ مُقَلِّدُونَ ؟ قُلْتُ : قَدْ أَشْكَلَ عَلَيَّ ذَلِكَ مُدَّةً طَوِيلَةً وَلَمْ أَرَ فِيهِ جَوَابًا إلَّا مَا فَهِمْته الْآنَ مِنْ كَلَامِهِمْ ، وَهُوَ أَنَّهُمْ نَقَلُوا عَنْ أَصْحَابِنَا أَنَّهُ لَا يَحِلُّ لِأَحَدٍ أَنْ يُفْتِيَ بِقَوْلِنَا حَتَّى يَعْلَمَ مِنْ أَيْنَ قُلْنَا حَتَّى نُقِلَ فِي السِّرَاجِيَّةِ أَنَّ هَذَا سَبَبُ مُخَالَفَةِ عصام بن يوسف البَلْخي لِلْإِمَامِ ، وَكَانَ يُفْتِي بِخِلَافِ قَوْلِهِ كَثِيرًا ؛ لِأَنَّهُ لَمْ يَعْلَمْ الدَّلِيلَ ، وَكَانَ يَظْهَرُ لَهُ دَلِيلٌ غَيْرُهُ فَيُفْتِي بِهِ "

الأحـــــــاديث

L230 (1) Umar ibn al-Khattab reported that a Jewish man said to him: ‘Commander of the Believers, you recite a verse in your Book which, had it been revealed to us Jews, we would have made that day a festival.’ He asked: ‘Which verse?’ He said: ‘“Today I have perfected your religion for you, completed My favour upon you, and approved Islam as your religion.”’ Umar said: ‘We know the day and place in which it was revealed to the Prophet ﷺ: he was standing at Arafat on a Friday.’ [Al-Bukhari, Book of Faith, chapter: The increase and decrease of faith.][27]

L231 (2) Ibn Jarir al-Tabari says in his commentary Jami al-Bayan: ‘…After this verse, nothing further concerning obligations, the permission of anything or its prohibition was revealed to the Prophet ﷺ. The Prophet ﷺ lived only eighty-one nights after its revelation.’

L232 (2) Ibn Hajar says in Al-Fath: ‘…That was during the Farewell Pilgrimage, at the very end of the period of the mission, when the Sharia and its pillars were completed. Allah knows best. Al-Suddi asserted categorically that after this verse nothing further concerning the lawful and the forbidden was revealed.’ End of quotation.

L233 (3) Abd al-Rahman ibn Amr al-Sulami reported that he heard al-Irbad ibn Sariya say: ‘The Messenger of Allah ﷺ admonished us with an admonition which brought tears to our eyes and made our hearts tremble. We said: “Messenger of Allah, this is surely a farewell admonition. What do you enjoin upon us?” He said: “I have left you upon the clear, white way, whose night is like its day. None deviates from it after me but one who is doomed. Those of you who live will see much disagreement. Adhere, then, to what you know of my Sunnah and the sunnah of the rightly guided, rightly directed caliphs. Cling to it with your molar teeth. You must obey, even if it be an Abyssinian slave; the believer is like a camel led by the nose: wherever it is led, it follows.”’ [Sunan Ibn Majah, Book of the Introduction, chapter: Following the sunnah of the rightly guided caliphs; Sahih wa-Daif Sunan Ibn Majah, al-Albani’s assessment: authentic.]

(1)" عَنْ عُمَرَ بْنِ الْخَطَّابِ أَنَّ رَجُلًا مِنْ الْيَهُودِ قَالَ لَهُ يَا أَمِيرَ الْمُؤْمِنِينَ آيَةٌ فِي كِتَابِكُمْ تَقْرَءُونَهَا لَوْ عَلَيْنَا مَعْشَرَ الْيَهُودِ نَزَلَتْ لَاتَّخَذْنَا ذَلِكَ الْيَوْمَ عِيدًا قَالَ أَيُّ آيَةٍ قَالَ: { الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتْمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيتُ لَكُمْ الْإِسْلَامَ دِينًا } قَالَ عُمَرُ قَدْ عَرَفْنَا ذَلِكَ الْيَوْمَ وَالْمَكَانَ الَّذِي نَزَلَتْ فِيهِ عَلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهُوَ قَائِمٌ بِعَرَفَةَ يَوْمَ جُمُعَةٍ" [البخاري: كِتَاب الْإِيمَانِ ، بَاب زِيَادَةِ الْإِيمَانِ وَنُقْصَانِهِ]

(2)قال ابن جرير الطبرى فى تفسيره جامع البيان: (.....لم ينزل على النبي صلى الله عليه وسلم بعد هذه الآية شيء من الفرائض، ولا تحليل شيء ولا تحريمه، وأن النبي صلى الله عليه وسلم لم يعش بعد نزول هذه الآية إلا إحدى وثمانين ليلة.)

(2) وقال ابن حجر فى الفتح: .... وَكَانَ ذَلِكَ فِي حَجَّة الْوَدَاع الَّتِي هِيَ آخِر عَهْد الْبَعْثَة حِين تَمَّتْ الشَّرِيعَة وَأَرْكَانهَا . وَاَللَّه أَعْلَم . وَقَدْ جَزَمَ السُّدِّيّ بِأَنَّهُ لَمْ يَنْزِل بَعْد هَذِهِ الْآيَة شَيْء مِنْ الْحَلَال وَالْحَرَام .أ.ه.

(3) عَنْ عَبْدِ الرَّحْمَنِ بْنِ عَمْرٍو السُّلَمِيِّ أَنَّهُ سَمِعَ الْعِرْبَاضَ بْنَ سَارِيَةَ يَقُولُ وَعَظَنَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَوْعِظَةً ذَرَفَتْ مِنْهَا الْعُيُونُ وَوَجِلَتْ مِنْهَا الْقُلُوبُ فَقُلْنَا يَا رَسُولَ اللَّهِ إِنَّ هَذِهِ لَمَوْعِظَةُ مُوَدِّعٍ فَمَاذَا تَعْهَدُ إِلَيْنَا قَالَ قَدْ تَرَكْتُكُمْ عَلَى الْبَيْضَاءِ لَيْلُهَا كَنَهَارِهَا لَا يَزِيغُ عَنْهَا بَعْدِي إِلَّا هَالِكٌ مَنْ يَعِشْ مِنْكُمْ فَسَيَرَى اخْتِلَافًا كَثِيرًا فَعَلَيْكُمْ بِمَا عَرَفْتُمْ مِنْ سُنَّتِي وَسُنَّةِ الْخُلَفَاءِ الرَّاشِدِينَ الْمَهْدِيِّينَ عَضُّوا عَلَيْهَا بِالنَّوَاجِذِ وَعَلَيْكُمْ بِالطَّاعَةِ وَإِنْ عَبْدًا حَبَشِيًّا فَإِنَّمَا الْمُؤْمِنُ كَالْجَمَلِ الْأَنِفِ حَيْثُمَا قِيدَ انْقَادَ" [سنن ابن ماجه : كِتَاب الْمُقَدِّمَةِ ، بَاب اتِّبَاعِ سُنَّةِ الْخُلَفَاءِ الرَّاشِدِينَ الْمَهْدِيِّينَ] [صحيح وضعيف سنن ابن ماجة : تحقيق الألباني : صحيح]

[27] **Qur’an references (L230):** Qur’an 5:3 (Al-Ma’idah).

(4) Abu Hurayra reported that the Prophet ﷺ said: 'Leave me as I leave you. Those before you perished only through their questioning and their disagreement with their prophets. When I forbid you something, avoid it; and when I command you to do something, do as much of it as you can.' [Al-Bukhari, Book of Adherence to the Book and Sunnah, chapter: Following the Sunnahs of the Messenger of Allah ﷺ.]

(4) وعَنْ أَبِي هُرَيْرَةَ عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ دَعُونِي مَا تَرَكْتُكُمْ إِنَّمَا هَلَكَ مَنْ كَانَ قَبْلَكُمْ بِسُؤَالِهِمْ وَاخْتِلَافِهِمْ عَلَى أَنْبِيَائِهِمْ فَإِذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَاجْتَنِبُوهُ وَإِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ [البخاري: كِتَاب الِاعْتِصَامِ بِالْكِتَابِ وَالسُّنَّةِ؛ بَاب الِاقْتِدَاءِ بِسُنَنِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ]

(4) Abu Hurayra would relate that he heard the Messenger of Allah ﷺ say: 'What I forbid you, avoid; what I command you, do as much of it as you can. Those before you perished only through their many questions and their disagreement with their prophets.' [Muslim, Book of Virtues, chapter: Honouring him ﷺ and refraining from excessive questions about what is unnecessary, involves no obligation, does not occur, and similar matters.]

(4) كَانَ أَبُو هُرَيْرَةَ يُحَدِّثُ أَنَّهُ سَمِعَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ "مَا نَهَيْتُكُمْ عَنْهُ فَاجْتَنِبُوهُ وَمَا أَمَرْتُكُمْ بِهِ فَافْعَلُوا مِنْهُ مَا اسْتَطَعْتُمْ فَإِنَّمَا أَهْلَكَ الَّذِينَ مِنْ قَبْلِكُمْ كَثْرَةُ مَسَائِلِهِمْ وَاخْتِلَافُهُمْ عَلَى أَنْبِيَائِهِمْ" [مسلم: كِتَاب الْفَضَائِلِ؛ بَاب تَوْقِيرِهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَتَرْكِ إِكْثَارِ سُؤَالِهِ عَمَّا لَا ضَرُورَةَ إِلَيْهِ أَوْ لَا يَتَعَلَّقُ بِهِ تَكْلِيفٌ وَمَا لَا يَقَعُ وَنَحْوِ ذَلِكَ]

(4) Salman al-Farisi said: 'The Messenger of Allah ﷺ was asked about clarified butter, cheese and furs. He said: "The lawful is what Allah has made lawful in His Book, and the forbidden is what Allah has forbidden in His Book. What He has said nothing about is among the things He has left unproscribed."' [Sunan Ibn Majah, Book of Foods, chapter: Eating cheese and clarified butter; al-Albani's assessment: sound; Ghayat al-Maram, nos. 2 and 3; Al-Mishkat, no. 4228; Sahih wa-Daif Sunan Ibn Majah, 7:367.]

(4)عَنْ سَلْمَانَ الْفَارِسِيِّ قَالَ: سُئِلَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ السَّمْنِ وَالْجُبْنِ وَالْفِرَاءِ قَالَ: "الْحَلَالُ مَا أَحَلَّ اللَّهُ فِي كِتَابِهِ وَالْحَرَامُ مَا حَرَّمَ اللَّهُ فِي كِتَابِهِ وَمَا سَكَتَ عَنْهُ فَهُوَ مِمَّا عَفَا عَنْهُ" [سنن ابن ماجه: كِتَاب الْأَطْعِمَةِ؛بَاب أَكْلِ الْجُبْنِ وَالسَّمْنِ] [تحقيق الألباني :حسن؛ غاية المرام (3 و 2) ، المشكاة (4228) صحيح وضعيف سنن ابن ماجة (7/ 367)]

(4) Ibn Abbas said: 'The people of the Age of Ignorance would eat certain things and leave others out of disgust. Allah, exalted is He, sent His Prophet ﷺ, revealed His Book, permitted what He permitted and forbade what He forbade. What He permitted is lawful; what He forbade is forbidden; and what He said nothing about is left unproscribed.' He recited: 'Say: I find nothing in what has been revealed to me which is forbidden…' to the end of the verse. [Sunan Abi Dawud, Book of Foods, chapter: What has not been mentioned as forbidden; al-Albani's assessment: authentic chain; Sahih wa-Daif Sunan Abi Dawud, 8:300.]

(4)عَنْ ابْنِ عَبَّاسٍ قَالَ: كَانَ أَهْلُ الْجَاهِلِيَّةِ يَأْكُلُونَ أَشْيَاءَ وَيَتْرُكُونَ أَشْيَاءَ تَقَذُّرًا فَبَعَثَ اللَّهُ تَعَالَى نَبِيَّهُ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَنْزَلَ كِتَابَهُ وَأَحَلَّ حَلَالَهُ وَحَرَّمَ حَرَامَهُ فَمَا أَحَلَّ فَهُوَ حَلَالٌ وَمَا حَرَّمَ فَهُوَ حَرَامٌ وَمَا سَكَتَ عَنْهُ فَهُوَ عَفْوٌ وَتَلَا { قُلْ لَا أَجِدُ فِيمَا أُوحِيَ إِلَيَّ مُحَرَّمًا } إِلَى آخِرِ الْآيَةِ [سنن أبي داود: كِتَاب الْأَطْعِمَةِ؛ بَاب مَا لَمْ يُذْكَرْ تَحْرِيمُهُ] [تحقيق الألباني :صحيح الإسناد صحيح وضعيف سنن أبي داود (8/ 300)]

(4) 'The lawful is what Allah has made lawful in His Book, and the forbidden

is what Allah has forbidden in His Book. What He has said nothing about is among the things He has left unproscribed.' [Al-Albani's assessment: sound; Ghayat al-Maram, 3195.]

(4)«الحلال ما أحل الله في كتابه والحرام ما حرم الله في كتابه وما سكت عنه فهو مما عفا عنه» [تحقيق الألباني : حسن؛ غاية المرام 3195]

L239 (4) Abu Hurayra said: 'The Messenger of Allah ﷺ addressed us, saying: "People, Allah has made hajj obligatory upon you, so perform hajj." A man said: "Every year, Messenger of Allah?" He remained silent until the man had said it three times. The Messenger of Allah ﷺ said: "Had I said yes, it would have become obligatory, and you would not have been able to do it." Then he said: "Leave me as I leave you. Those before you perished only through their many questions and their disagreement with their prophets. When I command you to do something, do as much of it as you can; when I forbid you something, leave it."' [Sahih Muslim, Book of Hajj, chapter: Hajj is obligatory once in a lifetime.]

(4)عَنْ أَبِي هُرَيْرَةَ قَالَ خَطَبَنَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ أَيُّهَا النَّاسُ قَدْ فَرَضَ اللَّهُ عَلَيْكُمْ الْحَجَّ فَحُجُّوا فَقَالَ رَجُلٌ أَكُلَّ عَامٍ يَا رَسُولَ اللَّهِ فَسَكَتَ حَتَّى قَالَهَا ثَلَاثًا فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَوْ قُلْتُ نَعَمْ لَوَجَبَتْ وَلَمَا اسْتَطَعْتُمْ ثُمَّ قَالَ ذَرُونِي مَا تَرَكْتُكُمْ فَإِنَّمَا هَلَكَ مَنْ كَانَ قَبْلَكُمْ بِكَثْرَةِ سُؤَالِهِمْ وَاخْتِلَافِهِمْ عَلَى أَنْبِيَائِهِمْ فَإِذَا أَمَرْتُكُمْ بِشَيْءٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ وَإِذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَدَعُوهُ [صحيح مسلم: كِتَاب الْحَجِّ ؛ بَاب فَرْضِ الْحَجِّ مَرَّةً فِي الْعُمُرِ]

L240 (5) 'What Allah has made lawful in His Book is lawful; what He has forbidden is forbidden; and what He has said nothing about is left unproscribed. Accept, then, the latitude Allah has granted you: "Your Lord is never forgetful" [Maryam 19:64].' [Al-Silsila al-Sahiha, abridged, 5:325, no. 2256: authentic.][28]

(5)"ما أحل الله في كتابه فهو حلال وما حرم فهو حرام وما سكت عنه فهو عفو فاقبلوا من الله عافيته {وَمَا كَانَ رَبُّكَ نَسِيًّا} [مريم: 64] " . [السلسلة الصحيحة - مختصرة (5/ 325) 2256 - (صحيح)]

L241 (6) Abu Bakra reported—and another man, whom I consider superior, from Abd al-Rahman ibn Abi Bakra, from Abu Bakra—that the Messenger of Allah ﷺ addressed the people, saying: 'Do you not know what day this is?' They said: 'Allah and His Messenger know best.' He remained silent until we thought he would give it another name. He said: 'Is it not the Day of Sacrifice?' We said: 'Yes, Messenger of Allah.' He said: 'What town is this? Is it not the Sacred Town?' We said: 'Yes, Messenger of Allah.' He said: 'Your blood, property, honour and bodies are sacred to you, as sacred as this day of yours, in this month of yours, in this town of yours. Have I conveyed the message?' We said: 'Yes.' He said: 'O Allah, bear witness. Let those who are present convey it to those who are absent. A transmitter may convey it to someone who understands it better.' So it was. He said: 'Do not return after me to unbelief, striking one another's necks.' When the day came on

(6)"عَنْ أَبِي بَكْرَةَ وَعَنْ رَجُلٍ آخَرَ هُوَ أَفْضَلُ فِي نَفْسِي مِنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي بَكْرَةَ عَنْ أَبِي بَكْرَةَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ خَطَبَ النَّاسَ فَقَالَ أَلَا تَدْرُونَ أَيُّ يَوْمٍ هَذَا قَالُوا اللَّهُ وَرَسُولُهُ أَعْلَمُ قَالَ حَتَّى ظَنَنَّا أَنَّهُ سَيُسَمِّيهِ بِغَيْرِ اسْمِهِ فَقَالَ أَلَيْسَ بِيَوْمِ النَّحْرِ قُلْنَا بَلَى يَا رَسُولَ اللَّهِ قَالَ أَيُّ بَلَدٍ هَذَا أَلَيْسَتْ بِالْبَلْدَةِ الْحَرَامِ قُلْنَا بَلَى يَا رَسُولَ اللَّهِ قَالَ فَإِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ وَأَعْرَاضَكُمْ وَأَبْشَارَكُمْ عَلَيْكُمْ حَرَامٌ كَحُرْمَةِ يَوْمِكُمْ هَذَا فِي شَهْرِكُمْ هَذَا فِي بَلَدِكُمْ هَذَا أَلَا هَلْ بَلَّغْتُ قُلْنَا نَعَمْ قَالَ اللَّهُمَّ اشْهَدْ فَلْيُبَلِّغْ الشَّاهِدُ الْغَائِبَ فَإِنَّهُ رُبَّ مُبَلَّغٍ يُبَلِّغُهُ لِمَنْ هُوَ أَوْعَى لَهُ فَكَانَ كَذَلِكَ قَالَ لَا تَرْجِعُوا بَعْدِي كُفَّارًا يَضْرِبُ بَعْضُكُمْ رِقَابَ بَعْضٍ فَلَمَّا كَانَ يَوْمُ حُرِّقَ ابْنُ الْحَضْرَمِيِّ حِينَ حَرَّقَهُ

[28] **Qur'an references (L240):** Qur'an 19:64 (Maryam).

which Ibn al-Hadrami was burned, when Jariya ibn Qudama burned him, he said: ‘Look out upon Abu Bakra.’ They said: ‘Here is Abu Bakra; he sees you.’ Abd al-Rahman said: ‘My mother related to me from Abu Bakra that he said: “Had they entered upon me, I would not have raised even a reed.”’ [Al-Bukhari, Book of Tribulations, chapter: The Prophet’s words ﷺ, ‘Do not return after me to unbelief, striking one another’s necks.’][29]

جَارِيَةُ بْنُ قُدَامَةَ قَالَ أَشْرِفُوا عَلَى أَبِي بَكْرَةَ فَقَالُوا هَذَا أَبُو بَكْرَةَ يَرَاكَ قَالَ عَبْدُ الرَّحْمَنِ فَحَدَّثَتْنِي أُمِّي عَنْ أَبِي بَكْرَةَ أَنَّهُ قَالَ لَوْ دَخَلُوا عَلَيَّ مَا بَهَشْتُ بِقَصَبَةٍ [البخاري: كِتَاب الْفِتَنِ، بَاب قَوْلِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا تَرْجِعُوا بَعْدِي كُفَّارًا يَضْرِبُ بَعْضُكُمْ رِقَابَ بَعْضٍ]

L242 (6) Abu Bakra, may Allah be pleased with him, said: ‘The Prophet ﷺ addressed us on the Day of Sacrifice. He said: “Do you know what day this is?” We said: “Allah and His Messenger know best.” He remained silent until we thought he would give it another name. He said: “Is it not the Day of Sacrifice?” We said: “Yes.” He said: “What month is this?” We said: “Allah and His Messenger know best.” He remained silent until we thought he would give it another name. He said: “Is it not Dhu al-Hijja?” We said: “Yes.” He said: “What town is this?” We said: “Allah and His Messenger know best.” He remained silent until we thought he would give it another name. He said: “Is it not the Sacred Town?” We said: “Yes.” He said: “Your blood and your property are sacred to you, as sacred as this day of yours, in this month of yours, in this town of yours, until the day you meet your Lord. Have I conveyed the message?” They said: “Yes.” He said: “O Allah, bear witness. Let those who are present convey it to those who are absent. Someone to whom it is conveyed may understand it better than someone who heard it. Do not return after me to unbelief, striking one another’s necks.”’ [Al-Bukhari, Book of Hajj, chapter: The sermon during the days of Mina.]

(6) “عَنْ أَبِي بَكْرَةَ رَضِيَ اللَّهُ عَنْهُ قَالَ خَطَبَنَا النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَوْمَ النَّحْرِ قَالَ أَتَدْرُونَ أَيُّ يَوْمٍ هَذَا قُلْنَا اللَّهُ وَرَسُولُهُ أَعْلَمُ فَسَكَتَ حَتَّى ظَنَنَّا أَنَّهُ سَيُسَمِّيهِ بِغَيْرِ اسْمِهِ قَالَ أَلَيْسَ يَوْمَ النَّحْرِ قُلْنَا بَلَى قَالَ أَيُّ شَهْرٍ هَذَا قُلْنَا اللَّهُ وَرَسُولُهُ أَعْلَمُ فَسَكَتَ حَتَّى ظَنَنَّا أَنَّهُ سَيُسَمِّيهِ بِغَيْرِ اسْمِهِ فَقَالَ أَلَيْسَ ذُو الْحِجَّةِ قُلْنَا بَلَى قَالَ أَيُّ بَلَدٍ هَذَا قُلْنَا اللَّهُ وَرَسُولُهُ أَعْلَمُ فَسَكَتَ حَتَّى ظَنَنَّا أَنَّهُ سَيُسَمِّيهِ بِغَيْرِ اسْمِهِ قَالَ أَلَيْسَتْ بِالْبَلْدَةِ الْحَرَامِ قُلْنَا بَلَى قَالَ فَإِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ عَلَيْكُمْ حَرَامٌ كَحُرْمَةِ يَوْمِكُمْ هَذَا فِي شَهْرِكُمْ هَذَا فِي بَلَدِكُمْ هَذَا إِلَى يَوْمٍ تَلْقَوْنَ رَبَّكُمْ أَلَا هَلْ بَلَّغْتُ قَالُوا نَعَمْ قَالَ اللَّهُمَّ اشْهَدْ فَلْيُبَلِّغْ الشَّاهِدُ الْغَائِبَ فَرُبَّ مُبَلَّغٍ أَوْعَى مِنْ سَامِعٍ فَلَا تَرْجِعُوا بَعْدِي كُفَّارًا يَضْرِبُ بَعْضُكُمْ رِقَابَ بَعْضٍ” [البخاري: كِتَاب الْحَجِّ،بَاب الْخُطْبَةِ أَيَّامَ مِنًى]

L243 (7) Ibn Abbas reported that the Messenger of Allah ﷺ said: ‘You hear; you will be heard; and those who hear from you will be heard.’ [Sunan Abi Dawud, Book of Knowledge, chapter: The merit of spreading knowledge; Sahih wa-Daif Sunan Abi Dawud, al-Albani’s assessment: authentic.]

(7) عن ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: “ تَسْمَعُونَ وَيُسْمَعُ مِنْكُمْ وَيُسْمَعُ مِمَّنْ سَمِعَ مِنْكُمْ” [سنن أبي داود: كِتَاب الْعِلْمِ، بَاب فَضْلِ نَشْرِ الْعِلْمِ] [صحيح وضعيف سنن أبي داود:تحقيق الألباني :صحيح]

L244 (8) Al-Miqdam ibn Madikarib al-Kindi reported that the Messenger of Allah

(8)“عَنِ الْمِقْدَامِ بْنِ مَعْدِيكَرِبَ الْكِنْدِيِّ، أَنَّ رَسُولَ اللَّهِ ـ صلى الله عليه وسلم ـ قَالَ ” يُوشِكُ الرَّجُلُ مُتَّكِئًا عَلَى أَرِيكَتِهِ يُحَدَّثُ بِحَدِيثٍ مِنْ حَدِيثِي فَيَقُولُ بَيْنَنَا وَبَيْنَكُمْ كِتَابُ

[29] **Translator’s note (L241):** The opening chain is elliptically worded in the source. Its two named routes and its transition to the later account of Ibn al-Hadrami are retained rather than supplied from a different recension.

ﷺ said: ‘Soon a man, reclining upon his couch, will be told a hadith of mine and say: “Between us and you is the Book of Allah, mighty and majestic is He. Whatever we find in it to be lawful we shall consider lawful, and whatever we find in it to be forbidden we shall consider forbidden.” Indeed, what the Messenger of Allah ﷺ has forbidden is like what Allah has forbidden.’ [Sunan Ibn Majah, Book of the Introduction, chapter: Venerating the hadith of the Messenger of Allah ﷺ and the stern warning against opposing it; Sahih wa-Daif Sunan Ibn Majah, al-Albani’s assessment: authentic; al-Suyuti included it in Al-Jami al-Saghir, no. 3021, marking it authentic.]

اللَّهِ عَزَّ وَجَلَّ فَمَا وَجَدْنَا فِيهِ مِنْ حَلاَلٍ اسْتَحْلَلْنَاهُ وَمَا وَجَدْنَا فِيهِ مِنْ حَرَامٍ حَرَّمْنَاهُ، أَلاَ وَإِنَّ مَا حَرَّمَ رَسُولُ اللَّهِ صلى الله عليه وسلم مِثْلُ مَا حَرَّمَ اللَّهُ“ [سنن ابن ماجه: كِتَاب الْمُقَدِّمَةِ ، بَاب تَعْظِيمِ حَدِيثِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَالتَّغْلِيظِ عَلَى مَنْ عَارَضَهُ] [صحيح وضعيف سنن ابن ماجة، تحقيق الألباني :صحيح] [ذكره السيوطى فى الجامع الصغير 3021 ورمز له بالصحة]

L245 (9) Jabir said: ‘Some people drank wine on the morning of Uhud and were all killed as martyrs that day. That was before it was forbidden.’ [Al-Bukhari, Book of Quranic Commentary, chapter on His words: ‘Wine, gambling, sacrificial stones and divining arrows are filth from Satan’s work.’][30]

(9) عَنْ جَابِرٍ قَالَ صَبَّحَ أُنَاسٌ غَدَاةَ أُحُدٍ الْخَمْرَ فَقُتِلُوا مِنْ يَوْمِهِمْ جَمِيعًا شُهَدَاءَ وَذَلِكَ قَبْلَ تَحْرِيمِهَا“ [البخاري: كِتَاب تَفْسِيرِ الْقُرْآنِ، باب قَوْلِهِ { إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِنْ عَمَلِ الشَّيْطَانِ }]

L246 Ibn Hajar says in Fath al-Bari: ‘He mentioned Jabir’s hadith about those who drank wine in the morning and were then killed at Uhud. That was before it was forbidden. It shows that wine was permissible before the prohibition.’

قال ابن حجر فى فتح الباري: ذَكَرَ حَدِيث جَابِر فِي الَّذِينَ صَبَّحُوا الْخَمْر ثُمَّ قُتِلُوا بِأُحُدٍ وَذَلِكَ قَبْل تَحْرِيمهَا ، وَيُسْتَفَاد مِنْهُ أَنَّهَا كَانَتْ مُبَاحَة قَبْل التَّحْرِيم .

L247 (10) Jubayr ibn Mutim said: ‘I lost a camel and went to look for it on the Day of Arafat. I saw the Messenger of Allah ﷺ standing with the people at Arafat and said: “By Allah, he is one of the Hums. What is he doing here?” Quraysh were counted among the Hums.’ [Muslim, Book of Hajj, chapter: Standing, and His words, exalted is He, ‘Then depart from where the people depart.’] Al-Nawawi says in his commentary on Muslim: ‘Qadi Iyad said: “This was during his pilgrimage before the Hijra. Jubayr was then an unbeliever. He accepted Islam on the day of the Conquest, or, it is said, on the day of Khaybar. He was therefore surprised at the Prophet ﷺ standing at Arafat.” Allah knows best.’ [Muslim, Book of Hajj, chapter: Standing, and His words, exalted is He, ‘Then depart from where the people depart.’][31]

(10) عَنْ جُبَيْرِ بْنِ مُطْعِمٍ قَالَ:“ أَضْلَلْتُ بَعِيرًا لِي فَذَهَبْتُ أَطْلُبُهُ يَوْمَ عَرَفَةَ فَرَأَيْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَاقِفًا مَعَ النَّاسِ بِعَرَفَةَ فَقُلْتُ وَاللَّهِ إِنَّ هَذَا لَمِنْ الْحُمْسِ فَمَا شَأْنُهُ هَاهُنَا وَكَانَتْ قُرَيْشٌ تُعَدُّ مِنْ الْحُمْسِ[مسلم: كِتَاب الْحَجِّ، بَاب فِي الْوُقُوفِ و قَوْله تَعَالَى { ثُمَّ أَفِيضُوا مِنْ حَيْثُ أَفَاضَ النَّاسُ }] قَالَ النووى فى شرح مسلم : قَالَ الْقَاضِي عِيَاض : كَانَ هَذَا فِي حَجّه قَبْل الْهِجْرَة ، وَكَانَ جُبَيْر حِينَئِذٍ كَافِرًا ، وَأَسْلَمَ يَوْم الْفَتْح ، وَقِيلَ يَوْم خَيْبَر ، فَتَعَجَّبَ مِنْ وُقُوف النَّبِيّ صَلَّى اللَّه عَلَيْهِ وَسَلَّمَ بِعَرَفَات . وَاَللَّه أَعْلَم [مسلم: كِتَاب الْحَجِّ، بَاب فِي الْوُقُوفِ و قَوْله تَعَالَى: { ثُمَّ أَفِيضُوا مِنْ حَيْثُ أَفَاضَ النَّاسُ }]

[30] **Qur’an references (L245):** Qur’an 5:90 (Al-Ma’idah).
[31] **Qur’an references (L247):** Qur’an 2:199 (Al-Baqarah).

L248 Aisha, may Allah be pleased with her, reported: 'Quraysh and those who followed their religion would stand at Muzdalifa and were called the Hums. The rest of the Arabs would stand at Arafat. When Islam came, Allah commanded His Prophet ﷺ to come to Arafat, stand there and then depart from it. That is His saying, exalted is He: "Then depart from where the people depart."' [Al-Bukhari, Book of Quranic Commentary, chapter: 'Then depart from where the people depart.'][32]

وعَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا " كَانَتْ قُرَيْشٌ وَمَنْ دَانَ دِينَهَا يَقِفُونَ بِالْمُزْدَلِفَةِ وَكَانُوا يُسَمَّوْنَ الْحُمْسَ وَكَانَ سَائِرُ الْعَرَبِ يَقِفُونَ بِعَرَفَاتٍ فَلَمَّا جَاءَ الْإِسْلَامُ أَمَرَ اللَّهُ نَبِيَّهُ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنْ يَأْتِيَ عَرَفَاتٍ ثُمَّ يَقِفَ بِهَا ثُمَّ يُفِيضَ مِنْهَا فَذَلِكَ قَوْلُهُ تَعَالَى: { ثُمَّ أَفِيضُوا مِنْ حَيْثُ أَفَاضَ النَّاسُ } [البخاري: كِتَاب تَفْسِيرِ الْقُرْآنِ، بَاب { ثُمَّ أَفِيضُوا مِنْ حَيْثُ أَفَاضَ النَّاسُ }]

L249 (12) Ibn Abbas said: 'The Prophet ﷺ drank from Zamzam standing.' [Al-Bukhari, Book of Drinks, chapter: Drinking standing.]

(12) فعَنْ ابْنِ عَبَّاسٍ قَالَ: "شَرِبَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَائِمًا مِنْ زَمْزَمَ" [البخاري: كِتَاب الْأَشْرِبَةِ، بَاب الشُّرْبِ قَائِمًا]

L250 (13) Al-Nazzal said: 'Ali, may Allah be pleased with him, came to the gate of al-Rahba and drank standing. He said: "Some people dislike drinking standing, but I saw the Prophet ﷺ do as you have seen me do."' [Al-Bukhari, Book of Drinks, chapter: Drinking standing.]

(13) فعَنْ النَّزَّالِ قَالَ: " أَتَى عَلِيٌّ رَضِيَ اللَّهُ عَنْهُ عَلَى بَابِ الرَّحَبَةِ فَشَرِبَ قَائِمًا فَقَالَ إِنَّ نَاسًا يَكْرَهُ أَحَدُهُمْ أَنْ يَشْرَبَ وَهُوَ قَائِمٌ وَإِنِّي رَأَيْتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَعَلَ كَمَا رَأَيْتُمُونِي فَعَلْتُ" [البخاري: كِتَاب الْأَشْرِبَةِ، بَاب الشُّرْبِ قَائِمًا]

L251 Umm al-Fadl bint al-Harith reported that she sent the Prophet ﷺ a cup of milk while he stood on the afternoon of Arafat. He took it in his hand and drank it. Malik added, from Abu al-Nadr: 'Upon his camel.' [Al-Bukhari, Book of Drinks, chapter: One who drinks while standing upon his camel.]

وعَنْ أُمِّ الْفَضْلِ بِنْتِ الْحَارِثِ " أَنَّهَا أَرْسَلَتْ إِلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِقَدَحِ لَبَنٍ وَهُوَ وَاقِفٌ عَشِيَّةَ عَرَفَةَ فَأَخَذَ بِيَدِهِ فَشَرِبَهُ، زَادَ مَالِكٌ عَنْ أَبِي النَّضْرِ عَلَى بَعِيرِهِ" [البخاري: كِتَاب الْأَشْرِبَةِ، بَاب مَنْ شَرِبَ وَهُوَ وَاقِفٌ عَلَى بَعِيرِهِ]

L252 (14) Anas reported that the Prophet ﷺ sternly forbade drinking standing. [Muslim, Book of Drinks, chapter: Disapproval of drinking standing.]

(14) وعَنْ أَنَسٍ "أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ زَجَرَ عَنْ الشُّرْبِ قَائِمًا " [مسلم: كِتَاب الْأَشْرِبَةِ، بَاب كَرَاهِيَةِ الشُّرْبِ قَائِمًا]

L253 Anas reported that the Prophet ﷺ forbade a man to drink standing. Qatada said: 'We asked: "What about eating?" He said: "That is worse—or more foul."' [Muslim, Book of Drinks, chapter: Disapproval of drinking standing.]

وعَنْ أَنَسٍ "عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ نَهَى أَنْ يَشْرَبَ الرَّجُلُ قَائِمًا" قَالَ قَتَادَةُ فَقُلْنَا فَالْأَكْلُ فَقَالَ ذَاكَ أَشَرُّ أَوْ أَخْبَثُ [مسلم: كِتَاب الْأَشْرِبَةِ، بَاب كَرَاهِيَةِ الشُّرْبِ قَائِمًا]

[32] **Qur'an references (L248):** Qur'an 2:199 (Al-Baqarah).

(15) عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ قَالَ: "ارْتَقَيْتُ فَوْقَ ظَهْرِ بَيْتِ حَفْصَةَ لِبَعْضِ حَاجَتِي فَرَأَيْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقْضِي حَاجَتَهُ مُسْتَدْبِرَ الْقِبْلَةِ مُسْتَقْبِلَ الشَّأْمِ" [البخاري: كِتَاب الْوُضُوءِ ، بَاب التَّبَرُّزِ فِي الْبُيُوتِ]

L254 (15) Abd Allah ibn Umar said: 'I climbed onto the roof of Hafsa's house for some purpose, and saw the Messenger of Allah ﷺ relieving himself with his back to the qibla and his face towards Syria.' [Al-Bukhari, Book of Ablution, chapter: Relieving oneself inside houses.]

(16) عَنْ أَبِي أَيُّوبَ الْأَنْصَارِيِّ قَالَ: " قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِذَا أَتَى أَحَدُكُمُ الْغَائِطَ فَلَا يَسْتَقْبِلِ الْقِبْلَةَ وَلَا يُوَلِّهَا ظَهْرَهُ شَرِّقُوا أَوْ غَرِّبُوا" [البخاري: كِتَاب الْوُضُوءِ، بَاب لَا تُسْتَقْبَلُ الْقِبْلَةُ بِغَائِطٍ أَوْ بَوْلٍ إِلَّا عِنْدَ الْبِنَاءِ جِدَارٍ أَوْ نَحْوِهِ]

L255 (16) Abu Ayyub al-Ansari said: 'The Messenger of Allah ﷺ said: "When one of you goes to relieve himself, let him neither face the qibla nor turn his back towards it. Face east or west."' [Al-Bukhari, Book of Ablution, chapter: The qibla should not be faced when passing stool or urine, except within a building, wall or the like.]

(17) عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ " إِنَّمَا الْمَاءُ مِنْ الْمَاءِ" [مسلم: كِتَاب الْحَيْضِ، بَاب إِنَّمَا الْمَاءُ مِنْ الْمَاءِ]

L256 (17) Abu Said al-Khudri reported that the Prophet ﷺ said: 'Water is required only because of water.' [Muslim, Book of Menstruation, chapter: Water is required only because of water.]

(18) عَنْ أَبِي مُوسَى قَالَ: اخْتَلَفَ فِي ذَلِكَ رَهْطٌ مِنْ الْمُهَاجِرِينَ وَالْأَنْصَارِ فَقَالَ الْأَنْصَارِيُّونَ لَا يَجِبُ الْغُسْلُ إِلَّا مِنْ الدَّفْقِ أَوْ مِنْ الْمَاءِ وَقَالَ الْمُهَاجِرُونَ بَلْ إِذَا خَالَطَ فَقَدْ وَجَبَ الْغُسْلُ قَالَ قَالَ أَبُو مُوسَى فَأَنَا أَشْفِيكُمْ مِنْ ذَلِكَ فَقُمْتُ فَاسْتَأْذَنْتُ عَلَى عَائِشَةَ فَأُذِنَ لِي فَقُلْتُ لَهَا يَا أُمَّاهْ أَوْ يَا أُمَّ الْمُؤْمِنِينَ إِنِّي أُرِيدُ أَنْ أَسْأَلَكِ عَنْ شَيْءٍ وَإِنِّي أَسْتَحْيِيكِ فَقَالَتْ لَا تَسْتَحْيِي أَنْ تَسْأَلَنِي عَمَّا كُنْتَ سَائِلًا عَنْهُ أُمَّكَ الَّتِي وَلَدَتْكَ فَإِنَّمَا أَنَا أُمُّكَ قُلْتُ فَمَا يُوجِبُ الْغُسْلَ قَالَتْ عَلَى الْخَبِيرِ سَقَطْتَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " إِذَا جَلَسَ بَيْنَ شُعَبِهَا الْأَرْبَعِ وَمَسَّ الْخِتَانُ الْخِتَانَ فَقَدْ وَجَبَ الْغُسْلُ" [مسلم: كِتَاب الْحَيْضِ، بَاب نَسْخِ الْمَاءُ مِنْ الْمَاءِ وَوُجُوبِ الْغُسْلِ بِالْتِقَاءِ الْخِتَانَيْنِ]

L257 (18) Abu Musa said: 'A group of Emigrants and Helpers disagreed about this. The Helpers said: "A full ritual bath is required only after ejaculation, or emission of fluid." The Emigrants said: "Rather, when intercourse occurs, the bath becomes obligatory." Abu Musa said: "I shall settle this for you." I got up and asked permission to enter upon Aisha, and was admitted. I said: "Mother—or Mother of the Believers—I wish to ask you about something, but I am embarrassed before you." She said: "Do not be embarrassed to ask me what you would ask the mother who bore you, for I am your mother." I said: "What makes the full ritual bath obligatory?" She said: "You have come to one who knows. The Messenger of Allah ﷺ said: 'When he sits between her four limbs and circumcision meets circumcision, the full ritual bath becomes obligatory.'" [Muslim, Book of Menstruation, chapter: Abrogation of 'Water is required only because of water,' and the obligation of the full ritual bath when the two circumcised parts meet.]

L258 (19) Amr ibn al-As reported that he heard the Messenger of Allah ﷺ say: 'When a judge gives judgement, exercising his judgement, and is right, he has two rewards. When he gives judgement, exercising his judgement, and errs, he has one reward.' [Al-Bukhari, Book of Adherence to the Book and

(19) "عَنْ عَمْرِو بْنِ الْعَاصِ أَنَّهُ سَمِعَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ إِذَا حَكَمَ الْحَاكِمُ فَاجْتَهَدَ ثُمَّ أَصَابَ فَلَهُ أَجْرَانِ وَإِذَا حَكَمَ فَاجْتَهَدَ ثُمَّ أَخْطَأَ فَلَهُ أَجْرٌ" [البخاري: كِتَاب الِاعْتِصَامِ بِالْكِتَابِ وَالسُّنَّةِ، بَاب أَجْرِ الْحَاكِمِ إِذَا اجْتَهَدَ فَأَصَابَ أَوْ أَخْطَأَ]

Sunnah, chapter: The reward of a judge who exercises judgement and is right or errs.]



الشروط الواجب توافرها فى بنود البرنامج

Requirements for the Procedure

Kāmil Muḥammad Muḥammad ʿĀmir · Arabic–English parallel edition

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[الشروط الواجب توافرها فى بنود البرنامج]

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الحمد لله وكفى وصلاة وسلامًا على عباده الذين اصطفى.

أما بعد:

فإن أى بند فى برامج الوصول يجب أن يكون مستمداً من القرآن وصحيح السنة، ويتفق وهَدْى الرسول عليه السلام وبيانه، ويجب أن يتفق وأولويات العقل.

يجب أن تصاغ قواعد هذه البرامج بطريقة تجنبنا الإختلاف، ويجب أن تتصف بنوده بالموضوعية ولا تتأثر بذاتية الباحث، ويجب أن تتصف بالعموم والإطراد، و الصدق والثبات، وأن تكون تلك البنود حاكمة لا محكوماً عليها كما تحدث عن هذا الشاطبى رحمه الله (ملحق 1).

وإن شاء الله سبحانه وتعالى سوف تناقش تلك النقاط فى البنود التالية.

(1) بنود هذه البرامج يجب أن تكون مستمدة من القرآن وصحيح السنة

(2) بنود هذه البرامج يجب أن تتفق وهَدْى الرسول عليه السلام، وبيانه لنا، يقول الله سبحانه وتعالى: {وَأَنْزَلْنَا إِلَيْكَ الذِّكْرَ لِتُبَيِّنَ لِلنَّاسِ مَا نُزِّلَ إِلَيْهِمْ} [النحل: 44]

ويقول تعالى: {وَمَا أَنْزَلْنَا عَلَيْكَ الْكِتَابَ إِلَّا لِتُبَيِّنَ لَهُمُ الَّذِي اخْتَلَفُوا فِيهِ } [النحل: 64]

(3) بنود هذه البرامج يجب أن تتفق وأولويات العقل التى لا يختلف عليها العقلاء منا، كما لا يخالف عاقلٌ فى أن الجزء أصغر من الكل.

[Requirements for the Procedure][1]

In the name of Allah, the Most Merciful, the Ever Merciful.

Praise be to Allah—and sufficient is He. Blessings and peace upon His servants whom He has chosen.

To proceed:

Every provision in the procedures for deriving rulings must be drawn from the Qur'an and authentic Sunnah, accord with the Messenger's guidance ﷺ and his explanation, and agree with the self-evident truths of reason.

The rules of these procedures must be formulated in a way which spares us disagreement. Their provisions must be objective, unaffected by the investigator's subjectivity. They must possess generality and consistent applicability, truth and stability; and they must govern, rather than be governed, as al-Shatibi, may Allah have mercy upon him, discussed. (Appendix 1)

If Allah, glorified and exalted is He, wills, these points will be discussed under the following provisions.

(1) The provisions of these procedures must be drawn from the Qur'an and authentic Sunnah.

(2) The provisions of these procedures must accord with the Messenger's guidance ﷺ and his explanation to us. Allah, glorified and exalted is He, says: 'We have sent down the Reminder to you so that you may explain to people what has been sent down to them' [An-Nahl 16:44].[2]

He, exalted is He, says: 'We have sent down the Book to you only so that you may explain to them that over which they differ' [An-Nahl 16:64].[3]

[1] **Translator's note (L259):** Source: Kamil Muhammed Muhammed Amir, Fiqhweb, post-248218. Forum publication: 5 February 2019. Original source and attribution are documented in the editorial preface.

[2] **Qur'an references (L267):** Qur'an 16:44 (An-Nahl).

[3] **Qur'an references (L268):** Qur'an 16:64 (An-Nahl).

L269 (3) The provisions of these procedures must agree with the self-evident truths of reason over which rational people among us do not disagree—just as no rational person disputes that a part is smaller than the whole.

L270 (4) The rules of these procedures must be formulated in a way which spares us disagreement. Our Messenger ﷺ left us upon the clear, white way, whose night is like its day (1), and explained what was sent down to us. Disagreement must therefore disappear through referral to the Qur'an and Sunnah. The provisions of this procedure must be drawn from the foundations which our Messenger ﷺ explained.

L271 (5) The rules must be objective, unaffected by the investigator's subjectivity. Many who discussed legal theory did not consider their principles objectively and impartially, but subjectively, bound by their imams' schools and tendencies or by the scholars before them. Their imams had held opinions, often without disclosing their basis. Some scholars of the school then came and clothed these opinions in principles suited to them. Unless a mujtahid himself declares his procedure for deriving rulings, attributing a method to him on the basis of his practice is conjectural and admits many possibilities.

L272 (6) The provisions of these procedures must possess the following qualities. (Appendix 1)

L273 Generality and consistent applicability.

L274 Stability.

L275 They must govern, rather than be governed.

L276 Every provision of the procedure must be applied permanently and consistently. If it does not apply consistently, it is not a provision to be relied upon. Suppose we say that a command establishes obligation in acts of worship but recommendation in transactions. (Appendix 2) What follows? We have particularised His words, exalted is He, 'Let those who oppose his command

(3) يجب أن تصاغ قواعد هذه البرامج بطريقة تجنبنا الإختلاف. فرسولنا عليه السلام تركنا عَلَى الْبَيْضَاءِ لَيْلُهَا كَنَهَارِهَا(1)، والرسول عليه السلام بين لنا ما أُنْزِل إلينا، فلابد أن يزول الإختلاف بالرجوع إلى القرآن والسنة؛ فبنود هذا البرنامج يجب أن تستمد من الأسس التى بينها رسولنا عليه السلام.

(4) يجب أن تكون القواعد موضوعية، لا تتأثر بذاتية الباحث؛ إن كثيراً ممن تكلم في الأصول لم ينظروا إلى قواعدهم فى الأصول نظرة موضوعية مجردة، بل نظروا إليها نظرة ذاتية مقيدة بمذاهب أئمتهم واتجاهاتهم، أو بمن سبقهم من العلماء، بمعنى أن أئمتهم كانت لهم آراء لم يفصحوا في كثير منها عن مستندهم فيها، فجاء بعض علماء المذهب فألبسوها أصولاً تناسبها ، فما لم يُعْلِن المجتهدُ بنفسه عن برنامجه فى استخراج الأحكام؛ فإن وضع منهج له من خلال تصرفه يكون أمرًا ظنيًا يدخله الكثير من الاحتمالات.

(5) بنود هذه البرامج يجب أن تتصف بـ)ملحق 1)

العموم والإطراد.

الثبات.

أن تكون تلك البنود حاكمة لا محكوماً عليها.

فكل بند من بنود البرنامج يجب أن يجرى به العمل بصورة دائمة و مُطَّرِدَةٌ ؛ فإن لم يَطَّرِدْ فليس ببند يعتمد عليه. فَتُرى إن قلنا أن الأمر للوجوب فى العبادات وللندب

beware lest a trial befall them or a painful punishment befall them,' without evidence.[4]

L277 We shall find no clear criterion for knowing whether a given command establishes obligation, recommendation or permission, or whether a given prohibition establishes disapproval or forbiddance. If we adopt provisions of this kind, we shall disagree intensely. (Appendix 2)

L278 But if we say that commands establish obligation unless an explanation in a text, consensus or a rational necessity removes them from obligation, we shall not disagree. We shall have discharged our duty before our Lord, glorified is He, and obeyed Allah and His Messenger.

L279 He, exalted is He, says: 'Allah will never grant the disbelievers a way over the believers' [An-Nisa 4:141].[5]

L280 Suppose we infer a provision saying: 'Allah, glorified and exalted is He, will never put it within any disbeliever's power to have a way over any Muslim,' treating this verse as a bare statement of fact.

L281 This provision would not apply consistently, for a disbeliever often gains a way over a believer, capturing and humiliating him. The provision therefore cannot be maintained.

L282 But if we say: 'Allah, glorified and exalted is He, commands us not to grant a disbeliever a way over a believer'—that is, the verse is a command in the form of a statement—then the provision applies consistently and is true.

L283 If taking a provision generally leads to something impossible in the Sharia or in reason, it lacks consistent applicability and may not be acted upon.

L284 The authority to which we refer in dispute is Allah and the Messenger. A command establishes obligation and a prohibition establishes forbiddance unless another text moves that command or prohibition to a different level.

[4]**Qur'an references (L276):** Qur'an 24:63 (An-Nur).
[5]**Qur'an references (L279):** Qur'an 4:141 (An-Nisa).

فى المعاملات (ملحق 2) فما تبعة ذلك؟ نكون قد خصصنا قوله تعالى: {فَلْيَحْذَرِ الَّذِينَ يُخَالِفُونَ عَنْ أَمْرِهِ أَنْ تُصِيبَهُمْ فِتْنَةٌ أَوْ يُصِيبَهُمْ عَذَابٌ أَلِيمٌ} بدون دليل.

إننا لن نجد حداً واضحاً لمعرفة ما إذا كان هذا الأمر المعين للوجوب أو الندب أو الإباحة؛ وهل هذا النهى للكراهية أم للتحريم؛ فإن اعتمدنا مثل هذه البنود فسوف نختلف اختلافاً شديداً(ملحق 2).

ولكن إن قلنا حُكم الأوامر الوجوب ما لم يأتِ بيان من نصٍّ أو إجماع أو ضرورة عقل تخرجه عن الوجوب؛ فسوف لا نختلف، ونكون قد أعذرنا إلى ربنا سبحانه، وأطعنا الله ورسوله.

يقول تعالى:{ وَلَن يَجْعَلَ اللهُ لِلْكَافِرِينَ عَلَى الْمُؤْمِنِينَ سَبِيلاً } [النساء 141]

فإن استنتجنا بند يقول: "إن الله سبحانه وتعالى لن يجعل فى مقدرة أى كافر سبيلاً على أى مسلم" على أن هذه الآية خبر مجرد.

فهذا البند يكون غير مُطَّرِد، لوقوع سبيل الكافر على المؤمن كثيراً بأسره وإذلاله؛ فلا يستمر القول بهذا البند.

وإن قلنا: " إن الله سبحانه وتعالى يأمُرُنا بألّا نجعل للكافر على المؤمن سبيلا" أى أن الآية أمرُ فى صورة الخبر؛ فهنا يَطَّرِد البند ويكون صادقاً.

فالبند إذا أدى القول بحمله على عمومه إلى ما لا يمكن شرعاً أو عقلاً فهو غير مُطَّرِد فلا يجوز العمل به.

إن المرجعية عند التنازع هى الرد إلى الله والرسول؛ فالأمر للوجوب والنهى للتحريم ما لم يوجد نص آخر ينقل الأمر أو النهى إلى مرتبة أخرى.

أقول إن اعتمدنا هذا البند فى استنباط الأحكام فلن يختلف اثنان لوعد ربنا جل وعلا {يَاأَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ} [النساء: 59]

لقد تركنا الرسول عليه السلام عَلَى الْبَيْضَاءِ لَيْلُهَا كَنَهَارِهَا(1)

إن اللغة الذى نزل بها القرآن فرقت بين الأمر والندب والإباحة فلكلٍ اسلوب خاص به.

فالواجب أن نطيع أوامر الله ورسوله؛ فهى للوجوب. ودع عنك طيب النفس، وما اعتادت عليه، فالحق أحق أن يتبع.

الملاحق

(ملحق 1)

الشاطبى رحمه الله وهو مالكى المذهب ومن شيوخ علماء المقاصد يقول: من العلم ما هو من صلب العلم ..... وهو ما كان قطعياً أو راجعاً إلى أصل قطعي والشريعة ... منزلة على هذا الوجه ولذلك كانت محفوظة في أصولها وفروعها كما قال الله تعالى { إنا نحن نزلنا الذكر وإنا له لحافظون } .....

ولهذا القسم خواص ثلاث بهن يمتاز عن غيره

إحداها العموم والإضطراد ....

والثانية الثبوت من غير زوال .....

والثالثة كون العلم حاكما لا محكوما عليه

I say: if we adopt this provision in inferring rulings, no two people will disagree, because of my Lord's promise, majestic and exalted is He: 'You who believe, obey Allah and obey the Messenger and those in authority among you. If you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Day…' [An-Nisa 4:59].[6]

The Messenger ﷺ left us upon the clear, white way, whose night is like its day. (1)

The language in which the Qur'an was revealed distinguishes command, recommendation and permission: each has its own mode of expression.

We must therefore obey the commands of Allah and His Messenger, for they establish obligation. Set aside what pleases the soul and what it has grown accustomed to: the truth has the greater right to be followed.

Appendices

Appendix 1

Al-Shatibi, may Allah have mercy upon him, who belonged to the Maliki school and was a leading scholar of the purposes of the Sharia, says: 'Some knowledge belongs to the very substance of knowledge… It is what is certain, or refers back to a certain foundation. The Sharia… was revealed in this manner. That is why it is preserved in its foundations and its particulars, as Allah, exalted is He, says: "It is We who have sent down the Reminder, and We shall surely preserve it"…'[7]

'This category has three distinctive properties:

'The first is generality and consistent applicability…

'The second is permanence, without passing away…

[6] **Qur'an references (L285):** Qur'an 4:59 (An-Nisa).
[7] **Qur'an references (L292):** Qur'an 15:9 (Al-Hijr).

L296 ‘The third is that knowledge governs, rather than being governed.

L297 ‘Any knowledge possessing these three properties therefore belongs to the very substance of knowledge.’ [Al-Muwafaqat, part one, ninth introduction.]

فإذاً كل علم حصل له هذه الخواص الثلاث فهو من صلب العلم [الموافقات: الجزء الأول، المقدمة التاسعة]

L298 ## Appendix 2

(ملحق 2)

L299 (A) Al-Mahsul, by Abu Abd Allah Muhammed ibn Umar ibn al-Hasan ibn al-Husayn al-Taymi al-Razi, known as Fakhr al-Din al-Razi, the preacher of Rayy, who died in 606 AH: discussion of commands and prohibitions, first section, linguistic investigations.

(أ) المحصول لأبي عبد الله محمد بن عمر بن الحسن بن الحسين التيمي الرازي الملقب بفخر الدين الرازي خطيب الري (المتوفى: 606هـ) الكلام في الأوامر والنواهي، القسم الأول في المباحث اللفظية .

L300 ‘First question. The scholars of legal theory say that the form “Do!” is used in fifteen senses. The first is imposing an obligation, as in His words, exalted is He: “Establish the prayer.” The second is recommendation, as in His words: “Conclude emancipation contracts with them if you know good in them,” and: “Do good.” Close to it is instruction in proper conduct, as in the Prophet’s words ﷺ: “Eat from what is nearest to you.” Proper conduct is recommended, although some have made it a category distinct from recommendation.’[8]

المسألة الأولى قال الأصوليون صيغة إفعل مستعملة في خمسى عشر وجها الأول الإيجاب كقوله تعالى أقيموا الصلاة الثاني الندب كقوله تعالى فكاتبوهم إن علمتم فيهم خيرا وأحسنوا ويقرب منه التأديب كقوله عليه الصلاة والسلام كل فما يليك فإن الأدب مندوب إليه وإن كان قد جعله بعضهم قسما مغايرا للمندوب

L301 (B) Al-Mustasfa, by Abu Hamid Muhammed ibn Muhammed al-Ghazali al-Tusi, who died in 505 AH: third section, commands and prohibitions; second investigation, the imperative form.

(ب) المستصفى لأبي حامد محمد بن محمد الغزالي الطوسي (المتوفى: 505هـ) الْقِسْمُ الثَّالِثُ فِي الْأَمْرِ وَالنَّهْيِ، النَّظَرُ الثَّانِي فِي صِيغَةِ الْأَمْرِ

L302 ‘…The disagreement concerns only whether the expression “Do!” indicates a command by its form alone, when unaccompanied by contextual indicators. It may be used in several senses, including obligation, as in His words: “Establish the prayer”; recommendation, as in: “Conclude emancipation contracts with them”; guidance, as in: “Call witnesses”; permission, as in: “Hunt”; instruction in proper conduct, as in his words to Ibn Abbas: “Eat from what is nearest to you”; and reminding of a favour, as in His words: “Eat of what Allah has provided you.”’[9]

.....وَإِنَّمَا الْخِلَافُ فِي أَنَّ قَوْلَهُ : " افْعَلْ " هَلْ يَدُلُّ عَلَى الْأَمْرِ بِمُجَرَّدِ صِيغَتِهِ إذَا تَجَرَّدَ عَنْ الْقَرَائِنِ ؟ فَإِنَّهُ قَدْ يُطْلَقُ عَلَى أَوْجُهٍ ، مِنْهَا الْوُجُوبُ كَقَوْلِهِ : { أَقِمْ الصَّلَاةَ } ، وَالنَّدْبُ ، كَقَوْلِهِ : { فَكَاتِبُوهُمْ } ، وَالْإِرْشَادُ كَقَوْلِهِ : { ، وَاسْتَشْهِدُوا } وَالْإِبَاحَةُ كَقَوْلِهِ { فَاصْطَادُوا } ، وَالتَّأْدِيبُ كَقَوْلِهِ لِابْنِ عَبَّاسٍ كُلْ مِمَّا يَلِيكَ ، وَالِامْتِنَانُ كَقَوْلِهِ : { كُلُوا مِمَّا رَزَقَكُمْ اللَّهُ }

[8] **Qur’an references (L300):** Qur’an 24:33 (An-Nur).
[9] **Qur’an references (L302):** Qur’an 6:142 (Al-An’am).

Hadith Reports

(1) Abd al-Rahman ibn Amr al-Sulami reported that he heard al-Irbad ibn Sariya say: 'The Messenger of Allah ﷺ admonished us with an admonition which brought tears to our eyes and made our hearts tremble. We said: "Messenger of Allah, this is surely a farewell admonition. What do you enjoin upon us?" He said: "I have left you upon the clear, white way, whose night is like its day. None deviates from it after me but one who is doomed. Those of you who live will see much disagreement. Adhere, then, to what you know of my Sunnah and the sunnah of the rightly guided, rightly directed caliphs. Cling to it with your molar teeth. You must obey, even if it be an Abyssinian slave; the believer is like a camel led by the nose: wherever it is led, it follows.'" [Sunan Ibn Majah, Book of the Introduction, chapter: Following the sunnah of the rightly guided caliphs; Sahih wa-Daif Sunan Ibn Majah, al-Albani's assessment: authentic.]

Abd al-Rahman ibn Amr al-Sulami also reported that he heard al-Irbad ibn Sariya say: 'The Messenger of Allah ﷺ admonished us with an admonition which brought tears to our eyes and made our hearts tremble. We said: "Messenger of Allah, this is surely a farewell admonition. What, then, do you enjoin upon us?" He said: "I have left you upon the clear, white way, whose night is like its day. None deviates from it after me but one who is doomed. Those of you who live will see much disagreement. Adhere to what you know of my Sunnah and the sunnah of the rightly directed, rightly guided caliphs after me. You must obey, even if it be an Abyssinian slave. Cling to it with your molar teeth.'" Asad ibn Wadaa would add to this report: 'The believer is like a camel led by the nose: wherever it is led, it follows.' [Al-Hakim, Al-Mustadrak ala al-Sahihayn, Book of Knowledge, section concerning the hadith of Abd Allah ibn Masud.] Al-Albani, may Allah have mercy upon him, says in Silsilat al-Ahadith al-Sahiha wa-Shay min Fiqhiha wa-Fawaidiha, 2:610: "'I have left you upon the clear, white way, whose night is like its day. None deviates from it after me but one who is doomed. Those of you who live will see much disagreement. Adhere to

الأحـــــــــــاديث

(1)" عَنْ عَبْدِ الرَّحْمَنِ بْنِ عَمْرٍو السُّلَمِيِّ أَنَّهُ سَمِعَ الْعِرْبَاضَ بْنَ سَارِيَةَ يَقُولُ: وَعَظَنَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَوْعِظَةً ذَرَفَتْ مِنْهَا الْعُيُونُ وَوَجِلَتْ مِنْهَا الْقُلُوبُ فَقُلْنَا يَا رَسُولَ اللَّهِ إِنَّ هَذِهِ لَمَوْعِظَةُ مُوَدِّعٍ فَمَاذَا تَعْهَدُ إِلَيْنَا قَالَ قَدْ تَرَكْتُكُمْ عَلَى الْبَيْضَاءِ لَيْلُهَا كَنَهَارِهَا لَا يَزِيغُ عَنْهَا بَعْدِي إِلَّا هَالِكٌ مَنْ يَعِشْ مِنْكُمْ فَسَيَرَى اخْتِلَافًا كَثِيرًا فَعَلَيْكُمْ بِمَا عَرَفْتُمْ مِنْ سُنَّتِي وَسُنَّةِ الْخُلَفَاءِ الرَّاشِدِينَ الْمَهْدِيِّينَ عَضُّوا عَلَيْهَا بِالنَّوَاجِذِ وَعَلَيْكُمْ بِالطَّاعَةِ وَإِنْ عَبْدًا حَبَشِيًّا فَإِنَّمَا الْمُؤْمِنُ كَالْجَمَلِ الْأَنِفِ حَيْثُمَا قِيدَ انْقَادَ [سنن ابن ماجه: كِتَاب الْمُقَدِّمَةِ، بَاب اتِّبَاعِ سُنَّةِ الْخُلَفَاءِ الرَّاشِدِينَ الْمَهْدِيِّينَ][صحيح وضعيف سنن ابن ماجة : تحقيق الألباني : صحيح]

و عن عبد الرحمن بن عمرو السلمي أنه سمع العرباض بن سارية ، قال : وعظنا رسول الله صلى الله عليه وسلم موعظة ذرفت منها العيون ، ووجلت منها القلوب ، فقلنا : يا رسول الله إن هذا لموعظة مودع فإذا تعهد إلينا ، قال : « قد تركتكم على البيضاء ليلها كنهارها لا يزيغ عنها بعدي إلا هالك ، ومن يعش منكم فسيرى اختلافا كثيرا فعليكم بما عرفتم من سنتي وسنة الخلفاء المهديين الراشدين من بعدي وعليكم بالطاعة وإن كان عبدا حبشيا عضوا عليها بالنواجذ » . فكان أسد بن وداعة يزيد في هذا الحديث « فإن المؤمن كالجمل الأنف حيث ما قيد انقاد » [المستدرك على الصحيحين للحاكم: كتاب العلم، وأما حديث عبد الله بن مسعود] [قال الألبانى رحمه الله: فى سلسلة الأحاديث الصحيحة وشيء من فقهها وفوائدها (2/ 610) " قد تركتكم على البيضاء ليلها كنهارها لا يزيغ عنها بعدي إلا هالك ومن يعش منكم فسيرى اختلافا كثيرا،

what you know of my Sunnah and the sunnah of the rightly guided, rightly directed caliphs. Cling to it with your molar teeth. You must obey, even if it be an Abyssinian slave; the believer is like a camel led by the nose: wherever it is led, it follows.'"

L307 'Ibn Majah, no. 43, al-Hakim, 1:96, and Ahmad, 4:126, included it through Abd al-Rahman ibn Amr al-Sulami, who heard al-Irbad ibn Sariya say: "The Messenger of Allah ﷺ admonished us with an admonition which brought tears to our eyes and made our hearts tremble. We said: 'Messenger of Allah, this is surely a farewell admonition. What do you enjoin upon us?' He said…'" He then related it.

L308 'I [al-Albani] say: this is an authentic chain. All its men are trustworthy and known, except this Abd al-Rahman ibn Amr. Ibn Hibban mentioned him in Al-Thiqat, a number of trustworthy narrators related from him, and al-Tirmidhi, Ibn Hibban and al-Hakim authenticated reports from him, as stated in Al-Tahdhib. Ibn Hibban, no. 102, included this hadith through another route from Abd al-Rahman ibn Amr, paired with Hujr ibn Hujr al-Kalai, from al-Irbad, without the words: "The believer…" Al-Mukhallis also included it through the first route in Saba Majalis, fol. 51/1; through him Ibn Asakir included it in Tarikh Dimashq, 11:265/2. So did al-Lalakai in Sharh al-Sunna, 228/1—Kawakib, no. 576; Diya al-Din al-Maqdisi in Al-Ahadith al-Mukhtara, 10:104/2; and Abu Nuaym in Al-Mustakhraj ala Sahih Muslim, 1:3/1, saying: "A good hadith among the authentic reports of the Syrians." Al-Khatib included its opening passage in Al-Faqih wa-l-Mutafaqqih, fol. 106/1.'

فعليكم بما عرفتم من سنتي وسنة الخلفاء الراشدين المهديين عضوا عليها بالنواجذ وعليكم بالطاعة وإن عبدا حبشيا، فإنما المؤمن كالجمل الأنف حيثما قيد انقاد ".

أخرجه ابن ماجه (43) والحاكم (1 / 96) وأحمد (4 / 126) من طريق عبد الرحمن بن عمرو السلمي أنه سمع العرباض بن سارية يقول: " وعظنا رسول الله صلى الله عليه وسلم موعظة ذرفت منها العيون ووجلت منها القلوب، فقلنا: يا رسول الله إن هذه لموعظة مودع فماذا تعهد إلينا؟ قال ... " فذكره.

قلتُ (الألبانى): وهذا إسناد صحيح رجاله كلهم ثقات معروفون غير عبد الرحمن ابن عمرو هذا، وقد ذكره ابن حبان في " الثقات "، وروى عنه جماعة من الثقات، وصحح له الترمذي وابن حبان والحاكم كما في " التهذيب "، وقد أخرج ابن حبان (102) هذا الحديث من طريق أخرى عن عبد الرحمن بن عمرو مقرونا بحجر بن حجر الكلاعي عن العرباض به، دون قوله: " فإنما المؤمن ... ". وكذلك أخرجه من الوجه الأول المخلص في " سبعة مجالس " (ق 51 / 1) وعنه ابن عساكر في " تاريخ دمشق " (11/ 265 / 2) واللالكائي في " شرح السنة " (228 / 1 - كواكب 576) والضياء المقدسي في " الأحاديث المختارة " (10 / 104 / 2) وكذا أبو نعيم في " المستخرج على صحيح مسلم " (1 / 3 / 1) وقال: " حديث جيد من صحيح حديث الشاميين ". وأخرج طرفه الأول الخطيب في " الفقيه والمتفقه " (ق 106 / 1)].



MODERN ZAHIRI VOICES — TRANSLATION DRAFT

البرنامـــــج

The Procedure: General Provisions

Kāmil Muḥammad Muḥammad ʿĀmir · Arabic–English parallel edition

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[The Procedure: General Provisions][1]

In the name of Allah, the Most Merciful, the Ever Merciful.

Praise be to Allah, who sent down the Book to us as an explanation of everything, saying: 'We have sent down the Book to you as an explanation of everything,' and: 'Then its explanation is Our responsibility.' I bear witness that there is no god but Allah alone, without partner, and that Muhammed is His servant and Messenger. Our Lord, majestic and exalted is He, sent him to explain what Allah has sent down to us and that over which we differ, saying: 'We have sent down the Reminder to you so that you may explain to people what has been sent down to them,' and: 'We have sent down the Book to you only so that you may explain to them that over which they differ, and as guidance and mercy for people who believe' [An-Nahl 16:64]. May Allah grant him blessings, peace and benediction, and his family, his Companions and whoever follows his guidance until the Day of Judgement.[2]

To proceed:

In reading and understanding the texts, we have followed the Messenger's explanation ﷺ, not unrestricted Arabic understanding. We have understood the words in the texts according to their legal meaning and explained them in a straightforward manner understandable to ordinary people.

We have taken the text according to its apparent meaning, its general scope and its unqualified wording, without making it bear more than it contains.

We have learned that the Messenger's address ﷺ to one individual is an address to all of us. Likewise, we have learned that an address directed to the Messenger ﷺ is a general address to all Muslims.

We have learned that every complete utterance has its own ruling.

[1]**Translator's note (L309):** Source: Kamil Muhammed Muhammed Amir, Fiqhweb, post-248219. Forum publication: 5 February 2019. Original source and attribution are documented in the editorial preface.

[2]**Qur'an references (L311):** Qur'an 16:89 (An-Nahl); Qur'an 75:19 (Al-Qiyamah); Qur'an 16:44 (An-Nahl); Qur'an 16:64 (An-Nahl).

[البرنامـــــج]

بسم الله الرحمن الرحيم

الحمد لله الذى نَزَّل عَلَيْنا الْكِتَابَ تِبْيَانًا لِكُلِّ شَيْءٍ، فقال تعالى: {وَنَزَّلْنَا عَلَيْكَ الْكِتَابَ تِبْيَانًا لِكُلِّ شَيْءٍ} وقال تعالى: {ثُمَّ إِنَّ عَلَيْنَا بَيَانَهُ}، وأشهد ألا إله إلا الله وحده لا شريك له وأشهد أن محمداً عبده ورسوله، أرسله ربنا جلَّ وعلا ليبين لنا ما أنزله الله إلينا، ويبن لنا الذى اختلفنا فيه، فقال تعالى: {وَأَنْزَلْنَا إِلَيْكَ الذِّكْرَ لِتُبَيِّنَ لِلنَّاسِ مَا نُزِّلَ إِلَيْهِمْ} وقال تعالى {وَمَا أَنْزَلْنَا عَلَيْكَ الْكِتَابَ إِلَّا لِتُبَيِّنَ لَهُمُ الَّذِي اخْتَلَفُوا فِيهِ وَهُدًى وَرَحْمَةً لِقَوْمٍ يُؤْمِنُونَ } [النحل: 64] وصلى وسلّم وبارك عليه وعلى آله وصحبه ومن اهتدى بهداه إلى يوم الدين .

أما بعد

لقد اتبعنا فى قراءة النصوص وفهمها بيان الرسول عليه السلام، وليس مطلق الفهم العربى، وحملنا الألفاظ فى النصوص على المعنى الشرعى، وفسرناها بطريقة ميسرة يفهمها عامة الناس.

حَمَلنا النص على ظاهره، وعلى عمومه وإطلاقه، ولم نُحَمِّله بأكثر مما فيه.

علمنا أن خطاب الرسول عليه السلام لفرد واحد هو خطاب لنا جميعاً، وكذلك علمنا أن الخطاب الموجه للرسول عليه السلام هو خطاب عام لجميع المسلمين.

وعلمنا أن كُلِّ كَلَامٍ تَامٍّ له حكمه الخاص به.

We have become certain that the religion has been completed: there is no event or act without a ruling in the Qur'an and Sunnah.

تيقنا أن الدين قد أَكْتمَل، فلا يوجد حدث أو فعل ليس له حكم فى القرآن والسنة.

We have learned that Allah, glorified is He, commanded us to convey this religion and to use reason and the senses. We find no distinction between the commands of the Qur'an and those of the Messenger ﷺ. Obedience to the Messenger ﷺ is unrestricted: no human being, whoever he may be, can restrict what my Lord has left unrestricted. The hadiths of our Messenger ﷺ also stand on one level: there is no distinction between ahad and mutawatir reports, since He, glorified is He, commands us to accept the warning of the person who goes forth to gain understanding of the religion.

وعلمنا أن الله سبحانه أمرنا بتبليغ هذا الدين، وأمرنا سبحانه باستعمال العقل والحواس، فلم نجد فرق بين أوامر القرآن وأوامر الرسول عليه السلام، فطاعة الرسول عليه السلام مطلقة ولا يستطيع بشر مهما كان أن يقيد ما أطلقه ربى سبحانه وتعالى، وأيضاً أحاديث رسولنا عليه السلام فى مرتبة واحدة فلا فرق بين أحاديث الآحاد و الحديث المتواتر لأمره سبحانه لنا بقبول نذارة النافر للتفقه فى الدين.

We have become certain that there is no disagreement within the Sharia. Rulings were not revealed all at once, but over twenty-three years. Muslim customs consequently did not change suddenly. Everyone continued with society's traditions and usages until a ruling came to move them from their previous practice. Each Companion would relate what he heard from the Messenger ﷺ or saw him do. One Companion might therefore relate an action he saw the Messenger ﷺ perform before legislation, while another related his ruling after legislation. One Companion might mention a hadith containing a particular ruling, while another mentioned a hadith containing a ruling additional to that narrated by the first.

تيقنا أن لا اختلاف فى الشريعة، وأن الأحكام لم تنزل دفعة واحدة، ولكنها نزلت خلال 23 عاماً، وبالتالى لم تتغير عادات المسلمين فجأة فالجميع ثابت على تقاليد المجتمع وأعرافه حتى يأتى حكم ينقله عمَّا كان عليه ، فكان كل صحابى يروى ماسمعه من الرسول عليه السلام أو ماشاهده من فعله عليه السلام؛ فالصحابى قد يروى ما شاهده من فعل الرسول عليه السلام قبل التشريع، وقد يروى صحابى آخر حكم الرسول عليه السلام بعد التشريع؛ وقد يذكر الصحابى حديث فيه حكم معين ويذكر صحابى آخر حديث فيه حكم زائد عمّا رواه الصحابى الأول.

Statements, actions and the Messenger's approvals ﷺ may consequently conflict. How, then, do we reconcile them, drawing upon the Prophet's guidance ﷺ?

وعلى ذلك قد تتعارض الأقوال، والأفعال، وإقرارات الرسول عليه السلام؛ فكيف نجمع بينهم مستلهمين هدى النبى عليه السلام؟

That is what I have sought through this procedure. Allah knows the purpose behind it, and He, glorified is He, guides to the straight path.

هذا ماأردته من هذا البرنامج والله من وراء القصد، وهو سبحانه الهادى سواء السبيل.

My undertaking to the honoured reader in this procedure is that I shall cite only unambiguous verses, authentic hadiths, or primary sensory certainties and principles of reason (Appendix 1) over which no two human beings disagree—just as no rational person disputes that two is greater than one. Allah knows the purpose behind this, and He guides to the straight path.

إن العهدَ بينى وبين القارئ الكريم فى هذا البرنامج أن لا أستشهد إلا بآياتٍ محكماتٍ وبأحاديثٍ صحيحاتٍ، أو أوائل حسٍ ومبادئ عقلٍ (ملحق 1) لا يختلف عليها من بنى الإنسان اثنان، كما لا يختلف عاقلٌ أن الأثنين أكبر من الواحد؛ هذا، والله من وراء القصد وهو الهادى إلى سواء السبيل.

L323 The texts to which the procedure applies are only the verses concerning rulings and the authentic Sunnah.

L324 ## General Provisions

L325 ### Introduction

L326 The whole matter of these procedures comes down to a single provision: acting upon all the texts. It is unrestricted obedience to the commands of my Lord, glorified and exalted is He, and of the Messenger ﷺ, without any conditions. We carry out what the texts require in a manner which certainly discharges our obligation.

L327 We implement the text as soon as it reaches us. We do not ask about its legal cause: we do not ask why this was forbidden and that permitted. Where a cause is mentioned, we apply it only within the text in which it occurs.[3]

L328 Every question has its own particular evidence. We may not therefore rely upon general rules to infer a particular ruling unless there is no text particular to the question. Accordingly, we may not infer general rules by induction and then use them to infer the ruling on a particular question.

L329 If my Lord wills, this introduction will be discussed in the following sections:

L330 (1) Unrestricted obedience to Allah and the Messenger.

L331 (2) Implementing the text as soon as it reaches us, without hesitation.

L332 (3) We do not ask about the text's legal cause or its wisdom: we do not ask why this was forbidden and that permitted.

L333 (4) Where a cause is mentioned, we apply it only within the text in which it occurs.

L334 (5) Every question has its own particular evidence.

[3] **Translator's note (L327):** The legal cause (illa) is the ground treated as operative in a ruling, distinct from its wisdom or purpose (hikma). The author expressly argues against extending even a stated cause beyond the text in which it occurs; that restriction is retained.

إن النصوص التى يطبق عليها البرنامج هى: آيات الأحكام وصحيح السنة فقط.

بنـــــــود عامــة

مقدمة

إن قضية البرامج تكمن فى بندٍ واحد فقط.....! العمل بجميع النصوص ..... الطاعة المطلقة لأوامر ربى سبحانه وتعالى وأوامر الرسول عليه السلام دون أيَّةُ قيود؛ فنفعل من النصوص ما يخرجنا عن عهدة التكليف بيقين.

تنفيذ النص فور وصوله إلينا؛ ولا نسأل عن علة النص، فلا نسأل لماذا حُرِّمَ هذا وأُبِيحَ ذاك، ولا نُجْرى العِلَّةَ إذا ذُكِرَت إلا فى النص الذى وردت فيه فقط.

إن لكل مسألة دليلها الخاص؛ فلا يجوز أن نستند إلى القواعد العامة فى استنباط حكم خاص إلا عند عدم وجود نص خاص بالمسألة؛ وعلى ذلك لا يجوز استنتاج قواعد عامة بالإستقراء ثم نستخدمها لاستنباط حكم مسألة خاصة.

وإن شاء ربى سوف تناقش تلك المقدمة فى الفصول الآتية:

(1) الطاعة المطلقة لله والرسول.

(2) تنفيذ النص فور وصوله إلينا دون تردد.

(3) لا نسأل عن عِلَّةِ النصِّ، ولا الحكمة منه، فلا نسأل لماذا حُرِّمَ هذا وأُبِيحَ ذاك.

(4) لا نُجْرى العِلَّةَ إذا ذُكِرَت إلا فى النص الذى وردت فيه فقط.

(5) لكل مسألة دليلها الخاص بها.

(6) We rely upon general rules only when there is no particular text.

(7) We may not infer general rules and then use them as evidence for a particular question.

The First Provision

Unrestricted Obedience to Allah, Glorified and Exalted Is He, and to the Messenger ﷺ

The verses concerning rulings and the authentic Sunnah have the same standing as regards the obligation to obey, by Allah's words, glorified and exalted is He: 'You who believe, obey Allah and His Messenger, and do not turn away from him while you hear' [Al-Anfal 8:20].[4]

And His words: 'You who believe, obey Allah and obey the Messenger, and do not render your deeds void' [Muhammed 47:33].[5]

And His words, mighty and majestic is He: 'It is not for a believing man or a believing woman, when Allah and His Messenger have decided a matter, to have any choice in their affair. Whoever disobeys Allah and His Messenger has strayed into manifest error' [Al-Ahzab 33:36].[6]

And His words: 'If you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day' [An-Nisa 4:59].[7]

And His words: 'Whatever the Messenger gives you, take it; and whatever he forbids you, refrain from it' [Al-Hashr 59:7].[8]

Allah, glorified and exalted is He, says: 'He does not speak from desire. It

[4] **Qur'an references (L339):** Qur'an 8:20 (Al-Anfal).
[5] **Qur'an references (L340):** Qur'an 47:33 (Muhammad).
[6] **Qur'an references (L341):** Qur'an 33:36 (Al-Ahzab).
[7] **Qur'an references (L342):** Qur'an 4:59 (An-Nisa).
[8] **Qur'an references (L343):** Qur'an 59:7 (Al-Hashr).

(6) لا نستند إلى القواعد العامة إلا عند عدم وجود نَصّ خَاصّ.

(7) لا يجوز استنتاج قواعد عامة ثم نستخدمها كدليل لمسألة خاصة.

البنـــــــــــــد الأول

الطاعــة المطلقة لله سبحانه وتعالى والرسـول عليه السلام

إن آيات الأحكام وصحيح السنة حكـمها واحـــــــــد في وجوب الطاعـــــــــة؛ لقول الله سبحانه وتعالى: {يَاأَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَرَسُولَهُ وَلَا تَوَلَّوْا عَنْهُ وَأَنْتُمْ تَسْمَعُونَ}[الأنفال: 20]

وقوله تعالى: {يَاأَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَلَا تُبْطِلُوا أَعْمَالَكُمْ} [محمد: 33]

وقوله عز وجل} : وَمَا كَانَ لِمُؤْمِنٍ وَلاَ مُؤْمِنَةٍ إِذَا قَضَى اللَّهُ وَرَسُولُهُ أَمْراً أَن يَكُونَ لَهُمُ الْخِيَرَةُ مِنْ أَمْرِهِمْ وَمَن يَعْصِ اللَّهَ وَرَسُولَهُ فَقَدْ ضَلَّ ضَلاَلاً مُّبِيناً}[الاحزاب 36]

وقوله تعالى: {فَإِن تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِن كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الآخِرِ} [النساء 59]

وقَالُ تَعَالَى: {وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا } [الحشر: 7]

ويقول الله سبحانه و تعالى : {وَمَا يَنطِقُ عَنِ الْهَوَى * إِنْ هُوَ إِلاَّ وَحْيٌ يُوحَى}[النجم 3،4].

is only revelation revealed' [An-Najm 53:3–4].[9]

L345 The Prophet ﷺ says: 'When I forbid you something, avoid it; and when I command you to do something, do as much of it as you can.' (1)

L346 These texts establish that the Qur'an and authentic Sunnah:

L347 Are one in being from Allah, exalted is He: 'He does not speak from desire.'[10]

L348 Have the same standing as regards the obligation to obey: 'Obey Allah and obey the Messenger.'[11]

L349 Do not conflict: 'If you dispute over anything, refer it to Allah and the Messenger.'[12]

L350 The Second Provision. Commands must be implemented and prohibitions avoided as soon as they reach us, without delay, by Allah's words, glorified and exalted is He: 'Hasten to forgiveness from your Lord' [Al Imran 3:133]. When His words, 'Warn your nearest kinsfolk,' were revealed, the Prophet ﷺ climbed al-Safa and began calling: 'Sons of Fihr! Sons of…'—the hadith. (2) When the Messenger of Allah ﷺ had taken his place on Friday, he said: 'Sit down.' Ibn Masud heard this and sat down at the mosque's entrance. (3) Abu Said ibn al-Mualla, may Allah be pleased with him, also said: 'I was praying in the mosque when the Messenger of Allah ﷺ called me, and I did not answer. Afterwards I came to him and said: "Messenger of Allah, I was praying." He said: "Has Allah, exalted is He, not said: 'You who believe, respond to Allah and the Messenger when he calls you'?"' (4) This hadith indicates that a command requires immediate compliance, because he ﷺ reproached Abu Said for not hastening to answer him. When the Companions heard the Messenger's caller ﷺ announce: 'Wine has been forbidden,' they

[9] **Qur'an references (L344):** Qur'an 53:3 (An-Najm); Qur'an 53:4 (An-Najm).
[10] **Qur'an references (L347):** Qur'an 53:3 (An-Najm).
[11] **Qur'an references (L348):** Qur'an 47:33 (Muhammad).
[12] **Qur'an references (L349):** Qur'an 4:59 (An-Nisa).

ويقول عليه السلام: " فَإِذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَاجْتَنِبُوهُ وَإِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ"(1)

فصح بهذه النصوص أن القرآن وصحيح السنة:

شيءٌ واحد في أنهما من عند الله تعالى{وَمَا يَنطِقُ عَنِ الْهَوَى}

وحكمها واحد في وجوب الطاعة {أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ}

ولا تعارض بينهما {فَإِن تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ} .

البنـــــــــــــد الثانى يجب تنفيذ الأوامر واجتناب النواهى فور وصولها إلينا دون تأخير، لقول الله سبحانه وتعالى: {وَسَارِعُوا إِلَى مَغْفِرَةٍ مِنْ رَبِّكُمْ} [آل عمران: 133] فلَمَّا نَزَلَ قوله تعالى: {وَأَنْذِرْ عَشِيرَتَكَ الْأَقْرَبِينَ } صَعِدَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى الصَّفَا فَجَعَلَ يُنَادِي يَا بَنِي فِهْرٍ يَا بَنِي .....الحديث (2) ولَمَّا اسْتَوَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَوْمَ الْجُمُعَةِ قَالَ اجْلِسُوا فَسَمِعَ ذَلِكَ ابْنُ مَسْعُودٍ فَجَلَسَ عَلَى بَابِ الْمَسْجِدِ(3) وأيضاً عن أبي سعيد بن المعلى - رضي الله عنه - قَالَ: كُنْتُ أُصَلِّي فِي الْمَسْجِدِ فَدَعَانِي رَسُولُ الله - صلى الله عليه وسلم - فَلَمْ أُجِبْهُ، ثُمَّ أَتَيْتُه، فَقُلْتُ: يَا رَسُولَ الله! إِنِّي كُنْتُ أُصَلِّي، فَقَالَ: "أَلَمْ يَقُلِ الله تعالى: {يَاأَيُّهَا الَّذِينَ آمَنُوا اسْتَجِيبُوا لِلَّهِ وَلِلرَّسُولِ إِذَا دَعَاكُمْ}(4) ففي هذا الحديث ما يدل على أن الأمر للفور، لأنه صلى الله عليه وسلم عاتب أبا سعيد على عدم المسارعة إلى إجابته عليه السلام. وعندما

immediately obeyed and poured it away until it flowed through Medina's streets. (5)[13]

The Third Provision

We do not ask about the text's legal cause or why this was forbidden and that permitted. Commands must be implemented and prohibitions avoided without argument.

Anas, may Allah be pleased with him, says: 'We were forbidden to ask the Messenger of Allah ﷺ about anything.' (6)

One of the conditions of emigration was that the emigrant should not ask the Messenger of Allah ﷺ about anything. (7)

This is an unrestricted prohibition which the Companions—may Allah be pleased with them—observed during the Messenger's lifetime ﷺ and after his death. We must therefore adhere to this prohibition.

He, exalted is He, says: 'He is not questioned about what He does' [Al-Anbiya 21:23].[14]

He, exalted is He, says: 'Let those who oppose his command beware lest a trial befall them or a painful punishment befall them' [An-Nur 24:63].[15]

Do not ask why this was forbidden and that permitted. Such impertinence is unfitting even between human beings. How, then, can we question the Lord of humankind, who has forbidden us this, saying: 'He is not questioned about what He does, whereas they will be questioned' ?[16]

If we speculate about the wisdom of prohibition and permission, we take a

[13] **Qur'an references (L350):** Qur'an 3:133 (Ali 'Imran); Qur'an 26:214 (Ash-Shu'ara); Qur'an 8:24 (Al-Anfal).

[14] **Qur'an references (L356):** Qur'an 21:23 (Al-Anbya).

[15] **Qur'an references (L357):** Qur'an 24:63 (An-Nur).

[16] **Qur'an references (L358):** Qur'an 21:23 (Al-Anbya).

سمع الصحابة منادى الرسول عليه السلام يقول " أَلَا إِنَّ الْخَمْرَ قَدْ حُرِّمَتْ" فعلى الفور التزم الصحابة بالأمر وأهرقوها حتى جَرَتْ فِي سِكَكِ الْمَدِينَةِ(5)

البنـــــــــــــد الثالث

لا نسأل عن علة النص، ولا نسأل لماذا حُرِّمَ هذا وأُبِيحَ ذاك؛ فيجب تنفيذ الأوامِرِ، واجتناب النواهى بدون نِقَاشٍ.

فأنس رضى الله عنه يقول نُهِينَا أَنْ نَسْأَلَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ شَيْءٍ(6)

وكان من شروط الهجرة، أن المهاجر لا يَسْأَل رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ شَيْءٍ(7)

وهذا نهى مطلق التزم به الصحابة رضوان الله عليهم فى حياة الرسول عليه السلام وبعد موته؛ فيجب علينا التمسك بهذا النهى.

يقول تعالى:{ لَا يُسْأَلُ عَمَّا يَفْعَلُ } [الأنبياء: 23]

ويقول تعالى: {فَلْيَحْذَرِ الَّذِينَ يُخَالِفُونَ عَنْ أَمْرِهِ أَنْ تُصِيبَهُمْ فِتْنَةٌ أَوْ يُصِيبَهُمْ عَذَابٌ أَلِيمٌ} [النور: 63]

لا تسأل لماذا حُرِّمَ هذا وأُبِيحَ ذاك؛ فهذا تطاول لا يليق من البشر للبشر؛ فكيف نسأل رب البشر الذى نهانا عن هذا فقال تعالى: { لَا يُسْأَلُ عَمَّا يَفْعَلُ وَهُمْ يُسْأَلُونَ }

إننا إن نتكهن بحكمة التحريم والتحليل نكون قد سلكنا طريقاً وَعِرَة ودخلنا فى بحرٍ لُجِّيٍّ ليس له نهاية.

rough road and enter a boundless, deep sea.

L360 Consider His words, exalted is He: ‘When Talut set out with the troops, he said: Allah will test you with a river. Whoever drinks from it is not of me; whoever does not taste it is of me, except one who scoops a handful with his hand. Yet they drank from it, except a few’ [Al-Baqarah 2:249].[17]

L361 These are trials and tests. He, exalted is He, has commanded us not to question what He does. How, then, can we speculate about the wisdom of His commands? If you speculate about a command’s wisdom, you will always find someone else who rejects your speculation and supplies a second or third wisdom. Be, then, a servant of Allah, exalted is He: do what He commands and refrain from what He forbids.

L362 Seeking the cause of the prohibition on eating domestic donkey meat caused disagreement among the Companions. One said: it was forbidden because the donkeys ate excrement; another: because the fifth had not been taken from them; another: because he feared the destruction of riding animals. Some said: it was forbidden outright, without regard to causes. (8) This happened while the Messenger ﷺ was among them. No one asked him the reason; they simply observed the prohibition. The Companions’ discussion was, as it were, an exercise in juristic luxury. Of course, they—may Allah be pleased with them—were observing the general prohibition on questioning.

L363 Muadha bint Abd Allah, Aisha’s pupil—may Allah be pleased with Aisha—asked about the wisdom of a menstruating woman making up missed fasts but not missed prayers: ‘Why does a menstruating woman make up fasting but not prayer?’ The Mother of the Believers—may Allah be pleased with her—did not approve her question or answer it, but instructed her to carry out the command as it stood. (9) Ibn Masud likewise sat down at the mosque’s entrance when he heard the Messenger of Allah ﷺ say on Friday: ‘Sit down.’ (3)

L364 Ibn Masud, may Allah be pleased with him, did not consider why the Mes-

[17] **Qur’an references (L360):** Qur’an 2:249 (Al-Baqarah).

وانظر إلى قوله تعالى: {فَلَمَّا فَصَلَ طَالُوتُ بِالْجُنُودِ قَالَ إِنَّ اللَّهَ مُبْتَلِيكُمْ بِنَهَرٍ فَمَنْ شَرِبَ مِنْهُ فَلَيْسَ مِنِّي وَمَنْ لَمْ يَطْعَمْهُ فَإِنَّهُ مِنِّي إِلَّا مَنِ اغْتَرَفَ غُرْفَةً بِيَدِهِ فَشَرِبُوا مِنْهُ إِلَّا قَلِيلًا مِنْهُمْ}[البقرة:249].

إنها ابتلاءات واختبارات ؛ أمرنا تعالى أن لا نسأل عما يفعل سبحانه، فكيف نتكهن بحكمةِ أوامره. إنك أن تتكهن بحكمة الأمر، فلن تُعدم آخر يرد عليك تكهنك، ويأتى بحكمة ثانية وثالثة. فكن عبداً لله تعالى؛ تفعل ما يأمرك به وتنتهى عما نهاك عنه.

لقد كان البحث عن علة النهي عن أكل لحم الحمر الأهلية سبباً لاختلاف الصحابة، فمن قائل: حرمت لأنها كانت تأكل العذرة، ومن قائل: لأنها لم تخمس، وقائل: إنه خشي فناء الظهر، وقال بعضهم حرمت البتة بدون نظر إلى العلل(8) هذا والرسول عليه السلام بينهم؛ ما سأل أحدٌ الرسولَ عليه السلام عن السبب ولكنهم التزموا بالنهى وكأن كلام الصحابة من باب الترف الفقهى، وبالطبع كان الصحابة رضى الله عنهم ملتزمين بالنهى العام عن السؤال.

ومُعَاذَةُ بِنْتُ عَبْدِ اللهِ تلميذة عائشة رضى الله عنها تسأل عن الحكمة فى قضاء الحائض الصوم دون الصلاة " مَا بَالُ الْحَائِضِ تَقْضِي الصَّوْمَ وَلَا تَقْضِي الصَّلَاةَ؟" ولم تُقِرَّها أم المؤمنين عليها وضوان الله على سؤالها ولم تجبها وتأمرها بتنفيذ الأمر كما هو(9)وابْنُ مَسْعُودٍ يجَلَسَ عَلَى بَابِ الْمَسْجِدِ عندما سمع رسول الله عليه السلام يقول يوم الجمعة اجْلِسُوا(3)

senger ﷺ said ‘Sit down.’ He implemented the command immediately, without thinking!

The Fourth Provision

Where a Cause Is Mentioned, We Apply It Only within the Text in Which It Occurs

Allah, glorified and exalted is He, says: ‘Whatever Allah has restored to His Messenger from the people of the towns is for Allah, the Messenger, close relatives, orphans, the needy and the traveller, so that it does not circulate only among the wealthy of you’ [Al-Hashr 59:7]. The cause of distributing the property in this way is that it should not circulate only among the wealthy Companions, may Allah be pleased with them. Nevertheless, the Messenger ﷺ did not extend this cause to the distribution of any other spoils or property.[18]

He, exalted is He, says: ‘Satan desires only to sow enmity and hatred among you through wine and gambling, and to keep you from remembering Allah and from prayer. Will you then desist?’ [Al-Maidah 5:91]. The Messenger ﷺ did not extend the causes for prohibiting wine and gambling to other things, such as earning money, which distracts from remembering Allah and from prayer more than wine and gambling, yet is not forbidden. The Prophet ﷺ told his Companions, may Allah be pleased with them: ‘By Allah, it is not poverty that I fear for you. Rather, I fear that the world will be opened up to you.’ (10)[19]

He, exalted is He, says: ‘Because of wrongdoing by those who became Jews, We forbade them good things previously permitted to them, and because of their frequent obstruction of Allah’s way’ [An-Nisa 4:160].[20]

[18] **Qur’an references (L367):** Qur’an 59:7 (Al-Hashr).
[19] **Qur’an references (L368):** Qur’an 5:91 (Al-Ma’idah).
[20] **Qur’an references (L369):** Qur’an 4:160 (An-Nisa).

فابن مسعود رضى الله عنه لم يفكر لماذا قال الرسول عليه السلام “اجلسوا” ولكنه نفذ الأمر فوراً بدون تفكير!

البنـــــــــــــد الرابع

لا نُجْرى العِلَّةَ إذا ذُكِرَت إلا فى النص الذى وردت فيه فقط.

يقول الله سحانه وتعالى: {مَا أَفَاءَ اللَّهُ عَلَى رَسُولِهِ مِنْ أَهْلِ الْقُرَى فَلِلَّهِ وَلِلرَّسُولِ وَلِذِي الْقُرْبَى وَالْيَتَامَى وَالْمَسَاكِينِ وَابْنِ السَّبِيلِ كَيْ لَا يَكُونَ دُولَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ } [الحشر: 7] إنَّ عِلَّةَ تقسيمِ المالِ على هذه الصورة هى أَلَّا يَكُونَ دُولَةً بَيْنَ الْأَغْنِيَاءِ من الصحابة رضى الله عنهم؛ ومع هذا فالرسول عليه السلام لم يطرد تلك العلة فى تقسيم أية غنائم أو أموال أخرى.

يقول تعالى:{إِنَّمَا يُرِيدُ الشَّيْطَانُ أَن يُوقِعَ بَيْنَكُمُ الْعَدَاوَةَ وَالْبَغْضَاءَ فِي الْخَمْرِ وَالْمَيْسِرِ وَيَصُدَّكُمْ عَن ذِكْرِ اللَّهِ وَعَنِ الصَّلاَةِ فَهَلْ أَنْتُمْ مُّنتَهُونَ} [المائدة:91] والرسول عليه السلام لم يطرد علل تحريم الْخَمْرِ وَالْمَيْسِرِ فى أشياء أخرى؛ مثل كسب المال فهو أَصَدُ عن ذكر الله تعالى، وعن الصلاة من الخمر والميسر، وليس ذلك محرماً؛ وقد أخبر النبي صلى الله عليه و سلم أصحابه رضي الله عنهم إذ يقول لهم: “فَوَاللَّهِ لَا الْفَقْرَ أَخْشَى عَلَيْكُمْ وَلَكِنْ أَخْشَى عَلَيْكُمْ أَنْ تُبْسَطَ عَلَيْكُمْ الدُّنْيَا”(10)

ويقول تعالى:{فَبِظُلْمٍ مِّنَ الَّذِينَ هَادُواْ حَرَّمْنَا عَلَيْهِمْ طَيِّبَاتٍ أُحِلَّتْ لَهُمْ وَبِصَدِّهِمْ عَن سَبِيلِ اللَّهِ كَثِيراً} [النساء:160]

L370 The cause for prohibiting those good things was wrongdoing. He ﷺ did not extend that cause to the good things permitted to us: he did not forbid good things to those of us who did wrong.

L371 He, exalted is He, says to Musa, peace be upon him: 'I am your Lord. Remove your sandals: you are in the sacred valley of Tuwa' [Ta Ha 20:12]. The Messenger ﷺ did not extend the cause of being in Tuwa's sacred valley to us: he did not command us to remove our sandals in every sacred place.[21]

L372 ## The Fifth Provision

L373 ## Every Question Has Its Own Particular Evidence

L374 He, glorified and exalted is He, says: 'We have explained everything in detail' [Al-Isra 17:12]. [Al-Tabari's commentary: 'We have explained everything in detail' means: We have explained everything with a full and sufficient explanation.] He, exalted is He, says: 'Thus We explain the signs in detail for people who know' [Al-Araf 7:32].[22]

L375 All scholars of the Sharia agree that jurisprudence means knowledge of practical rulings from their detailed evidences. (Appendix 2)

L376 Every question has its own particular ruling. Consider His words, exalted is He: 'He has forbidden you only carrion, blood, swine flesh and that over which any name other than Allah's has been invoked' [Al-Baqarah 2:173].[23]

L377 Every manner of benefiting from a forbidden thing is prohibited. If the Sharia forbids a particular entity, owning it, selling it, disposing of it, eating it and every act of which that entity admits are forbidden, unless a text makes a particular exception. (Appendix 3)

فالعلةُ فى تحريم الطيبات الظلمُ، ولم يطرد عليه السلام تلك العلة فيما أُحِلَ لنا من طيبات، فلم يحرم عليه السلام الطيبات على من ظلم منا.

ويقول تعالى لموسى عليه السلام: {إِنِّي أَنَا رَبُّكَ فَاخْلَعْ نَعْلَيْكَ إِنَّكَ بِالْوَادِ الْمُقَدَّسِ طُوًى }[طه:12]. فالرسول عليه السلام لم يطرد عِلَّة الكون بالواد المقدس طوى فينا، فلم يأمرنا بخلع نعالنا فى أى مكان مقدس.

البنـــــــــــــد الخامس

لكل مسألة دليلها الخاص بها

يقول سبحانه وتعالى: {وَكُلَّ شَيْءٍ فَصَّلْنَاهُ تَفْصِيلًا} [الإسراء: 12] [تفسير الطبري (وَكُلَّ شَيْءٍ فَصَّلْنَاهُ تَفْصِيلا) يقول: وكلّ شيء بيناه بياناً شافياً] وقال تعالى: {كَذَلِكَ نُفَصِّلُ الْآيَاتِ لِقَوْمٍ يَعْلَمُونَ} [الأعراف: 32]

إن من المتفق عليه من جميع علماء الشريعة أن الفقه هو: المعرفة بالأحكام العملية من الأدلة التفصيلية (ملحق 2).

إن لكل مسألة حكمها الخاص بها، فانظر لقوله تعالى: {إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ وَالدَّمَ وَلَحْمَ الْخِنْزِيرِ وَمَا أُهِلَّ بِهِ لِغَيْرِ اللَّهِ } [البقرة: 173]

إن جميع وجوه الإنتفاع بالشيئ المحرم منهىٌ عنها، فإذا حَرَّمَتْ الشريعةُ عيناً ما، فحرام ملكه، وبيعه والتصرف فيه، وأكله، وجميع الأفعال التى تقبلها تلك العين، إلا أن يأتي نصٌّ بتخصيص شئ من ذلك (ملحق 3) .

[21] **Qur'an references (L371):** Qur'an 20:12 (Taha).
[22] **Qur'an references (L374):** Qur'an 17:12 (Al-Isra); Qur'an 7:32 (Al-A'raf).
[23] **Qur'an references (L376):** Qur'an 2:173 (Al-Baqarah).

He, exalted is He, says: ‘He has forbidden you only carrion, blood, swine flesh and that over which any name other than Allah’s has been invoked’ [Al-Baqarah 2:173].[24]

قال تعالى: {إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ وَالدَّمَ وَلَحْمَ الْخِنْزِيرِ وَمَا أُهِلَّ بِهِ لِغَيْرِ اللَّهِ } [البقرة: 173]

In the year of the Conquest, while in Mecca, the Messenger of Allah ﷺ said: ‘Allah and His Messenger have forbidden the sale of wine, carrion, pigs and idols.’ (11)

وقال رسول الله عليه السلام عَامَ الْفَتْحِ وَهُوَ بِمَكَّةَ إِنَّ اللَّهَ وَرَسُولَهُ حَرَّمَ بَيْعَ الْخَمْرِ وَالْمَيْتَةِ وَالْخِنْزِيرِ وَالْأَصْنَامِ(11)

He, exalted is He, says: ‘Allah has permitted trade and forbidden usury’ [Al-Baqarah 2:275].[25]

وقال تعالى: {وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا} [البقرة: 275]

My Lord, majestic and exalted is He, has forbidden carrion, blood and swine flesh, and has forbidden usury. Wearing a silk suit has been forbidden to men. Yet the rulings connected with these prohibitions differ: no single rule unites them.

لقد حَرَّمَ ربى جلَّ وعلا الْمَيْتَةَ وَالدَّمَ وَلَحْمَ الْخِنْزِيرِ، وَحَرَّمَ الرِّبَا، وحُرِّمَ لبس الحلة الحرير للرجال؛ ومع ذلك فالأحكام المرتبطة بالتحريم مختلفة لا تجمعها قاعدة واحدة.

The Sharia has assigned carrion further rulings and has not forbidden every manner of benefiting from it! There are many ways of benefiting from carrion, and the Sharia has allowed benefiting from it except for:

لقد خصَّت الشريعة الميتة بأحكام أُخرى، ولم تحرِّم جميع وجوه الإنتفاع بها! فوجوه الإنتفاع بالميتة كثيرة والشريعة أَقَرَّتْ بالنسبة للمَيْتة الإنتفاع بها إلا:

Sale: ‘He forbade the sale of wine and carrion.’ (11)

البيع “حَرَّمَ بَيْعَ الْخَمْرِ وَالْمَيْتَةِ”(11)

Eating: ‘Only eating it was forbidden.’ (12)

والأكل“إِنَّمَاحَرُمَ أَكْلُهَا”(12)

Anointing oneself with its fat. (11)

والادهان بشحومها(11)

The hide and sinew: ‘Do not benefit from carrion through either hide or sinew.’ (13)

والإهاب والعصب“لَا تَنْتَفِعُوا مِنْ الْمَيْتَةِ بِإِهَابٍ وَلَا عَصَبٍ”(13)

Benefiting from carrion is thus permissible except for the uses expressly forbidden: selling it and anointing oneself with its fat—‘They melted it, sold it and consumed its price’ (11)—and eating it or using its sinew or hide. The Sharia then excepted a hide once tanned: ‘Its tanning is its purification as by slaughter.’ (14) A hide is therefore lawful after tanning.

فيباح الإنتفاع بالميتة إلا ما حرم باسمه من بيعها والادهان بشحومها “جَمَلُوهُ ثُمَّ بَاعُوهُ فَأَكَلُوا ثَمَنَهُ”(11) ومن الأكل والعصب والإهاب؛ ثم استثنت الشريعة الإهاب إذا دبغ “فَإِنَّ دِبَاغَهَا ذَكَاتُهَا”(14) فيكون الإهابُ حلالاً بعد الدبغ.

Concerning usury, the Messenger of Allah ﷺ cursed its recipient, its payer,

وفى الربا لَعَنَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ آكِلَ الرِّبَا وَمُؤْكِلَهُ وَكَاتِبَهُ وَشَاهِدَيْهِ وَقَالَ هُمْ سَوَاءٌ(15)

[24] **Qur’an references (L378):** Qur’an 2:173 (Al-Baqarah).
[25] **Qur’an references (L380):** Qur’an 2:275 (Al-Baqarah).

its scribe and its two witnesses, saying: ‘They are alike.’ (15)

L389 Concerning wine, the Messenger of Allah ﷺ said: ‘Allah has cursed wine, its drinker, its server, its seller, its buyer, its presser, the one for whom it is pressed, its carrier and the one to whom it is carried.’ (16)

L390 In the account of Utarid’s suit, the Messenger ﷺ forbids men to wear the silk suit but permits owning it, selling it and other ways of disposing of it. (17)

L391 Accordingly, reliance upon general texts is not permissible, for every question has its own particular ruling.

L392 ## The Sixth Provision

L393 We rely upon general rules only when there is no particular text, as our Messenger ﷺ explained. A particular thing for which no particular text has come falls under the ruling of a general text. When he ﷺ was asked about donkeys, he said: ‘Allah has revealed nothing to me concerning them except this uniquely comprehensive verse: “Whoever does an atom’s weight of good will see it, and whoever does an atom’s weight of evil will see it.”’ (18)[26]

L394 The Messenger ﷺ does not speak from desire: ‘He does not speak from desire. It is only revelation revealed’ [An-Najm 53:3–4]. When no text particular to donkeys was revealed to him, he brought their ruling under that of a general text.[27]

L395 Accordingly, we bring nothing under a general ruling unless the question has no ruling particular to it.

L396 ## The Seventh Provision

L397 ## We May Not Infer General Rules by Induction and Then

[26] **Qur’an references (L393):** Qur’an 99:7 (Az-Zalzalah); Qur’an 99:8 (Az-Zalzalah).
[27] **Qur’an references (L394):** Qur’an 53:3 (An-Najm); Qur’an 53:4 (An-Najm).

وفى الخمر قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَعَنَ اللَّهُ الْخَمْرَ وَشَارِبَهَا وَسَاقِيَهَا وَبَائِعَهَا وَمُبْتَاعَهَا وَعَاصِرَهَا وَمُعْتَصِرَهَا وَحَامِلَهَا وَالْمَحْمُولَةَ إِلَيْهِ(16)

وفى قصة حلة عطارد، يحرم الرسول عليه السلام لبس الحلة من الحرير على الرجال، ويبيح ملكها، وبيعها، وباقى وجوه التصرف فيها(17)

وعلى هذا فلا يجوز الإستناد إلى النصوص العامة، فإن لكل مسألة حكمها الخاص بها.

البنـــــــــــــد السادس

لا نستند إلى القواعد العامة إلا عند عدم وجود نَصّ خَاصّ، كما بين ذلك رسولنا عليه السلام، فالشَّيْء الْخَاصّ الَّذِي لَمْ يَرِد فِيهِ نَصّ خَاصّ يدخل تَحْت حُكْم نصٍّ عام، فعندما سُئِلَ عليه السلام عن الحمر قال: مَا أَنْزَلَ اللَّهُ عَلَيَّ فِيهَا شَيْئًا إِلَّا هَذِهِ الْآيَةَ الْجَامِعَةَ الْفَاذَّةَ { فَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ خَيْرًا يَرَهُ وَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ شَرًّا يَرَهُ }(18)

فالرسول عليه السلام ما ينطق عن الهوى، {وَمَا يَنْطِقُ عَنِ الْهَوَى (3) إِنْ هُوَ إِلَّا وَحْيٌ يُوحَى} [النجم: 3، 4] فعندما لم يوحى إليه عليه السلام نص خاصّ بالحُمُر، أدخل حكم الحُمُر تحت حكم نصٍّ عامٍّ.

وعليه فلا ندخل أى شيئ تحت الحكم العام إلا إذا لم يوجد للقضية حكم خاصّ بها.

البنـــــــــــــد السابع

لا يجوز استنتاج قواعد عامة بالاستقراء، ثم نستخدمها كدليل لمسألة خاصة.

Use Them as Evidence for a Particular Question

L398 What is the point of gathering particular rulings into a single rule? Then, when someone seeking a fatwa asks us for the ruling on a question, I cite that question's detailed, particular ruling! Can a scholar use that rule to judge a question which has its own particular ruling?

ما الجدوي من تجميع الأحكام الجزئية فى قاعدة واحدة؟ ثم إذا سَأَلَنا مستفتٍ عن حكمٍ لمسألةٍ ما، استشهد بالحكم التفصيلى الجزئى لتلك القضية! وهل يستطيع عالم أن يستخدم تلك القاعدة فى الحكم على مسألة لها حكم خاص بها؟

L399 A rule which we have inferred by incomplete induction may be used only for the questions or cases used to derive it, because the remaining questions may be exceptions.

إن القاعدة التى استنتجناها بالاستقراء النّاقص لا يجوز أن تستخدم إلا فى المسائل أو القضايا المستخدمة فى استخراج القاعدة؛ لأن باقى المسائل قد تكون من المستثنيات.

L400 The Qur'an and Sunnah contain particular texts and general rules. Can human beings add another general rule or another particular text for a subsidiary question?

ففى القرآن والسنة نصوص خاصة وقواعد عامة فهل بإمكان البشر أن يزيدوا قاعدة عامة أخرى، أو يزيدوا نصّاً خاصّاً لمسألة فرعية؟

L401 In the account of the donkeys, the Messenger ﷺ said: 'Nothing has been revealed to me concerning donkeys.' (18)

إن الرسول عليه السلام قال فى قصة الْحُمُرِ "مَا أُنْزِلَ عَلَيَّ فِي الْحُمُرِ شَيْءٌ" (18)

L402 For us to trust a provision or rule, it must be general and consistently applicable. Are those rules which we have inferred by induction consistently applicable and general?

إن البند أو القاعدة حتى نثق بها لابد وأن تكون عامة ومطردة؛ فهل تلك القواعد التى استنتجناها بالاستقراء مطردة وعامة؟



بنـــــــود خاصة

Particular Provisions

Kāmil Muḥammad Muḥammad ʿĀmir · Arabic–English parallel edition

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[Particular Provisions][1]

Introduction

The rulings of the Sharia fall into three categories:

Obligations: these must be acknowledged and performed to the extent of one's ability.

Forbidden things: these must be avoided except in necessity.

Lawful things: doing them and leaving them undone are both permissible. (19)

Allah, mighty and majestic is He, says: 'He is the One who created for you everything upon the earth' [Al-Baqarah 2:29].[2]

He, exalted is He, says: 'Let those who oppose his command beware lest a trial befall them or a painful punishment befall them' [An-Nur 24:63].[3]

He, exalted is He, says: 'He has explained to you in detail what He has forbidden you, except what necessity compels you to' [Al-Anam 6:119].[4]

He, exalted is He, says: 'Whatever the Messenger gives you, take it; and whatever he forbids you, refrain from it. Fear Allah: Allah is severe in punishment' [Al-Hashr 59:7].[5]

These verses establish that everything upon the earth and every act are permissible and lawful, except what we have been commanded, which is an obligatory duty, and what Allah has expressly forbidden us in the Qur'an or through the words of the Prophet ﷺ, who conveys from his Lord, mighty and majestic is He, and explains what has been revealed to him.

[1] **Translator's note (L403):** Source: Kamil Muhammed Muhammed Amir, Fiqhweb, post-248220. Forum publication: 5 February 2019. Original source and attribution are documented in the editorial preface.

[2] **Qur'an references (L409):** Qur'an 2:29 (Al-Baqarah).

[3] **Qur'an references (L410):** Qur'an 24:63 (An-Nur).

[4] **Qur'an references (L411):** Qur'an 6:119 (Al-An'am).

[5] **Qur'an references (L412):** Qur'an 59:7 (Al-Hashr).

[بنـــــود خاصة]

مقدمة

أحكام الشريعة تنقسم ثلاثة أقسام:

فروض: لا بد من اعتقادها، والعمل بها على قدر الإستطاعة.

حرام: لا بد من اجتنابه إلا فى حالة الإضطرار.

حلال: مباح فعله ومباح تركه(19)

قال الله عزوجل: {هُوَ الَّذِي خَلَقَ لَكُمْ مَا فِي الْأَرْضِ جَمِيعًا } [البقرة: 29]

وقال تعالى: {فَلْيَحْذَرِ الَّذِينَ يُخَالِفُونَ عَنْ أَمْرِهِ أَنْ تُصِيبَهُمْ فِتْنَةٌ أَوْ يُصِيبَهُمْ عَذَابٌ أَلِيمٌ} [النور: 63]

وقال تعالى: {وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ إِلَّا مَا اضْطُرِرْتُمْ إِلَيْهِ} [الأنعام: 119]

وقال تعالى: {وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ} [الحشر: 7]

فصح بهذه الآيات أن كل شئ في الأرض، وكل عمل فمباح حلال، إلا ما أُمرنا به فهو فرضٌ واجب، وإلا ما فصل الله سبحانه وتعالى لنا تحريمه في القرآن، أو بكلام النبي صلى الله عليه وسلم المبلغ عن ربه عز وجل، والمبين لما أنزل عليه.

فالفروض لا تكون إلا بأوامر، والمحرمات لا تكون إلا بنهى مفصل.

والسنن تنقسم ثلاثة أقسام:

السنة القوليه: وأمثلتها كثيرة، وعليها مدار كتب الحديث.

السنة الفعلية: وأفعال رسولنا عليه السلام أكثر من أقواله أضعافاً كثيرة، وهى تشمل جميع أفعال النبي صلى الله عليه وسلم.

السنة التقريرية: وهى أكثر من السنة القولية والفعلية، فإن ما رآه رسولنا عليه السلام أو علمه من أفعال الصحابة وتروكهم لا يحصى.

فيكون أمامنا الآن فيما وصل إلينا من آيات الأحكام وصحيح السنة:

نصوص القرآن وصحيح الأحاديث (أوامر ونواهى القرآن والسنة).

أفعال الرسول عليه السلام.

إقرارُهُ صلى الله عليه وسلم على ما رآه أو عَلِمَه ولم ينكره.

فكيف نستقى الأحكام من تلك المجموعات الثلاث، التى وعدنا ربنا سبحانه وتعالى بحفظها لنا؟

إن مدار الأحكام على آيات القرآن وأقوال رسولنا عليه السلام، فننظر أولاً فى نصوص القرآن وأقوال الرسول عليه السلام، ثم ننظر فى السنة الفعلية والتقريرية.

إن هذه البرامج ما هى إلا بنود مقترحة لكيفية استخراج الأحكام من القرآن والسنة بالبيان الذى بينه لنا الرسول عليه السلام، فقد تركنا على البيضاء ليلها كنهارها لا يزيغ عنها إلا هالك(20).

L414 Obligations arise only through commands, and forbidden things only through an express prohibition.

L415 **The Sunnahs fall into three categories:**

L416 The verbal Sunnah: its examples are numerous, and it is the main subject of hadith books.

L417 The practical Sunnah: our Messenger's actions ﷺ outnumber his sayings many times over. This comprises all the Prophet's actions ﷺ.

L418 The Sunnah of approval: this is more extensive than the verbal and practical Sunnah, for the Companions' actions and omissions which our Messenger ﷺ saw or knew of are beyond counting.

L419 **In what has reached us of the verses concerning rulings and the authentic Sunnah, we therefore now have before us:**

L420 The texts of the Qur'an and authentic hadiths: the commands and prohibitions of the Qur'an and Sunnah.

L421 The actions of the Messenger ﷺ.

L422 His approval ﷺ of what he saw or knew of and did not condemn.

L423 How, then, do we draw rulings from these three bodies of material which our Lord, glorified and exalted is He, has promised to preserve for us?

L424 Rulings centre upon the Quranic verses and our Messenger's sayings ﷺ. We therefore first examine the texts of the Qur'an and the Messenger's sayings ﷺ, then examine the practical Sunnah and the Sunnah of approval.

L425 These procedures are simply proposed provisions for deriving rulings from the Qur'an and Sunnah through the explanation which the Messenger ﷺ gave us. He left us upon the clear, white way, whose night is like its day. None deviates from it but one who is doomed. (20)

I have provided several approaches to these procedures so that a beginning student of knowledge may understand them. I have divided the principal procedures into subsidiary procedures as follows:

Texts of the Qur'an and sayings of the Messenger ﷺ which have no differing or conflicting counterpart.

Texts which are thought to differ but do not conflict.

Texts which are thought to conflict.

The practical Sunnah and how we derive rulings from it.

Conflicts between sayings and actions.

The Sunnah of approval and how it helps establish rulings.

If Allah wills, these provisions will be discussed in the following pages.

First: Texts of the Qur'an and Sayings of the Messenger ﷺ Which Have No Differing or Conflicting Counterpart

We read the text in the manner which our Messenger ﷺ explained to us.

If the text is intelligible and clear, we must act upon it immediately upon receiving it, or when its occasion or appointed time arrives, if it has a particular occasion or time. We continue until its abrogation, particularisation or transfer from one level to another reaches us.

If the text is undetailed, we are obliged only to affirm it, saying: 'We hear and obey.' Examples are His words: 'Establish the prayer, give zakat and lend Allah a good loan' [Al-Muzzammil 73:20], and: 'Eat of its fruit when it bears fruit, and give its due on the day of its harvest' [Al-Anam 6:141]. These verses are Meccan. The minimum liable amounts and rates of zakat were not

هذا، وقد جعلتُ لتلك البرامج عدة مداخل حتى يستوعبها طالب العلم المبتدئ؛ وقد قسمتُ البرامج الرئيسية إلى عدة برامج فرعية على النحو التالى:

نصوص القرآن وأقوال الرسول عليه السلام والتى لا يوجد لها مخالف ولا معارض.

النصوص التى يظن أنها مختلفة ولكنها غير متعارضة.

النصوص التى يظن أنها متعارضة.

السنه الفعلية وكيف نستخرج منها الأحكام.

تعارض الأقوال والأفعال.

السنة التقريرية وكيف تساعد فى تقرير الأحكام.

وإن شاء الله تُناقش تلك البنود فى الورقات التالية.

أولاً نصوص القرآن وأقوال الرسول عليه السلام والتى لا يوجد لها مخالف ولا معارض

نقرأ النص بالطريقة التى بينها لنا رسولنا عليه السلام.

فإذا كان النص مفهوماً بَيِّنَاً فعلينا العمل به فور وروده، أو فور مجيئ سببه أو وقتة إن كان له سبب أو له وقت محدد؛ حتى يبلغنا نسخه، أو تخصيصه، أو نقله من رتبته إلى رتبة أخرى.

وإذا كان النص مجملاً؛ فلا يلزمنا إلا التصديق به؛ فنقول: سمعنا وأطعنا، كقوله تعالى: {وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ وَأَقْرِضُوا اللَّهَ قَرْضًا حَسَنًا }[المزمل: 20] وكذلك قوله تعالى: {كُلُوا مِنْ ثَمَرِهِ إِذَا أَثْمَرَ وَآتُوا حَقَّهُ يَوْمَ حَصَادِهِ} [الأنعام: 141] وهذه الآيات

fixed until Medina, in the second year after the Hijra. The Companions—may Allah be pleased with them—were required to affirm and believe them in their undetailed form until the explanation of zakat's detailed rulings reached them.[6]

Second: Texts Which Are Thought to Differ but Do Not Conflict

One text may be unqualified and the other qualified. We perform what certainly discharges our obligation and obeys both texts, without regard to which came first or later. (Appendix 4)

The texts may involve general and particular wording without conflict. A general statement and many particular statements may occur: one text commands some of what another commands, or one prohibits some of what another prohibits. There is no conflict here. We implement all the texts. (Appendix 5)

Many statements may also concern a particular thing. One text may give a ruling on a particular question and another text give another ruling on that very question. This is no conflict: both are accepted and followed. (Appendix 6)

Third: Texts Which Are Thought to Conflict

We first investigate whether abrogation exists. This abrogation must be established by a clear, explicit text or consensus, with the remaining conditions of abrogation fulfilled. (Appendix 7)

If we are not certain that abrogation exists:

We first try to reconcile the conflicting texts, without considering their dates. (Appendix 8)

If we cannot, and the two texts stand in a general–particular relation, we

[6] **Qur'an references (L437):** Qur'an 73:20 (Al-Muzzammil); Qur'an 6:141 (Al-An'am).

مكية، ولم تُحَدَّد أنصبة الزكاة ومقاديرها إلا فى المدينة فى السنة الثانية من الهجرة؛ فكان على الصحابة عليهم رضوان الله التصديق والإيمان بها مجملة؛ حتى جاءهم البيان بتفاصيل أحكام الزكاة.

ثانياً: النصوص التى يظن أنها مختلفة ولكنها غير متعارضة

قد يكون أحد النصين مطلق والآخر مقيد؛ فنفعل ما يخرجنا من عهدة التكليف بيقين والذى فيه طاعة للنصين ولا نلتفت إلى السابق أو التالى منهما. (ملحق 4)

وقد يكون بين النصوص عموم وخصوص ولكنها غير متعارضة؛ فقد يأتى قول عام وأقوال كثيرة خاصّة؛ فيكون أحد النصوص يأمر ببعض الأشياء المأمور بها فى نص آخر؛ أو أحد النصوص ينهى عن بعض الأشياء المنهى عنها فى نص آخر؛ فلا تعارض هنا؛ فننفذ جميع النصوص (ملحق 5)

وقد تأتى أقوال كثيرة بخصوص شيئ معين؛ فقد يأتى نص بحكم مَّا في قضية معيَّنة، ويأتى نص آخر بحكم آخر في تلك القضية بعينها؛ فليس فى ذلك تعارض ولكنهما جميعاً مقبولان ومأخوذ بهما (ملحق 6)

ثالثاً: النصوص التى يظن أنها متعارضة

نبحث أولاً عن وجود نسخ؛ ولا بد من أن يكون هذا النسخ بنصٍ بَيِّنٍ واضح أو إجماع؛ مع باقى شروط النسخ (ملحق 7)

فإن لم نتيقن من وجود نسخ :

نحاول أولاً الجمع بين تلك النصوص المتعارضة، ولا ننظر إلى التاريخ (ملحق 8).

إن لم نستطع، ووجدنا بين النصين عموم وخصوص؛ استثنينا الأخص من الأعم ولا ننظر إلى تاريخ النصين (ملحق 9).

except the more particular from the more general, without considering their dates. (Appendix 9)

L447 If we are certain that there is no abrogation, cannot reconcile the texts and find no general–particular relation between them, we consider their dates:

L448 If the earlier and later can be distinguished, we follow the last text. This too is considered abrogation. (Appendix 10)

L449 If they cannot be distinguished:

L450 If one text agrees with our previous condition, we follow the text which moves us from it. Legislation normally moves us from one condition to another; returning to the earlier condition requires a new explanation. (Appendix 11)

L451 If one text contains a ruling additional to the other, we follow the text containing the additional ruling. It is as though it were new legislation, which may not be abandoned except through another text or consensus. (Appendices 12 and 13)

L452 Another Approach

L453 We examine all texts related to the question under investigation:

L454 —If we find texts which agree and have no opposing text, we implement and read them through the explanation which the Messenger ﷺ gave.

L455 —If we find conflicting texts, or texts apparently differing but not conflicting, we implement all the texts, by His words: 'Say: Obey Allah and obey the Messenger' [An-Nur 24:54].[7]

L456 How to Implement All the Texts

L457 —If the texts apparently differ but do not conflict or exclude one another:

[7] **Qur'an references (L455):** Qur'an 24:54 (An-Nur).

فإن تيقينا من عدم وجود نسخ، ولم نستطع الجمع بينهما، و لم نجد بينهما عموم وخصوص؛ نظرنا فى تاريخ النصين:

فإن أمكن التَّمْيِيزُ بَيْنَ السَّابِقِ وَالتَّالِي أخذنا بالنص الأخير ، وهذا أيضاً يعتبر نسخ (ملحق 10).

وَإِنْ لَمْ يُمْكِنِ التَّمْيِيزُ:

فإن كان أحد النصَّين موافقاً لما كنا عليه، أخذنا بالنص الناقل لنا عمَّا كنا عليه؛ لأن الأصل فى التشريع أن ينقلنا من حالة إلى أخرى، والعودة إلى الحالة السابقة بحاجة إلى بيان جديد. (ملحق 11)

وإن كان أحد النصَّين به حكم زائد عن النص الآخر، أخذنا بالنص الذى فيه حكم زائد، فكأنه تشريع جديد، لا يجوز تركه إلا بنص آخر أو إجماع.(ملحق 12،13)

مدخـــــــــــــل آخر

ننظر فى جميع النصوص التى لها علاقة بالمسألة قيد البحث:

ــ فإن وجدنا نصوص متفقة وليس لها ما يعارضها؛ تُنفَّذ وتُقْرأ بالبيان الذى بيَّنَه الرسول عليه السلام.

ــ وإن وجدنا نصوص متعارضة أو ظاهرها الإختلاف ولكنها غير متعارضة ؛ فننفذ جميع النصوص لقوله تعالى :{قُلْ أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ} [النور: 54]

كيفية تنفيذ جميع النصوص

ــ إن كانت النصوص ظاهرها الإختلاف ولكنها غير متعارضة أو غير متدافعة:

إن وجدنا نص مطلق ونص مقيد لنفس المسألة؛ أخذنا بالنص الذى يخرجنا من عهدة التكليف (ملحق 4)

وإن وجدنا نص عام ونص خاص؛ فنلتزم بالنص العام فنكون قد نفذنا (ملحق 5)

وإن وجدنا نص جاء بحكم مَّا في قضية معيَّنة، ونص جاء بحكم آخر في تلك القضية بعينها؛ فنلتزم بالنصين ونطيعما معاً (ملحق 6)

ــ وإن كانت النصوص متعارضة:

فإن كان التعارض بين النصين غير تام وبينهما عموم وخصوص؛ استثنينا الخاص من العام، فنكون قد نفذنا النصين(ملحق 9)

وإن كان التعارض تام بحثنا أولاً عن النسخ بشروطه (ملحق 7)

فإن لم نجد نسخ وكان أحد النصين فيه حكم زائد؛ أخذنا بالحكم الزائد فنكون قد أطعنا الله والرسول ونفذنا النصين(ملحق 12) (كيف نعرف الحكم الزائد ....ملحق 13)، ، وإن كان أحد النصين ينقلنا عمّا كنا عليه؛ فنأخذ بالنص الناقل لنا (ملحق 11)

مدخـــــــــــــل آخر

النص :

إذا جاء مخالف للإباحة الأصلية { هُوَ الَّذِي خَلَقَ لَكُمْ مَا فِي الْأَرْضِ جَمِيعًا } ؛ فهذا تشريع جديد وليس نسخاً كقوله تعالى: {قُلْ لِلْمُؤْمِنِينَ يَغُضُّوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ } [النور: 30]، وكقوله عليه السلام " لَا يَبُولَنَّ أَحَدُكُمْ فِي الْمَاءِ الدَّائِمِ الَّذِي لَا يَجْرِي ثُمَّ يَغْتَسِلُ فِيهِ " [البخاري: كِتَاب الْوُضُوءِ،بَاب الْبَوْلِ فِي الْمَاءِ الدَّائِمِ] وهذا لا إشكال فيه، فكأنه استثناء من الإباحة الأصلية.

L458 If we find an unqualified and a qualified text on the same question, we follow the text which discharges our obligation. (Appendix 4)

L459 If we find a general and a particular text, we adhere to the general text, and so have implemented [the text]. (Appendix 5)[8]

L460 If we find one text giving a ruling on a particular question and another text giving another ruling on that same question, we adhere to both texts and obey them together. (Appendix 6)

L461 ## —If the texts conflict:

L462 If the conflict is incomplete and the texts stand in a general–particular relation, we except the particular from the general, thereby implementing both texts. (Appendix 9)

L463 If the conflict is complete, we first investigate abrogation with its conditions. (Appendix 7)

L464 If we find no abrogation and one text contains an additional ruling, we follow the additional ruling, thereby obeying Allah and the Messenger and implementing both texts. (Appendix 12; how to recognise an additional ruling—Appendix 13.) If one text moves us from our previous condition, we follow the text which moves us. (Appendix 11)

L465 ## Another Approach

L466 ## The Text:

L467 If it departs from original permissibility—'He is the One who created for you everything upon the earth'—it is new legislation, not abrogation. Examples are His words: 'Tell the believing men to lower their gaze and guard their private parts' [An-Nur 24:30], and the Prophet's words ﷺ: 'Let none of you urinate in still water which does not flow, then bathe in it.' [Al-Bukhari,

[8]**Translator's note (L459):** The source phrase ends after "so we have implemented", without stating its object. The bracketed words supply only the grammatical object; the unfinished wording remains visible in the Arabic.

Book of Ablution, chapter: Urinating in still water.] There is no difficulty here. It is as though it were an exception to original permissibility.[9]

L468 If it conflicts with an earlier statement—earlier legislation—and the two cannot be reconciled, meaning that neither can be excepted from the other, it abrogates the earlier ruling. There is no difficulty here: we follow the last, abrogating ruling. (Appendix 7)

L469 If it conflicts with an earlier action of the Messenger ﷺ, and that action accorded with original permissibility or with Muslim practice before legislation, it is new legislation, not abrogation.

L470 If it conflicts with an earlier action which accorded with earlier legislation, that statement abrogates the earlier legislation.

L471 Many statements may concern a particular thing. There is no difficulty with these: we implement all the statements. (Appendix 6)

L472 A general statement and many particular statements may occur. If they differ, we except the particular from the general. (Appendix 9) If they agree, we implement all the statements. (Appendix 5)

L473 **Fourth: The Practical Sunnah and How We Derive Rulings from It**

L474 **Our Messenger's actions ﷺ can fall only into the following categories:**

L475 Actions which accord with original permissibility and with our usages and customs before legislation, without any new legislation moving us from this permissibility. These actions are permissible. There is no difficulty here.

L476 Actions which may accord with new legislation. These explain that legislation and have the same ruling as it. Examples are his words ﷺ: 'Pray as you have seen me pray' (21), and: 'Learn your rites.' (22)

[9] **Qur'an references (L467):** Qur'an 2:29 (Al-Baqarah); Qur'an 24:30 (An-Nur).

وإن جاء مخالف لقول سابق (تشريع سابق) ولا يمكن الجمع بينهما (لا يمكن استثناء أحدهما من الآخر) فهو نسخ للحكم السابق وهذا لا إشكال فيه؛ فنأخذ بالحكم الأخير الناسخ (ملحق 7)

وإن جاء مخالف لفعل سابق للرسول عليه السلام وكان هذا الفعل موافق للإباحة الأصلية أو موافق لما كان عليه المسلمون قبل التشريع؛ فهذا تشريع جديد وليس نسخاً

وإن جاء مخالف لفعل سابق ؛ وكان هذا الفعل موافق لتشريع سابق ؛ كان هذا القول نسخاً للتشريع السابق.

وقد تأتى أقوال كثيرة بخصوص شيئ معين؛ وهذه لا إشكال فيها، فننفذ جميع الأقوال (ملحق 6)

وقد يأتى قول عام وأقوال كثيرة خاصّة؛ فإن كانت مختلفة استثنينا الخاص من العام (ملحق 9) ، وإن كانت متفقة نفذنا جميع الأقوال (ملحق 5)

رابعاً:السنه الفعلية وكيف نستخرج الأحكام منها

إن أفعال رسولنا عليه السلام لن تخرج عن:

أفعالٌ موافقة للإباحة الأصلية وما كنا عليه من أعراف وعادات قبل التشريع؛ ولم يأتى تشريع جديد ينقلنا عن هذه الإباحة؛ فهذه الأفعال مباحة ولا إشكال فى هذا.

و أفعالٌ قد تكون موافقة لتشريع جديد؛ فتكون تلك الأفعال بياناً لهذا التشريع؛ ويكون حكم تلك الأفعال هو حكم ذلك التشريع. فمن ذلك قوله عليه السلام: صلوا كما رأيتوني أصلي (21)، و لِتَأْخُذُوا مَنَاسِكَكُمْ (22).

L477 Actions which may implement a prescribed punishment. These actions are undoubtedly obligatory. An example is his flogging a wine-drinker ﷺ: he ordered the flogging of a wine-drinker, and his action then explained the flogging he had commanded. (23)

L478 Actions which may carry the meaning of a command and thus establish obligation. An example is his moving Ibn Abbas from his left and returning him to his right. Although an action, it commanded Ibn Abbas to stand on his right and forbade him to stand on his left. (24)

L479 Actions may conflict with sayings, in which case they have particular rulings.

L480 Apart from these, the Messenger's actions ﷺ are only for imitation, not obligation.

L481 **Fifth: Conflicts between Sayings and Actions**

L482 **If the action precedes the saying:**

L483 The saying cancels the action and explains that its ruling has been lifted. The ruling now belongs to the saying. The Messenger ﷺ used to wear a gold ring, then said: 'I shall never wear it.' (25) He used to pray facing a recess containing pictures, then said to Aisha—may Allah be pleased with her: 'Remove it from me.' (26)

L484 **If the action follows the saying:**

L485 If they conflict completely, the action explains that the saying's ruling has been lifted and the action has become permissible, because the Messenger's actions ﷺ are for imitation and are not obligatory. Because the Messenger's actions ﷺ are for imitation and are not obligatory. Thus he ﷺ commanded standing for a funeral and forbade sitting until it was set down; later the Messenger of Allah ﷺ sat. The instruction to stand and not sit was thereby lifted, and sitting became permissible. (29) Likewise, he ﷺ ordered those

و أفعالٌ قد تكون تنفيذاً لحد من الحدود، وهذه الأفعال لا شك فى وجوبها، كجلده عليه السلام شارب الخمر فقد أمر عليه السلام بجلد شارب الخمر ثم كان فعله بياناً للجلد الذي أمر به(23)

و أفعالٌ قد تكون فى معنى الأمر فيكون حكمها الوجوب. كإزالته عليه السلام ابن عباس عن يساره، ورده إلى يمينه، فهذا وإن كان فعلاً فهو أمرٌ لابن عباس للوقوف عن يمينه، ونهي له عن الوقوف عن يساره(24).

وقد تتعارض الأفعال مع ألأقوال فيكون لها أحكام خاصة.

وما عدا ذلك من أفعال الرسول عليه السلام فهى للإتساء فقط وليست للوجوب.

خامساً: تعارض الأقوال والأفعال

إذا كان الفعل قبل القول:

فالقول يُبْطِل الفعلَ، ويبين أن حكم ذلك الفعل قد ارتفع، وأصبح الحكم للقول فالرسول عليه السلام كان يَلْبَسُ خَاتَمًا مِنْ ذَهَبٍ ثم قال لَا أَلْبَسُهُ أَبَدًا(25) وكان يصلى عليه السلام إلى سهوة فيها تصاوير ثم قال لعائشة عليها رضوان الله أخريه عنى(26).

وإذا كان الفعل بعد القول:

إن كان بينهما تعارض تام، فالفعل يبين أن حكم ذلك القول قد ارتفع، وأصبح الفعل مباحاً، لأن حكم أفعال الرسول عليه السلام الإتساء وليست فرضاً . لأن حكم أفعال الرسول عليه السلام الإتّساء وليست فرضاً، كما أمر عليه السلام بالقيام للجنازة ونهى عن الجلوس حتى توضع، ثم قعد رسول الله عليه السلام بعد ذلك، فالقول بالقيام

following an imam to pray seated if the imam prayed seated (30); then, in the illness in which he died, he prayed seated while the people behind him stood, and he did not condemn it. (31) This abrogates the obligation to sit specifically for the follower: he may pray seated or standing, as he wishes.[10]

L486 If they do not conflict completely, the action particularises the saying, since actions have no general scope. It is as though the situation in which the action occurred were excepted from the general saying. We therefore except that situation from the saying's general scope. It is authentically established that a woman interrupts the prayer (27), yet Aisha, may Allah be pleased with her, mentioned that the Messenger of Allah ﷺ would pray with her lying across in front of him like a bier. She disliked sitting up lest she disturb him, and remained as she was. (28)

L487 This action came after the prohibition, for she said that sitting up would have disturbed the Messenger of Allah ﷺ. We therefore except lying down from a woman's interrupting the prayer in all her other states.

L488 **If an action conflicts with a saying and we do not know which came first:**

L489 We follow whichever moves us from our previous condition. Legislation normally moves us from one condition to another; returning to the earlier condition requires a new explanation.

L490 Or we follow whichever contains a ruling additional to our previous condition, as though it were new legislation.

L491 Examples are his forbidding drinking standing ﷺ (32), while it is related that he drank standing (33),

L492 And his forbidding reclining on one's back with one leg upon the other ﷺ

[10] **Translator's note (L485):** The sentence explaining that the Messenger's actions are for imitation rather than obligation is repeated in the Arabic source. The repetition is retained.

وعدم الجلوس قد ارتفع وأصبح الجلوس مباحاً(29)وكأمره عليه السلام للمأمومين أن يصلوا جلوساً إذا صلى الإمام جالساً(30)؛ ثم صلى عليه السلام في مرضه الذي مات فيه جالساً والناس وراءه قياماً ولم ينكر عليه السلام ذلك(31)فهذا نسخ لايجاب الجلوس عن المأموم خاصة، فإن شاء صلى جالسا، وإن شاء قائماً.

وإن لم يكن بينهما تعارض تام فالفعل يخصص القول حيث أنه لا عموم فى الأفعال، فكأنه استثناء لحالة الفعل من عموم القول. فحينئذ نخص تلك الحالة من عموم القول؛ فلقد صح أن المرأة تقطع الصلاة(27)، ولكن عائشة رضى الله عنها ذكرت أن رسول الله عليه السلام كان يصلي وهي بين يديه معترضة كاعتراض الجنازة، فتكره أن تقعد فتؤذي رسول الله عليه السلام فتظل كما هي(28).

إن هذا الفعل كان بعد النهي، لأنها أخبرت أنها لو قعدت لآذت رسول الله عليه السلام بذلك، فنستثنى الاضطجاع من قطع المرأة الصلاة على سائر أحوالها.

إذا كان الفعل مخالف للقول ولا ندرى أيهما كان قبل الآخر:

أخذنا بالذى ينقلنا عمَّا كنا عليه؛ لأن الأصل فى التشريع أن ينقلنا من حالة إلى أخرى، والعودة إلى الحالة السابقة بحاجة إلى بيان جديد.

أو بالذى فيه حكم زائد عما كنا عليه فكأنه تشريع جديد.

كما في نهيه عليه السلام عن الشرب قائماً(32)، وروي عنه عليه السلام أنه شرب قائما(33).

وفي نهيه عليه السلام عن الاستلقاء ووضع رجل على رجل(34)، وروي عنه أنه عليه السلام رئي مضطجعاً في المسجد وَاضِعًا إِحْدَى رِجْلَيْهِ عَلَى الْأُخْرَى(35)

(34), while it is related that he was seen reclining in the mosque with one leg upon the other. (35)

L493 We follow what moves us from our previous condition, namely the prohibition in both cases. The original state is that lying down in any position, reclining however we wish and drinking in any position are permissible. We are certain that we were moved from this permissibility to a prohibition of both things, without doubt. We then do not know whether that prohibition was abrogated. A Muslim may not abandon something which he is certain has become binding upon him because of something he does not know to be abrogating or not. Certainty is not invalidated by doubt.

L494 The same applies to the Messenger's hadith ﷺ: 'Eat from what is nearest to you' (36), together with the authentic report of his seeking pieces of gourd from different sides of the bowl. (37)

L495 **Nothing which he ﷺ did may be said to be exclusive to him without a text establishing that.**

L496 An example is his continuing a fast without breaking it ﷺ. Since this was exclusive to the Messenger of Allah ﷺ, he said: 'I am not like you. My Lord continues to feed me and give me drink.' (38)

L497 Another is his answer to Aisha, may Allah be pleased with her, when she asked: 'Do you sleep before praying witr?' He said: 'Aisha, my eyes sleep but my heart does not.' (39)

L498 What has an explanation establishing exclusivity is exclusive to him ﷺ. Where no text establishes this, we may imitate him ﷺ.

L499 He ﷺ became angry with those who made his actions exclusive to him without an explanation (40), and everything which angered the Messenger of Allah ﷺ is forbidden. When Umar ibn Abi Salama asked about kissing while fasting, the Messenger of Allah ﷺ said: 'Ask this woman'—meaning Umm Salama. She told him that the Messenger of Allah ﷺ did so. He said: 'Messenger of Allah, Allah has forgiven your earlier and later sins.' The

فنأخذ بما ينقلنا عما كنا عليه وهو النهي في كلا الموضوعين، لأن الأصل إباحة الاضطجاع على كل حال والاستلقاء كما نشاء، وإباحة الشرب على كل حال، فقد تيقنا أننا نقلنا عن هذه الاباحة إلى نهي عن كلا الامرين بلا شك في ذلك، ثم لا ندري هل نسخ ذلك النهي أو لا ؟ ولا يحل لمسلم أن يترك شيئا هو على يقين من أنه قد لزمه، لشئ لا يدري أهو ناسخ أم لا ؟ واليقين لا يبطل بالشك.

وهكذا حديث رسول الله عليه السلام: كل مما يليك(36) مع ما قد صح من تتبعه الدباء من نواحي القصعة(37)

لا يجوز أن يقال في شئ فعله عليه السلام أنه خصوص له إلا بنص في ذلك.

مثل وصاله عليه السلام في الصوم، فلما كان الوصال يخص رسول الله عليه السلام قال: » إِنِّي لَسْتُ مِثْلَكُمْ إِنِّي أَظَلُّ يُطْعِمُنِي رَبِّي وَيَسْقِينِ«(38)

ومثل قوله لعائشة رضى الله عنها عندما قالت له: أَتَنَامُ قَبْلَ أَنْ تُوتِرَ فَقَالَ يَا عَائِشَةُ إِنَّ عَيْنَيَّ تَنَامَانِ وَلَا يَنَامُ قَلْبِي"(39)

فما جاء فيه بيان فهو خصاصٌ به عليه السلام، وما لم يأت فيه نصٌّ فلنا أن نتأسى به عليه السلام،

لقد غضب عليه السلام على من خصص أفعاله عليه السلام دون بيان(40)؛ وكل شئ أغضب رسول الله عليه السلام فهو حرام، فعندما سأل عُمَرَ بْنِ أَبِي سَلَمَةَ عن القُبْلَة للصائم قَالَ لَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: سَلْ هَذِهِ لِأُمِّ سَلَمَةَ؛ فَأَخْبَرَتْهُ أَنَّ

Messenger of Allah ﷺ said: ‘By Allah, I am the most mindful of Allah among you and the most fearful of Him.’ (40) When a man told the Messenger of Allah ﷺ: ‘I find myself in a state of major ritual impurity at dawn while intending to fast,’ the Messenger ﷺ told him: ‘I too find myself in that state at dawn while intending to fast, so I bathe and fast.’ The man said: ‘Messenger of Allah, you are not like us. Allah has forgiven your earlier and later sins.’ The Messenger of Allah ﷺ became angry and said: ‘By Allah, I hope to be the most fearful of Allah among you and the most knowledgeable of what I must guard against.’ (40)

رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَصْنَعُ ذَلِكَ فَقَالَ يَا رَسُولَ اللَّهِ قَدْ غَفَرَ اللَّهُ لَكَ مَا تَقَدَّمَ مِنْ ذَنْبِكَ وَمَا تَأَخَّرَ فَقَالَ لَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: أَمَا وَاللَّهِ إِنِّي لَأَتْقَاكُمْ لِلَّهِ وَأَخْشَاكُمْ لَه (40) وعندما قال رجل لرسول الله عليه السلام إِنِّي أُصْبِحُ جُنُبًا وَأَنَا أُرِيدُ الصِّيَامَ وعندما قال له الرسول عليه السلام وَأَنَا أُصْبِحُ جُنُبًا وَأَنَا أُرِيدُ الصِّيَامَ فَأَغْتَسِلُ وَأَصُومُ فيقول الرجل يَا رَسُولَ اللَّهِ إِنَّكَ لَسْتَ مِثْلَنَا قَدْ غَفَرَ اللَّهُ لَكَ مَا تَقَدَّمَ مِنْ ذَنْبِكَ وَمَا تَأَخَّرَ فَغَضِبَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَقَالَ وَاللَّهِ إِنِّي لَأَرْجُو أَنْ أَكُونَ أَخْشَاكُمْ لِلَّهِ وَأَعْلَمَكُمْ بِمَا أَتَّقِي (40)

Sixth: The Sunnah of Approval and How It Helps Establish Rulings

The Sunnah of approval is more extensive than the verbal and practical Sunnah, for the Companions' actions and sayings which our Messenger ﷺ saw or knew of are beyond counting.

The Prophet's silence ﷺ about actions of the Companions which he saw or knew of does not indicate that they are recommended or a recommended Sunnah. It indicates only that the act is permissible in that situation. He ﷺ issued no statement of recommendation, encouragement or disapproval: he simply remained silent about what he saw or knew of.

This makes clear the distinction between the Prophet's approval ﷺ and his action. His action indicates recommendation without qualification, whereas his approval, unaccompanied by praise or approbation, indicates only the removal of prohibition.

That is the matter generally. Some things he approves ﷺ, however, require further detail:

Our Messenger ﷺ does not know the unseen. He, exalted is He, says: 'Say: I do not tell you that I possess Allah's treasuries, nor do I know the unseen, nor do I tell you that I am an angel. I follow only what is revealed to me' [Al-Anam 6:50].[1]

He, exalted is He, says: 'I do not tell you that I possess Allah's treasuries, nor do I know the unseen, nor do I say that I am an angel' [Hud 11:31].[2]

He, exalted is He, says: 'With Him are the keys of the unseen: none knows them but He' [Al-Anam 6:59].[3]

[1] **Qur'an references (L505):** Qur'an 6:50 (Al-An'am).
[2] **Qur'an references (L506):** Qur'an 11:31 (Hud).
[3] **Qur'an references (L507):** Qur'an 6:59 (Al-An'am).

سادساً: السنة التقريرية وكيف تساعد فى تقرير الأحكام

السنة التقريرية أكثر من السنة القولية والفعلية، فإن ما رآه رسولنا عليه السلام أو عَلِمَه من أفعال الصحابة، وأقوالهم، لا يحصى.

إن سكوت النبي صلى الله عليه وسلم على ما رآه أو عَلِمَه من أفعال الصحابة لا يدل على استحبابه، أو سنيته، وإنما يدل على جواز هذا الفعل في مثل هذه الحال فحسب؛ لأنه عليه السلام لم يصدر منه أى قول بالاستحباب أو الندب أو الكراهية؛ بل سكت عليه السلام على ما رآه أو عَلِمَه.

وبهذا يظهر الفرق بين إقرار النبي صلى الله عليه وسلم وفعله، ففعله يدل على الندب مطلقًا، بخلاف تقريره المجرد من الثناء والاستحسان، فهو لا يدل إلا على رفع الحظر.

هذا من حيث الإجمال؛ ولكن في بعض ما يقره صلى الله عليه وسلم تفصيل:

رسولنا عليه السلام لا يعلم الغيب؛ يقول تعالى: {قُلْ لَا أَقُولُ لَكُمْ عِنْدِي خَزَائِنُ اللَّهِ وَلَا أَعْلَمُ الْغَيْبَ وَلَا أَقُولُ لَكُمْ إِنِّي مَلَكٌ إِنْ أَتَّبِعُ إِلَّا مَا يُوحَى إِلَيَّ } [الأنعام: 50]

و يقول تعالى: {وَلَا أَقُولُ لَكُمْ عِنْدِي خَزَائِنُ اللَّهِ وَلَا أَعْلَمُ الْغَيْبَ وَلَا أَقُولُ إِنِّي مَلَكٌ} [هود: 31]

و يقول تعالى: {وَعِنْدَهُ مَفَاتِحُ الْغَيْبِ لَا يَعْلَمُهَا إِلَّا هُوَ} [الأنعام: 59]

L508 He, exalted is He, says: ‘Had I known the unseen, I would have acquired much good, and no harm would have touched me. I am only a warner and a bearer of good tidings for people who believe’ [Al-Araf 7:188].[4]

و يقول تعالى: {وَلَوْ كُنْتُ أَعْلَمُ الْغَيْبَ لَاسْتَكْثَرْتُ مِنَ الْخَيْرِ وَمَا مَسَّنِيَ السُّوءُ إِنْ أَنَا إِلَّا نَذِيرٌ وَبَشِيرٌ لِقَوْمٍ يُؤْمِنُونَ} [الأعراف: 188]

L509 Accordingly, a Companion’s statement, ‘We used to do this while the Messenger was among us,’ indicates nothing unless we are certain that our Messenger ﷺ saw or knew of the act and approved it. Jabir, may Allah be pleased with him, says: ‘We practised withdrawal during the Prophet’s time ﷺ while the Qur’an was being revealed.’ (41) Yet a report from Abu Said al-Khudri indicates that he ﷺ had not known about it, for he says: ‘Do you really do that?’ (42) This question suggests that he had not known they did so. The report thus says that they practised withdrawal and that he ﷺ did not know until they asked him. In a report in Muslim he ﷺ says: ‘That is hidden infanticide.’ (43)

وعلى هذا يكون قول الصحابى: كنا نفعل هذا والرسول بيننا، لا يدل على شيئ إلا إذا تيقنا أن رسولنا عليه السلام شاهد هذا الفعل أو علمه وأقره، فجابر رضى الله عنه يقول: كُنَّا نَعْزِلُ عَلَى عَهْدِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَالْقُرْآنُ يَنْزِلُ(41)؛ وفى رواية عن أَبِي سَعِيدٍ الْخُدْرِيِّ ما يدل على أنه عيه السلام ما كان اطلع على ذلك إذ يقول عليه السلام "أَوَإِنَّكُمْ لَتَفْعَلُونَ"(42) فهذا الاستفهام يشعر بأنه ما كان اطلع عليه السلام على فعلهم ذلك، ففي هذا الخبر أنهم فعلوا العزله، ولم يعلم به عليه السلام حتى سألوه عنه، وفى رواية لمسلم قال عليه السلام ذَلِكَ الْوَأْدُ الْخَفِيُّ(43)

L510 Rifaa ibn Rafi says, concerning not bathing after intercourse without ejaculation: ‘We used to do so in the time of the Messenger of Allah ﷺ and then not bathe.’ (44) Umar, may Allah be pleased with him, asks him: ‘Did you ask the Prophet ﷺ about that?’ (44) Aisha, may Allah be pleased with her, relates the Prophet’s hadith ﷺ: ‘When circumcision passes circumcision, the full ritual bath becomes obligatory.’ (44)

وَرِفَاعَةُ بْنِ رَافِعٍ يقول فى عدم الغسل من الإكسال: إِنَّا كُنَّا لَنَفْعَلُهُ عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ثُمَّ لَا نَغْتَسِلُ(44)؛ وعمر رضى الله عنه يقول له: أَفَسَأَلْتُمْ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ ذَلِكَ ؟(44) وعَائِشَةَ رَضِيَ اللَّهُ عَنْهَا تروى حديث النبى عليه السلام " إِذَا جَاوَزَ الْخِتَانُ الْخِتَانَ ، فَقَدْ وَجَبَ الْغُسْلُ "(44)

L511 Approvals are treated as actions are treated. The Companions’ movements and stillness—may Allah be pleased with them—were connected with legislation and the commands and prohibitions of the Qur’an and Sunnah. We therefore follow the same method with approvals as with sayings and actions. Abd Allah ibn Umar, may Allah be pleased with them both, says: ‘I knew during the Messenger’s time ﷺ that land was leased.’ (45) Jabir ibn Abd Allah relates that the Messenger of Allah ﷺ forbade leasing land. (46)

والقول فى الإقرار كالقول فى الأفعال، فالصحابة رضى الله عنهم كانت حركاتهم وسكناتهم مرتبطة بالتشريع، وبأوامر ونواهى القرآن والسنة، فنهج فى الإقرارات نفس النهج الذى نتبعه فى الأقوال والأفعال، فعَبْدُ اللَّهِ بْنَ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا يقول: كُنْتُ أَعْلَمُ فِي عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّ الْأَرْضَ تُكْرَى(45)؛ وجَابِرِ بْنِ عَبْدِ اللَّهِ يروى أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ كِرَاءِ الْأَرْضِ(46).

L512 Jabir, may Allah be pleased with him, says: ‘We practised withdrawal during

[4] **Qur’an references (L508):** Qur’an 7:188 (Al-A’raf).

the Prophet's time ﷺ while the Qur'an was being revealed.' (41) The report from Abu Said al-Khudri indicates that he ﷺ had not known, for he says: 'Do you really do that?' (42) Judama bint Wahb relates that the Messenger of Allah ﷺ, when asked about withdrawal, said: 'That is hidden infanticide.' (43) An approval may be abrogated, as in the hadith 'Water is required only because of water' (44), the hadith 'We used to sell slave women who had borne their masters' children' (47), the hadiths concerning withdrawal, and the account of the Companion who prayed two units after the dawn prayer and was approved by the Messenger ﷺ (48), while a prohibition came against praying after dawn and after the afternoon prayer. (49) Approvals may conflict, and may conflict with sayings or actions. We try to reconcile them. If we cannot, we seek which abrogates the other. If we find none, we follow what moves us from our previous condition, or the ruling additional to our previous condition.

وجابر رضى الله عنه يقول: كُنَّا نَعْزِلُ عَلَى عَهْدِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَالْقُرْآنُ يَنْزِلُ(41)؛ وفى رواية أَبِي سَعِيدٍ الْخُدْرِيِّ ما يدل على أنه عيه السلام ما كان اطلع إذ يقول عليه السلام "أَوَإِنَّكُمْ لَتَفْعَلُونَ"(42) وتروى جُدَامَةَ بِنْتِ وَهْبٍ قول رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وقد سُئِل عليه السلام عن العزل "ذَلِكَ الْوَأْدُ الْخَفِيُّ"(43) وقد يكون الإقرار منسوخاً كما فى حديث " الماء من الماء"(44) وفى حديث "كنا نبيع أمهات الأولاد"(47)؛ وفى أحاديث العزل وفى قصة الصحابى الذى صلى الركعتين بعد الصبح وأقره الرسول عليه السلام(48) وجاء النهى عن الصلاة بد الصبح وبعد العصر (49) ؛وقد تتعارض الإقرارات، وقد تتعارض الإقرارات مع الأقوال أو الأفعال؛ فنحاول الجمع بينهما؛ فإن لم نستطع بحثنا عن الناسخ منهما؛ فإن لم نجد أخذنا بالناقل لنا عمَّا كنا عليه، أو بالحكم الزائد عمَّا كنا عليه.



MODERN ZAHIRI VOICES — TRANSLATION DRAFT

الملاحق

Appendices

Kāmil Muḥammad Muḥammad ʿĀmir · Arabic–English parallel edition

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[Appendices][1]

(Appendix 1) Allah, glorified is He, has commanded us to use reason and the senses. He, exalted is He, says: ‘Then He fashioned him and breathed into him of His spirit, and gave you hearing, sight and hearts. Little thanks you give!’ [As-Sajdah 32:9]. He, glorified and exalted is He, also says: ‘Have We not given him two eyes, a tongue and two lips, and shown him the two paths?’ [Al-Balad 90:8–10].[2]

Allah has reminded us of His favour in giving us reason and the senses. He, glorified and exalted is He, condemns those who do not benefit from them: ‘We have created for Hell many of the jinn and humankind. They have hearts with which they do not understand, eyes with which they do not see, and ears with which they do not hear. They are like livestock—rather, they are further astray. They are the heedless’ [Al-Araf 7:179].[3]

He, exalted is He, says: ‘They will say: Had we listened or used our reason, we would not have been among the people of the Blaze’ [Al-Mulk 67:10].[4]

Appendix 2

All scholars of the Sharia agree that jurisprudence means knowledge of practical rulings from their detailed evidences.

The Islamic Sharia has provided detailed evidence for every event. Muslims do not disagree about this.

He, exalted is He, says: ‘We have brought them a Book which We have

[1] **Translator’s note (L513):** Source: Kamil Muhammed Muhammed Amir, Fiqhweb, post-248221. Forum publication: 5 February 2019. Original source and attribution are documented in the editorial preface.

[2] **Qur’an references (L514):** Qur’an 32:9 (As-Sajdah); Qur’an 90:8 (Al-Balad); Qur’an 90:9 (Al-Balad); Qur’an 90:10 (Al-Balad).

[3] **Qur’an references (L515):** Qur’an 7:179 (Al-A’raf).

[4] **Qur’an references (L516):** Qur’an 67:10 (Al-Mulk).

[الملاحق]

(ملحق 1) لقد أمرنا الله سبحانه باستعمال العقل والحواس، فقال تعالى:{ثُمَّ سَوَّاهُ وَنَفَخَ فِيهِ مِن رُّوحِهِ وَجَعَلَ لَكُمُ السَّمْعَ وَالأَبْصَارَ وَالأَفْئِدَةَ قَلِيلاً مَّا تَشْكُرُونَ}[السجدة 9] وقال سبحانه وتعالى:{أَلَمْ نَجْعَل لَّهُ عَيْنَيْنِ() وَلِسَانًا وَشَفَتَيْنِ() وَهَدَيْنَاهُ النَّجْدَيْنِ} [البلد:8-10]

لقد امْتَنَّ الله علينا بما أعطانا من العقل والحواس وذَمَّ سبحانه وتعالى من لم ينتفع بهما فقال تعالى:{ وَلَقَدْ ذَرَأْنَا لِجَهَنَّمَ كَثِيراً مِّنَ الْجِنِّ وَالإِنْسِ لَهُمْ قُلُوبٌ لاَّ يَفْقَهُونَ بِهَا وَلَهُمْ أَعْيُنٌ لاَّ يُبْصِرُونَ بِهَا وَلَهُمْ آذَانٌ لاَّ يَسْمَعُونَ بِهَآ أُوْلَئِكَ كَالأَنْعَامِ بَلْ هُمْ أَضَلُّ أُوْلَئِكَ هُمُ الْغَافِلُونَ}[الأعاف 179]

وقال تعالى:{ وَقَالُواْ لَوْ كُنَّا نَسْمَعُ أَوْ نَعْقِلُ مَا كُنَّا فِي أَصْحَابِ السَّعِيرِ}[الملك 10]

(ملحق 2)

إنه من المتفق عليه من جميع علماء الشريعة أن الفقه هو: المعرفة بالأحكام العملية من الأدلة التفصيلية.

إن الشريعة الاسلامية وضعت دليلاً تفصيلياً لكل حدث، هذا ما لا يختلف عليه المسلمون.

يقول تعالى: {وَلَقَدْ جِئْنَاهُمْ بِكِتَابٍ فَصَّلْنَاهُ عَلَى عِلْمٍ هُدًى وَرَحْمَةً لِقَوْمٍ يُؤْمِنُونَ } [الأعراف: 52]

explained in detail with knowledge, as guidance and mercy for people who believe' [Al-Araf 7:52].[5]

He, exalted is He, says: 'We have explained everything in detail' [Al-Isra 17:12].[6]

He, exalted is He, says: 'Thus We explain the signs in detail, so that the way of the criminals may become clear' [Al-Anam 6:55].[7]

He, exalted is He, says: 'Say: They are for those who believe in this worldly life, exclusively theirs on the Day of Resurrection. Thus We explain the signs in detail for people who know' [Al-Araf 7:32].[8]

He, exalted is He, says: 'Thus We explain the signs in detail, so that they may return' [Al-Araf 7:174].[9]

He, exalted is He, says: 'Thus We explain the signs in detail for people who reflect' [Yunus 10:24].[10]

He, exalted is He, says: 'Thus We explain the signs in detail for people who use reason' [Ar-Rum 30:28].[11]

He, exalted is He, says: 'He has explained to you in detail what He has forbidden you' [Al-Anam 6:119].[12]

By complete contrast, the legislator who devised Roman or Latin law establishes a particular conception and then places under it the related branches or particulars. The theory of gathering particulars, despite its many benefits, cannot be used to derive rulings: every particular has its own evidence.

The Definition of Jurisprudence

[5] **Qur'an references (L520):** Qur'an 7:52 (Al-A'raf).
[6] **Qur'an references (L521):** Qur'an 17:12 (Al-Isra).
[7] **Qur'an references (L522):** Qur'an 6:55 (Al-An'am).
[8] **Qur'an references (L523):** Qur'an 7:32 (Al-A'raf).
[9] **Qur'an references (L524):** Qur'an 7:174 (Al-A'raf).
[10] **Qur'an references (L525):** Qur'an 10:24 (Yunus).
[11] **Qur'an references (L526):** Qur'an 30:28 (Ar-Rum).
[12] **Qur'an references (L527):** Qur'an 6:119 (Al-An'am).

ويقول تعالى: {وَكُلَّ شَيْءٍ فَصَّلْنَاهُ تَفْصِيلًا} [الإسراء: 12]

ويقول تعالى: {وَكَذَلِكَ نُفَصِّلُ الْآيَاتِ وَلِتَسْتَبِينَ سَبِيلُ الْمُجْرِمِينَ} [الأنعام: 55]

ويقول تعالى: {قُلْ هِيَ لِلَّذِينَ آمَنُوا فِي الْحَيَاةِ الدُّنْيَا خَالِصَةً يَوْمَ الْقِيَامَةِ كَذَلِكَ نُفَصِّلُ الْآيَاتِ لِقَوْمٍ يَعْلَمُونَ} [الأعراف: 32]

ويقول تعالى: {وَكَذَلِكَ نُفَصِّلُ الْآيَاتِ وَلَعَلَّهُمْ يَرْجِعُونَ} [الأعراف: 174]

ويقول تعالى: {كَذَلِكَ نُفَصِّلُ الْآيَاتِ لِقَوْمٍ يَتَفَكَّرُونَ} [يونس: 24]

ويقول تعالى: {كَذَلِكَ نُفَصِّلُ الْآيَاتِ لِقَوْمٍ يَعْقِلُونَ } [الروم: 28]

ويقول تعالى: {وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ} [الأنعام: 119]

وعلى النقيض تماماً فالمشرع الذى وضع القانون الرومانى أو اللاتينى يضع تصوراً معيناً ثم يضع تحته الفروع أو الجزئيات المرتبطة به، فنظرية تجميع الجزئيات مع ما لها من فوائد جَمَّة لا يمكن أن تستخدم لاستخراج الأحكام فلكل جزئية دليلها الخاص بها.

تعريف الفقه

هو العلم المشتمل على الأحكام الشرعية العملية التي طريقها الاجتهاد أو المكتسبة من أدلتها التفصيلية [عَبْد الباقي الزَّرَقاني فى شرح الزرقاني على مختصر خليل وحاشية البناني]

معرفة الأحكام الشرعية العملية بأدلتها التفصيلية [محمد بن صالح العثيمين فى شرح مختصر الأصول من علم الأصول]

«العلم بالأحكام الشرعية العملية المكتسب من أدلتها التفصيلية» [عياض بن نامي السلمي فى أصول الفقه الذي لا يسع الفقيه جهله]

الْفِقْه: الْعلم بِالْأَحْكَامِ الشَّرْعِيَّة الفرعية عَن أدلتها التفصيلية بالاستدلال [تاج الدين عبد الوهاب بن تقي الدين السبكي فى رفع الحاجب عن مختصر ابن الحاجب]

الفقه العلم بالأحكام الشرعية العملية المكتسب من أدلتها التفصيلية [حسن بن عمر بن عبد الله السيناوني المالكي الأصل الجامع لإيضاح الدرر المنظومة في سلك جمع الجوامع]

الفقه: العلم بالأحكام الشرعية العملية، المكتسب من أدلتها التفصيلية [ولي الدين أبي زرعة أحمد بن عبد الرحيم العراقي فى الغيث الهامع شرح جمع الجوامع]

الْفِقْهَ هُوَ الْعِلْمُ بِالأَحْكَامِ الشَّرْعِيَّةِ الْفَرْعِيَّةِ الْعَمَلِيَّةِ الْمُسْتَمَدَّةِ مِنْ الأَدِلَّةِ التَّفْصِيلِيَّةِ. [الموسوعة الفقهية الكويتية صادر عن: وزارة الأوقاف والشئون الإسلامية – الكويت]

الفقه هو:

المعرفة بأحكام القرآن وناسخها ومنسوخها

‘The knowledge comprising practical legal rulings reached through ijtihad, or acquired from their detailed evidences.’ [Abd al-Baqi al-Zurqani, Sharh al-Zurqani ala Mukhtasar Khalil wa-Hashiyat al-Bannani.]

‘Knowing practical legal rulings with their detailed evidences.’ [Muhammed ibn Salih al-Uthaymin, Sharh Mukhtasar al-Usul min Ilm al-Usul.]

‘Knowledge of practical legal rulings acquired from their detailed evidences.’ [Iyad ibn Nami al-Sulami, Usul al-Fiqh alladhi la Yasa al-Faqih Jahluhu.]

‘Jurisprudence: knowledge of subsidiary legal rulings through reasoning from their detailed evidences.’ [Taj al-Din Abd al-Wahhab ibn Taqi al-Din al-Subki, Raf al-Hajib an Mukhtasar Ibn al-Hajib.]

‘Jurisprudence is knowledge of practical legal rulings acquired from their detailed evidences.’ [Hasan ibn Umar ibn Abd Allah al-Sinawani al-Maliki, Al-Asl al-Jami li-Idah al-Durar al-Manzuma fi Silk Jam al-Jawami.]

‘Jurisprudence: knowledge of practical legal rulings acquired from their detailed evidences.’ [Wali al-Din Abu Zura Ahmad ibn Abd al-Rahim al-Iraqi, Al-Ghayth al-Hami Sharh Jam al-Jawami.]

‘Jurisprudence is knowledge of subsidiary, practical legal rulings drawn from detailed evidences.’ [Al-Mawsua al-Fiqhiyya al-Kuwaytiyya, issued by the Ministry of Awqaf and Islamic Affairs, Kuwait.]

Jurisprudence is:

Knowing the rulings of the Qur’an, its abrogating and its abrogated passages;

Knowing the rulings of the Messenger’s words ﷺ, their

abrogating and abrogated passages, and what has been authentically transmitted and what has not;

Knowing what the scholars have agreed upon and what they have disagreed over;

And how disagreement is referred to the Qur'an and the Messenger's words ﷺ. [Ibn Hazm, Al-Ihkam, 5:694.]

Appendix 3

'He has forbidden you only carrion…'

An act may be described as unqualified or qualified, while its agent and object may be described as general or particular. The verb 'forbade' is unqualified, without any restrictions. Consider Muslim's hadith that 'the Messenger of Allah ﷺ forbade drinking standing.' The act 'forbade' is qualified by standing: it is not an unrestricted prohibition of drinking, but a prohibition qualified by standing.

The object of the verb 'forbade', however, is general, including every manner of benefiting from the forbidden thing. When the Sharia forbids something, owning it, selling it, disposing of it and eating it are forbidden under its general prohibition, unless a text makes a particular exception.

Appendix 4

What is agreed upon is the obligation to act upon all the texts of the Qur'an and authentic hadiths. If we find two texts on the same question, one unqualified and the other qualified, we follow what certainly discharges our obligation.

We are certain that the command to obey the Messenger ﷺ is unrestricted and that he does not speak from desire. We are certain that there is no

والمعرفة بأحكام كلام رسول الله عليه السلام ناسخه ومنسوخه وما صح نقله مما لم يصح

ومعرفة ما أجمع العلماء عليه، وما اختلفوا فيه.

وكيف يرد الاختلاف إلى القرآن وكلام الرسول عليه السلام. [الأحكام لابن حزم (5/ 694)]

(ملحق 3)

{إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ ...}

الفعل قد يوصف بالإطلاق والتقييد و فاعل الفعل ومفعوله قد يوصف بالعموم والخصوص؛ فالفعل (حَرَّمَ) مطلق ليس به أية قيود وانظر إلى حديث مسلم "أن رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ الشُّرْبِ قَائِمًا" فالفعل (نهى) مقيد بالوقوف وليس مطلق النهى عن الشرب فالنهى مقيد بالوقوف.

أما مفعول الفعل (حَرَّمَ) فهو عامّ يشمل جميع وجوه الإنتفاع بالشيئ المحرم فإذا حَرَّمَتْ الشريعةُ شيئاً فحرام ملكه وبيعه والتصرف فيه وأكله على عموم تحريمه الا أن يأتي نص بتخصيص شئ من ذلك .

(ملحق 4)

إن الشيئ المتفق عليه وجوب العمل بجميع النصوص من القرآن وصحيح الأحاديث؛ فإذا وجدنا نَصَّيْن لنفس القضية أحدهما مطلق والآخر مقيد، أخذنا بما يخرجنا عن عهدة التكليف بيقين.

لقد تيقنا أن الأمر بطاعة الرسول عليه السلام مطلقة، وهو عليه السلام لا ينطق عن الهوى، وتيقنا أن لا اختلاف ولا تعارض فى نصوص القرآن والسنة، وأنه يجب

disagreement or conflict within the texts of the Qur'an and Sunnah, and that an individual's report must be accepted. The additional information of a single upright transmitter must therefore be accepted. How, then, do we derive the additional ruling in the question of unqualified and qualified wording?

The First Example

Ibn Abbas reported that the Prophet ﷺ said: 'Whoever cannot find a waist-wrapper should wear trousers; whoever cannot find sandals should wear leather foot-coverings.' [Al-Bukhari, Book of Dress, chapter: Trousers.]

Abd Allah ibn Umar, may Allah be pleased with them both, said: 'The Messenger of Allah ﷺ forbade a person in ihram to wear a garment dyed with saffron or wars. He said: "Whoever cannot find sandals should wear leather foot-coverings and cut them below the ankles."' [Al-Bukhari, Book of Dress, chapter: Sandals of tanned leather and others.]

The first text: '…Whoever cannot find sandals should wear leather foot-coverings…' The foot-coverings are unqualified: cut or uncut.

The second text: '…He should wear leather foot-coverings and cut them below the ankles…' Here the command is qualified: the foot-coverings must be cut below the ankles.

The first text contains only one ruling: he should wear leather foot-coverings.

The second contains two commands: first, to wear leather foot-coverings; second, to cut them below the ankles. Here there is an additional ruling: cutting below the ankles.

I am commanded to perform the command once. I must therefore implement it in a manner which discharges my obligation.

قبول خبر الواحد وعليه يجب قبول زيادة الواحد العدل، فكيف نستخرج الحكم الزائد فى مسألة المطلق والمقيد؟

المثـــــــــــال الأول

"عَنْ ابْنِ عَبَّاسٍ عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ مَنْ لَمْ يَجِدْ إِزَارًا فَلْيَلْبَسْ سَرَاوِيلَ وَمَنْ لَمْ يَجِدْ نَعْلَيْنِ فَلْيَلْبَسْ خُفَّيْنِ" [البخاري: كِتَاب اللِّبَاسِ، بَاب السَّرَاوِيلِ]

" عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ نَهَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنْ يَلْبَسَ الْمُحْرِمُ ثَوْبًا مَصْبُوغًا بِزَعْفَرَانٍ أَوْ وَرْسٍ وَقَالَ مَنْ لَمْ يَجِدْ نَعْلَيْنِ فَلْيَلْبَسْ خُفَّيْنِ وَلْيَقْطَعْهُمَا أَسْفَلَ مِنْ الْكَعْبَيْنِ" [البخاري: كِتَاب اللِّبَاسِ، بَاب النِّعَالِ السِّبْتِيَّةِ وَغَيْرِهَا]

النص الأول: "…. مَنْ لَمْ يَجِدْ نَعْلَيْنِ فَلْيَلْبَسْ خُفَّيْنِ..." (مطلق خُفَّين: أى خُفَّين مقطوعة أو غير مقطوعة)

النص الثانى: "... فَلْيَلْبَسْ خُفَّيْنِ وَلْيَقْطَعْهُمَا أَسْفَلَ مِنْ الْكَعْبَيْنِ....." (الأمر هنا مقيد: الخُفَّين يجب قطعهما أسفل من الكعبين)

فالنص الأول يحتوى حكم واحد فقط فَلْيَلْبَسْ خُفَّيْنِ

والنص الثانى يشمل أمرين: الأمر الأول فَلْيَلْبَسْ خُفَّيْنِ، والأمر الثانى وَلْيَقْطَعْهُمَا أَسْفَلَ مِنْ الْكَعْبَيْنِ؛ فهنا حكم زائد وهو القطع أسفل من الكعبين.

أنا مأمور بفعل الأمر مرة واحدة؛ فيجب تنفيد الأمر بطريقة تخرجنى من عهدة التكليف.

L557 If we follow the first command and wear uncut foot-coverings, we disobey the second command. If we follow the second, we obey both commands.

L558 You may also say that the second hadith contains a ruling additional to the first: it commands cutting the foot-coverings below the ankles. This addition must therefore be followed.

L559 ## The Second Example

L560 He, exalted is He, says: 'It is prescribed for you, when death approaches one of you, if he leaves wealth, to make a bequest for parents and close relatives according to what is right: a duty upon the mindful' [Al-Baqarah 2:180].[13]

L561 The first hadith: Abd Allah ibn Umar, may Allah be pleased with them both, reported that the Messenger of Allah ﷺ said: 'A Muslim who has something concerning which to make a bequest has no right to spend two nights without his written will being with him.' [Al-Bukhari, Book of Bequests.]

L562 The second hadith: Ibn Umar reported that the Messenger of Allah ﷺ said: 'A Muslim who has something concerning which he wishes to make a bequest has no right to spend two nights without his written will being with him.' [Muslim, Book of Bequests, chapter.]

L563 The noble verse commands a bequest. Abu Jafar says: 'By His words, exalted is His mention, "It is prescribed for you," He means: a bequest is made obligatory upon you, believers, when death approaches one of you, if he leaves wealth—khayr means property—for parents and close relatives who do not inherit from him.'[14]

L564 The first text contains two commands: a bequest is obligatory for whoever wishes to make one and whoever does not.

L565 The first command: whoever has something concerning which he wishes to

إننا إن أخذنا بالأمر الأول ولبسنا خفين غير مقطوعين نكون قد خالفنا الأمر الثانى، وإن أخذنا بالأمر الثانى نكون قد أطعنا الأمرين.

ولك أن تقول إن الحديث الثانى به حكم زائد عن الحديث الأول ففيه أمرٌ بقطع الخفين أَسْفَلَ مِنْ الْكَعْبَيْنِ فيجب العمل بهذه الزيادة.

المثـــــــــــال الثانى

قال تعالى: {كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنْ تَرَكَ خَيْرًا الْوَصِيَّةُ لِلْوَالِدَيْنِ وَالْأَقْرَبِينَ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ } [البقرة : 180]

الحديث الأول " عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ مَا حَقُّ امْرِئٍ مُسْلِمٍ لَهُ شَيْءٌ يُوصِي فِيهِ يَبِيتُ لَيْلَتَيْنِ إِلَّا وَوَصِيَّتُهُ مَكْتُوبَةٌ عِنْدَهُ" [البخاري: كِتَاب الْوَصَايَا]

الحديث الثانى "عَنْ ابْنِ عُمَرَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ مَا حَقُّ امْرِئٍ مُسْلِمٍ لَهُ شَيْءٌ يُرِيدُ أَنْ يُوصِيَ فِيهِ يَبِيتُ لَيْلَتَيْنِ إِلَّا وَوَصِيَّتُهُ مَكْتُوبَةٌ عِنْدَهُ" [مسلم: كِتَاب الْوَصِيَّةِ، بَاب]

فى الآية الكريمة الأمر بالوصية، قال أبو جعفر: يعني بقوله تعالى ذكره:"كُتب عليكم"، فُرض عليكم، أيها المؤمنون، الوصية = إذا حضر أحدكم الموتُ إن تَرَك خَيرًا - والخير: المال = للوالدين والأقربين الذين لا يرثونه.

النص الأول يشمل أمرين(الوصية فرض لمن يريد ولمن لا يريد):

فالأمر الأول: من لَهُ شَيْءٌ يُرِيدُ أَنْ يُوصِيَ فِيهِ ففرض عليه الوصية.

[13] **Qur'an references (L560):** Qur'an 2:180 (Al-Baqarah).
[14] **Qur'an references (L563):** Qur'an 2:180 (Al-Baqarah).

والأمر الثانى: من لَهُ شَيْءٌ ولا يُرِيدُ أَنْ يُوصِيَ فِيهِ ففرض عليه أيضاً الوصية.

النص الثانى يشمل أمر واحد فقط : من لَهُ شَيْءٌ يُرِيدُ أَنْ يُوصِيَ فِيهِ ففرض عليه الوصية.

إذا أخذنا بالحديث الأول نكون قد عملنا بالحديثين (نوصى؛ سواء كنا نريد أو لا نريد)

وإذا أخذنا بالحديث الثانى كنا قد خالفنا الحديث الأول؛ الذى أوجب الوصية لمن يريد ولمن لا يريد.

ولك أن تقول إن الحديث الأول به حكم زائد عن الحديث الثانى فالأمر فيه بالوصية لمن يريد ولمن لا يريد فيجب العمل بهذه الزيادة وهى وجوب الوصية لمن لا يريد.

المثـــــــال الثالث

النص الأول: "..... حُرِّمَتْ عَلَيْكُمُ الْمَيْتَةُ وَالدَّمُ..." (مطلق)

النص الثانى: "..إِلَّا أَنْ يَكُونَ مَيْتَةً أَوْ دَمًا مَسْفُوحًا.... " (مقيد)

الآية الأولى تشمل نهيين:

تحريم الدم المسفوح وتحريم الدم غير المسفوح. والآية الثانية تشمل نهى واحد فقط: تحريم الدم المسفوح.

فإذا أخذنا بالآية الأولى نكون قد أطعنا الآيتين، وإذا أخذنا بالآية الثانية نكون قد خالفنا الآية الأولى.

وأيضاً فالآية الأولى بها حكم زائد عن الآية الثانية فيجب العمل بهذه الزيادة وهى تحريم الدم غير المسفوح.

make a bequest must make one.

The second command: whoever has something concerning which he does not wish to make a bequest must likewise make one.

The second text contains only one command: whoever has something concerning which he wishes to make a bequest must make one.

If we follow the first hadith, we act upon both hadiths: we make a bequest, whether we wish to or not.

If we follow the second, we disobey the first, which made a bequest obligatory both for whoever wishes to make one and whoever does not.

You may also say that the first hadith contains a ruling additional to the second: it commands a bequest both for whoever wishes to make one and whoever does not. This addition must be followed: the obligation to make a bequest for whoever does not wish to.

The Third Example

The first text: '…Forbidden to you are carrion and blood…' Unqualified.

The second text: '…Unless it be carrion or blood poured forth…' Qualified.

The first verse contains two prohibitions:

Prohibiting blood poured forth and prohibiting blood not poured forth. The second verse contains only one prohibition: blood poured forth.

If we follow the first verse, we obey both verses. If we follow the second, we disobey the first.

Furthermore, the first verse contains a ruling additional to the second. This addition must therefore be followed: the prohibition of blood not poured forth.

A third approach as well: His words, exalted is He, 'Say: I find nothing

in what has been revealed to me forbidden to one who eats it, unless it be carrion or blood poured forth…' [Al-Anam 6:145], do not mention the ruling on blood not poured forth. Were this the only verse, nothing but blood poured forth would be forbidden. But my Lord, majestic and exalted is He, has forbidden blood without qualification in three Quranic surahs: blood poured forth and blood not poured forth. To discharge our obligation, we must refrain from everything Allah has forbidden, and prohibit blood without qualification.[15]

L579 He, exalted is He, says: 'He has forbidden you only carrion, blood and swine flesh' [Al-Baqarah 2:173].[16]

L580 He, exalted is He, says: 'Forbidden to you are carrion, blood and swine flesh' [Al-Maidah 5:3].[17]

L581 He, exalted is He, says: 'He has forbidden you only carrion, blood, swine flesh and that over which any name other than Allah's has been invoked' [An-Nahl 16:115].[18]

L582 Furthermore, Surah Al-Anam is Meccan, whereas Al-Baqarah and Al-Maidah are Medinan.

L583 Appendix 5

L584 One text commands some of what another commands, or one prohibits some of what another prohibits. There is no conflict here, so we implement all the texts. In the language of the scholars of legal theory, instances of a general expression do not particularise it.

L585 The First Example

L586 (1) He, exalted is He, says: 'Do not approach unlawful sexual intercourse'

[15] **Qur'an references (L578):** Qur'an 6:145 (Al-An'am).
[16] **Qur'an references (L579):** Qur'an 2:173 (Al-Baqarah); Qur'an 16:115 (An-Nahl).
[17] **Qur'an references (L580):** Qur'an 5:3 (Al-Ma'idah).
[18] **Qur'an references (L581):** Qur'an 16:115 (An-Nahl).

مدخل ثالث أيضاً، ففى قوله تعالى: {قُلْ لَا أَجِدُ فِي مَا أُوحِيَ إِلَيَّ مُحَرَّمًا عَلَى طَاعِمٍ يَطْعَمُهُ إِلَّا أَنْ يَكُونَ مَيْتَةً أَوْ دَمًا مَسْفُوحًا..... } [الأنعام : 145] هذه الآية لم تذكر حكم الدم غير المسفوح؛ فلو لم تكن غير هذه الآية ما حُرِّم غير الدم المسفوح، ولكن ربي جلَّ وعلا فى ثلاث سور من القرآن حرَّم مطلق الدم: المسفوح وغير المسفوح. فحتى نخرج من عهدة التكليف يجب علينا أن ننتهى عن جميع ما نهى الله عنه ونحرم مطلق الدم.

قال تعالى: {إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ وَالدَّمَ وَلَحْمَ الْخِنْزِيرِ } [البقرة : 173]

و قال تعالى: {حُرِّمَتْ عَلَيْكُمُ الْمَيْتَةُ وَالدَّمُ وَلَحْمُ الْخِنْزِيرِ } [المائدة : 3]

و قال تعالى: {إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ وَالدَّمَ وَلَحْمَ الْخِنْزِيرِ وَمَا أُهِلَّ لِغَيْرِ اللَّهِ بِهِ } [النحل : 115]

وأيضاً فإن سورة الانعام مكية وسورة البقرة والمائدة مدنيتان.

(ملحق 5)

أحد النصين يأمر ببعض الأشياء المأمور بها فى النص الآخر، أو أحد النصين ينهى عن بعض الأشياء المنهى عنها فى النص الآخر، فلا تعارض هنا فننفذ جميع النصوص؛ وبِلُغَةِ علماء الأصول فإن أفراد العام لا تخصصه .

المثـــــــــــال الأول

(1) قال تعالى: {وَلاَ تَقْرَبُواْ الزِّنَى }[الإسراء 32]

[Al-Isra 17:32].

L587 (2) Amr ibn Shurahbil reported from Abd Allah, who said: 'I asked the Messenger of Allah ﷺ: "Which sin is greatest before Allah?" He said: "To make a rival to Allah when He created you." I said: "That is indeed tremendous." I asked: "Then which?" He said: "Then to kill your child for fear that he will eat with you." I asked: "Then which?" He said: "Then to commit adultery with your neighbour's wife."' [Muslim, Book of Faith, chapter: Associating partners with Allah is the ugliest sin.]

L588 Mentioning the neighbour's wife does not conflict with the general prohibition of unlawful sexual intercourse. All such intercourse is forbidden: with the neighbour's wife and with any woman.

L589 ## The Second Example

L590 (1) Al-Bukhari includes in Abu Bakr's report—may Allah be pleased with him: '…Concerning zakat on sheep, on those which graze, from forty to one hundred and twenty there is one sheep…' [Al-Bukhari, Book of Zakat, chapter: Zakat on sheep.]

L591 (2) Sunan Abi Dawud includes in the report of Abd Allah ibn Umar—may Allah be pleased with him: '…Concerning sheep, for every forty sheep there is one sheep…' [Sunan Abi Dawud, Book of Zakat, chapter: Zakat on grazing livestock; Sahih wa-Daif Sunan Abi Dawud, 4:68, al-Albani's assessment: authentic.]

L592 Grazing sheep are some sheep. Zakat is due on these, and zakat is due on those. The hadith about grazing sheep neither forbids zakat on non-grazing sheep nor commands it. Their ruling must be sought outside the hadith about grazing sheep. We therefore pay zakat on grazing and non-grazing sheep.

L593 ## The Third Example

L594 (1) He, exalted is He, says: 'There is no blame upon you if you divorce women whom you have not touched or for whom you have not fixed a dower.

(2) وعَنْ عَمْرِو بْنِ شُرَحْبِيلَ عَنْ عَبْدِ اللَّهِ قَالَ: "سَأَلْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَيُّ الذَّنْبِ أَعْظَمُ عِنْدَ اللَّهِ قَالَ: أَنْ تَجْعَلَ لِلَّهِ نِدًّا وَهُوَ خَلَقَكَ قَالَ قُلْتُ لَهُ إِنَّ ذَلِكَ لَعَظِيمٌ قَالَ قُلْتُ ثُمَّ أَيٌّ قَالَ ثُمَّ أَنْ تَقْتُلَ وَلَدَكَ مَخَافَةَ أَنْ يَطْعَمَ مَعَكَ قَالَ قُلْتُ ثُمَّ أَيٌّ قَالَ ثُمَّ أَنْ تُزَانِيَ حَلِيلَةَ جَارِكَ" [مسلم كتاب الإيمان باب كون الشرك أقبح الذنوب]

فليس ذكر امرأة الجار معارضاً لعموم النهي عن الزنى، فالزنى كله حرام؛ مع امرأة الجار ومع أية امرأة

المثـــــــــــال الثانى

(1) فى البخارى فى حديث أبى بكر رضى الله عنه"..... وَفِي صَدَقَةِ الْغَنَمِ فِي سَائِمَتِهَا إِذَا كَانَتْ أَرْبَعِينَ إِلَى عِشْرِينَ وَمِائَةٍ شَاةٌ..." [البخاري: كِتَاب الزَّكَاةِ، بَاب زَكَاةِ الْغَنَمِ]

(2) وفى سنن أبي داود من حديث عبد الله بن عمر رضى الله عنه "... وَفِي الْغَنَمِ فِي كُلِّ أَرْبَعِينَ شَاةً شَاةٌ...." [سنن أبي داود: كِتَاب الزَّكَاةِ، بَاب فِي زَكَاةِ السَّائِمَةِ] [صحيح وضعيف سنن أبي داود - (4 / 68)حقيق الألباني :صحيح]

فالغنم السائمة هى بعض الغنم ففى هذه زكاة وفى تلك زكاة، فليس في حديث السائمة نهي عن أن يزكي غير السائمة، ولا أمر بها فحكمها مطلوب من غير حديث السائمة فنذكى السائمة وغير السائمة.

المثـــــــــــال الثالث

Provide for them: the wealthy according to his means, and the straitened according to his means—a provision according to what is right, a duty upon those who do good' [Al-Baqarah 2:236].[19]

(2) He, exalted is He, says: 'For divorced women there is a provision according to what is right: a duty upon the mindful' [Al-Baqarah 2:241].[20]

The divorced woman whose marriage has not been consummated in the first verse is included among divorced women in the second. The command to provide for a divorced woman whose marriage has not been consummated neither forbids nor commands provision for one whose marriage has been consummated. Her ruling—her ruling is found in the second verse.

Appendix 6

The first text gives a ruling on a particular question, and the second gives another ruling on that very question.

There is no conflict in this: both are accepted and followed.

The First Example

(1) Abu Hurayra reported that the Messenger of Allah ﷺ said: 'A woman and her paternal aunt, or a woman and her maternal aunt, may not be married to the same man at the same time.' [Muslim, Book of Marriage, chapter: The prohibition of simultaneously marrying a woman and her paternal or maternal aunt.]

He, exalted is He, says: 'Forbidden to you are your mothers, daughters, sisters, paternal aunts, maternal aunts, brothers' daughters, sisters' daughters, mothers who nursed you, sisters through nursing, your wives' mothers, and your stepdaughters in your care, born of wives with whom you have consummated marriage—if you have not consummated marriage with them,

[19] **Qur'an references (L594):** Qur'an 2:236 (Al-Baqarah).
[20] **Qur'an references (L595):** Qur'an 2:241 (Al-Baqarah).

(1) قال تعالى: {لاَّ جُنَاحَ عَلَيْكُمْ إِن طَلَّقْتُمُ النِّسَآءَ مَا لَمْ تَمَسُّوهُنَّ أَوْ تَفْرِضُواْ لَهُنَّ فَرِيضَةً وَمَتِّعُوهُنَّ عَلَى الْمُوسِعِ قَدَرُهُ وَعَلَى الْمُقْتِرِ قَدْرُهُ مَتَاعاً بِالْمَعْرُوفِ حَقّاً عَلَى الْمُحْسِنِينَ} [البقرة:236]

(2) وقال تعالى:{وَلِلْمُطَلَّقَاتِ مَتَاعٌ بِالْمَعْرُوفِ حَقّاً عَلَى الْمُتَّقِينَ }[البقرة:241]

فالمطلقة غير الممسوسة فى الآية الأولى داخلة في جملة المطلقات فى الآية الثانية، فليس فى الأمر بتمتيع المطلقة غير الممسوسة نهي عن تمتيع الممسوسة، ولا أمر به؛ فحكمها فحكمها موجود فى الآية الثانية.

(ملحق 6)

النص الأول جاء بحكم مَّا في قضية معيَّنة، والنص الثانى جاء بحكم آخر في تلك القضية بعينها.

فليس فى ذلك تعارض، ولكنهما جميعاً مقبولان ومأخوذ بهما.

المثـــــــــال الأول

(1) عَنْ أَبِي هُرَيْرَةَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ "لَا يُجْمَعُ بَيْنَ الْمَرْأَةِ وَعَمَّتِهَا وَلَا بَيْنَ الْمَرْأَةِ وَخَالَتِهَا" [مسلم: كتاب النكاح بَاب تَحْرِيمِ الْجَمْعِ بَيْنَ الْمَرْأَةِ وَعَمَّتِهَا أَوْ خَالَتِهَا فِي النِّكَاحِ]

قال تعالى: {حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَبَنَاتُكُمْ وَأَخَوَاتُكُمْ وَعَمَّاتُكُمْ وَخَالَاتُكُمْ وَبَنَاتُ الْأَخِ وَبَنَاتُ الْأُخْتِ وَأُمَّهَاتُكُمُ اللَّاتِي أَرْضَعْنَكُمْ وَأَخَوَاتُكُمْ مِنَ الرَّضَاعَةِ وَأُمَّهَاتُ نِسَائِكُمْ وَرَبَائِبُكُمُ اللَّاتِي فِي حُجُورِكُمْ مِنْ نِسَائِكُمُ اللَّاتِي دَخَلْتُمْ بِهِنَّ فَإِنْ لَمْ تَكُونُوا دَخَلْتُمْ بِهِنَّ فَلَا جُنَاحَ عَلَيْكُمْ وَحَلَائِلُ أَبْنَائِكُمُ الَّذِينَ مِنْ أَصْلَابِكُمْ وَأَنْ تَجْمَعُوا بَيْنَ الْأُخْتَيْنِ إِلَّا مَا

there is no blame upon you—and the wives of your sons from your own loins, and combining two sisters, except what has already passed. Allah is Forgiving and Merciful. And married women, except those whom your right hands possess. This is Allah's prescription for you. Lawful to you is what lies beyond these' [An-Nisa 4:24].[21]

The Prophet's prohibition ﷺ is additional to what Allah forbade in this verse. The texts do not conflict: both are followed.

The Second Example

His bathing ﷺ between intercourse with two of his wives—may Allah be pleased with them—and his not bathing between them, instead bathing once after the last.

Anas ibn Malik reported that the Messenger of Allah ﷺ would visit all his wives in one night, then take a single bath. [Sahih Ibn Hibban, Book of Purification, chapter: Rulings concerning major ritual impurity; al-Taliqat al-Hisan ala Sahih Ibn Hibban, al-Albani's annotation: authentic.]

Abu Rafi reported that the Prophet ﷺ visited his wives one day, bathing at this one's and at that one's. He said: 'I asked: "Messenger of Allah, will you not make it a single bath?" He said: "This is more cleansing, better and purer."' [Sunan Abi Dawud, Book of Purification, chapter: Ablution for one who wishes to repeat intercourse.]

Appendix 7

In language, abrogation means removal:

A verse may therefore be removed and its ruling lifted.

A verse may be removed while its ruling remains.

[21] **Qur'an references (L602):** Qur'an 4:23 (An-Nisa); Qur'an 4:24 (An-Nisa).

قَدْ سَلَفَ إِنَّ اللَّهَ كَانَ غَفُورًا رَحِيمًا (23) وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلاَّ مَا مَلَكَتْ أَيْمَانُكُمْ كِتَابَ اللَّهِ عَلَيْكُمْ وَأُحِلَّ لَكُمْ مَّا وَرَاءَ ذَلِكُمْ } [النساء:24]

فكان نهي النبيِّ عليه السلام مضافاً إلى ما نهى الله عنه في هذه الآية، فليس بين النصين تعارض ولكنهما جميعاً مأخوذ بهما.

المثـــــــــال الثانى

اغتساله صلى الله عليه وسلم بين وطئه المرأتين من نسائه رضي الله عنهنَّ، وتركه الاغتسال بينهما حتى يغتسل من آخرهن غسلاً واحداً.

" عَنْ أَنَسِ بْنِ مَالِكٍ أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم كان يَطُوفُ عَلَى جَمِيعِ نِسَائِهِ فِي لَيْلَةٍ ثُمَّ يغتسل غسلاً واحداً" [صحيح ابن حبان: كتاب الطهارة، باب أحكام الجنب] [التعليقات الحسان على صحيح ابن حبان، تعليق الشيخ الألباني: صحيح]

"عَنْ أَبِي رَافِعٍ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ طَافَ ذَاتَ يَوْمٍ عَلَى نِسَائِهِ يَغْتَسِلُ عِنْدَ هَذِهِ وَعِنْدَ هَذِهِ قَالَ قُلْتُ لَهُ يَا رَسُولَ اللَّهِ أَلَا تَجْعَلُهُ غُسْلًا وَاحِدًا قَالَ هَذَا أَزْكَى وَأَطْيَبُ وَأَطْهَرُ" [سنن أبي داود: كِتَاب الطَّهَارَةِ، بَاب الْوُضُوءِ لِمَنْ أَرَادَ أَنْ يَعُودَ]

(ملحق 7)

إن النسخ فى اللغة يعنى الإزالة:

فجائز أن تزال الآية ويرتفع حكمها.

وجائز أن تزال الآية ويبقى حكمها.

وجائز أن يبطل حكم الآية ويبقى لفظها.

A verse's ruling may be cancelled while its wording remains.

A verse may be made to be forgotten altogether.

None of these possibilities can be known except through the Messenger's explanation ﷺ.

Abrogation therefore requires a clear, explicit text stating that this ruling or that verse is abrogated.

The same applies to the Sunnah. One hadith may be abrogated by a later hadith, with the Messenger ﷺ explaining this.

How This Is Explained

(1) The Messenger's wording ﷺ explicitly establishes abrogation, as in his words: '…I forbade you the meat of sacrificial animals beyond three days. Now eat, give in charity and store it…' [Malik's Muwatta, Book of Sacrificial Animals, chapter: Storing sacrificial meat.]

(2) The Companion's wording—may Allah be pleased with him—explicitly establishes abrogation. An example is Ali ibn Abi Talib's report: 'The Messenger of Allah ﷺ ordered us to stand for a funeral, then later sat and ordered us to sit.' Muhammed ibn Amr reported: 'Waqid ibn Amr ibn Sad ibn Muadh related to us: I attended a funeral among Banu Salima and stood. Nafi ibn Jubayr told me: "Sit down. I shall give you reliable evidence concerning this. Masud ibn al-Hakam related to me that he heard Ali, in the open square of Kufa, telling the people: 'The Messenger of Allah ﷺ used to order us to stand for a funeral, then later sat and ordered sitting.'"" [Sahih Ibn Hibban, Book of Funerals and related preceding or following matters, section: Standing for a funeral; al-Taliqat al-Hisan ala Sahih Ibn Hibban, al-Albani's annotation: authentic.]

وجائز أن تُنْسى الآيةَ كليةً.

وكل هذه الوجوه لا يمكن معرفتها إلا عن طريق بيان الرسول عليه السلام.

لابد إذن فى النسخ من نص واضح بَيِّن، بأن هذا الحكم أو تلك الآية منسوخة.

وكذلك الأمر فى السنة؛ فقد ينسخ الحديث بحديث آخر متأخر عنه مع بيان الرسول عليه السلام بذلك.

كيفية البيـــــــــان

(1) أَنْ يَكُونَ لفظ الرسول عليه السلام صريحاً فى النسخ، كقَوْلِهِ عَلَيْهِ السَّلَامُ: "... نَهَيْتُكُمْ عَنْ لُحُومِ الْأَضْحَى بَعْدَ ثَلَاثٍ فَكُلُوا وَتَصَدَّقُوا وَادَّخِرُوا ...." [موطأ مالك: كِتَاب الضَّحَايَا،بَاب ادِّخَارِ لُحُومِ الْأَضَاحِيِّ]

(2)أن يَكُونَ لَفْظُ الصَّحَابِيِّ رضى الله عنه صريحاً فى النسخ، نَحْوُ حَدِيثِ عَلِيِّ بْنِ أَبِي طَالِبٍ رَضِيَ اللَّهُ عَنْهُ: "كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: أَمَرَنَا بِالْقِيَامِ فِي الْجَنَازَةِ ثُمَّ جَلَسَ بَعْدَ ذَلِكَ وَأَمَرَنَا بِالْجُلُوسِ "فعَنْ مُحَمَّدِ بْنِ عَمْرٍو قَالَ: حَدَّثَنَا وَاقِدُ بْنُ عَمْرِو بْنِ سَعْدِ بْنِ مُعَاذٍ قَالَ: شَهِدْتُ جَنَازَةً فِي بَنِي سَلِمَةَ فَقُمْتُ فَقَالَ لِي نَافِعُ بْنُ جُبَيْرٍ: اجْلِسْ فَإِنِّي سَأُخْبِرُكَ فِي هَذَا بِثبتٍ: حَدَّثَنِي مَسْعُودُ بْنُ الْحَكَمِ أَنَّهُ سَمِعَ عَلِيًّا بِرَحْبَةِ الْكُوفَةِ يَقُولُ لِلنَّاسِ: كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَأْمُرُنَا بِالْقِيَامِ فِي الْجَنَازَةِ ثُمَّ جَلَسَ بَعْدَ ذَلِكَ وأمر بالجلوس" [صحيح ابن حبان: كتاب الجنائز وما يتعلق بها مقدما أو مؤخرا، فصل في القيام للجنازة] [التعليقات الحسان على صحيح ابن حبان: تعليق الشيخ الألباني: صحيح]

L620 Another example is Jabir's statement, may Allah be pleased with him: 'The later of the Messenger's two practices ﷺ was to omit ablution after eating what fire had altered.' [Sunan Abi Dawud, Book of Purification, chapter: Omitting ablution after what fire has touched; al-Albani's assessment: authentic; Sahih Abi Dawud.]

ونحو قول جابر رضى الله عنه "كَانَ آخِرَ الْأَمْرَيْنِ مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَرْكُ الْوُضُوءِ مِمَّا غَيَّرَتْ النَّارُ""[سنن أبي داود : كِتَاب الطَّهَارَةِ؛ بَاب فِي تَرْكِ الْوُضُوءِ مِمَّا مَسَّتْ النَّارُ] [تحقيق الألباني :صحيح ، صحيح أبي داود]

L621 Another is Ibn Abbas's report that the Messenger of Allah ﷺ set out in Ramadan in the year of the Conquest and fasted until reaching al-Kadid, then broke his fast. Al-Zuhri said: 'Breaking the fast was the later of the two practices.' Ubayd Allah ibn Abd Allah ibn Utba reported from Ibn Abbas, may Allah be pleased with them both, that the Messenger of Allah ﷺ set out in Ramadan in the year of the Conquest and fasted until reaching al-Kadid, then broke his fast. He said: 'The Companions of the Messenger of Allah ﷺ would follow the most recent of his practices…' Sufyan said: 'I do not know whose words these are'—meaning: 'The later statement of the Messenger of Allah ﷺ was followed…' Al-Zuhri said: 'Breaking the fast was the later of the two practices. Only the latest practice of the Messenger of Allah ﷺ is followed…' Ibn Shihab said: 'They would follow the most recent of his practices, regarding it as the decisive, abrogating one.' [Muslim, Book of Fasting, chapter: The permissibility of fasting and breaking the fast in Ramadan…]

ونحو ما رواه ابْنِ عَبَّاسٍ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ خَرَجَ عَامَ الْفَتْحِ فِي رَمَضَانَ فَصَامَ حَتَّى بَلَغَ الْكَدِيدَ ثُمَّ أَفْطَرَ وقَالَ الزُّهْرِيُّ وَكَانَ الْفِطْرُ آخِرَ الْأَمْرَيْنِ "عَنْ عُبَيْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ بْنِ عُتْبَةَ عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا أَنَّهُ أَخْبَرَهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ خَرَجَ عَامَ الْفَتْحِ فِي رَمَضَانَ فَصَامَ حَتَّى بَلَغَ الْكَدِيدَ ثُمَّ أَفْطَرَ قَالَ وَكَانَ صَحَابَةُ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَتَّبِعُونَ الْأَحْدَثَ فَالْأَحْدَثَ مِنْ أَمْرِهِ ..... قَالَ سُفْيَانُ لَا أَدْرِي مِنْ قَوْلِ مَنْ هُوَ يَعْنِي وَكَانَ يُؤْخَذُ بِالْآخِرِ مِنْ قَوْلِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ..... قَالَ الزُّهْرِيُّ وَكَانَ الْفِطْرُ آخِرَ الْأَمْرَيْنِ وَإِنَّمَا يُؤْخَذُ مِنْ أَمْرِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِالْآخِرِ فَالْآخِرِ ..... قَالَ ابْنُ شِهَابٍ فَكَانُوا يَتَّبِعُونَ الْأَحْدَثَ فَالْأَحْدَثَ مِنْ أَمْرِهِ وَيَرَوْنَهُ النَّاسِخَ الْمُحْكَمَ" [مسلم: كِتَاب الصِّيَامِ؛ بَاب جَوَازِ الصَّوْمِ وَالْفِطْرِ فِي شَهْرِ رَمَضَانَ....]

L622 Another example is the report that he ﷺ permitted cupping for someone fasting. A dispensation can come only after a prohibition. Abu Said al-Khudri reported: 'The Messenger of Allah ﷺ permitted kissing and cupping for someone fasting.' [After setting out the hadith's routes, al-Albani said: 'Through these routes the hadith is undoubtedly authentic. It explicitly establishes abrogation.' Irwa al-Ghalil fi Takhrij Ahadith Manar al-Sabil, 4:75.]

ومثل ما روى روي أنه عليه السلام رخص في الحجامة للصائم، والرخصة لا تكون إلا بعد نهي "وعن أبى سعيد الخدرى: " رخص رسول الله صلى الله عليه وسلم فى القبلة للصائم , والحجامة" [قال الألبانى بعد ان ساق طرق الحديث: فالحديث بهذه الطرق صحيح لا شك فيه , وهو نص فى النسخ][إرواء الغليل في تخريج أحاديث منار السبيل (4/ 75)]

L623 Abu Said al-Khudri reported: 'Permission was given to someone fasting for cupping and kissing.' [Sahih Ibn Khuzayma, Book of Fasting, collected chapters on acts which break a person's fast.]

" وعن أبي سعيد الخدري قال : رخص للصائم في الحجامة والقبلة" [صحيح ابن خزيمة: كتاب الصيام، جماع أبواب الأفعال اللواتي تفطر الصائم]

(3) Certainty that one text is later than the other, with no possibility of reconciling them.

'…The Companions of the Messenger of Allah ﷺ would follow the most recent of his practices…' [Muslim, Book of Fasting, chapter: The permissibility of fasting and breaking the fast in Ramadan…]

An example is Ubayy ibn Kab's report, may Allah be pleased with him, that he asked: 'Messenger of Allah, if a man has intercourse with a woman but does not ejaculate?' He said: 'He washes the part of him which touched the woman, then performs ablution and prays.' [Al-Bukhari, Book of the Full Ritual Bath, chapter: Washing what comes into contact with a woman's private parts.]

Al-Zuhri asked Urwa about this. Urwa answered that Aisha, may Allah be pleased with her, had told him: '…The Messenger of Allah ﷺ used to do that without bathing. That was before the Conquest of Mecca. Afterwards he bathed and ordered the people to bathe.' [Sahih Ibn Hibban, Book of Purification, chapter: The full ritual bath, section specifying when this practice was abrogated; al-Taliqat al-Hisan ala Sahih Ibn Hibban, al-Albani's annotation: authentic through supporting evidence.]

Appendix 8

Reconciling Hadiths

An Example

'…I heard Imran ibn Husayn, may Allah be pleased with them both, say: The Messenger of Allah ﷺ said: "The best of my community are my generation, then those after them, then those after them." Imran said: "I do not know whether he mentioned two or three generations after his own." "After you will come people who testify without being called to testify, betray and cannot be trusted, make vows and do not fulfil them. Obesity will appear among them."' [Al-Bukhari, Book of Merits, chapter: The virtues of the Prophet's

(3) يقين بتأخر أحد النصين عن الآخر مع عدم القدرة على الجمع بينهما

".....وَكَانَ صَحَابَةُ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَتَّبِعُونَ الْأَحْدَثَ فَالْأَحْدَثَ مِنْ أَمْرِهِ....." [مسلم: كِتَاب الصِّيَامِ، بَاب جَوَازِ الصَّوْمِ وَالْفِطْرِ فِي شَهْرِ رَمَضَانَ....]

نَحْوَ مَا رَوَاهُ أُبَيُّ بْنُ كَعْبٍ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ "يَا رَسُولَ اللَّهِ إِذَا جَامَعَ الرَّجُلُ الْمَرْأَةَ فَلَمْ يُنْزِلْ قَالَ يَغْسِلُ مَا مَسَّ الْمَرْأَةَ مِنْهُ ثُمَّ يَتَوَضَّأُ وَيُصَلِّي" [البخاري: كِتَاب الْغُسْلِ ، بَاب غَسْلِ مَا يُصِيبُ مِنْ فَرْجِ الْمَرْأَةِ]

و قَدْ سَأَلَ الزُّهْرِيُّ عُرْوَةَ عَنْ ذَلِكَ فَأَجَابَهُ عُرْوَةُ أَنَّ عَائِشَةَ - رَضِيَ اللَّهُ عَنْهَا - حَدَّثَتْهُ ".....أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - كَانَ يَفْعَلُ ذَلِكَ وَلَا يَغْتَسِلُ. وَذَلِكَ قَبْلَ فَتْحِ مَكَّةَ، ثُمَّ اغْتَسَلَ بَعْدَ ذَلِكَ وَأَمَرَ النَّاسَ بِالْغُسْلِ"[صحيح ابن حبان : كتاب الطهارة ، باب الغسل، ذِكْرُ الْوَقْتِ الَّذِي نُسِخَ فِيهِ هَذَا الْفِعْلُ] [التعليقات الحسان على صحيح ابن حبان تعليق الشيخ الألباني:صحيح لغيره]

(ملحق 8)

الجمع بين الاحاديث

مثـــــــــــــال

"..... سَمِعْتُ عِمْرَانَ بْنَ حُصَيْنٍ رَضِيَ اللَّهُ عَنْهُمَا يَقُولُ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ خَيْرُ أُمَّتِي قَرْنِي ثُمَّ الَّذِينَ يَلُونَهُمْ ثُمَّ الَّذِينَ يَلُونَهُمْ قَالَ عِمْرَانُ فَلَا أَدْرِي أَذَكَرَ بَعْدَ قَرْنِهِ قَرْنَيْنِ أَوْ ثَلَاثًا ثُمَّ إِنَّ بَعْدَكُمْ قَوْمًا يَشْهَدُونَ وَلَا يُسْتَشْهَدُونَ وَيَخُونُونَ وَلَا يُؤْتَمَنُونَ وَيَنْذُرُونَ وَلَا يَفُونَ وَيَظْهَرُ فِيهِمْ السِّمَنُ" [البخاري: كِتَاب الْمَنَاقِبِ، بَاب فَضَائِلِ

Companions ﷺ; any Muslim who accompanied or saw the Prophet ﷺ is one of his Companions.]

أَصْحَابِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَمَنْ صَحِبَ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَوْ رَآهُ مِنْ الْمُسْلِمِينَ فَهُوَ مِنْ أَصْحَابِهِ]

L632 Zayd ibn Khalid al-Juhani reported that the Prophet ﷺ said: 'Shall I tell you who is the best witness? The one who comes forward with his testimony before being asked for it.' [Muslim, Book of Judgements, chapter: Explaining the best witnesses.]

" عَنْ زَيْدِ بْنِ خَالِدٍ الْجُهَنِيِّ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ أَلَا أُخْبِرُكُمْ بِخَيْرِ الشُّهَدَاءِ الَّذِي يَأْتِي بِشَهَادَتِهِ قَبْلَ أَنْ يُسْأَلَهَا" [مسلم: كِتَاب الْأَقْضِيَةِ ، بَاب بَيَانِ خَيْرِ الشُّهُودِ]

L633 The contemporary Arabic dictionary says: 'Istashhada ala rayihi bi-kadha: he supplied evidence for his opinion, confirmed it, or brought a witness to it.'

قال فى قاموس اللغة العربية المعاصر استشهد على رأيه بكذا : دلَّل عليه ، أكّده ، جاء بشاهد عليه.

L634 Al-Tibi's commentary on Al-Mishkat, Al-Kashif an Haqaiq al-Sunan, 12:3844, states: 'They said: reconciliation is achieved by understanding the blame to concern someone who volunteers testimony about a right whose owner knows of that testimony, before its owner asks him for it. Praise concerns someone who possesses testimony for a person who does not know of it: he informs him so that he may call him as a witness before the judge…'

وفى شرح المشكاة للطيبي الكاشف عن حقائق السنن (12/ 3844) " قالوا: والجمع بينهما أن الذم في ذلك لمن بادر بالشهادة في حق من هو عالم بها قبل أن يسألها له صاحبها، وأما المدح فهو لمن كانت عنده شهادة لأحد لا يعلم بها فيخبره بها ليستشهده عند القاضي....."

L635 Matali al-Anwar ala Sihah al-Athar, 6:82, states: 'His words, "They testify without being called to testify": it is said that they give false testimony about something they neither witnessed nor which occurred. It is also said that they swear falsely without being asked to swear, as he said in another report: "One's testimony precedes his oath, and his oath his testimony." An oath is called testimony, as in: "The testimony of one of them" [An-Nur 24:6].'[22]

وفى مطالع الأنوار على صحاح الآثار (6/ 82) " قوله: "يَشْهَدُونَ وَلَا يُسْتَشْهَدُونَ" قيل: بالباطل الذي لم يشهدوا عليه ولا كان. وقيل: يحلفون كذبًا ولا يستحلفون، كما قاله في رواية أخرى: "تَسْبِقُ شَهَادَةُ أَحَدِهِمْ يَمِينَهُ، وَيَمِينُهُ شَهَادَتَهُ" واليمين تسمى شهادة، ومنه: {فَشَهَادَةُ أَحَدِهِمْ} [النور: 6]"

Appendix 9

(ملحق 9)

L636

L637 Examples of two texts in a general–particular relation. We must act upon both, which can be achieved only by excepting the more particular from the more general. The particular is applied as it stands, and the general to everything apart from what we have excepted. This is indicated by the Prophet's words ﷺ to Abu Said ibn al-Mualla, may Allah be pleased with him, when he called him while he was praying. Abu Said did not respond

أمثلة لنصين بينهما عموم وخصوص فواجب أن نعمل بالنصين، ولن يكون هذا إلا بأن يُستثنى الأخص من الأعم، فيستعمل الأخص كما هو، ويستعمل الأعم فى ما عدا ما أخرجنا منه بالاستثناء، يدل على ذلك قول النبى عليه السلام لأَبِي سَعِيدِ بْنِ الْمُعَلَّى رَضِيَ اللَّهُ عَنْهُ عندما دعاه النبى عليه السلام وهو يصلى (ولم يستجب أبو سعيد

[22] **Qur'an references (L635):** Qur'an 24:6 (An-Nur).

because of the general prohibition on speaking in prayer. He said: 'What prevented you from coming? Has Allah not said: "You who believe, respond to Allah and the Messenger when he calls you to what gives you life"?' This indicates acting upon all the texts and excepting the more particular from the more general. The verse in Surah Al-Anfal is more particular than the verse in Surah Al-Baqarah.[23]

L638 Likewise, in the account of Subaya bint al-Harith al-Aslamiyya, Abu al-Sanabil applied the general scope of His words: 'Those of you who die and leave wives: they must wait by themselves four months and ten days' [Al-Baqarah 2:234]. He ﷺ did not approve this, but excepted pregnant women from the general class of widows: 'For pregnant women, their term is until they deliver their burden' [At-Talaq 65:4].[24]

L639 ## The First Example

L640 ## The Command to Remain Silent in Prayer, and Responding to Allah and the Messenger

L641 (1) Zayd ibn Arqam said: 'We used to speak during prayer, one of us addressing his brother about a need, until this verse was revealed: "Guard the prayers, and the middle prayer, and stand before Allah devoutly" [Al-Baqarah 2:238]. We were then ordered to remain silent.' [Al-Bukhari, Book of Quranic Commentary, chapter: 'Stand before Allah devoutly.']

L642 (2) He, exalted is He, says: 'You who believe, respond to Allah and the Messenger when he calls you to what gives you life' [Al-Anfal 8:24].[26]

لعموم النهى عن الكلام فى الصلاة): "مَا مَنَعَكَ أَنْ تَأْتِيَ أَلَمْ يَقُلْ اللَّهُ:{ يَا أَيُّهَا الَّذِينَ آمَنُوا اسْتَجِيبُوا لِلَّهِ وَلِلرَّسُولِ إِذَا دَعَاكُمْ لِمَا يُحْيِيكُمْ}" فَهَذَا مِنْهُ عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ إِشَارَةٌ إِلَى العمل بجميع النصوص واستثناء الأخصّ من الأعمّ فآية سورة الأنفال أخصّ من آية سورة البقرة.

وأيضا عندما أخذ ابو السنابل فى قصة سُبَيْعَةَ بِنْتِ الْحَارِثِ الْأَسْلَمِيَّةِ بعموم قوله تعالى: {وَالَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا } [البقرة : 234] لم يقره عليه السلام على ذلك؛ واستثنى عليه السلام أُولَاتُ الْأَحْمَالِ من عموم النساء المتوفى عنهن أزواجهن {وَأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ} [الطلاق : 4]

المثـــــــــــــال الأول

(الأمر بِالسُّكُوتِ" فى الصلاة، الاسْتِجَابةُ لِلَّهِ وَلِلرَّسُولِ)

(1) عَنْ زَيْدِ بْنِ أَرْقَمَ قَالَ:"كُنَّا نَتَكَلَّمُ فِي الصَّلَاةِ يُكَلِّمُ أَحَدُنَا أَخَاهُ فِي حَاجَتِهِ حَتَّى نَزَلَتْ هَذِهِ الآيَةُ:{حَافِظُوا عَلَى الصَّلَوَاتِ وَالصَّلَاةِ الْوُسْطَى وَقُومُوا لِلَّهِ قَانِتِينَ} [البقرة:238] فَأُمِرْنَا بِالسُّكُوتِ" [البخاري:كِتَاب تَفْسِيرِ الْقُرْآنِ، بَاب { وَقُومُوا لِلَّهِ قَانِتِينَ }]

(2) قال تعالى:{ يَا أَيُّهَا الَّذِينَ آمَنُوا اسْتَجِيبُوا لِلَّهِ وَلِلرَّسُولِ إِذَا دَعَاكُمْ لِمَا يُحْيِيكُمْ} [الْأَنْفَالِ: 24]

[23] **Qur'an references (L637):** Qur'an 8:24 (Al-Anfal).
[24] **Qur'an references (L638):** Qur'an 2:234 (Al-Baqarah); Qur'an 65:4 (At-Talaq).
[25] **Qur'an references (L641):** Qur'an 2:238 (Al-Baqarah).
[26] **Qur'an references (L642):** Qur'an 8:24 (Al-Anfal).

L643 In Zayd ibn Arqam's hadith, we were ordered to remain silent in prayer. The verse commands responding to the Messenger without restriction, at all times. [Al-Qurtubi's commentary: 'Istajibu: answer.']

L644 (3) Abu Said ibn al-Mualla, may Allah be pleased with him, said: 'I was praying when the Messenger of Allah ﷺ passed by and called me. I did not come until I had prayed. Then I came to him, and he said: "What prevented you from coming? Has Allah not said: 'You who believe, respond to Allah and the Messenger when he calls you to what gives you life'?"' [Al-Bukhari, Book of Quranic Commentary.][27]

The Second Example

L645

L646 Abd Allah ibn Masud reported that Subaya bint al-Harith delivered her child fifteen nights after her husband's death. Abu al-Sanabil entered upon her and said: 'It seems you are thinking of marriage? You may not do that until the longer of the two terms has expired.' She went to the Messenger of Allah ﷺ and told him what Abu al-Sanabil had said. The Messenger of Allah ﷺ said: 'Abu al-Sanabil has spoken falsely. If someone you approve comes to you, bring him to me'—or he said: 'Inform me.' He told her that her waiting period had ended. [Silsilat al-Ahadith al-Sahiha wa-Shay min Fiqhiha wa-Fawaidiha, 7:810. Al-Albani said: 'Ahmad also included it. Its chain is authentic. Al-Haythami, 5:3, said: "Its men are those of the Sahih."']

L647 Ibn Shihab reported: 'Ubayd Allah ibn Abd Allah ibn Utba ibn Masud related to me that his father wrote to Umar ibn Abd Allah ibn al-Arqam al-Zuhri, instructing him to visit Subaya bint al-Harith al-Aslamiyya and ask her about her account and what the Messenger of Allah ﷺ told her when she sought his ruling. Umar ibn Abd Allah wrote back to Abd Allah ibn Utba that Subaya had told him she was married to Sad ibn Khawla, of Banu Amir ibn Luayy, who had attended Badr. He died during the Farewell Pilgrimage while she was pregnant. Soon after his death she delivered her child. When she

[27] **Qur'an references (L644):** Qur'an 8:24 (Al-Anfal).

فى حديث زَيْدِ بْنِ أَرْقَمَ أُمِرْنَا بِالسُّكُوتِ فى الصلاة وفى الآية أمرٌ بإجابة الرسول مطلقاً فى كل وقت [تفسير القرطبي: اسْتَجِيبُوا" أَجِيبُوا]

(3) عَنْ أَبِي سَعِيدِ بْنِ الْمُعَلَّى رَضِيَ اللَّهُ عَنْهُ قَالَ: "كُنْتُ أُصَلِّي فَمَرَّ بِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَدَعَانِي فَلَمْ آتِهِ حَتَّى صَلَّيْتُ ثُمَّ أَتَيْتُهُ فَقَالَ مَا مَنَعَكَ أَنْ تَأْتِيَ أَلَمْ يَقُلْ اللَّهُ:{ يَا أَيُّهَا الَّذِينَ آمَنُوا اسْتَجِيبُوا لِلَّهِ وَلِلرَّسُولِ إِذَا دَعَاكُمْ لِمَا يُحْيِيكُمْ }"[البخارى: كِتَاب تَفْسِيرِ الْقُرْآنِ]

المثـــــــــــال الثانى

"عن عبد الله بن مسعود أن سبيعة بنت الحارث وضعتحملها بعد وفاة زوجها بخمس عشرة ليلة، فدخل عليها أبو السنابل، فقال: كأنك تحدّثين نفسك بالباءة؟ ما لك ذلك حتى ينقضي أبعد الأجلين، فانطلقت إلى رسول الله صلى الله عليه وسلم فأخبرته بما قال أبو السنابل، فقال رسول الله - صلى الله عليه وسلم "كذب أبو السنابل، إذا أتاك أحد ترضينه، فأتيني به، أو قال: فأنبئيني " فأخبرها أن عدتها قد انقضت. [سلسلة الأحاديث الصحيحة وشيء من فقهها وفوائدها (7/ 810) قال الالبانى وأخرجه أحمد أيضاً، وإسناده صحيح، قال الهيثمي (5/3) :"ورجاله رجال الصحيح "]

"عَنْ ابْنِ شِهَابٍ قال حَدَّثَنِي عُبَيْدُ اللَّهِ بْنُ عَبْدِ اللَّهِ بْنِ عُتْبَةَ بْنِ مَسْعُودٍ أَنَّ أَبَاهُ كَتَبَ إِلَى عُمَرَ بْنِ عَبْدِ اللَّهِ بْنِ الْأَرْقَمِ الزُّهْرِيِّ يَأْمُرُهُ أَنْ يَدْخُلَ عَلَى سُبَيْعَةَ بِنْتِ الْحَارِثِ الْأَسْلَمِيَّةِ فَيَسْأَلَهَا عَنْ حَدِيثِهَا وَعَمَّا قَالَ لَهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ حِينَ اسْتَفْتَتْهُ فَكَتَبَ عُمَرُ بْنُ عَبْدِ اللَّهِ إِلَى عَبْدِ اللَّهِ بْنِ عُتْبَةَ يُخْبِرُهُ أَنَّ سُبَيْعَةَ أَخْبَرَتْهُ أَنَّهَا كَانَتْ تَحْتَ سَعْدِ بْنِ خَوْلَةَ وَهُوَ فِي بَنِي عَامِرِ بْنِ لُؤَيٍّ وَكَانَ مِمَّنْ شَهِدَ بَدْرًا فَتُوُفِّيَ عَنْهَا فِي حَجَّةِ

recovered from childbirth, she adorned herself for suitors. Abu al-Sanabil ibn Bakak, a man of Banu Abd al-Dar, entered upon her and said: "Why do I see you adorned? Perhaps you hope to marry? By Allah, you shall not marry until four months and ten days have passed." Subaya said: "When he said that, I gathered my clothes about me in the evening and went to the Messenger of Allah ﷺ to ask him. He ruled that I had become free to marry when I delivered my child, and instructed me to marry if I wished."' Ibn Shihab said: 'I see no harm in her marrying after delivery, even while she is still bleeding, provided her husband does not approach her until she becomes pure.' [Muslim, Book of Divorce, chapter: The waiting period of a widow and others ends with delivery.]

الْوَدَاعِ وَهِيَ حَامِلٌ فَلَمْ تَنْشَبْ أَنْ وَضَعَتْ حَمْلَهَا بَعْدَ وَفَاتِهِ فَلَمَّا تَعَلَّتْ مِنْ نِفَاسِهَا تَجَمَّلَتْ لِلْخُطَّابِ فَدَخَلَ عَلَيْهَا أَبُو السَّنَابِلِ بْنُ بَعْكَكٍ رَجُلٌ مِنْ بَنِي عَبْدِ الدَّارِ فَقَالَ لَهَا مَا لِي أَرَاكِ مُتَجَمِّلَةً لَعَلَّكِ تَرْجِينَ النِّكَاحَ إِنَّكِ وَاللَّهِ مَا أَنْتِ بِنَاكِحٍ حَتَّى تَمُرَّ عَلَيْكِ أَرْبَعَةُ أَشْهُرٍ وَعَشْرٌ قَالَتْ سُبَيْعَةُ فَلَمَّا قَالَ لِي ذَلِكَ جَمَعْتُ عَلَيَّ ثِيَابِي حِينَ أَمْسَيْتُ فَأَتَيْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَسَأَلْتُهُ عَنْ ذَلِكَ فَأَفْتَانِي بِأَنِّي قَدْ حَلَلْتُ حِينَ وَضَعْتُ حَمْلِي وَأَمَرَنِي بِالتَّزَوُّجِ إِنْ بَدَا لِي قَالَ ابْنُ شِهَابٍ فَلَا أَرَى بَأْسًا أَنْ تَتَزَوَّجَ حِينَ وَضَعَتْ وَإِنْ كَانَتْ فِي دَمِهَا غَيْرَ أَنْ لَا يَقْرَبُهَا زَوْجُهَا حَتَّى تَطْهُرَ" [مسلم:كِتَاب الطَّلَاقِ، بَاب انْقِضَاءِ عِدَّةِ الْمُتَوَفَّى عَنْهَا زَوْجُهَا وَغَيْرِهَا بِوَضْعِ الْحَمْلِ]

The Third Example

'The male thief and the female thief: cut their hands'; 'There is no cutting except for a quarter-dinar or more.'

Allah, mighty and majestic is He, commanded cutting the hand of the male and female thief generally, saying: 'The male thief and the female thief: cut their hands as recompense for what they have earned, a deterrent from Allah. Allah is Mighty and Wise' [Al-Maidah 5:38].[28]

He ﷺ said: 'There is no cutting except for a quarter-dinar or more.' [Muslim, Book of Prescribed Punishments, chapter: The punishment for theft.] The thief of less than a quarter-dinar must therefore be excepted from cutting. The thief of anything beyond that remains subject to the obligation of cutting.

المثـــــــــال الثالث

(وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا، لا قَطْعَ إِلاَّ فِي رُبُعِ دِينارٍ فَصَاعِداً)

أمر الله عز وجل بقطع يد السارق والسارقة جملة قال الله عز وجل: { وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جَزَاءً بِمَا كَسَبَا نَكَالًا مِنَ اللَّهِ وَاللَّهُ عَزِيزٌ حَكِيمٌ} [المائدة: 38]

وقال عليه السلام : «لا قَطْعَ إِلاَّ فِي رُبُعِ دِينارٍ فَصَاعِداً»[مسلم: كتاب الحدود، باب حد السرقة] فوجب استثناء سارق أقل من ربع دينار من القطع، وبقي سارق ما عدا ذلك على وجوب القطع عليه.

المثـــــــــال الرابع

(النهى عن نكاح المشركات، إباحة زواج الكتابيات)

The Fourth Example

The Prohibition of Marrying Polytheist Women, and Per-

[28] **Qur'an references (L650):** Qur'an 5:38 (Al-Ma'idah).

mission to Marry Women of the People of the Book

He, exalted is He, says: 'Do not marry polytheist women until they believe' [Al-Baqarah 2:221].[29]

He, exalted is He, says: 'Today good things have been made lawful to you. The food of those given the Book is lawful to you, and your food lawful to them; and chaste believing women and chaste women among those given the Book before you' [Al-Maidah 5:5].[30]

Allah, glorified and exalted is He, permitted marrying chaste women of the People of the Book. They were thereby excepted from polytheist women generally, while all other polytheist women remained forbidden.

The Fifth Example

(1) He ﷺ said: '…Your blood, property and honour are sacred to you…' [Al-Bukhari, Book of Hajj, chapter: The sermon during the days of Mina.]

(2) Allah, glorified and exalted is He, commanded through His Prophet ﷺ the execution of whoever apostatises after Islam, commits adultery after having attained married status, or kills a person. Ibn Umar reported that Uthman said: 'I heard the Messenger of Allah ﷺ say: "A Muslim's blood is not lawful except in one of three cases: a man who commits adultery after having attained married status, for whom there is stoning; one who kills intentionally, for whom there is retaliation; or one who apostatises after Islam, for whom there is execution."' [Sunan al-Nasai, Book of the Inviolability of Blood, section: The ruling concerning the apostate; Sahih wa-Daif Sunan al-Nasai, al-Albani's assessment: authentic.]

He ﷺ commanded taking specified property in zakat, maintenance and expiations. These and the other matters mentioned in authentic hadiths

[29] **Qur'an references (L654):** Qur'an 2:221 (Al-Baqarah).
[30] **Qur'an references (L655):** Qur'an 5:5 (Al-Ma'idah).

قال تعالى:{وَلاَ تَنْكِحُواْ الْمُشْرِكَاتِ حَتَّى يُؤْمِنَّ} [البقرة:221]

وقال تعالى:{الْيَوْمَ أُحِلَّ لَكُمُ الطَّيِّبَاتُ وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حِلٌّ لَكُمْ وَطَعَامُكُمْ حِلٌّ لَهُمْ وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ} [المائدة: 5]

فأباح الله سبحانه وتعالى المحصنات من نساء أهل الكتاب بالزواج فكن بذلك مستثنيات من جملة المشركات، وبقي سائر المشركات على التحريم.

المثـــــــــال الخامس

(1) قال عليه السلام:«..... دِماؤُكُمْ وَأَمْوَالُكُمْ وَأَعْرَاضُكُمْ عَلَيْكُمْ حَرَامٌ.....» [البخارى: كتاب الحج؛ باب الخطبة أيام منى]

(2) وأمر الله سبحانه وتعالى على لسان نبيه صلى الله عليه و سلم بقتل من ارتد بعد إسلامه، أو زنى بعد إحصانه، أو قتل نفساً "عَنْ ابْنِ عُمَرَ أَنَّ عُثْمَانَ قَالَ سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ إِلَّا بِإِحْدَى ثَلَاثٍ رَجُلٌ زَنَى بَعْدَ إِحْصَانِهِ فَعَلَيْهِ الرَّجْمُ أَوْ قَتَلَ عَمْدًا فَعَلَيْهِ الْقَوَدُ أَوْ ارْتَدَّ بَعْدَ إِسْلَامِهِ فَعَلَيْهِ الْقَتْلُ" [سنن النسائي: كِتَاب تَحْرِيمِ الدَّمِ ، الْحُكْمُ فِي الْمُرْتَدِّ] [صحيح وضعيف سنن النسائي: تحقيق الألباني : صحيح]

وأمر عليه السلام بأخذ أموال معينة في الزكاة والنفقات والكفارات، فكان هذا وغيره مما هو مذكور فى الأحاديث الصحيحة مستثنى من جملة تحريم الدماء والأموال والأعراض، وبقي سائرها على التحريم.

are excepted from the general inviolability of blood, property and honour. Everything else remains inviolable.

The Sixth Example

(1) The Messenger of Allah ﷺ said: 'If you tell your companion on Friday, "Be silent," while the imam is delivering the sermon, you have engaged in idle speech.' [Al-Bukhari, Book of Friday Prayer, chapter: Remaining silent on Friday while the imam delivers the sermon; whoever tells his companion 'Be silent' has engaged in idle speech. Salman reported from the Prophet ﷺ: 'He remains silent when the imam speaks.']

(2) He, exalted is He, says: 'When you are greeted with a greeting, greet with better than it or return it. Allah takes account of everything' [An-Nisa 4:86].[31]

The accustomed, original position during the sermon was that speaking was permissible, just as it had been permissible during prayer. The prohibition of speaking during the sermon then came as an addition to the original, accustomed position and our practice before the prohibition. Speaking during the sermon became forbidden. The command to return and spread greetings then came. Returning and spreading greetings is more particular than the prohibition of speaking. The texts stand in a general–particular relation, and the more particular must be excepted from the more general. We therefore refrain from speaking except to return a greeting.

Returning greetings during prayer, however, has a specific text: we do not return greetings in prayer. Abd Allah said: 'We used to exchange greetings during prayer and request what we needed. I came to the Messenger of Allah ﷺ while he was praying and greeted him, but he did not return my greeting. All manner of earlier and new anxieties overtook me. When the Messenger of Allah ﷺ finished praying, he said: "Allah introduces into His command whatever He wills. Allah, majestic and mighty is He, has now introduced the command that you should not speak during prayer." He then returned my

[31] **Qur'an references (L663):** Qur'an 4:86 (An-Nisa).

المثـــــــــال السادس

(1) قال رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "إِذَا قُلْتَ لِصَاحِبِكَ يَوْمَ الْجُمُعَةِ أَنْصِتْ وَالْإِمَامُ يَخْطُبُ فَقَدْ لَغَوْتَ" [البخاري: كِتَاب الْجُمُعَةِ، بَاب الْإِنْصَاتِ يَوْمَ الْجُمُعَةِ وَالْإِمَامُ يَخْطُبُ وَإِذَا قَالَ لِصَاحِبِهِ أَنْصِتْ فَقَدْ لَغَا وَقَالَ سَلْمَانُ عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُنْصِتُ إِذَا تَكَلَّمَ الْإِمَامُ]

(2) قال تعالى: {وَإِذَا حُيِّيتُم بِتَحِيَّةٍ فَحَيُّواْ بِأَحْسَنَ مِنْهَآ أَوْ رُدُّوهَآ إِنَّ اللَّهَ كَانَ عَلَى كُلِّ شَيْءٍ حَسِيباً} [النساء:86]

المعهود والأصل فى الخطبة إباحة الكلام، كما كان الكلام مباحاً فى الصلاة؛ ثم جاء النهي عن الكلام في الخطبة، فكان هذا النهي زيادة على معهود الأصل، وما كنا عليه قبل النهى، فحرم علينا الكلام في الخطبة. ثم جاء الأمر بِرَدِّ السلام وإفشائه، فكان ردُّ السلام وإفشاؤه أخصَّ من النهي عن الكلام، فبين النصين عموم وخصوص، فوجب استثناء الأخص من الأعم، فننتهى عن الكلام إلا رد السلام.

وأما رد السلام فى الصلاة ففيه نصٌّ؛ فلا نرد السلام فى الصلاة. " عَنْ عَبْدِ اللَّهِ قَالَ كُنَّا نُسَلِّمُ فِي الصَّلَاةِ وَنَأْمُرُ بِحَاجَتِنَا فَقَدِمْتُ عَلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهُوَ يُصَلِّي فَسَلَّمْتُ عَلَيْهِ فَلَمْ يَرُدَّ عَلَيَّ السَّلَامَ فَأَخَذَنِي مَا قَدُمَ وَمَا حَدُثَ فَلَمَّا قَضَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الصَّلَاةَ قَالَ إِنَّ اللَّهَ يُحْدِثُ مِنْ أَمْرِهِ مَا يَشَاءُ وَإِنَّ اللَّهَ جَلَّ وَعَزَّ قَدْ أَحْدَثَ مِنْ أَمْرِهِ أَنْ لَا تَكَلَّمُوا فِي الصَّلَاةِ فَرَدَّ عَلَيَّ السَّلَامَ" [سنن أبي

greeting.' [Sunan Abi Dawud, Book of Prayer, chapter: Returning greetings during prayer; Sahih wa-Daif Sunan Abi Dawud, 2:424, al-Albani's assessment: sound and authentic.] This resembles the cases of Abu Said and Ubayy ibn Kab.

The Seventh Example

Whoever Sleeps through a Prayer Performs It When He Remembers

The Prohibition of Prayer after the Afternoon and Dawn Prayers

(1) Anas ibn Malik reported that the Messenger of Allah ﷺ said: 'If one of you sleeps through a prayer or neglects it, let him perform it when he remembers, for Allah says: "Establish the prayer for My remembrance."' [Muslim, Book of Mosques, chapter: Making up a missed prayer.][32]

(2) Abu Hurayra reported that the Messenger of Allah ﷺ forbade prayer after the afternoon prayer until sunset, and after the dawn prayer until sunrise. [Muslim, Book of Travellers' Prayer, chapter: Times during which prayer is forbidden.]

That is, after performing the dawn prayer, by al-Bukhari's hadith: '…There is no prayer after two prayers: after the afternoon prayer until sunset, and after the dawn prayer until sunrise…' [Al-Bukhari, Book of Hajj, chapter: Women's hajj.]

—There is a general prohibition, for all Muslims at all times, against performing any prayer after performing the afternoon and dawn prayers.

—There is a particular command for whoever slept through a prayer or

[32] **Qur'an references (L669):** Qur'an 20:14 (Taha).

داود: كِتَاب الصَّلَاةِ، بَاب رَدِّ السَّلَامِ فِي الصَّلَاةِ][صحيح وضعيف سنن أبي داود (2/ 424): تحقيق الألباني : حسن صحيح] فأشبهت هذه القضية قضية أبى سعيد وأبى بن كعب.

المثـــــــــال السابع

من رَقَدَ عَنْ الصَّلَاةِ يُصَلِّهَا إِذَا ذَكَرَهَا

النَهَى عَنْ الصَّلَاةِ بَعْدَ الْعَصْرِ و بَعْدَ الصُّبْحِ

(1) عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ "إِذَا رَقَدَ أَحَدُكُمْ عَنْ الصَّلَاةِ أَوْ غَفَلَ عَنْهَا فَلْيُصَلِّهَا إِذَا ذَكَرَهَا فَإِنَّ اللَّهَ يَقُولُ {وَأَقِمِ الصَّلَاةَ لِذِكْرِي} " [مسلم: كتاب المساجد، باب قضاء الصلاة الفائتة]

(2) عَنْ أَبِي هُرَيْرَةَ "أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ الصَّلَاةِ بَعْدَ الْعَصْرِ حَتَّى تَغْرُبَ الشَّمْسُ وَعَنْ الصَّلَاةِ بَعْدَ الصُّبْحِ حَتَّى تَطْلُعَ الشَّمْسُ" [مسلم كتاب صلاة المسافرين باب الاوقات المنهى عن الصلاة فيها]

أَيْ بَعْدَ صَلَاة الصُّبْح لحديث البخارى" ..... وَلَا صَلَاةَ بَعْدَ صَلَاتَيْنِ بَعْدَ الْعَصْرِ حَتَّى تَغْرُبَ الشَّمْسُ وَبَعْدَ الصُّبْحِ حَتَّى تَطْلُعَ الشَّمْسُ...."[البخاري: كِتَاب الْحَجِّ، بَاب حَجِّ النِّسَاءِ]

ـ هناك نهى عام لجميع المسلمين فى جميع الأزمنة أن لا يصلون أى صلاة بعد أداء صلاة العصر والصبح.

ـ وهناك أمرٌ خاص لمن نام عن صلاة أو نسيها أن يُصَلِّيَهَا إِذَا ذَكَرَهَا فى أى وقت فأشبهت أيضا قضية أبى سعيد.

forgot it to perform it when he remembers, at any time. This too resembles Abu Said's case.

—We therefore except the particular command from the general prohibition.

—Furthermore, the appointed time has shifted for him. This is legislation additional to the original, accustomed position in which we stood.

The Eighth Example

(1) Ibn Abbas said: 'People used to depart in every direction. The Messenger of Allah ﷺ said: "Let none of you depart until his last observance has been at the House."' [Muslim, Book of Hajj, chapter: The obligation of the farewell circumambulation and its waiver for a menstruating woman.]

(2) Ibn Abbas, may Allah be pleased with them both, said: 'A menstruating woman was permitted to depart once she had performed the principal circumambulation.' [Al-Bukhari, Book of Hajj, chapter: If a woman menstruates after performing the principal circumambulation.]

—The first hadith forbids all pilgrims to leave Mecca until they perform the farewell circumambulation. The second permits a menstruating woman to depart after the principal circumambulation without performing the farewell circumambulation.

—We therefore except the second hadith from the first. No one departs until he circumambulates the House, except a menstruating woman, who leaves without the farewell circumambulation. This is why Muslim entitled the chapter in his Sahih: 'The obligation of the farewell circumambulation and its waiver for a menstruating woman.'

Appendix 10

Examples of two texts which conflict completely, where the earlier and later can be distinguished. We follow the last text: this is abrogation.

ـ فنستثنى الأمر الخاص من النهى العام.

ـ وأيضاً فقد انتقل الوقت بالنسبة إليه؛ فهى شريعة زائدة عن معهود الأصل الذى كنا عليه.

المثـــــــــال الثامن

(1) عَنْ ابْنِ عَبَّاسٍ قَالَ: "كَانَ النَّاسُ يَنْصَرِفُونَ فِي كُلِّ وَجْهٍ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا يَنْفِرَنَّ أَحَدٌ حَتَّى يَكُونَ آخِرُ عَهْدِهِ بِالْبَيْتِ" [مسلم كتاب: الحج؛ بَاب وُجُوبِ طَوَافِ الْوَدَاعِ وَسُقُوطِهِ عَنْ الْحَائِضِ]

(2) عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ:" رُخِّصَ لِلْحَائِضِ أَنْ تَنْفِرَ إِذَا أَفَاضَتْ" [البخارى: كتاب الحج؛ بَاب إِذَا حَاضَتْ الْمَرْأَةُ بَعْدَ مَا أَفَاضَتْ]

ـ فالحديث الأول ينهى جميع الحجاج أن لا ينصرفوا من مكة حتى يطوفوا طواف الوداع؛ والحديث الثانى يبيح للحائض أن تنصرف بعد الإفاضة ولا تطوف طواف الوداع.

ـ فنستثنى الحديث الثانى من الحديث الأول؛ فلا ينفر أحد حتى يطوف بالبيت، إلا الحائض فتنصرف بدون طواف الوداع. ولهذا عنون مسلم فى صحيحه الباب بقوله [بَاب وُجُوبِ طَوَافِ الْوَدَاعِ وَسُقُوطِهِ عَنْ الْحَائِضِ]

(ملحق 10)

أمثلة لنصين بينهما تعارض تام وقد أمكن التمييز بين السابق والتالى منهما فنأخذ بالنص الأخير؛ وهذا نسخ.

The First Example

Two sayings conflict, and we are certain which is later. This is abrogation: 'When you see a funeral, stand'; then he later sat and ordered sitting.

(1) Abu Said al-Khudri reported that the Messenger of Allah ﷺ said: 'When you see a funeral, stand. Whoever follows it must not sit until it is set down.' [Muslim, Book of Funerals, chapter: Standing for a funeral.]

(2) Muhammed ibn Amr reported: 'Waqid ibn Amr ibn Sad ibn Muadh related to us: I attended a funeral among Banu Salima and stood. Nafi ibn Jubayr told me: "Sit down. I shall give you reliable evidence concerning this. Masud ibn al-Hakam related to me that he heard Ali, in the open square of Kufa, telling the people: 'The Messenger of Allah ﷺ used to order us to stand for a funeral, then later sat and ordered sitting.'"" [Sahih Ibn Hibban, Book of Funerals and related preceding or following matters, section: Standing for a funeral; al-Taliqat al-Hisan ala Sahih Ibn Hibban, al-Albani's annotation: authentic; Ahkam al-Janaiz, pp. 100–101.]

The Second Example

'I forbade you the meat of sacrificial animals beyond three days. Now eat, give in charity and store it.'

Abu Said al-Khudri returned from a journey and his family served him meat. He said: 'Check whether this is sacrificial meat.' They said: 'It is.' Abu Said said: 'Did the Messenger of Allah ﷺ not forbid it?' They said: 'After you left, a new instruction came from the Messenger of Allah ﷺ.' Abu Said went out to ask about it. He was told that the Messenger of Allah ﷺ said: 'I forbade you the meat of sacrificial animals beyond three days. Now eat, give in charity and store it. I forbade you to prepare steeped drinks: now prepare them, but every intoxicant is forbidden. I forbade you to visit graves: now

المثال الأول

(تعارض قول وقول وقد تيقنا بالآخر منهما، وهذا نسخ إِذَا رَأَيْتُمْ الْجَنَازَةَ فَقُومُوا، ثُمَّ جَلَسَ بَعْدَ ذَلِكَ وأمر بالجلوس)

(1) " عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ إِذَا رَأَيْتُمْ الْجَنَازَةَ فَقُومُوا فَمَنْ تَبِعَهَا فَلَا يَجْلِسْ حَتَّى تُوضَعَ" [مسلم: كِتَاب الْجَنَائِزِ، بَاب الْقِيَامِ لِلْجَنَازَةِ]

(2) " عَنْ مُحَمَّدِ بْنِ عَمْرٍو قَالَ: حَدَّثَنَا وَاقِدُ بْنُ عَمْرِو بْنِ سَعْدِ بْنِ مُعَاذٍ قَالَ: شَهِدْتُ جَنَازَةً فِي بَنِي سَلِمَةَ فَقُمْتُ فَقَالَ لِي نَافِعُ بْنُ جُبَيْرٍ: اجْلِسْ فَإِنِّي سَأُخْبِرُكَ فِي هَذَا بِثَبَتٍ: حَدَّثَنِي مَسْعُودُ بْنُ الْحَكَمِ أَنَّهُ سَمِعَ عَلِيًّا بِرَحْبَةِ الْكُوفَةِ يَقُولُ لِلنَّاسِ: كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَأْمُرُنَا بِالْقِيَامِ فِي الْجَنَازَةِ ثُمَّ جَلَسَ بَعْدَ ذَلِكَ وأمر بالجلوس"[صحيح ابن حبان:كتاب الجنائز وما يتعلق بها مقدما أو مؤخرا،فصل في القيام للجنازة] [التعليقات الحسان على صحيح ابن حبان:تعليق الشيخ الألباني: صحيح - ((أحكام الجنائز)) (100 - 101)].

المثـــــــال الثانى

(نَهَيْتُكُمْ عَنْ لُحُومِ الْأَضْحَى بَعْدَ ثَلَاثٍ فَكُلُوا وَتَصَدَّقُوا وَادَّخِرُوا)

" عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ أَنَّهُ قَدِمَ مِنْ سَفَرٍ فَقُدِّمَ إِلَيْهِ أَهْلُهُ لَحْمًا فَقَالَ انْظُرُوا أَنْ يَكُونَ هَذَا مِنْ لُحُومِ الْأَضْحَى فَقَالُوا هُوَ مِنْهَا فَقَالَ أَبُو سَعِيدٍ أَلَمْ يَكُنْ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْهَا فَقَالُوا إِنَّهُ قَدْ كَانَ مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بَعْدَكَ أَمْرٌ فَخَرَجَ أَبُو سَعِيدٍ فَسَأَلَ عَنْ ذَلِكَ فَأُخْبِرَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ نَهَيْتُكُمْ

visit them, but do not speak offensively'—meaning: do not say anything evil. [Malik's Muwatta, Book of Sacrificial Animals, chapter: Storing sacrificial meat.]

The Third Example

'He used to do so without bathing before the Conquest of Mecca; afterwards he bathed and ordered the people to bathe.'

(1) Al-Zuhri said: 'I asked Urwa about someone who has intercourse without ejaculating. He said: "People must follow the latest practice of the Messenger of Allah ﷺ. Aisha related to me that the Messenger of Allah ﷺ used to do so without bathing before the Conquest of Mecca. Afterwards he bathed and ordered the people to bathe."' [Sahih Ibn Hibban, Book of Purification, chapter: The full ritual bath; al-Taliqat al-Hisan ala Sahih Ibn Hibban, al-Albani's annotation: authentic through supporting evidence.]

(2) Sahl ibn Sad reported: 'Ubayy ibn Kab related to me that the ruling they used to give, "Water is required because of water," was a dispensation which the Messenger of Allah granted at the beginning of Islam. Later he ordered bathing.' [Sunan Abi Dawud, Book of Purification, chapter: Intercourse without ejaculation; al-Albani's annotation: authentic; Sahih Abi Dawud, no. 209.]

(3) Abu Musa said: 'A group of Emigrants and Helpers disagreed about this. The Helpers said: "A full ritual bath is required only after ejaculation, or emission of fluid." The Emigrants said: "Rather, when intercourse occurs, the bath becomes obligatory." Abu Musa said: "I shall settle this for you." I got up and asked permission to enter upon Aisha, and was admitted. I said: "Mother—or Mother of the Believers—I wish to ask you about something, but I am embarrassed before you." She said: "Do not be embarrassed to ask me

عَنْ لُحُومِ الْأَضْحَى بَعْدَ ثَلَاثٍ فَكُلُوا وَتَصَدَّقُوا وَادَّخِرُوا وَنَهَيْتُكُمْ عَنْ الِانْتِبَاذِ فَانْتَبِذُوا وَكُلُّ مُسْكِرٍ حَرَامٌ وَنَهَيْتُكُمْ عَنْ زِيَارَةِ الْقُبُورِ فَزُورُوهَا وَلَا تَقُولُوا هُجْرًا يَعْنِي لَا تَقُولُوا سُوءًا" [موطأ مالك: كِتَاب الضَّحَايَا،بَاب ادِّخَارِ لُحُومِ الْأَضَاحِيِّ]

المثـــــــال الثالث

(كَانَ يَفْعَلُ ذَلِكَ وَلَا يَغْتَسِلُ وَذَلِكَ قَبْلَ فَتْحِ مَكَّةَ ثُمَّ اغْتَسَلَ بعد ذلك وأمر الناس بالغسل)

(1) "عَنِ الزُّهْرِيِّ قَالَ: سَأَلْتُ عُرْوَةَ عَنِ الَّذِي يُجَامِعُ وَلَا يُنزل؟ قَالَ: عَلَى النَّاسِ أَنْ يأخذوا بالآخِرِ فالآخر مِنْ أَمْرِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ حَدَّثَتْنِي عَائِشَةُ: أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يَفْعَلُ ذَلِكَ وَلَا يَغْتَسِلُ وَذَلِكَ قَبْلَ فَتْحِ مَكَّةَ ثُمَّ اغْتَسَلَ بعد ذلك وأمر الناس بالغسل"[صحيح ابن حبان: كتاب الطهارة، باب الغسل] [التعليقات الحسان على صحيح ابن حبان: تعليق الشيخ الألباني، صحيح لغيره]

(2) "عَنْ سَهْلِ بْنِ سَعْدٍ حَدَّثَنِي أُبَيُّ بْنُ كَعْبٍ أَنَّ الْفُتْيَا الَّتِي كَانُوا يَفْتُونَ أَنَّ الْمَاءَ مِنْ الْمَاءِ كَانَتْ رُخْصَةً رَخَّصَهَا رَسُولُ اللَّهِ فِي بَدْءِ الْإِسْلَامِ ثُمَّ أَمَرَ بِالِاغْتِسَالِ بَعْدُ [سنن أبي داود: كِتَاب الطَّهَارَةِ،بَاب فِي الْإِكْسَالِ][تعليق الشيخ الألباني: صحيح - ((صحيح أبي داود)) (209)].

(3) " عَنْ أَبِي مُوسَى قَالَ اخْتَلَفَ فِي ذَلِكَ رَهْطٌ مِنْ الْمُهَاجِرِينَ وَالْأَنْصَارِ فَقَالَ الْأَنْصَارِيُّونَ لَا يَجِبُ الْغُسْلُ إِلَّا مِنْ الدَّفْقِ أَوْ مِنْ الْمَاءِ وَقَالَ الْمُهَاجِرُونَ بَلْ إِذَا خَالَطَ فَقَدْ وَجَبَ الْغُسْلُ قَالَ قَالَ أَبُو مُوسَى فَأَنَا أَشْفِيكُمْ مِنْ ذَلِكَ فَقُمْتُ فَاسْتَأْذَنْتُ عَلَى عَائِشَةَ فَأُذِنَ لِي فَقُلْتُ لَهَا يَا أُمَّاهْ أَوْ يَا أُمَّ الْمُؤْمِنِينَ إِنِّي أُرِيدُ أَنْ أَسْأَلَكِ عَنْ شَيْءٍ

what you would ask the mother who bore you, for I am your mother." I said: "What makes the full ritual bath obligatory?" She said: "You have come to one who knows. The Messenger of Allah ﷺ said: 'When he sits between her four limbs and circumcision meets circumcision, the full ritual bath becomes obligatory.'" [Muslim, Book of Menstruation, chapter: Abrogation of 'Water is required only because of water,' and the obligation of the full ritual bath when the two circumcised parts meet.]

(4) In Abu Hurayra's hadith, Allah's Prophet ﷺ said: 'When he sits between her four limbs and exerts himself with her, the full ritual bath becomes obligatory upon him.' Matar's report adds: 'Even if he does not ejaculate.' [Muslim, Book of Menstruation, chapter: Abrogation of 'Water is required only because of water,' and the obligation of the full ritual bath when the two circumcised parts meet.]

Appendix 11

Examples of two texts which conflict completely, where the earlier and later cannot be distinguished. We follow the text which moves us from our previous condition. Every legislation, whether prohibition or command, undoubtedly moves us from our previous condition. If one text moves us from that condition while another agrees with it, we follow the one which moves us: we are certain of the new legislation and uncertain whether it was abrogated and we returned to the first condition.

Furthermore, once we are certain that new legislation has come, moving us from original permissibility or from the rulings and customs prevailing before Islam, we may not return to original permissibility or our first condition except through a clear explanation.

Accordingly, all texts agreeing with our condition before the new legislation are certainly superseded, unless we are certain that the text agreeing with our former condition came after the text which moved us from it. This requires an explicit, undoubted explanation, such as his words ﷺ: '…I forbade you the meat of sacrificial animals beyond three days. Now eat, give in charity and

وَإِنِّي أَسْتَحْيِيكِ فَقَالَتْ لَا تَسْتَحْيِي أَنْ تَسْأَلَنِي عَمَّا كُنْتَ سَائِلًا عَنْهُ أُمَّكَ الَّتِي وَلَدَتْكَ فَإِنَّمَا أَنَا أُمُّكَ قُلْتُ فَمَا يُوجِبُ الْغُسْلَ قَالَتْ عَلَى الْخَبِيرِ سَقَطْتَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِذَا جَلَسَ بَيْنَ شُعَبِهَا الْأَرْبَعِ وَمَسَّ الْخِتَانُ الْخِتَانَ فَقَدْ وَجَبَ الْغُسْلُ" [مسلم: كِتَاب الْحَيْضِ، بَاب نَسْخ الْمَاءُ مِنْ الْمَاءِ وَوُجُوبِ الْغُسْلِ بِالْتِقَاءِ الْخِتَانَيْنِ]

(4) وفى حديث أبى هريرة أَنَّ نَبِيَّ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: "إِذَا جَلَسَ بَيْنَ شُعَبِهَا الْأَرْبَعِ ثُمَّ جَهَدَهَا فَقَدْ وَجَبَ عَلَيْهِ الْغُسْلُ وَفِي حَدِيثِ مَطَرٍ وَإِنْ لَمْ يُنْزِلْ" [مسلم: كِتَاب الْحَيْضِ، بَاب نَسْخ الْمَاءُ مِنْ الْمَاءِ وَوُجُوبِ الْغُسْلِ بِالْتِقَاءِ الْخِتَانَيْنِ]

(ملحق 11)

أمثلة لِنصَّيْنِ بينهما تعارض تام، ولا يمكن التمييز بين السابق والتالى منهما، فنأخذ بالنص الذى ينقلنا عمَّا كنا عليه، فلا شك أن أى تشريع سواء كان نهياً أو أمراً فهو ناقلٌ لنا عمَّا كنا عليه، فإذا جاء نصٌ ينقلنا عن الحالة التى كنا عليها، و جاء نصٌّ آخر موافق لما كنا عليه، أخذنا بالناقل لنا فنحن على يقين بالتشريع الجديد وعلى شكٍ هل نسخ وعدنا للحالة الأولى أم لا.

وأيضاً إذا تيقنا بنزول تشريع جديد قد نقلنا عما كنا عليه من الإباحة الأصلية أو الأحكام والأعراف التى كانت سائدة قبل الإسلام ؛ فلا يجوز لنا العودة إلى الإباحة الأصلية أو إلى الحالة الأولى التى كنا عليها إلا ببيان واضح.

وعلى هذا فكل النصوص الموافقة لما كنا عليه قبل التشريع الجديد مرفوعة بيقين ؛ إلا إذا تيقنا بأن النص الموافق لما كنا عليه جاء بعد النص الناقل لنا عمَّا كنا عليه، ولن يكون هذا إلا ببيان واضح لا شك فيه كقوله عليه السلام: "....نَهَيْتُكُمْ عَنْ لُحُومِ الْأَضْحَى

store it…' [Malik's Muwatta, Book of Sacrificial Animals, chapter: Storing sacrificial meat.]

The First Example

(1) '…Urwa ibn al-Zubayr said: I entered upon Marwan ibn al-Hakam and we discussed what requires ablution. Marwan said: "Touching the penis requires ablution." Urwa said: "I did not know this." Marwan ibn al-Hakam said: "Busra bint Safwan told me that she heard the Messenger of Allah ﷺ say: 'If one of you touches his penis, let him perform ablution.'" [Malik's Muwatta, Book of Purification, chapter: Ablution after touching the private parts.]

(2) '…Talq ibn Ali said: The Messenger of Allah ﷺ was asked about a man touching his penis after performing ablution. He said: "Is it not merely a part of him?"' Al-Albani's assessment: authentic. [Mishkat al-Masabih, Book of Purification, chapter: What requires ablution, second section.]

(3) Qays ibn Talq reported from his father: 'We came to Allah's Prophet ﷺ. A man, seemingly a Bedouin, came and said: "Prophet of Allah, what do you say about a man touching his penis after performing ablution?" He said: "Is it not merely a morsel of him?"—or he said: "A part of him?"' [Sunan Abi Dawud, Book of Purification, chapter: Permission concerning this; Sahih wa-Daif Sunan Abi Dawud, al-Albani's assessment: authentic.]

—Talq's hadith agrees with people's condition before the command to perform ablution after touching the private parts. There is no doubt about this. We therefore follow the ruling which moves us from our previous condition: the Messenger of Allah's command ﷺ to perform ablution after touching the private parts.

—Furthermore, his words ﷺ, 'Is it not merely a part of you?' clearly show

بَعْدَ ثَلَاثٍ فَكُلُوا وَتَصَدَّقُوا وَادَّخِرُوا ....." [موطأ مالك: كِتَاب الضَّحَايَا،بَاب ادِّخَارِ لُحُومِ الْأَضَاحِيِّ]

المثـــــــال الأول

(1) (..... عُرْوَةَ بْنَ الزُّبَيْرِ يَقُولُ دَخَلْتُ عَلَى مَرْوَانَ بْنِ الْحَكَمِ فَتَذَاكَرْنَا مَا يَكُونُ مِنْهُ الْوُضُوءُ فَقَالَ مَرْوَانُ وَمِنْ مَسِّ الذَّكَرِ الْوُضُوءُ فَقَالَ عُرْوَةُ مَا عَلِمْتُ هَذَا فَقَالَ مَرْوَانُ بْنُ الْحَكَمِ أَخْبَرَتْنِي بُسْرَةُ بِنْتُ صَفْوَانَ أَنَّهَا سَمِعَتْ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: "إِذَا مَسَّ أَحَدُكُمْ ذَكَرَهُ فَلْيَتَوَضَّأْ") [موطأ مالك: كِتَاب الطَّهَارَةِ ،بَاب الْوُضُوءِ مِنْ مَسِّ الْفَرْجِ]

(2) (..... وَعَن طلق بن عَليّ قَالَ: سُئِلَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ مَسِّ الرَّجُلِ ذَكَرَهُ بَعْدَمَا يَتَوَضَّأُ. قَالَ: «وَهَلْ هُوَ إِلَّا بَضْعَةٌ مِنْهُ» تحقيق الالبانى: صحيح [مشكاة المصابيح:كتاب الطَّهَارَة ،بَاب مَا يُوجب الْوضُوء, الْفَصْل الثَّانِي])

(3) " عَنْ قَيْسِ بْنِ طَلْقٍ عَنْ أَبِيهِ قَالَ قَدِمْنَا عَلَى نَبِيِّ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَجَاءَ رَجُلٌ كَأَنَّهُ بَدَوِيٌّ فَقَالَ يَا نَبِيَّ اللَّهِ مَا تَرَى فِي مَسِّ الرَّجُلِ ذَكَرَهُ بَعْدَ مَا يَتَوَضَّأُ فَقَالَ هَلْ هُوَ إِلَّا مُضْغَةٌ مِنْهُ أَوْ قَالَ بَضْعَةٌ مِنْهُ" [سنن أبي داود: كِتَاب الطَّهَارَةِ، بَاب الرُّخْصَةِ فِي ذَلِكَ][صحيح وضعيف سنن أبي داود: تحقيق الألباني:صحيح]

ـــ حديث طلق موافق لما كان الناس عليه قبل ورود الامر بالوضوء من مس الفرج، هذا لا شك فيه، فنأخذ بالحكم الناقل لنا عمّا كنا عليه وهو أمر الرسول الله صلى الله عليه وسلم بالوضوء من مس الفرج.

that they preceded the command to perform ablution after touching it. Had they followed it, he would not have said this, but would have explained that the command was abrogated, as he did concerning sacrificial meat, temporary marriage and omitting ablution after what fire had touched. These words indicate that no prior ruling existed concerning it: it was like the other limbs.

Appendix 12

Examples of two texts which conflict completely, where the earlier and later cannot be distinguished. We follow the text containing an additional ruling.

The First Example

(1) Abu Said al-Khudri reported that the Prophet ﷺ said: 'Water is required only because of water.' [Muslim, Book of Menstruation, chapter: Water is required because of water.]

(2) The Messenger of Allah ﷺ said, in a long hadith related by Muslim from Aisha, may Allah be pleased with her: '…When he sits between her four limbs and circumcision meets circumcision, the full ritual bath becomes obligatory…' [Muslim, Book of Menstruation, chapter: Abrogation of 'Water is required because of water'; Sahih Muslim, 2:257.]

—The first hadith says that bathing is not required after intercourse without ejaculation. The second makes it obligatory. Aisha's hadith, may Allah be pleased with her, contains a ruling additional to Abu Said's hadith: the ruling on someone who has intercourse without ejaculating.

If we apply the general rule of acting upon all the texts, following Lady Aisha's hadith, may Allah be pleased with her, means acting upon both hadiths. Following Abu Said al-Khudri's hadith means abandoning Lady Aisha's hadith.

ـ وأيضاً كلامه عليه السلام (هل هو الا بضعة منك) دليل بين على أنه كان قبل الامر بالوضوء منه، لانه لو كان بعده لم يقل عليه السلام هذا الكلام، بل كان يبين أن الامر بذلك قد نسخ، كما فعل عليه السلام فى لحوم الأضاحى ونكاح المتعة وترك الوضوء مما مست النار فقوله هذا يدل على أنه لم يكن سلف فيه حكم أصلا وأنه كسائر الاعضاء.

(ملحق 12)

أمثلة لِنصَّيْنِ بينهما تعارض تام، ولا يمكن التمييز بين السابق والتالى منهما؛ فنأخذ بالنص الذى به حكم زائد

المثـــــــال الأول

(1) عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ: "إِنَّمَا الْمَاءُ مِنْ الْمَاءِ" [مسلم: كتاب الحيض؛ باب الماء من الماء]

(2) قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فى حديث طويل رواه مسلم عن عائشة رضى الله عنها "....إِذَا جَلَسَ بَيْنَ شُعَبِهَا الْأَرْبَعِ وَمَسَّ الْخِتَانُ الْخِتَانَ فَقَدْ وَجَبَ الْغُسْلُ...." [مسلم كتاب الحيض باب نسخ الماء من الماء]صحيح مسلم (2/ 257)

ـ الحديث الأول يقول لا غسل على من أكسل، والحديث الثانى يوجب الغسل عليه؛ فحديث عائشة رضى الله عنها فيه حكم زائد على حديث أبى سعيد وهو حكم من جامع ولم ينزل.

وإن قلنا بالقاعدة العامة من العمل بجميع النصوص؛ فإن أخذنا بحديث السيدة عائشة رضى الله عنها نكون قد عملنا بالحديثين؛ وإن أخذنا بحديث أَبِي سَعِيدٍ الْخُدْرِيِّ نكون قد تركنا العمل بحديث السيدة عائشة.

Furthermore, Abu Said al-Khudri's hadith states, 'Water is required because of water,' without mentioning the ruling on intercourse without ejaculation. We must seek that in another text. Lady Aisha's hadith, may Allah be pleased with her, makes bathing obligatory after intercourse without ejaculation.

The Second Example

(1) Ibn Umar, may Allah be pleased with them both, reported that the Messenger of Allah ﷺ prescribed the alms at the end of Ramadan: one sa of dates or one sa of barley for every free person or slave, male or female, among the Muslims. [Al-Bukhari, Book of Zakat, chapter: The end-of-Ramadan alms for slaves and other Muslims.]

(2) Irak ibn Malik said: 'I heard Abu Hurayra relate from the Messenger of Allah ﷺ: "No alms are due concerning a slave except the alms at the end of Ramadan."' [Muslim, Book of Zakat, chapter: No zakat is due from a Muslim on his slave or horse.]

—Ibn Umar's hadith makes the end-of-Ramadan alms obligatory for a Muslim slave, without mentioning the ruling on a non-Muslim slave.

—Abu Hurayra's hadith then comes and makes these alms obligatory for a slave without qualification, Muslim or non-Muslim.

—Abu Hurayra's hadith therefore contains a ruling additional to Ibn Umar's hadith, which must be followed.

—Furthermore, if we follow Abu Hurayra's hadith, we follow both hadiths. If we follow Ibn Umar's hadith, we contradict Abu Hurayra's hadith.

(Appendix 13) We are certain that the command to obey the Messenger ﷺ is unrestricted and that he does not speak from desire. We are certain that there is no disagreement or conflict within the texts of the Qur'an and Sunnah, and that an individual's report must be accepted. The additional information

وأيضاً حديث أَبِي سَعِيدٍ الْخُدْرِيِّ ذكر أن الْمَاءُ مِنْ الْمَاءِ" ولم يذكر حكم الإكسال، فيجب أن نطلبه من نص آخر، فكان حديث السيدة عائشة رضى الله عنها يوجب الغسل من الإكسال.

المثـــــــــال الثانى

(1) عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا: "أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَرَضَ زَكَاةَ الْفِطْرِ صَاعًا مِنْ تَمْرٍ أَوْ صَاعًا مِنْ شَعِيرٍ عَلَى كُلِّ حُرٍّ أَوْ عَبْدٍ ذَكَرٍ أَوْ أُنْثَى مِنْ الْمُسْلِمِينَ" [البخاري: كِتَاب الزَّكَاةِ، بَاب صَدَقَةِ الْفِطْرِ عَلَى الْعَبْدِ وَغَيْرِهِ مِنْ الْمُسْلِمِينَ]

(2) عَنْ عِرَاكِ بْنِ مَالِكٍ قَالَ سَمِعْتُ أَبَا هُرَيْرَةَ يُحَدِّثُ عَنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: " لَيْسَ فِي الْعَبْدِ صَدَقَةٌ إِلَّا صَدَقَةُ الْفِطْرِ" [مسلم: كِتَاب الزَّكَاةِ،بَاب لَا زَكَاةَ عَلَى الْمُسْلِمِ فِي عَبْدِهِ وَفَرَسِهِ]

ـ حديث ابن عمر يوجب زكاة الفطر على العبد المسلم ولم يذكر حكم العبد الغير مسلم.

ـ ثم جاء حديث أبى هريرة فيوجب زكاة الفطر على مطلق العبد المسلم وغير المسلم.

ـ فكأن حديث أبى هريرة به حكم زائد على حَدِيثِ ابن عمر فيجب العمل به.

ـ وأيضاً إن أخذنا بحديث أبى هريرة نكون قد أخذنا بالحديثين وإن أخذنا بحَدِيثِ ابن عمر نكون قد خالفنا حديث أبى هريرة.

(ملحق 13) لقد تيقنا أن الأمر بطاعة الرسول عليه السلام مطلقة، وهو عليه السلام لا ينطق عن الهوى، وتيقنا أن لا اختلاف ولا تعارض فى نصوص القرآن والسنة، وأنه يجب قبول خبر الواحد وعليه يجب قبول زيادة الواحد العدل، فكيف نميز بين الحكم الزائد؟ (ينظر ملحق 1)

of a single upright transmitter must therefore be accepted. How, then, do we distinguish an additional ruling? (See Appendix 1.)[33]

[33]**Translator's note (L721):** Appendix 13 consists of this closing paragraph in the recovered witness. It ends with a question and a reference back to Appendix 1. No further discussion is supplied conjecturally.



MODERN ZAHIRI VOICES — TRANSLATION DRAFT

الأحاديث

Hadith Reports

Kāmil Muḥammad Muḥammad ʿĀmir · Arabic–English parallel edition

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L722 ## [Hadith Reports][1]

L723 (1) Abu Hurayra reported that the Prophet ﷺ said: ‘Leave me as I leave you. Those before you perished only through their questioning and their disagreement with their prophets. When I forbid you something, avoid it; and when I command you to do something, do as much of it as you can.’ [Al-Bukhari, Book of Adherence to the Book and Sunnah, chapter: Following the Sunnahs of the Messenger of Allah ﷺ.]

L724 (1) Abu Hurayra would relate that he heard the Messenger of Allah ﷺ say: ‘What I forbid you, avoid; what I command you, do as much of it as you can. Those before you perished only through their many questions and their disagreement with their prophets.’ [Muslim, Book of Virtues, chapter: Honouring him ﷺ and refraining from excessive questions about what is unnecessary, involves no obligation, does not occur, and similar matters.]

L725 (2) Ibn Abbas, may Allah be pleased with them both, said: ‘When “Warn your nearest kinsfolk” was revealed, the Prophet ﷺ climbed al-Safa and called: “Sons of Fihr! Sons of Adi!” addressing the clans of Quraysh until they gathered. Whoever could not come sent a messenger to find out what was happening. Abu Lahab and Quraysh came. He said: “If I told you that cavalry in the valley intended to raid you, would you believe me?” They said: “Yes. We have experienced nothing from you but truth.” He said: “I am a warner to you before a severe punishment.” Abu Lahab said: “May you perish all this day! Is this why you gathered us?” Then it was revealed: “May the hands of Abu Lahab perish, and may he perish! His wealth and what he

[1] **Translator’s note (L722):** Source: Kamil Muhammed Muhammed Amir, Fiqhweb, post-248222. Forum publication: 5 February 2019. Original source and attribution are documented in the editorial preface.

[الأحاديث]

(1)" عَنْ أَبِي هُرَيْرَةَ عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ دَعُونِي مَا تَرَكْتُكُمْ إِنَّمَا هَلَكَ مَنْ كَانَ قَبْلَكُمْ بِسُؤَالِهِمْ وَاخْتِلَافِهِمْ عَلَى أَنْبِيَائِهِمْ فَإِذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَاجْتَنِبُوهُ وَإِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ" [البخاري: كِتَاب الِاعْتِصَامِ بِالْكِتَابِ وَالسُّنَّةِ، بَاب الِاقْتِدَاءِ بِسُنَنِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ]

(1) كَانَ أَبُو هُرَيْرَةَ يُحَدِّثُ أَنَّهُ سَمِعَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ "مَا نَهَيْتُكُمْ عَنْهُ فَاجْتَنِبُوهُ وَمَا أَمَرْتُكُمْ بِهِ فَافْعَلُوا مِنْهُ مَا اسْتَطَعْتُمْ فَإِنَّمَا أَهْلَكَ الَّذِينَ مِنْ قَبْلِكُمْ كَثْرَةُ مَسَائِلِهِمْ وَاخْتِلَافُهُمْ عَلَى أَنْبِيَائِهِمْ" [مسلم: كِتَاب الْفَضَائِلِ، بَاب تَوْقِيرِهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَتَرْكِ إِكْثَارِ سُؤَالِهِ عَمَّا لَا ضَرُورَةَ إِلَيْهِ أَوْ لَا يَتَعَلَّقُ بِهِ تَكْلِيفٌ وَمَا لَا يَقَعُ وَنَحْوِ ذَلِكَ]

(2) وعَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ لَمَّا نَزَلَتْ { وَأَنْذِرْ عَشِيرَتَكَ الْأَقْرَبِينَ } صَعِدَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى الصَّفَا فَجَعَلَ يُنَادِي يَا بَنِي فِهْرٍ يَا بَنِي عَدِيٍّ لِبُطُونِ قُرَيْشٍ حَتَّى اجْتَمَعُوا فَجَعَلَ الرَّجُلُ إِذَا لَمْ يَسْتَطِعْ أَنْ يَخْرُجَ أَرْسَلَ رَسُولًا لِيَنْظُرَ مَا هُوَ فَجَاءَ أَبُو لَهَبٍ وَقُرَيْشٌ فَقَالَ أَرَأَيْتَكُمْ لَوْ أَخْبَرْتُكُمْ أَنَّ خَيْلًا بِالْوَادِي تُرِيدُ أَنْ تُغِيرَ عَلَيْكُمْ أَكُنْتُمْ مُصَدِّقِيَّ قَالُوا نَعَمْ مَا جَرَّبْنَا عَلَيْكَ إِلَّا صِدْقًا قَالَ فَإِنِّي نَذِيرٌ لَكُمْ بَيْنَ يَدَيْ عَذَابٍ شَدِيدٍ فَقَالَ أَبُو لَهَبٍ تَبًّا لَكَ سَائِرَ الْيَوْمِ أَلِهَذَا جَمَعْتَنَا فَنَزَلَتْ { تَبَّتْ يَدَا أَبِي لَهَبٍ وَتَبَّ مَا أَغْنَى عَنْهُ مَالُهُ وَمَا كَسَبَ } [البخاري : كِتَاب تَفْسِيرِ الْقُرْآنِ، بَاب { وَأَنْذِرْ عَشِيرَتَكَ الْأَقْرَبِينَ وَاخْفِضْ جَنَاحَكَ }]

earned have not availed him.”’ [Al-Bukhari, Book of Quranic Commentary, chapter: ‘Warn your nearest kinsfolk and lower your wing.’][2]

L726 (3) Jabir said: ‘When the Messenger of Allah ﷺ had taken his place on Friday, he said: “Sit down.” Ibn Masud heard it and sat at the mosque’s entrance. The Messenger of Allah ﷺ saw him and said: “Come, Abd Allah ibn Masud.”’ [Abu Dawud, Al-Sunan, Book of Prayer, chapter: The imam speaks to a man during his sermon. Al-Albani said: ‘An authentic hadith.’ Al-Hakim said: ‘Authentic according to the conditions of the two shaykhs,’ and al-Dhahabi agreed.]

(3) فعَنْ جَابِرٍ، قَالَ لَمَّا اسْتَوَى رَسُولُ اللَّهِ صلى الله عليه وسلم يَوْمَ الْجُمُعَةِ قَالَ “ اجْلِسُوا ” فَسَمِعَ ذَلِكَ ابْنُ مَسْعُودٍ فَجَلَسَ عَلَى بَابِ الْمَسْجِدِ فَرَآهُ رَسُولُ اللَّهِ صلى الله عليه وسلم فَقَالَ “ تَعَالَ يَا عَبْدَ اللَّهِ بْنَ مَسْعُودٍ ” [أبو داوود فى السنن كتاب الصلاة باب الإِمَامِ يُكَلِّمُ الرَّجُلَ فِي خُطْبَتِهِ][قال الالبانى: حديث صحيح، وقال الحاكم: “ صحيح على شرط الشيخين ووافقه الذهبي]

L727 (3) Ibn Abbas said: ‘When the Prophet ﷺ had taken his place on the pulpit, he told the people: “Sit down.” Ibn Masud heard him while at the mosque’s entrance and sat. The Prophet ﷺ said to him: “Come, Ibn Masud.”’ [Sahih Ibn Khuzayma, Book of Friday Prayer… collected chapters on the adhan and Friday sermon…]

(3) وعن ابن عباس قال : لما استوى النبي صلى الله عليه وسلم على المنبر قال للناس : « اجلسوا » ، فسمعه ابن مسعود وهو على باب المسجد فجلس ، فقال له النبي صلى الله عليه وسلم : « تعال يا ابن مسعود » [صحيح ابن خزيمة: كتاب الجمعة؛ ..... جماع أبواب الأذان والخطبة في الجمعة .....]

L728 (4) Abu Said ibn al-Mualla said: ‘I was praying in the mosque when the Messenger of Allah ﷺ called me, and I did not answer. I said: “Messenger of Allah, I was praying.” He said: “Has Allah not said: ‘Respond to Allah and the Messenger when he calls you to what gives you life’?”…’ [Al-Bukhari, Book of Quranic Commentary, section: It is named the Mother of the Book.][3]

(4)عَنْ أَبِي سَعِيدِ بْنِ الْمُعَلَّى قَالَ: كُنْتُ أُصَلِّي فِي الْمَسْجِدِ فَدَعَانِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَلَمْ أُجِبْهُ فَقُلْتُ يَا رَسُولَ اللَّهِ إِنِّي كُنْتُ أُصَلِّي فَقَالَ أَلَمْ يَقُلْ اللَّهُ { اسْتَجِيبُوا لِلَّهِ وَلِلرَّسُولِ إِذَا دَعَاكُمْ لِمَا يُحْيِيكُمْ } .....“ [البخاري: كِتَاب تَفْسِيرِ الْقُرْآنِ ،وَسُمِّيَتْ أُمَّ الْكِتَابِ]

L729–731 Abu Hurayra reported that the Messenger of Allah ﷺ came out to Ubayy ibn Kab and said: ‘Ubayy!’ while he was praying. Ubayy turned but did not answer. He shortened his prayer, then went to the Messenger of Allah ﷺ and said: ‘Peace be upon you, Messenger of Allah.’ The Messenger of Allah ﷺ said: ‘And peace be upon you. What prevented you, Ubayy, from

وعَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ خَرَجَ عَلَى أُبَيِّ بْنِ كَعْبٍ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَا أُبَيُّ وَهُوَ يُصَلِّي فَالْتَفَتَ أُبَيٌّ وَلَمْ يُجِبْهُ وَصَلَّى أُبَيٌّ فَخَفَّفَ ثُمَّ انْصَرَفَ إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ السَّلَامُ عَلَيْكَ يَا رَسُولَ اللَّهِ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَعَلَيْكَ السَّلَامُ مَا مَنَعَكَ يَا أُبَيُّ أَنْ تُجِيبَنِي إِذْ دَعَوْتُكَ فَقَالَ يَا رَسُولَ اللَّهِ إِنِّي كُنْتُ فِي الصَّلَاةِ قَالَ أَفَلَمْ تَجِدْ فِيمَا أَوْحَى اللَّهُ

[2] **Qur’an references (L725):** Qur’an 26:214 (Ash-Shu’ara); Qur’an 111:1 (Al-Masad); Qur’an 111:2 (Al-Masad).

[3] **Qur’an references (L728):** Qur’an 8:24 (Al-Anfal).

answering when I called you?' He said: 'Messenger of Allah, I was praying.' He said: 'Have you not found among what Allah revealed to me: "'Respond to Allah and the Messenger when he calls you to what gives you life"?' He said: 'Yes. I shall not do so again, if Allah wills…' [Abu Isa said: 'This is a sound, authentic hadith'; Sunan al-Tirmidhi, Book of the Virtues of the Qur'an, chapter: The merit of the Opening of the Book; Sahih wa-Daif Sunan al-Tirmidhi, al-Albani's assessment: authentic.][4]

إِلَيَّ أَنْ {اسْتَجِيبُوا لِلَّهِ وَلِلرَّسُولِ إِذَا دَعَاكُمْ لِمَا يُحْيِيكُمْ} قَالَ بَلَى وَلَا أَعُودُ إِنْ شَاءَ اللَّهُ ....."[قَالَ أَبُو عِيسَى هَذَا حَدِيثٌ حَسَنٌ صَحِيحٌ؛ سنن الترمذي: كِتَاب فَضَائِلِ الْقُرْآنِ؛ بَاب مَا جَاءَ فِي فَضْلِ فَاتِحَةِ الْكِتَابِ][صحيح وضعيف سنن الترمذي: تحقيق الألباني :صحيح]

L732 Abu Amr al-Shaybani said: 'Zayd ibn Arqam told me: We used to speak during prayer in the Prophet's time ﷺ, one of us addressing his companion about a need, until "Guard the prayers, and the middle prayer, and stand before Allah devoutly" was revealed. We were then ordered to remain silent.' [Al-Bukhari, Book of Friday Prayer, chapter: Speech forbidden during prayer.][5]

وعَنْ أَبِي عَمْرٍو الشَّيْبَانِيِّ قَالَ قَالَ لِي زَيْدُ بْنُ أَرْقَمَ: إِنْ كُنَّا لَنَتَكَلَّمُ فِي الصَّلَاةِ عَلَى عَهْدِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُكَلِّمُ أَحَدُنَا صَاحِبَهُ بِحَاجَتِهِ حَتَّى نَزَلَتْ: {حَافِظُوا عَلَى الصَّلَوَاتِ وَالصَّلَاةِ الْوُسْطَى وَقُومُوا لِلَّهِ قَانِتِينَ } فَأُمِرْنَا بِالسُّكُوتِ [البخاري: كِتَاب الْجُمُعَةِ ؛ بَاب مَا يُنْهَى عَنْهُ مِنْ الْكَلَامِ فِي الصَّلَاةِ]

L733 (5) Anas, may Allah be pleased with him, said: 'I was serving the people drinks in Abu Talha's house. Their wine that day was fadikh. The Messenger of Allah ﷺ ordered a caller to announce: "Wine has been forbidden." Abu Talha told me: "Go out and pour it away." I went out and poured it away, and it flowed through Medina's streets. Some people said: "People have been killed with it in their bellies." Allah then revealed: "There is no blame upon those who believe and do righteous deeds for what they have consumed"—the verse.' [Al-Bukhari, Book of Wrongs and Usurpation, chapter: Pouring wine into the road.][6]

(5) " عَنْ أَنَسٍ رَضِيَ اللَّهُ عَنْهُ كُنْتُ سَاقِيَ الْقَوْمِ فِي مَنْزِلِ أَبِي طَلْحَةَ وَكَانَ خَمْرُهُمْ يَوْمَئِذٍ الْفَضِيخَ فَأَمَرَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مُنَادِيًا يُنَادِي أَلَا إِنَّ الْخَمْرَ قَدْ حُرِّمَتْ قَالَ فَقَالَ لِي أَبُو طَلْحَةَ اخْرُجْ فَأَهْرِقْهَا فَخَرَجْتُ فَهَرَقْتُهَا فَجَرَتْ فِي سِكَكِ الْمَدِينَةِ فَقَالَ بَعْضُ الْقَوْمِ قَدْ قُتِلَ قَوْمٌ وَهِيَ فِي بُطُونِهِمْ فَأَنْزَلَ اللَّهُ { لَيْسَ عَلَى الَّذِينَ آمَنُوا وَعَمِلُوا الصَّالِحَاتِ جُنَاحٌ فِيمَا طَعِمُوا } الْآيَةَ" [البخاري: كِتَاب الْمَظَالِمِ وَالْغَصْبِ؛ بَاب صَبِّ الْخَمْرِ فِي الطَّرِيقِ]

L734 (5) Umar, may Allah be pleased with him, said: 'When the prohibition of wine was revealed, Umar said: "O Allah, give us a full and sufficient explanation concerning wine." The verse in Al-Baqarah was revealed. Umar was summoned and it was recited to him. He said: "O Allah, give us a full and sufficient explanation concerning wine." The verse in An-Nisa was re-

(5)" عَنْ عُمَرَ رَضِيَ اللَّهُ عَنْهُ قَالَ لَمَّا نَزَلَ تَحْرِيمُ الْخَمْرِ قَالَ عُمَرُ اللَّهُمَّ بَيِّنْ لَنَا فِي الْخَمْرِ بَيَانًا شَافِيًا فَنَزَلَتْ الْآيَةُ الَّتِي فِي الْبَقَرَةِ فَدُعِيَ عُمَرُ فَقُرِئَتْ عَلَيْهِ فَقَالَ عُمَرُ اللَّهُمَّ بَيِّنْ لَنَا فِي الْخَمْرِ بَيَانًا شَافِيًا فَنَزَلَتْ الْآيَةُ الَّتِي فِي النِّسَاءِ { يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَقْرَبُوا الصَّلَاةَ وَأَنْتُمْ سُكَارَى } فَكَانَ مُنَادِي رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِذَا أَقَامَ الصَّلَاةَ نَادَى لَا تَقْرَبُوا الصَّلَاةَ وَأَنْتُمْ سُكَارَى فَدُعِيَ عُمَرُ فَقُرِئَتْ عَلَيْهِ فَقَالَ اللَّهُمَّ بَيِّنْ لَنَا فِي الْخَمْرِ بَيَانًا

[4] **Qur'an references (L729):** Qur'an 8:24 (Al-Anfal).
[5] **Qur'an references (L732):** Qur'an 2:238 (Al-Baqarah).
[6] **Qur'an references (L733):** Qur'an 5:93 (Al-Ma'idah).

vealed: “You who believe, do not approach prayer while intoxicated.” When the Messenger of Allah’s caller ﷺ announced the prayer, he would call: “Do not approach prayer while intoxicated.” Umar was summoned and it was recited to him. He said: “O Allah, give us a full and sufficient explanation concerning wine.” The verse in Al-Maidah was revealed. Umar was summoned and it was recited to him. When it reached “Will you then desist?”, Umar, may Allah be pleased with him, said: “We desist! We desist!”’ [Sunan al-Nasai, Book of Drinks, chapter: The prohibition of wine; Sahih wa-Daif Sunan al-Nasai, al-Albani’s assessment: authentic.][7]

شَافِيًا فَنَزَلَتْ الْآيَةُ الَّتِي فِي الْمَائِدَةِ فَدُعِيَ عُمَرُ فَقُرِئَتْ عَلَيْهِ فَلَمَّا بَلَغَ فَهَلْ أَنْتُمْ مُنْتَهُونَ قَالَ عُمَرُ رَضِيَ اللَّهُ عَنْهُ انْتَهَيْنَا انْتَهَيْنَا” [سنن النسائي: كِتَاب الْأَشْرِبَةِ، بَاب تَحْرِيمِ الْخَمْرِ] [صحيح وضعيف سنن النسائي: تحقيق الألباني :صحيح]

L735 (6) Anas ibn Malik said: ‘We were forbidden to ask the Messenger of Allah ﷺ about anything. We therefore liked an intelligent Bedouin to come and question him while we listened. A Bedouin came and said: “Muhammed, your messenger came to us, saying that you claim Allah has sent you.” He said: “He spoke the truth.” He asked: “Who created the heaven?” He said: “Allah.” He asked: “Who created the earth?” He said: “Allah.” He asked: “Who set up these mountains and placed in them what He placed?” He said: “Allah.” He said: “By the One who created the heaven and earth and set up these mountains, did Allah send you?” He said: “Yes.” He said: “Your messenger said that five prayers are due from us each day and night.” He said: “He spoke the truth.” He said: “By the One who sent you, did Allah command you this?” He said: “Yes.” He said: “Your messenger said that zakat is due on our property.” He said: “He spoke the truth.” He said: “By the One who sent you, did Allah command you this?” He said: “Yes.” He said: “Your messenger said that we must fast Ramadan each year.” He said: “He spoke the truth.” He said: “By the One who sent you, did Allah command you this?” He said: “Yes.” He said: “Your messenger said that hajj to the House is due from whoever can find a way to it.” He said: “He spoke the truth.” The man turned away, saying: “By the One who sent you with the truth, I shall neither add to these nor subtract from them.” The Prophet ﷺ said: “If he speaks truthfully, he will surely enter Paradise.”’ [Muslim, Book of Faith, chapter: Asking about the pillars of Islam.]

(6) “ عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: نُهِينَا أَنْ نَسْأَلَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ شَيْءٍ فَكَانَ يُعْجِبُنَا أَنْ يَجِيءَ الرَّجُلُ مِنْ أَهْلِ الْبَادِيَةِ الْعَاقِلُ فَيَسْأَلَهُ وَنَحْنُ نَسْمَعُ فَجَاءَ رَجُلٌ مِنْ أَهْلِ الْبَادِيَةِ فَقَالَ يَا مُحَمَّدُ أَتَانَا رَسُولُكَ فَزَعَمَ لَنَا أَنَّكَ تَزْعُمُ أَنَّ اللَّهَ أَرْسَلَكَ قَالَ صَدَقَ قَالَ فَمَنْ خَلَقَ السَّمَاءَ قَالَ اللَّهُ قَالَ فَمَنْ خَلَقَ الْأَرْضَ قَالَ اللَّهُ قَالَ فَمَنْ نَصَبَ هَذِهِ الْجِبَالَ وَجَعَلَ فِيهَا مَا جَعَلَ قَالَ اللَّهُ قَالَ فَبِالَّذِي خَلَقَ السَّمَاءَ وَخَلَقَ الْأَرْضَ وَنَصَبَ هَذِهِ الْجِبَالَ آللَّهُ أَرْسَلَكَ قَالَ نَعَمْ قَالَ وَزَعَمَ رَسُولُكَ أَنَّ عَلَيْنَا خَمْسَ صَلَوَاتٍ فِي يَوْمِنَا وَلَيْلَتِنَا قَالَ صَدَقَ قَالَ فَبِالَّذِي أَرْسَلَكَ آللَّهُ أَمَرَكَ بِهَذَا قَالَ نَعَمْ قَالَ وَزَعَمَ رَسُولُكَ أَنَّ عَلَيْنَا زَكَاةً فِي أَمْوَالِنَا قَالَ صَدَقَ قَالَ فَبِالَّذِي أَرْسَلَكَ آللَّهُ أَمَرَكَ بِهَذَا قَالَ نَعَمْ قَالَ وَزَعَمَ رَسُولُكَ أَنَّ عَلَيْنَا صَوْمَ شَهْرِ رَمَضَانَ فِي سَنَتِنَا قَالَ صَدَقَ قَالَ فَبِالَّذِي أَرْسَلَكَ آللَّهُ أَمَرَكَ بِهَذَا قَالَ نَعَمْ قَالَ وَزَعَمَ رَسُولُكَ أَنَّ عَلَيْنَا حَجَّ الْبَيْتِ مَنْ اسْتَطَاعَ إِلَيْهِ سَبِيلًا قَالَ صَدَقَ قَالَ ثُمَّ وَلَّى قَالَ وَالَّذِي بَعَثَكَ بِالْحَقِّ لَا أَزِيدُ عَلَيْهِنَّ وَلَا أَنْقُصُ مِنْهُنَّ فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَئِنْ صَدَقَ لَيَدْخُلَنَّ الْجَنَّةَ”[مسلم: كِتَاب الْإِيمَانِ، بَاب السُّؤَالِ عَنْ أَرْكَانِ الْإِسْلَامِ]

[7] **Qur’an references (L734):** Qur’an 4:43 (An-Nisa).

L736 (7) Al-Nawwas ibn Siman said: ‘I stayed with the Messenger of Allah ﷺ in Medina for a year. Nothing kept me from emigrating except questioning: once one of us emigrated, he did not ask the Messenger of Allah ﷺ about anything. I asked him about righteousness and sin. The Messenger of Allah ﷺ said: “Righteousness is good character. Sin is what troubles your soul and you dislike people discovering.”’ [Muslim, Book of Righteousness, Family Ties and Manners, chapter: Explaining righteousness and sin.]

(7) فعَنْ نَوَّاسِ بْنِ سِمْعَانَ قَالَ: "أَقَمْتُ مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِالْمَدِينَةِ سَنَةً مَا يَمْنَعُنِي مِنَ الْهِجْرَةِ إِلَّا الْمَسْأَلَةُ كَانَ أَحَدُنَا إِذَا هَاجَرَ لَمْ يَسْأَلْ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ شَيْءٍ قَالَ فَسَأَلْتُهُ عَنِ الْبِرِّ وَالْإِثْمِ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الْبِرُّ حُسْنُ الْخُلُقِ وَالْإِثْمُ مَا حَاكَ فِي نَفْسِكَ وَكَرِهْتَ أَنْ يَطَّلِعَ عَلَيْهِ النَّاسُ [مسلم: كِتَاب الْبِرِّ وَالصِّلَةِ وَالْآدَابِ ، بَاب تَفْسِيرِ الْبِرِّ وَالْإِثْمِ]

L737 (8) Ibn Abbas, may Allah be pleased with them both, said: ‘I do not know whether the Messenger of Allah ﷺ forbade domestic donkey meat because donkeys carried people’s loads and he disliked their losing their means of carrying, or whether he prohibited it on the day of Khaybar.’ [Al-Bukhari, Book of Military Expeditions, chapter: The expedition of Khaybar.]

(8) عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: "لَا أَدْرِي أَنَهَى عَنْهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مِنْ أَجْلِ أَنَّهُ كَانَ حَمُولَةَ النَّاسِ فَكَرِهَ أَنْ تَذْهَبَ حَمُولَتُهُمْ أَوْ حَرَّمَهُ فِي يَوْمِ خَيْبَرَ لَحْمَ الْحُمُرِ الْأَهْلِيَّةِ » [البخاري: كِتَاب الْمَغَازِي؛ بَاب غَزْوَةِ خَيْبَرَ]

L738 Al-Shaybani said: ‘I heard Ibn Abi Awfa, may Allah be pleased with them both: Hunger afflicted us on the day of Khaybar. The cooking pots were boiling, and some were cooked. The Prophet’s caller ﷺ came: “Eat none of the donkey meat. Pour it away.” Ibn Abi Awfa said: “We discussed that he had forbidden it only because the fifth had not been taken. Some said: he forbade it outright because the donkeys ate excrement.”’ [Al-Bukhari, Book of Military Expeditions, chapter: The expedition of Khaybar.]

فعَنْ الشَّيْبَانِيِّ قَالَ سَمِعْتُ ابْنَ أَبِي أَوْفَى رَضِيَ اللَّهُ عَنْهُمَا "أَصَابَتْنَا مَجَاعَةٌ يَوْمَ خَيْبَرَ فَإِنَّ الْقُدُورَ لَتَغْلِي قَالَ وَبَعْضُهَا نَضِجَتْ فَجَاءَ مُنَادِي النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا تَأْكُلُوا مِنْ لُحُومِ الْحُمُرِ شَيْئًا وَأَهْرِقُوهَا قَالَ ابْنُ أَبِي أَوْفَى فَتَحَدَّثْنَا أَنَّهُ إِنَّمَا نَهَى عَنْهَا لِأَنَّهَا لَمْ تُخَمَّسْ وَقَالَ بَعْضُهُمْ نَهَى عَنْهَا الْبَتَّةَ لِأَنَّهَا كَانَتْ تَأْكُلُ الْعَذِرَةَ" [البخاري: كِتَاب الْمَغَازِي؛ بَاب غَزْوَةِ خَيْبَرَ]

L739 (9) Muadha said: ‘I asked Aisha: “Why does a menstruating woman make up fasting but not prayer?” She said: “Are you a Haruriyya?” I said: “I am not a Haruriyya, but I am asking.” She said: “That used to happen to us. We were ordered to make up fasting, but not ordered to make up prayer.”’ [Muslim, Book of Menstruation, chapter: A menstruating woman must make up fasting but not prayer.] (10) Al-Miswar ibn Makhrama reported that Amr ibn Awf al-Ansari—an ally of Banu Amir ibn Luayy who had attended Badr—told him: ‘The Messenger of Allah ﷺ sent Abu Ubayda ibn al-Jarrah to Bahrain to bring its tribute. The Messenger of Allah ﷺ had made peace with Bahrain’s people and appointed al-Ala ibn al-Hadrami over them. Abu

(9)عَنْ مُعَاذَةَ قَالَتْ: سَأَلْتُ عَائِشَةَ فَقُلْتُ مَا بَالُ الْحَائِضِ تَقْضِي الصَّوْمَ وَلَا تَقْضِي الصَّلَاةَ فَقَالَتْ أَحَرُورِيَّةٌ أَنْتِ قُلْتُ لَسْتُ بِحَرُورِيَّةٍ وَلَكِنِّي أَسْأَلُ قَالَتْ كَانَ يُصِيبُنَا ذَلِكَ فَنُؤْمَرُ بِقَضَاءِ الصَّوْمِ وَلَا نُؤْمَرُ بِقَضَاءِ الصَّلَاةِ [مسلم: كِتَاب الْحَيْضِ؛ بَاب وُجُوبِ قَضَاءِ الصَّوْمِ عَلَى الْحَائِضِ دُونَ الصَّلَاةِ] (10)" عَنْ الْمِسْوَرِ بْنِ مَخْرَمَةَ أَنَّهُ أَخْبَرَهُ أَنَّ عَمْرَو بْنَ عَوْفٍ الْأَنْصَارِيَّ وَهُوَ حَلِيفٌ لِبَنِي عَامِرِ بْنِ لُؤَيٍّ وَكَانَ شَهِدَ بَدْرًا أَخْبَرَهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بَعَثَ أَبَا عُبَيْدَةَ بْنَ الْجَرَّاحِ إِلَى الْبَحْرَيْنِ

Ubayda brought property from Bahrain. The Helpers heard of his arrival and attended dawn prayer with the Prophet ﷺ. When he finished leading them and turned away, they approached him. The Messenger of Allah ﷺ smiled when he saw them and said: "I suppose you have heard that Abu Ubayda has brought something." They said: "Yes, Messenger of Allah." He said: "Rejoice, then, and hope for what will please you. By Allah, it is not poverty I fear for you. I fear that the world will be opened up to you as it was to those before you; you will compete for it as they competed, and it will destroy you as it destroyed them."' [Al-Bukhari, Book of Tribute, chapter: Tribute and truces with people at war.][89]

يَأْتِي بِجِزْيَتِهَا وَكَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ هُوَ صَالَحَ أَهْلَ الْبَحْرَيْنِ وَأَمَّرَ عَلَيْهِمْ الْعَلَاءَ بْنَ الْحَضْرَمِيِّ فَقَدِمَ أَبُو عُبَيْدَةَ بِمَالٍ مِنْ الْبَحْرَيْنِ فَسَمِعَتْ الْأَنْصَارُ بِقُدُومِ أَبِي عُبَيْدَةَ فَوَافَتْ صَلَاةَ الصُّبْحِ مَعَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَلَمَّا صَلَّى بِهِمْ الْفَجْرَ انْصَرَفَ فَتَعَرَّضُوا لَهُ فَتَبَسَّمَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ حِينَ رَآهُمْ وَقَالَ أَظُنُّكُمْ قَدْ سَمِعْتُمْ أَنَّ أَبَا عُبَيْدَةَ قَدْ جَاءَ بِشَيْءٍ قَالُوا أَجَلْ يَا رَسُولَ اللَّهِ قَالَ فَأَبْشِرُوا وَأَمِّلُوا مَا يَسُرُّكُمْ فَوَاللَّهِ لَا الْفَقْرَ أَخْشَى عَلَيْكُمْ وَلَكِنْ أَخْشَى عَلَيْكُمْ أَنْ تُبْسَطَ عَلَيْكُمْ الدُّنْيَا كَمَا بُسِطَتْ عَلَى مَنْ كَانَ قَبْلَكُمْ فَتَنَافَسُوهَا كَمَا تَنَافَسُوهَا وَتُهْلِكَكُمْ كَمَا أَهْلَكَتْهُمْ" [البخاري: كِتَاب الْجِزْيَةِ ، بَاب الْجِزْيَةِ وَالْمُوَادَعَةِ مَعَ أَهْلِ الْحَرْبِ]

L740 (11) Jabir ibn Abd Allah, may Allah be pleased with them both, heard the Messenger of Allah ﷺ say in Mecca in the year of the Conquest: 'Allah and His Messenger have forbidden the sale of wine, carrion, pigs and idols.' He was asked: 'Messenger of Allah, what about carrion fat? It is used to coat ships, oil hides and light lamps.' He said: 'No, it is forbidden.' Then the Messenger of Allah ﷺ said: 'May Allah fight the Jews! When Allah forbade them its fat, they melted it, sold it and consumed its price.' [Al-Bukhari, Book of Sales, chapter: Selling carrion and idols.]

(11) عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُمَا أَنَّهُ سَمِعَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ عَامَ الْفَتْحِ وَهُوَ بِمَكَّةَ إِنَّ اللَّهَ وَرَسُولَهُ حَرَّمَ بَيْعَ الْخَمْرِ وَالْمَيْتَةِ وَالْخِنْزِيرِ وَالْأَصْنَامِ فَقِيلَ يَا رَسُولَ اللَّهِ أَرَأَيْتَ شُحُومَ الْمَيْتَةِ فَإِنَّهَا يُطْلَى بِهَا السُّفُنُ وَيُدْهَنُ بِهَا الْجُلُودُ وَيَسْتَصْبِحُ بِهَا النَّاسُ فَقَالَ لَا هُوَ حَرَامٌ ثُمَّ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عِنْدَ ذَلِكَ قَاتَلَ اللَّهُ الْيَهُودَ إِنَّ اللَّهَ لَمَّا حَرَّمَ شُحُومَهَا جَمَلُوهُ ثُمَّ بَاعُوهُ فَأَكَلُوا ثَمَنَهُ [البخاري: كِتَاب الْبُيُوعِ، بَاب بَيْعِ الْمَيْتَةِ وَالْأَصْنَامِ]

L741 (12) Ibn Abbas, may Allah be pleased with them both, said: 'The Prophet ﷺ found a dead sheep which had been given in charity to a freedwoman of Maymuna. He said: "Why did you not benefit from its skin?" They said: "It is carrion." He said: "Only eating it was forbidden."' [Al-Bukhari, Book of Zakat, chapter: Charity to freed slaves of the Prophet's wives ﷺ.]

(12) عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ وَجَدَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ شَاةً مَيِّتَةً أُعْطِيَتْهَا مَوْلَاةٌ لِمَيْمُونَةَ مِنْ الصَّدَقَةِ فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ هَلَّا انْتَفَعْتُمْ بِجِلْدِهَا قَالُوا إِنَّهَا مَيْتَةٌ قَالَ إِنَّمَا حَرُمَ أَكْلُهَا [البخاري: كِتَاب الزَّكَاةِ، بَاب الصَّدَقَةِ عَلَى مَوَالِي أَزْوَاجِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ]

[8] **Translator's note (L739):** Haruriyya refers to a woman associated with the Kharijites of Harura. The two numbered reports (9) and (10) share a single extracted source paragraph; their numbers and distinct attributions are retained.

[9] **Hadith references (L739):** Sahih al-Bukhari 3158.

L742 (13) Khalid reported from al-Hakam ibn Utayba that he and others went to Abd Allah ibn Ukaym, a man of Juhayna. Al-Hakam said: 'They entered while I sat at the door. When they came out, they told me that Abd Allah ibn Ukaym had told them that a month before his death the Messenger of Allah ﷺ wrote to Juhayna: "Do not benefit from carrion through either hide or sinew."' Abu Dawud said: 'Al-Nadr ibn Shumayl said: "It is called ihab while untanned. Once tanned, it is not called ihab, but shann or qirba."' [Sunan Abi Dawud, Book of Dress, chapter: Those who reported that the hide of carrion should not be used; Sahih wa-Daif Sunan Abi Dawud, al-Albani's assessment: authentic.]

(13) عَنْ خَالِدٍ عَنْ الْحَكَمِ بْنِ عُتَيْبَةَ أَنَّهُ انْطَلَقَ هُوَ وَنَاسٌ مَعَهُ إِلَى عَبْدِ اللَّهِ بْنِ عُكَيْمٍ رَجُلٌ مِنْ جُهَيْنَةَ قَالَ الْحَكَمُ فَدَخَلُوا وَقَعَدْتُ عَلَى الْبَابِ فَخَرَجُوا إِلَيَّ فَأَخْبَرُونِي أَنَّ عَبْدَ اللَّهِ بْنَ عُكَيْمٍ أَخْبَرَهُمْ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَتَبَ إِلَى جُهَيْنَةَ قَبْلَ مَوْتِهِ بِشَهْرٍ أَنْ لَا تَنْتَفِعُوا مِنْ الْمَيْتَةِ بِإِهَابٍ وَلَا عَصَبٍ قَالَ أَبُو دَاوُد قَالَ النَّضْرُ بْنُ شُمَيْلٍ يُسَمَّى إِهَابًا مَا لَمْ يُدْبَغْ فَإِذَا دُبِغَ لَا يُقَالُ لَه إِهَابٌ إِنَّمَا يُسَمَّى شَنًّا وَقِرْبَةً [سنن أبي داود: كِتَاب اللِّبَاسِ، بَاب مَنْ رَوَى أَنْ لَا يَنْتَفِعَ بِإِهَابِ الْمَيْتَةِ] [صحيح وضعيف سنن أبي داود:تحقيق الألباني :صحيح]

L743 (14) Salama ibn al-Muhabbiq reported that during the expedition of Tabuk Allah's Prophet ﷺ asked a woman for water. She said: 'I have it only in a waterskin made from carrion.' He asked: 'Have you not tanned it?' She said: 'Yes.' He said: 'Its tanning is its purification as by slaughter.' [Sunan al-Nasai, Book of Fara and Atira, section: Carrion hides; Sahih wa-Daif Sunan al-Nasai, al-Albani's assessment: authentic.]

(14) عَنْ سَلَمَةَ بْنِ الْمُحَبِّقِ أَنَّ نَبِيَّ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي غَزْوَةِ تَبُوكَ دَعَا بِمَاءٍ مِنْ عِنْدِ امْرَأَةٍ قَالَتْ مَا عِنْدِي إِلَّا فِي قِرْبَةٍ لِي مَيْتَةٍ قَالَ أَلَيْسَ قَدْ دَبَغْتِهَا قَالَتْ بَلَى قَالَ فَإِنَّ دِبَاغَهَا ذَكَاتُهَا [سنن النسائي: كِتَاب الْفَرَعِ وَالْعَتِيرَةِ، جُلُودُ الْمَيْتَةِ] [صحيح وضعيف سنن النسائي:تحقيق الألباني :صحيح]

L744 (15) Awn ibn Abi Juhayfa said: 'I saw my father purchase a slave who practised cupping. I asked him, and he said: "The Prophet ﷺ forbade the price of a dog and the price of blood, and forbade the woman who tattoos and the woman tattooed, and the recipient and payer of usury. He cursed the maker of images."' [Al-Bukhari, Book of Sales, chapter: The payer of usury…][10]

(15) " عَنْ عَوْنِ بْنِ أَبِي جُحَيْفَةَ قَالَ رَأَيْتُ أَبِي اشْتَرَى عَبْدًا حَجَّامًا فَسَأَلْتُهُ فَقَالَ نَهَى النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ ثَمَنِ الْكَلْبِ وَثَمَنِ الدَّمِ وَنَهَى عَنْ الْوَاشِمَةِ وَالْمَوْشُومَةِ وَآكِلِ الرِّبَا وَمُوكِلِهِ وَلَعَنَ الْمُصَوِّرَ " [البخاري: كِتَاب الْبُيُوعِ، بَاب مُوكِلِ الرِّبَا ....]

L745 (15) '…Awn ibn Abi Juhayfa said: I saw my father purchase a cupper and order his cupping instruments broken. I asked him about this. He said: "The Messenger of Allah ﷺ forbade the price of blood, the price of a dog and the earnings of a slave woman. He cursed the woman who tattoos and the woman who seeks tattooing, the recipient and payer of usury, and the maker of images."' [Al-Bukhari, Book of Sales, chapter: The price of a dog.][11]

(15) "..... عَوْنُ بْنُ أَبِي جُحَيْفَةَ قَالَ رَأَيْتُ أَبِي اشْتَرَى حَجَّامًا فَأَمَرَ بِمَحَاجِمِهِ فَكُسِرَتْ فَسَأَلْتُهُ عَنْ ذَلِكَ قَالَ إِنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ ثَمَنِ الدَّمِ وَثَمَنِ الْكَلْبِ وَكَسْبِ الْأَمَةِ وَلَعَنَ الْوَاشِمَةَ وَالْمُسْتَوْشِمَةَ وَآكِلَ الرِّبَا وَمُوكِلَهُ وَلَعَنَ الْمُصَوِّرَ " [البخاري: كِتَاب الْبُيُوعِ، بَاب ثَمَنِ الْكَلْبِ]

[10] **Hadith references (L744):** Sahih al-Bukhari 2086.
[11] **Hadith references (L745):** Sahih al-Bukhari 2238.

L746 (15) Abd Allah said: 'The Messenger of Allah ﷺ cursed the recipient and payer of usury.' I asked: 'And its scribe and two witnesses?' He said: 'We relate only what we have heard.' [Muslim, Book of Agricultural Transactions, chapter: Cursing the recipient and payer of usury—authentic.]

(15) " عَنْ عَبْدِ اللَّهِ قَالَ لَعَنَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ آكِلَ الرِّبَا وَمُؤْكِلَهُ قَالَ قُلْتُ وَكَاتِبَهُ وَشَاهِدَيْهِ قَالَ إِنَّمَا نُحَدِّثُ بِمَا سَمِعْنَا" [مسلم: كِتَاب الْمُسَاقَاةِ؛ بَاب لَعْنِ آكِلِ الرِّبَا وَمُؤْكِلِهِ صحيح]

L747 (15) Jabir said: 'The Messenger of Allah ﷺ cursed the recipient and payer of usury, its scribe and its two witnesses, saying: "They are alike."' [Muslim, Book of Agricultural Transactions, chapter: Cursing the recipient and payer of usury.]

(15) " عَنْ جَابِرٍ قَالَ لَعَنَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ آكِلَ الرِّبَا وَمُؤْكِلَهُ وَكَاتِبَهُ وَشَاهِدَيْهِ وَقَالَ هُمْ سَوَاءٌ" [مسلم:كِتَاب الْمُسَاقَاةِ؛بَاب لَعْنِ آكِلِ الرِّبَا وَمُؤْكِلِهِ]

L748 (16) '…They heard Ibn Umar say: The Messenger of Allah ﷺ said: "Allah has cursed wine, its drinker, its server, its seller, its buyer, its presser, the one for whom it is pressed, its carrier and the one to whom it is carried."' [Sunan Abi Dawud, Book of Drinks, chapter: Grapes pressed for wine; Sahih wa-Daif Sunan Abi Dawud, 8:174, al-Albani's assessment: Sahih Ibn Majah, no. 3380.][12]

(16) "..... سَمِعَا ابْنَ عُمَرَ يَقُولُ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَعَنَ اللَّهُ الْخَمْرَ وَشَارِبَهَا وَسَاقِيَهَا وَبَائِعَهَا وَمُبْتَاعَهَا وَعَاصِرَهَا وَمُعْتَصِرَهَا وَحَامِلَهَا وَالْمَحْمُولَةَ إِلَيْهِ" [سنن أبي داود: كِتَاب الْأَشْرِبَةِ؛ بَاب الْعِنَبِ يُعْصَرُ لِلْخَمْرِ][صحيح وضعيف سنن أبي داود (8/ 174): تحقيق الألباني :صحيح ابن ماجة (3380)]

L749 (16) '…He heard Ibn Abbas say: The Messenger of Allah ﷺ was visited by Jibril, who said: "Muhammed, Allah has cursed wine, its presser, the one for whom it is pressed, its carrier, the one to whom it is carried, its drinker, its seller, its buyer, its server and the one served it."' [Sahih Ibn Hibban, Book of Drinks, chapter: The manners of drinking; al-Taliqat al-Hisan ala Sahih Ibn Hibban, al-Albani's annotation: authentic; Al-Sahiha, no. 839.]

(16) "..... أَنَّهُ سَمِعَ ابْنَ عَبَّاسٍ يَقُولُ: إِنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وسلم أَتَاهُ جِبْرِيلُ، فَقَالَ: يَا مُحَمَّدُ! إِنَّ اللَّهَ لَعَنَ الْخَمْرَ، وعاصِرَها، ومُعتصِرَهَا، وحامِلَهَا، وَالْمَحْمُولَةَ إِلَيْهِ، وشاربها، وبائعها، ومُبتاعها، وساقيها، ومُسقاها" [صحيح ابن حبان: كتاب الأشربة، باب آداب الشرب][التعليقات الحسان على صحيح ابن حبان: تعليق الشيخ الألباني: صحيح - ((الصحيحة)) (839)].

L750 (17) Ibn Umar said: 'Umar saw Utarid al-Tamimi displaying a silk-striped suit in the market. He was a man who visited kings and received gifts from them. Umar said: "Messenger of Allah, I saw Utarid displaying a silk-striped suit in the market. Why not buy it and wear it when Arab delegations come to you?" I think he also said: "And wear it on Friday." The Messenger of Allah ﷺ told him: "Only someone with no share in the Hereafter wears silk in this world." Later the Messenger of Allah ﷺ was brought silk-striped

(17) فعَنْ ابْنِ عُمَرَ قَالَ: رَأَى عُمَرُ عُطَارِدًا التَّمِيمِيَّ يُقِيمُ بِالسُّوقِ حُلَّةً سِيَرَاءَ وَكَانَ رَجُلًا يَغْشَى الْمُلُوكَ وَيُصِيبُ مِنْهُمْ فَقَالَ عُمَرُ يَا رَسُولَ اللَّهِ إِنِّي رَأَيْتُ عُطَارِدًا يُقِيمُ فِي السُّوقِ حُلَّةً سِيَرَاءَ فَلَوْ اشْتَرَيْتَهَا فَلَبِسْتَهَا لِوُفُودِ الْعَرَبِ إِذَا قَدِمُوا عَلَيْكَ وَأَظُنُّهُ قَالَ وَلَبِسْتَهَا يَوْمَ الْجُمُعَةِ فَقَالَ لَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِنَّمَا يَلْبَسُ الْحَرِيرَ فِي الدُّنْيَا مَنْ لَا خَلَاقَ لَهُ فِي الْآخِرَةِ فَلَمَّا كَانَ بَعْدَ ذَلِكَ أُتِيَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ

[12] **Hadith references (L748):** Sunan Abi Dawud 3674; Mishkat al-Masabih 2777.

suits. He sent one to Umar, one to Usama ibn Zayd and gave one to Ali ibn Abi Talib, saying: “Cut it into veils for the women of your household.” Umar came carrying his suit and said: “Messenger of Allah, you sent me this after what you said yesterday about Utarid’s suit?” He said: “I did not send it for you to wear, but for you to benefit from it.” Usama came wearing his suit. The Messenger of Allah ﷺ looked at him in a way which made him realise that he disapproved. He said: “Messenger of Allah, why do you look at me? You sent it to me.” He said: “I did not send it for you to wear, but to cut into veils for the women of your household.”’ [Muslim, Book of Dress and Adornment, chapter: The prohibition of using gold and silver vessels for men and women.][13]

بِحُلَلٍ سِيَرَاءَ فَبَعَثَ إِلَى عُمَرَ بِحُلَّةٍ وَبَعَثَ إِلَى أُسَامَةَ بْنِ زَيْدٍ بِحُلَّةٍ وَأَعْطَى عَلِيَّ بْنَ أَبِي طَالِبٍ حُلَّةً وَقَالَ شَقِّقْهَا خُمُرًا بَيْنَ نِسَائِكَ قَالَ فَجَاءَ عُمَرُ بِحُلَّتِهِ يَحْمِلُهَا فَقَالَ يَا رَسُولَ اللَّهِ بَعَثْتَ إِلَيَّ بِهَذِهِ وَقَدْ قُلْتَ بِالْأَمْسِ فِي حُلَّةِ عُطَارِدٍ مَا قُلْتَ فَقَالَ إِنِّي لَمْ أَبْعَثْ بِهَا إِلَيْكَ لِتَلْبَسَهَا وَلَكِنِّي بَعَثْتُ بِهَا إِلَيْكَ لِتُصِيبَ بِهَا وَأَمَّا أُسَامَةُ فَرَاحَ فِي حُلَّتِهِ فَنَظَرَ إِلَيْهِ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَظَرًا عَرَفَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَدْ أَنْكَرَ مَا صَنَعَ فَقَالَ يَا رَسُولَ اللَّهِ مَا تَنْظُرُ إِلَيَّ فَأَنْتَ بَعَثْتَ إِلَيَّ بِهَا فَقَالَ إِنِّي لَمْ أَبْعَثْ إِلَيْكَ لِتَلْبَسَهَا وَلَكِنِّي بَعَثْتُ بِهَا إِلَيْكَ لِتُشَقِّقَهَا خُمُرًا بَيْنَ نِسَائِكَ“ [مسلم:كِتَاب اللِّبَاسِ وَالزِّينَةِ ،باب تَحْرِيمِ اسْتِعْمَالِ إِنَاءِ الذَّهَبِ وَالْفِضَّةِ عَلَى الرِّجَالِ وَالنِّسَاءِ]

L751 (18) Abu Hurayra reported that the Messenger of Allah ﷺ said… They asked: ‘What about horses, Messenger of Allah?’ He said: ‘…Horses are of three kinds: a reward for one man, a protection for another and a burden of sin for another. Those which bring reward are the horses a man keeps in Allah’s way…’ They asked: ‘What about donkeys, Messenger of Allah?’ He said: ‘Allah has revealed nothing to me concerning them except this uniquely comprehensive verse: “Whoever does an atom’s weight of good will see it, and whoever does an atom’s weight of evil will see it”…’ [Muslim, Book of Zakat, chapter: The sin of withholding zakat.][14]

(18)“ عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ..... قَالُوا فَالْخَيْلُ يَا رَسُولَ اللَّهِ قَالَ ..... الْخَيْلُ ثَلَاثَةٌ فَهِيَ لِرَجُلٍ أَجْرٌ وَلِرَجُلٍ سِتْرٌ وَلِرَجُلٍ وِزْرٌ فَأَمَّا الَّتِي هِيَ لَهُ أَجْرٌ فَالرَّجُلُ يَتَّخِذُهَا فِي سَبِيلِ اللَّهِ ..... قَالُوا فَالْحُمُرُ يَا رَسُولَ اللَّهِ قَالَ مَا أَنْزَلَ اللَّهُ عَلَيَّ فِيهَا شَيْئًا إِلَّا هَذِهِ الْآيَةَ الْجَامِعَةَ الْفَاذَّةَ { فَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ خَيْرًا يَرَهُ وَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ شَرًّا يَرَهُ } ....“ [مسلم: كِتَاب الزَّكَاةِ ، بَاب إِثْمِ مَانِعِ الزَّكَاةِ]

L752 (18) Abu Hurayra, may Allah be pleased with him, reported that the Messenger of Allah ﷺ said: ‘Horses are for three kinds of people: a reward for one man, a protection for another and a burden of sin upon another…’ The Messenger of Allah ﷺ was asked about donkeys. He said: ‘Allah has revealed to me concerning them only this uniquely comprehensive verse: “Whoever does an atom’s weight of good will see it, and whoever does an atom’s weight of evil will see it.”’ [Al-Bukhari, Book of Quranic Commentary, Sahih al-Bukhari, chapter on His words: ‘Whoever does an atom’s weight of

(18)عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ الْخَيْلُ لِثَلَاثَةٍ لِرَجُلٍ أَجْرٌ وَلِرَجُلٍ سِتْرٌ وَعَلَى رَجُلٍ وِزْرٌ ..... فَسُئِلَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ الْحُمُرِ قَالَ مَا أَنْزَلَ اللَّهُ عَلَيَّ فِيهَا إِلَّا هَذِهِ الْآيَةَ الْفَاذَّةَ الْجَامِعَةَ { فَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ خَيْرًا يَرَهُ وَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ شَرًّا يَرَهُ } [البخاري: كِتَاب تَفْسِيرِ الْقُرْآنِ، صحيح البخاري، باب قَوْلُهُ { فَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ خَيْرًا يَرَهُ }] وفى رواية

[13] **Hadith references (L750):** Sahih Muslim 2068c.

[14] **Qur’an references (L751):** Qur’an 99:7 (Az-Zalzalah); Qur’an 99:8 (Az-Zalzalah).

good will see it.'] Muslim's report has: '…Nothing has been revealed to me concerning donkeys except this uniquely comprehensive verse…' [Muslim, Book of Zakat, chapter: The sin of withholding zakat.][15]

L753 (19) Abu Hurayra said: 'The Messenger of Allah ﷺ addressed us, saying: "People, Allah has made hajj obligatory upon you, so perform hajj." A man said: "Every year, Messenger of Allah?" He remained silent until the man had said it three times. The Messenger of Allah ﷺ said: "Had I said yes, it would have become obligatory, and you would not have been able to do it." Then he said: "Leave me as I leave you. Those before you perished only through their many questions and their disagreement with their prophets. When I command you to do something, do as much of it as you can; when I forbid you something, leave it."' [Sahih Muslim, Book of Hajj, chapter: Hajj is obligatory once in a lifetime.][16]

L754 (20) Abd al-Rahman ibn Amr al-Sulami reported that he heard al-Irbad ibn Sariya say: 'The Messenger of Allah ﷺ admonished us with an admonition which brought tears to our eyes and made our hearts tremble. We said: "Messenger of Allah, this is surely a farewell admonition. What do you enjoin upon us?" He said: "I have left you upon the clear, white way, whose night is like its day. None deviates from it after me but one who is doomed. Those of you who live will see much disagreement. Adhere, then, to what you know of my Sunnah and the sunnah of the rightly guided, rightly directed caliphs. Cling to it with your molar teeth. You must obey, even if it be an Abyssinian slave; the believer is like a camel led by the nose: wherever it is led, it follows."' [Sunan Ibn Majah, Book of the Introduction, chapter: Following the sunnah of the rightly guided caliphs; Sahih wa-Daif Sunan Ibn Majah, al-Albani's assessment: authentic.][17]

L755 Abd al-Rahman ibn Amr al-Sulami also reported that he heard al-Irbad ibn Sariya say: 'The Messenger of Allah ﷺ admonished us with an admonition

مسلم ".....مَا أُنْزِلَ عَلَيَّ فِي الْحُمُرِ شَيْءٌ إِلَّا هَذِهِ الْآيَةَ الْفَاذَّةُ الْجَامِعَةُ....." [مسلم: كِتَاب الزَّكَاةِ، بَاب إِثْمِ مَانِعِ الزَّكَاةِ]

(19)عَنْ أَبِي هُرَيْرَةَ قَالَ خَطَبَنَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ أَيُّهَا النَّاسُ قَدْ فَرَضَ اللَّهُ عَلَيْكُمْ الْحَجَّ فَحُجُّوا فَقَالَ رَجُلٌ أَكُلَّ عَامٍ يَا رَسُولَ اللَّهِ فَسَكَتَ حَتَّى قَالَهَا ثَلَاثًا فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَوْ قُلْتُ نَعَمْ لَوَجَبَتْ وَلَمَا اسْتَطَعْتُمْ ثُمَّ قَالَ ذَرُونِي مَا تَرَكْتُكُمْ فَإِنَّمَا هَلَكَ مَنْ كَانَ قَبْلَكُمْ بِكَثْرَةِ سُؤَالِهِمْ وَاخْتِلَافِهِمْ عَلَى أَنْبِيَائِهِمْ فَإِذَا أَمَرْتُكُمْ بِشَيْءٍ فَأْتُوا مِنْهُ مَا اسْتَطَعْتُمْ وَإِذَا نَهَيْتُكُمْ عَنْ شَيْءٍ فَدَعُوهُ [صحيح مسلم: كِتَاب الْحَجِّ ، بَاب فَرْضِ الْحَجِّ مَرَّةً فِي الْعُمُرِ]

(20) " عَنْ عَبْدِ الرَّحْمَنِ بْنِ عَمْرٍو السُّلَمِيِّ أَنَّهُ سَمِعَ الْعِرْبَاضَ بْنَ سَارِيَةَ يَقُولُ: وَعَظَنَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَوْعِظَةً ذَرَفَتْ مِنْهَا الْعُيُونُ وَوَجِلَتْ مِنْهَا الْقُلُوبُ فَقُلْنَا يَا رَسُولَ اللَّهِ إِنَّ هَذِهِ لَمَوْعِظَةُ مُوَدِّعٍ فَمَاذَا تَعْهَدُ إِلَيْنَا قَالَ قَدْ تَرَكْتُكُمْ عَلَى الْبَيْضَاءِ لَيْلُهَا كَنَهَارِهَا لَا يَزِيغُ عَنْهَا بَعْدِي إِلَّا هَالِكٌ مَنْ يَعِشْ مِنْكُمْ فَسَيَرَى اخْتِلَافًا كَثِيرًا فَعَلَيْكُمْ بِمَا عَرَفْتُمْ مِنْ سُنَّتِي وَسُنَّةِ الْخُلَفَاءِ الرَّاشِدِينَ الْمَهْدِيِّينَ عَضُّوا عَلَيْهَا بِالنَّوَاجِذِ وَعَلَيْكُمْ بِالطَّاعَةِ وَإِنْ عَبْدًا حَبَشِيًّا فَإِنَّمَا الْمُؤْمِنُ كَالْجَمَلِ الْأَنِفِ حَيْثُمَا قِيدَ انْقَادَ [سنن ابن ماجه: كِتَاب الْمُقَدِّمَةِ، بَاب اتِّبَاعِ سُنَّةِ الْخُلَفَاءِ الرَّاشِدِينَ الْمَهْدِيِّينَ][صحيح وضعيف سنن ابن ماجة : تحقيق الألباني : صحيح]

و عن عبد الرحمن بن عمرو السلمي أنه سمع العرباض بن سارية ، قال : وعظنا رسول الله صلى الله عليه وسلم موعظة ذرفت منها العيون ، ووجلت منها القلوب ، فقلنا : يا رسول الله إن هذا لموعظة مودع فإذا تعهد إلينا ، قال : « قد تركتكم على البيضاء

[15]**Qur'an references (L752):** Qur'an 99:7 (Az-Zalzalah); Qur'an 99:8 (Az-Zalzalah).
[16]**Hadith references (L753):** Sahih Muslim 1337; Riyad as-Salihin 1272.
[17]**Hadith references (L754):** Sunan Ibn Majah 43.

which brought tears to our eyes and made our hearts tremble. We said: "Messenger of Allah, this is surely a farewell admonition. What, then, do you enjoin upon us?" He said: "I have left you upon the clear, white way, whose night is like its day. None deviates from it after me but one who is doomed. Those of you who live will see much disagreement. Adhere to what you know of my Sunnah and the sunnah of the rightly directed, rightly guided caliphs after me. You must obey, even if it be an Abyssinian slave. Cling to it with your molar teeth.'" Asad ibn Wadaa would add to this report: 'The believer is like a camel led by the nose: wherever it is led, it follows.' [Al-Hakim, Al-Mustadrak ala al-Sahihayn, Book of Knowledge, section concerning the hadith of Abd Allah ibn Masud.]

ليلها كنهارها لا يزيغ عنها بعدي إلا هالك ، ومن يعش منكم فسيرى اختلافا كثيرا فعليكم بما عرفتم من سنتي وسنة الخلفاء المهديين الراشدين من بعدي وعليكم بالطاعة وإن كان عبدا حبشيا عضوا عليها بالنواجذ » . فكان أسد بن وداعة يزيد في هذا الحديث « فإن المؤمن كالجمل الأنف حيث ما قيد انقاد » [المستدرك على الصحيحين للحاكم: كتاب العلم، وأما حديث عبد الله بن مسعود]

L756 (21) Abu Qilaba reported: 'Malik related to us: We came to the Prophet ﷺ as young men of much the same age, and stayed with him for twenty days and nights. The Messenger of Allah ﷺ was merciful and gentle. When he thought that we longed—or yearned—for our families, he asked whom we had left behind, and we told him. He said: "Return to your families, stay among them, teach them and instruct them." He mentioned things which I remember—or do not remember—and said: "Pray as you have seen me pray. When prayer comes, let one of you call the adhan and let the eldest of you lead you."' [Al-Bukhari, Book of the Adhan, chapter: The adhan for a traveller…][18]

(21)" عَنْ أَبِي قِلَابَةَ قَالَ حَدَّثَنَا مَالِكٌ أَتَيْنَا إِلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَنَحْنُ شَبَبَةٌ مُتَقَارِبُونَ فَأَقَمْنَا عِنْدَهُ عِشْرِينَ يَوْمًا وَلَيْلَةً وَكَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ رَحِيمًا رَفِيقًا فَلَمَّا ظَنَّ أَنَّا قَدْ اشْتَهَيْنَا أَهْلَنَا أَوْ قَدْ اشْتَقْنَا سَأَلَنَا عَمَّنْ تَرَكْنَا بَعْدَنَا فَأَخْبَرْنَاهُ قَالَ ارْجِعُوا إِلَى أَهْلِيكُمْ فَأَقِيمُوا فِيهِمْ وَعَلِّمُوهُمْ وَمُرُوهُمْ وَذَكَرَ أَشْيَاءَ أَحْفَظُهَا أَوْ لَا أَحْفَظُهَا وَصَلُّوا كَمَا رَأَيْتُمُونِي أُصَلِّي فَإِذَا حَضَرَتْ الصَّلَاةُ فَلْيُؤَذِّنْ لَكُمْ أَحَدُكُمْ وَلْيَؤُمَّكُمْ أَكْبَرُكُمْ" [البخاري: كِتَاب الْأَذَانِ، بَاب الْأَذَانِ لِلْمُسَافِرِ....]

L757 (22) Ibn Jurayj reported: 'Abu al-Zubayr told me that he heard Jabir say: I saw the Prophet ﷺ throwing the pebbles from his mount on the Day of Sacrifice, saying: "Learn your rites, for I do not know: perhaps I shall not perform hajj after this hajj of mine."' [Muslim, Book of Hajj, chapter: The recommendation of throwing at Jamrat al-Aqaba on the Day of Sacrifice…]

(22) "عَنْ ابْنِ جُرَيْجٍ أَخْبَرَنِي أَبُو الزُّبَيْرِ أَنَّهُ سَمِعَ جَابِرًا يَقُولُ رَأَيْتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَرْمِي عَلَى رَاحِلَتِهِ يَوْمَ النَّحْرِ وَيَقُولُ لِتَأْخُذُوا مَنَاسِكَكُمْ فَإِنِّي لَا أَدْرِي لَعَلِّي لَا أَحُجُّ بَعْدَ حَجَّتِي هَذِهِ" [مسلم: كِتَاب الْحَجِّ، بَاب اسْتِحْبَابِ رَمْيِ جَمْرَةِ الْعَقَبَةِ يَوْمَ النَّحْرِ.....]

L758 (23) Abu Hurayra reported that the Messenger of Allah ﷺ said: 'If he becomes intoxicated, flog him; if he becomes intoxicated again, flog him; if he becomes intoxicated again, flog him. If he returns a fourth time, execute

(23) " عَنْ أَبِي هُرَيْرَةَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِذَا سَكِرَ فَاجْلِدُوهُ ثُمَّ إِنْ سَكِرَ فَاجْلِدُوهُ ثُمَّ إِنْ سَكِرَ فَاجْلِدُوهُ فَإِنْ عَادَ الرَّابِعَةَ فَاقْتُلُوهُ" [سنن أبي داود: كِتَاب

[18] **Hadith references (L756):** Sahih al-Bukhari 631; Sahih al-Bukhari 7246.

him.' [Sunan Abi Dawud, Book of Prescribed Punishments, chapter: Repeated drinking of wine; Sahih wa-Daif Sunan Abi Dawud, 9:484, al-Albani's assessment: sound; Sahih Ibn Majah, no. 2572.][19]

L759 (23) Anas said: 'The Prophet ﷺ inflicted flogging for wine with palm branches and sandals.' [Al-Bukhari, Book of Prescribed Punishments, chapter: Beating with palm branches and sandals.]

L760 (23) Anas ibn Malik reported that a man who had drunk wine was brought to the Prophet ﷺ, who flogged him with two palm branches, about forty strokes. [Muslim, Book of Prescribed Punishments, chapter: The punishment for wine.]

L761 (24) Ibn Abbas, may Allah be pleased with them both, said: 'I prayed with the Prophet ﷺ one night and stood on his left. The Messenger of Allah ﷺ took hold of my head from behind and placed me on his right. He prayed and slept. The caller to prayer came; he rose and prayed without performing ablution.' [Al-Bukhari, Book of the Adhan, chapter: If a man stands on the imam's left and the imam moves him behind himself to his right, his prayer remains valid.][20]

L762 (25) Abd Allah ibn Umar, may Allah be pleased with them both, said: 'The Messenger of Allah ﷺ used to wear a gold ring. He threw it away, saying: "I shall never wear it." The people threw away their rings.' [Al-Bukhari, Book of Dress, chapter: The silver ring.]

L763 (25) Nafi reported that Abd Allah told him: 'The Prophet ﷺ had a gold ring made. When wearing it, he placed its stone on the inside of his palm. The people had gold rings made. He ascended the pulpit, praised and extolled Allah and said: "I had it made, but I shall not wear it." He threw it away, and the people threw theirs away.' Juwayriya said: 'I think he said: on his right

الْحُدُودِ، بَاب إِذَا تَتَابَعَ فِي شُرْبِ الْخَمْرِ][صحيح وضعيف سنن أبي داود (9/ 484): تحقيق الألباني :حسن صحيح ابن ماجة (2572)]

(23) " عَنْ أَنَسٍ قَالَ جَلَدَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي الْخَمْرِ بِالْجَرِيدِ وَالنِّعَالِ" [البخاري: كِتَاب الْحُدُودِ، بَاب الضَّرْبِ بِالْجَرِيدِ وَالنِّعَالِ]

(23) " عَنْ أَنَسِ بْنِ مَالِكٍ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أُتِيَ بِرَجُلٍ قَدْ شَرِبَ الْخَمْرَ فَجَلَدَهُ بِجَرِيدَتَيْنِ نَحْوَ أَرْبَعِينَ" [مسلم: كِتَاب الْحُدُودِ، بَاب حَدِّ الْخَمْرِ]

(24)"عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ صَلَّيْتُ مَعَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ذَاتَ لَيْلَةٍ فَقُمْتُ عَنْ يَسَارِهِ فَأَخَذَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِرَأْسِي مِنْ وَرَائِي فَجَعَلَنِي عَنْ يَمِينِهِ فَصَلَّى وَرَقَدَ فَجَاءَهُ الْمُؤَذِّنُ فَقَامَ وَصَلَّى وَلَمْ يَتَوَضَّأْ" [البخاري: كِتَاب الْأَذَانِ ، بَاب إِذَا قَامَ الرَّجُلُ عَنْ يَسَارِ الْإِمَامِ وَحَوَّلَهُ الْإِمَامُ خَلْفَهُ إِلَى يَمِينِهِ تَمَّتْ صَلَاتُهُ]

(25)"عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَلْبَسُ خَاتَمًا مِنْ ذَهَبٍ فَنَبَذَهُ فَقَالَ لَا أَلْبَسُهُ أَبَدًا فَنَبَذَ النَّاسُ خَوَاتِيمَهُمْ [البخاري: كِتَاب اللِّبَاسِ، بَاب خَاتَمِ الْفِضَّةِ]

(25)" عَنْ نَافِعٍ أَنَّ عَبْدَ اللَّهِ حَدَّثَهُ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ اصْطَنَعَ خَاتَمًا مِنْ ذَهَبٍ وَجَعَلَ فَصَّهُ فِي بَطْنِ كَفِّهِ إِذَا لَبِسَهُ فَاصْطَنَعَ النَّاسُ خَوَاتِيمَ مِنْ ذَهَبٍ فَرَقِيَ الْمِنْبَرَ فَحَمِدَ اللَّهَ وَأَثْنَى عَلَيْهِ فَقَالَ إِنِّي كُنْتُ اصْطَنَعْتُهُ وَإِنِّي لَا أَلْبَسُهُ فَنَبَذَهُ فَنَبَذَ النَّاسُ قَالَ جُوَيْرِيَةُ وَلَا أَحْسِبُهُ إِلَّا قَالَ فِي يَدِهِ الْيُمْنَى" [البخاري: كِتَاب اللِّبَاسِ، بَاب مَنْ جَعَلَ فَصَّ الْخَاتَمِ فِي بَطْنِ كَفِّهِ]

[19]**Hadith references (L758):** Sunan Abi Dawud 4484.
[20]**Hadith references (L761):** Sahih al-Bukhari 726.

hand.' [Al-Bukhari, Book of Dress, chapter: Placing the ring's stone on the inside of the palm.][21]

L764 (26) Aisha reported that she had a cloth containing pictures stretched across a recess. The Prophet ﷺ used to pray facing it. He said: 'Remove it from me.' She said: 'I removed it and made it into cushions.' [Muslim, Book of Dress and Adornment, chapter: The prohibition of making images of living creatures and keeping images not subjected to use in bedding and the like; the angels, peace be upon them, do not enter a house containing an image or a dog.]

L765 In a report in al-Nasai, Aisha said:

L766 (26) 'There was a cloth containing pictures in my house. I placed it across a recess in the house, and the Messenger of Allah ﷺ used to pray facing it. Then he said: "Aisha, remove it from me." I took it down and made it into cushions.' [Sunan al-Nasai, Book of the Qibla, section: Praying towards a cloth containing pictures; Sahih wa-Daif Sunan al-Nasai, 2:405, al-Albani's assessment: authentic.]

L767 (27) Abu Hurayra reported that the Messenger of Allah ﷺ said: 'A woman, a donkey and a dog interrupt prayer. Something like the back of a saddle protects against this.' [Muslim, Book of Prayer, chapter: The size of what screens a person praying.]

L768 (28) Urwa ibn al-Zubayr said: 'Aisha asked: "What interrupts prayer?" We said: "A woman and a donkey." She said: "Then a woman is a dreadful beast indeed! I have seen myself lying across in front of the Messenger of Allah ﷺ like a bier while he prayed."' [Muslim, Book of Prayer, chapter: Lying across in front of someone praying.]

(26)" عَنْ عَائِشَةَ أَنَّهُ كَانَ لَهَا ثَوْبٌ فِيهِ تَصَاوِيرُ مَمْدُودٌ إِلَى سَهْوَةٍ فَكَانَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُصَلِّي إِلَيْهِ فَقَالَ أَخِّرِيهِ عَنِّي قَالَتْ فَأَخَّرْتُهُ فَجَعَلْتُهُ وَسَائِدَ" [مسلم: كِتَاب اللِّبَاسِ وَالزِّينَةِ، بَاب تَحْرِيمِ تَصْوِيرِ صُورَةِ الْحَيَوَانِ وَتَحْرِيمِ اتِّخَاذِ مَا فِيهِ صُورَةٌ غَيْرُ مُمْتَهَنَةٍ بِالْفَرْشِ وَنَحْوِهِ وَأَنَّ الْمَلَائِكَةَ عَلَيْهِمْ السَّلَام لَا يَدْخُلُونَ بَيْتًا فِيهِ صُورَةٌ وَلَا كَلْبٌ]

وفى رواية لنسائى عَنْ عَائِشَةَ قَالَتْ

(26)"كَانَ فِي بَيْتِي ثَوْبٌ فِيهِ تَصَاوِيرُ فَجَعَلْتُهُ إِلَى سَهْوَةٍ فِي الْبَيْتِ فَكَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُصَلِّي إِلَيْهِ ثُمَّ قَالَ يَا عَائِشَةُ أَخِّرِيهِ عَنِّي فَنَزَعْتُهُ فَجَعَلْتُهُ وَسَائِدَ" [سنن النسائي: كِتَاب الْقِبْلَةِ، الصَّلَاةُ إِلَى ثَوْبٍ فِيهِ تَصَاوِيرُ] [صحيح وضعيف سنن النسائي (2/ 405): تحقيق الألباني :صحيح]

(27)" عَنْ أَبِي هُرَيْرَةَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقْطَعُ الصَّلَاةَ الْمَرْأَةُ وَالْحِمَارُ وَالْكَلْبُ وَيَقِي ذَلِكَ مِثْلُ مُؤْخِرَةِ الرَّحْلِ" [مسلم: كِتَاب الصَّلَاةِ، بَاب قَدْرِ مَا يَسْتُرُ الْمُصَلِّي]

(28)"عَنْ عُرْوَةَ بْنِ الزُّبَيْرِ قَالَ قَالَتْ عَائِشَةُ مَا يَقْطَعُ الصَّلَاةَ قَالَ فَقُلْنَا الْمَرْأَةُ وَالْحِمَارُ فَقَالَتْ إِنَّ الْمَرْأَةَ لَدَابَّةُ سَوْءٍ لَقَدْ رَأَيْتُنِي بَيْنَ يَدَيْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مُعْتَرِضَةً كَاعْتِرَاضِ الْجَنَازَةِ وَهُوَ يُصَلِّي" [مسلم: كِتَاب الصَّلَاةِ، بَاب الِاعْتِرَاضِ بَيْنَ يَدَيْ الْمُصَلِّي]

[21] **Hadith references (L763):** Sahih al-Bukhari 5876.

(28) إن عائشة ذكرت أن رسول الله عليه السلام كان يصلي وهي بين يديه معترضة كاعتراض الجنازة، فتكره أن تقعد فتؤذي رسول الله عليه السلام فتظل كما هي.

(28) "عَنْ عَائِشَةَ وَذُكِرَ عِنْدَهَا مَا يَقْطَعُ الصَّلَاةَ الْكَلْبُ وَالْحِمَارُ وَالْمَرْأَةُ فَقَالَتْ عَائِشَةُ قَدْ شَبَّهْتُمُونَا بِالْحُمُرِ وَالْكِلَابِ وَاللَّهِ لَقَدْ رَأَيْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُصَلِّي وَإِنِّي عَلَى السَّرِيرِ بَيْنَهُ وَبَيْنَ الْقِبْلَةِ مُضْطَجِعَةً فَتَبْدُو لِي الْحَاجَةُ فَأَكْرَهُ أَنْ أَجْلِسَ فَأُوذِيَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَأَنْسَلُّ مِنْ عِنْدِ رِجْلَيْهِ" [مسلم: كِتَاب الصَّلَاةِ، بَاب الِاعْتِرَاضِ بَيْنَ يَدَيْ الْمُصَلِّي]

إن هذا الفعل كان بعد النهي، لأنها أخبرت أنها لو قعدت لآذت رسول الله عليه السلام بذلك، ودل أيضا هذا الخبر على المداومة على ذلك.

فنستثنى الاضطجاع من قطع المرأة الصلاة على سائر أحوالها.

(29)" عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ إِذَا رَأَيْتُمْ الْجَنَازَةَ فَقُومُوا فَمَنْ تَبِعَهَا فَلَا يَجْلِسْ حَتَّى تُوضَعَ" [مسلم: كِتَاب الْجَنَائِزِ، بَاب الْقِيَامِ لِلْجَنَازَةِ]

(29)" عَنْ وَاقِدِ بْنِ عَمْرِو بْنِ سَعْدِ بْنِ مُعَاذٍ أَنَّهُ قَالَ رَآنِي نَافِعُ بْنُ جُبَيْرٍ وَنَحْنُ فِي جَنَازَةٍ قَائِمًا وَقَدْ جَلَسَ يَنْتَظِرُ أَنْ تُوضَعَ الْجَنَازَةُ فَقَالَ لِي مَا يُقِيمُكَ فَقُلْتُ أَنْتَظِرُ أَنْ تُوضَعَ الْجَنَازَةُ لِمَا يُحَدِّثُ أَبُو سَعِيدٍ الْخُدْرِيُّ فَقَالَ نَافِعٌ فَإِنَّ مَسْعُودَ بْنَ الْحَكَمِ حَدَّثَنِي عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ أَنَّهُ قَالَ قَامَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ثُمَّ قَعَدَ" [مسلم: كِتَاب الْجَنَائِزِ، بَاب نَسْخِ الْقِيَامِ لِلْجَنَازَةِ]

L769 (28) Aisha mentioned that the Messenger of Allah ﷺ would pray with her lying across in front of him like a bier. She disliked sitting up lest she disturb the Messenger of Allah ﷺ and therefore remained as she was.

L770 (28) Aisha was present when it was mentioned that a dog, a donkey and a woman interrupt prayer. She said: 'You have likened us to donkeys and dogs! By Allah, I have seen the Messenger of Allah ﷺ pray while I lay on the bed between him and the qibla. When I needed something, I disliked sitting up lest I disturb the Messenger of Allah ﷺ, so I would slip away by his feet.' [Muslim, Book of Prayer, chapter: Lying across in front of someone praying.]

L771 This action came after the prohibition, for she said that sitting up would have disturbed the Messenger of Allah ﷺ. This report also indicates that the practice was continued.

L772 We therefore except lying down from a woman's interrupting prayer in all her other states.

L773 (29) Abu Said al-Khudri reported that the Messenger of Allah ﷺ said: 'When you see a funeral, stand. Whoever follows it must not sit until it is set down.' [Muslim, Book of Funerals, chapter: Standing for a funeral.]

L774 (29) Waqid ibn Amr ibn Sad ibn Muadh said: 'Nafi ibn Jubayr saw me standing at a funeral while he was seated, waiting for the bier to be set down. He asked: "What keeps you standing?" I said: "I am waiting for the bier to be set down, because of Abu Said al-Khudri's report." Nafi said: "Masud ibn al-Hakam related to me from Ali ibn Abi Talib that he said: 'The Messenger of Allah ﷺ stood, then sat.'"" [Muslim, Book of Funerals, chapter: Abrogation of standing for a funeral.]

L775 (30) Aisha, the Prophet's wife ﷺ, said: 'The Messenger of Allah ﷺ prayed

seated in his house. Some people prayed standing behind him. He gestured to them to sit. When he finished, he said: "The imam is appointed only to be followed. When he bows, bow; when he rises, rise; and when he prays seated, pray seated."' [Sunan Abi Dawud, Book of Prayer, chapter: An imam who prays seated; Sahih wa-Daif Sunan Abi Dawud, al-Albani's assessment: authentic.][22]

(30)"عَنْ عَائِشَةَ زَوْجِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهَا قَالَتْ صَلَّى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي بَيْتِهِ وَهُوَ جَالِسٌ فَصَلَّى وَرَاءَهُ قَوْمٌ قِيَامًا فَأَشَارَ إِلَيْهِمْ أَنْ اجْلِسُوا فَلَمَّا انْصَرَفَ قَالَ إِنَّمَا جُعِلَ الْإِمَامُ لِيُؤْتَمَّ بِهِ فَإِذَا رَكَعَ فَارْكَعُوا وَإِذَا رَفَعَ فَارْفَعُوا وَإِذَا صَلَّى جَالِسًا فَصَلُّوا جُلُوسًا" [سنن أبي داود: كِتَاب الصَّلَاةِ؛ بَاب الْإِمَامِ يُصَلِّي مِنْ قُعُودٍ] [صحيح وضعيف سنن أبي داود: تحقيق الألباني: صحيح]

L776 (30) Al-Layth informed us, from Abu al-Zubayr, from Jabir, who said: 'The Messenger of Allah ﷺ became ill. We prayed behind him while he was seated, with Abu Bakr making his takbir audible to the people. He turned towards us and saw us standing. He gestured to us; we sat and prayed seated behind him. After giving the salutation, he said: "You almost did just now as the Persians and Romans do, standing before their kings while they sit. Do not do that. Follow your imams: if he prays standing, pray standing; if he prays seated, pray seated."' [Muslim, Book of Prayer, chapter: Following the imam.][23]

(30)" أَخْبَرَنَا اللَّيْثُ عَنْ أَبِي الزُّبَيْرِ عَنْ جَابِرٍ قَالَ اشْتَكَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَصَلَّيْنَا وَرَاءَهُ وَهُوَ قَاعِدٌ وَأَبُو بَكْرٍ يُسْمِعُ النَّاسَ تَكْبِيرَهُ فَالْتَفَتَ إِلَيْنَا فَرَآنَا قِيَامًا فَأَشَارَ إِلَيْنَا فَقَعَدْنَا فَصَلَّيْنَا بِصَلَاتِهِ قُعُودًا فَلَمَّا سَلَّمَ قَالَ إِنْ كِدْتُمْ آنِفًا لَتَفْعَلُونَ فِعْلَ فَارِسَ وَالرُّومِ يَقُومُونَ عَلَى مُلُوكِهِمْ وَهُمْ قُعُودٌ فَلَا تَفْعَلُوا ائْتَمُّوا بِأَئِمَّتِكُمْ إِنْ صَلَّى قَائِمًا فَصَلُّوا قِيَامًا وَإِنْ صَلَّى قَاعِدًا فَصَلُّوا قُعُودًا"[مسلم: كِتَاب الصَّلَاةِ؛ بَاب ائْتِمَامِ الْمَأْمُومِ بِالْإِمَامِ]

L777 (30) Jabir said: 'The Messenger of Allah ﷺ led us in prayer, with Abu Bakr behind him. When the Messenger of Allah ﷺ pronounced the takbir, Abu Bakr pronounced it so that we could hear.' He then related something similar to al-Layth's hadith. [Muslim, Book of Prayer, chapter: Following the imam.]

(30)" عَنْ جَابِرٍ قَالَ صَلَّى بِنَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَبُو بَكْرٍ خَلْفَهُ فَإِذَا كَبَّرَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَبَّرَ أَبُو بَكْرٍ لِيُسْمِعَنَا ثُمَّ ذَكَرَ نَحْوَ حَدِيثِ اللَّيْثِ" [مسلم: كِتَاب الصَّلَاةِ؛ بَاب ائْتِمَامِ الْمَأْمُومِ بِالْإِمَامِ]

L778 (31) Al-Aswad reported that Aisha said: 'When the Messenger of Allah ﷺ became gravely ill, Bilal came to notify him of prayer. He said: "Tell Abu Bakr to lead the people." I said: "Messenger of Allah, Abu Bakr is a tender-hearted man. Whenever he takes your place, he cannot make himself heard. If only you would appoint Umar." He said: "Tell Abu Bakr to lead the people."

(31)"عَنْ الْأَسْوَدِ عَنْ عَائِشَةَ قَالَتْ لَمَّا ثَقُلَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ جَاءَ بِلَالٌ يُؤْذِنُهُ بِالصَّلَاةِ فَقَالَ مُرُوا أَبَا بَكْرٍ أَنْ يُصَلِّيَ بِالنَّاسِ فَقُلْتُ يَا رَسُولَ اللَّهِ إِنَّ أَبَا بَكْرٍ رَجُلٌ أَسِيفٌ وَإِنَّهُ مَتَى مَا يَقُمْ مَقَامَكَ لَا يُسْمِعُ النَّاسَ فَلَوْ أَمَرْتَ عُمَرَ فَقَالَ مُرُوا أَبَا بَكْرٍ يُصَلِّي بِالنَّاسِ فَقُلْتُ لِحَفْصَةَ قُولِي لَهُ إِنَّ أَبَا بَكْرٍ رَجُلٌ أَسِيفٌ وَإِنَّهُ مَتَى يَقُمْ مَقَامَكَ

[22] **Hadith references (L775):** Sunan Abi Dawud 605; Sahih al-Bukhari 688; Sunan Ibn Majah 1237.

[23] **Hadith references (L776):** Sahih Muslim 413a.

I told Hafsa: “Tell him that Abu Bakr is a tender-hearted man and cannot make himself heard when he takes your place. If only you would appoint Umar.” He said: “You are indeed the women around Yusuf! Tell Abu Bakr to lead the people.” When Abu Bakr began praying, the Messenger of Allah ﷺ felt some relief and rose, supported between two men, his feet dragging on the ground, until he entered the mosque. Abu Bakr heard him and began to move back. The Messenger of Allah ﷺ gestured to him, then came and sat on Abu Bakr’s left. Abu Bakr prayed standing while the Messenger of Allah ﷺ prayed seated. Abu Bakr followed the Messenger’s prayer ﷺ, and the people followed Abu Bakr’s prayer, may Allah be pleased with him.’ [Sahih al-Bukhari, Book of the Adhan, chapter: A man follows the imam, and the people follow the follower.][24]

لَا يُسْمِعُ النَّاسَ فَلَوْ أَمَرْتَ عُمَرَ قَالَ إِنَّكُنَّ لَأَنْتُنَّ صَوَاحِبُ يُوسُفَ مُرُوا أَبَا بَكْرٍ أَنْ يُصَلِّيَ بِالنَّاسِ فَلَمَّا دَخَلَ فِي الصَّلَاةِ وَجَدَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي نَفْسِهِ خِفَّةً فَقَامَ يُهَادَى بَيْنَ رَجُلَيْنِ وَرِجْلَاهُ يَخُطَّانِ فِي الْأَرْضِ حَتَّى دَخَلَ الْمَسْجِدَ فَلَمَّا سَمِعَ أَبُو بَكْرٍ حِسَّهُ ذَهَبَ أَبُو بَكْرٍ يَتَأَخَّرُ فَأَوْمَأَ إِلَيْهِ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَجَاءَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ حَتَّى جَلَسَ عَنْ يَسَارِ أَبِي بَكْرٍ فَكَانَ أَبُو بَكْرٍ يُصَلِّي قَائِمًا وَكَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُصَلِّي قَاعِدًا يَقْتَدِي أَبُو بَكْرٍ بِصَلَاةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَالنَّاسُ مُقْتَدُونَ بِصَلَاةِ أَبِي بَكْرٍ رَضِيَ اللَّهُ عَنْهُ” [صحيح البخاري: كِتَاب الْأَذَانِ، بَاب الرَّجُلُ يَأْتَمُّ بِالْإِمَامِ وَيَأْتَمُّ النَّاسُ بِالْمَأْمُومِ]

L779 (31) Anas ibn Malik reported that the Messenger of Allah ﷺ rode a horse, fell from it and grazed his right side. He performed one of the prayers seated, and we prayed seated behind him. When he finished, he said: ‘The imam is appointed only to be followed. If he prays standing, pray standing; when he bows, bow; when he rises, rise; when he says “Allah hears whoever praises Him,” say “Our Lord, to You belongs praise.” If he prays standing, pray standing; if he prays seated, all of you pray seated.’[25]

(31)” عَنْ أَنَسِ بْنِ مَالِكٍ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ رَكِبَ فَرَسًا فَصُرِعَ عَنْهُ فَجُحِشَ شِقُّهُ الْأَيْمَنُ فَصَلَّى صَلَاةً مِنْ الصَّلَوَاتِ وَهُوَ قَاعِدٌ فَصَلَّيْنَا وَرَاءَهُ قُعُودًا فَلَمَّا انْصَرَفَ قَالَ إِنَّمَا جُعِلَ الْإِمَامُ لِيُؤْتَمَّ بِهِ فَإِذَا صَلَّى قَائِمًا فَصَلُّوا قِيَامًا فَإِذَا رَكَعَ فَارْكَعُوا وَإِذَا رَفَعَ فَارْفَعُوا وَإِذَا قَالَ سَمِعَ اللَّهُ لِمَنْ حَمِدَهُ فَقُولُوا رَبَّنَا وَلَكَ الْحَمْدُ وَإِذَا صَلَّى قَائِمًا فَصَلُّوا قِيَامًا وَإِذَا صَلَّى جَالِسًا فَصَلُّوا جُلُوسًا أَجْمَعُونَ

L780 Abu Abd Allah said: ‘Al-Humaydi said: His words, “If he prays seated, pray seated,” concerned his earlier illness. Later the Prophet ﷺ prayed seated with the people standing behind him, and did not order them to sit. Only the latest action of the Prophet ﷺ is followed.’ [Al-Bukhari, Book of the Adhan, chapter: The imam is appointed only to be followed.]

قَالَ أَبُو عَبْد اللَّهِ قَالَ الْحُمَيْدِيُّ قَوْلُهُ إِذَا صَلَّى جَالِسًا فَصَلُّوا جُلُوسًا هُوَ فِي مَرَضِهِ الْقَدِيمِ ثُمَّ صَلَّى بَعْدَ ذَلِكَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ جَالِسًا وَالنَّاسُ خَلْفَهُ قِيَامًا لَمْ يَأْمُرْهُمْ بِالْقُعُودِ وَإِنَّمَا يُؤْخَذُ بِالْآخِرِ فَالْآخِرِ مِنْ فِعْلِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ” [البخاري: كِتَاب الْأَذَانِ، بَاب إِنَّمَا جُعِلَ الْإِمَامُ لِيُؤْتَمَّ بِهِ]

[24] **Hadith references (L778):** Sahih al-Bukhari 713.
[25] **Hadith references (L779):** Sahih al-Bukhari 689; Mishkat al-Masabih 1139.

L781 (32) Anas reported that the Prophet ﷺ sternly forbade drinking standing. [Muslim, Book of Drinks, chapter: Disapproval of drinking standing.]

(32) وعَنْ أَنَسٍ "أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ زَجَرَ عَنْ الشُّرْبِ قَائِمًا " [مسلم: كِتَاب الْأَشْرِبَةِ، بَاب كَرَاهِيَةِ الشُّرْبِ قَائِمًا]

L782 (32) Anas reported that the Prophet ﷺ forbade a man to drink standing. Qatada said: 'We asked: "What about eating?" He said: "That is worse—or more foul."' [Muslim, Book of Drinks, chapter: Disapproval of drinking standing.]

(32) وعَنْ أَنَسٍ "عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ نَهَى أَنْ يَشْرَبَ الرَّجُلُ قَائِمًا" قَالَ قَتَادَةُ فَقُلْنَا فَالْأَكْلُ فَقَالَ ذَاكَ أَشَرُّ أَوْ أَخْبَثُ [مسلم: كِتَاب الْأَشْرِبَةِ، بَاب كَرَاهِيَةِ الشُّرْبِ قَائِمًا]

L783 (33) Ibn Abbas said: 'The Prophet ﷺ drank from Zamzam standing.' [Al-Bukhari, Book of Drinks, chapter: Drinking standing.]

(33) فعَنْ ابْنِ عَبَّاسٍ قَالَ: "شَرِبَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَائِمًا مِنْ زَمْزَمَ" [البخاري: كِتَاب الْأَشْرِبَةِ، بَاب الشُّرْبِ قَائِمًا]

L784 (33) Al-Nazzal said: 'Ali, may Allah be pleased with him, came to the gate of al-Rahba and drank standing. He said: "Some people dislike drinking standing, but I saw the Prophet ﷺ do as you have seen me do."' [Al-Bukhari, Book of Drinks, chapter: Drinking standing.][26]

(33) فعَنْ النَّزَّالِ قَالَ: " أَتَى عَلِيٌّ رَضِيَ اللَّهُ عَنْهُ عَلَى بَابِ الرَّحَبَةِ فَشَرِبَ قَائِمًا فَقَالَ إِنَّ نَاسًا يَكْرَهُ أَحَدُهُمْ أَنْ يَشْرَبَ وَهُوَ قَائِمٌ وَإِنِّي رَأَيْتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَعَلَ كَمَا رَأَيْتُمُونِي فَعَلْتُ" [البخاري: كِتَاب الْأَشْرِبَةِ، بَاب الشُّرْبِ قَائِمًا]

L785 (33) Umm al-Fadl bint al-Harith reported that she sent the Prophet ﷺ a cup of milk while he stood on the afternoon of Arafat. He took it in his hand and drank it. Malik added, from Abu al-Nadr: 'Upon his camel.' [Al-Bukhari, Book of Drinks, chapter: One who drinks while standing upon his camel.][27]

(33) وعَنْ أُمِّ الْفَضْلِ بِنْتِ الْحَارِثِ " أَنَّهَا أَرْسَلَتْ إِلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِقَدَحِ لَبَنٍ وَهُوَ وَاقِفٌ عَشِيَّةَ عَرَفَةَ فَأَخَذَ بِيَدِهِ فَشَرِبَهُ، زَادَ مَالِكٌ عَنْ أَبِي النَّضْرِ عَلَى بَعِيرِهِ" [البخاري: كِتَاب الْأَشْرِبَةِ، بَاب مَنْ شَرِبَ وَهُوَ وَاقِفٌ عَلَى بَعِيرِهِ]

L786 (34) Jabir reported that the Messenger of Allah ﷺ forbade wrapping oneself so that no opening remained, sitting with the knees drawn up in a single garment, and raising one leg over the other while lying on one's back. [Muslim, Book of Dress and Adornment, chapter: The prohibition of lying on one's back with one leg upon the other.]

(34)" عَنْ جَابِرٍ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ اشْتِمَالِ الصَّمَّاءِ وَالِاحْتِبَاءِ فِي ثَوْبٍ وَاحِدٍ وَأَنْ يَرْفَعَ الرَّجُلُ إِحْدَى رِجْلَيْهِ عَلَى الْأُخْرَى وَهُوَ مُسْتَلْقٍ عَلَى ظَهْرِهِ" [مسلم : كِتَاب اللِّبَاسِ وَالزِّينَةِ، بَاب فِي مَنْعِ الِاسْتِلْقَاءِ عَلَى الظَّهْرِ وَوَضْعِ إِحْدَى الرِّجْلَيْنِ عَلَى الْأُخْرَى]

[26] **Hadith references (L784):** Sahih al-Bukhari 5615.
[27] **Hadith references (L785):** Sahih al-Bukhari 5618.

(34)"..... سَمِعَ جَابِرَ بْنَ عَبْدِ اللَّهِ يُحَدِّثُ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ لَا تَمْشِ فِي نَعْلٍ وَاحِدٍ وَلَا تَحْتَبِ فِي إِزَارٍ وَاحِدٍ وَلَا تَأْكُلْ بِشِمَالِكَ وَلَا تَشْتَمِلْ الصَّمَّاءَ وَلَا تَضَعْ إِحْدَى رِجْلَيْكَ عَلَى الْأُخْرَى إِذَا اسْتَلْقَيْتَ" [مسلم : كِتَاب اللِّبَاسِ وَالزِّينَةِ، بَاب فِي مَنْعِ الِاسْتِلْقَاءِ عَلَى الظَّهْرِ وَوَضْعِ إِحْدَى الرِّجْلَيْنِ عَلَى الْأُخْرَى]

L787–788 (34) '…He heard Jabir ibn Abd Allah relate That the Prophet ﷺ said: "Do not walk in a single sandal, sit with your knees drawn up in a single waist-wrapper, eat with your left hand, wrap yourself so that no opening remains, or put one leg upon the other when reclining."' [Muslim, Book of Dress and Adornment, chapter: The prohibition of lying on one's back with one leg upon the other.][28]

(34)"عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ لَا يَسْتَلْقِيَنَّ أَحَدُكُمْ ثُمَّ يَضَعُ إِحْدَى رِجْلَيْهِ عَلَى الْأُخْرَى" [مسلم : كِتَاب اللِّبَاسِ وَالزِّينَةِ، بَاب فِي مَنْعِ الِاسْتِلْقَاءِ عَلَى الظَّهْرِ وَوَضْعِ إِحْدَى الرِّجْلَيْنِ عَلَى الْأُخْرَى]

L789 (34) Jabir ibn Abd Allah reported that the Prophet ﷺ said: 'Let none of you lie on his back and then place one leg upon the other.' [Muslim, Book of Dress and Adornment, chapter: The prohibition of lying on one's back with one leg upon the other.]

وروي عنه أنه عليه السلام رئي مضطجعاً في المسجد كذلك، فأخذنا ههنا بالزائد، وهو النهي في كلا الموضوعين، لان الاصل إباحة الاضطجاع على كل حال والاستلقاء كما يشاء، وإباحة الشرب على كل حال، فقد تيقنا أننا نقلنا عن هذه الاباحة إلى نهي عن كلا الامرين بلا شك في ذلك، ثم لا ندري هل نسخ ذلك النهي أولا ؟ ولا يحل لمسلم أن يترك شيئا هو على يقين من أنه قد لزمه، لشئ لا يدري أهو ناسخ أم لا ؟ واليقين لا يبطل بالشك، والظن لا يغني من الحق شيئا، فنحن على ما صح لدينا أنه قد لزمنا، حتى يقيم المدعي لبطلانه - علينا البرهان في صحة دعواه، وإلا فهي ساقطة، وبالله تعالى التوفيق.

L790 It is related that he ﷺ was seen reclining in the mosque in that manner. We therefore follow the addition here: the prohibition in both cases. Originally, lying down in any position, reclining however one wishes and drinking in any position are permissible. We are certain that we were moved from this permissibility to a prohibition of both things, without doubt. We then do not know whether the prohibition was abrogated. A Muslim may not abandon something which he is certain has become binding upon him because of something he does not know to be abrogating or not. Certainty is not invalidated by doubt, and conjecture avails nothing against the truth. We remain upon what is authentically established as binding upon us until the claimant of its invalidation produces proof that his claim is true. Otherwise it falls. Success is through Allah, exalted is He.

وهكذا حديث رسول الله عليه السلام: كل مما يليك مع ما قد صح من تتبعه الدباء من نواحي القصعة

L791 The same applies to the Messenger's hadith ﷺ: 'Eat from what is nearest to you,' together with the authentic report of his seeking pieces of gourd of different sides of the bowl.

(35) "عَنْ عَبَّادِ بْنِ تَمِيمٍ عَنْ عَمِّهِ أَنَّهُ رَأَى رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مُسْتَلْقِيًا فِي الْمَسْجِدِ وَاضِعًا إِحْدَى رِجْلَيْهِ عَلَى الْأُخْرَى

L792 (35) Abbad ibn Tamim reported from his uncle that he saw the Messenger of Allah ﷺ reclining in the mosque with one leg upon the other.

[28] **Hadith references (L787):** Sahih Muslim 2099d.

L793 Ibn Shihab reported from Said ibn al-Musayyab: ‘Umar and Uthman used to do that.’ [Al-Bukhari, Book of Prayer, chapter: Reclining in the mosque and stretching out one’s leg.]

وَعَنْ ابْنِ شِهَابٍ عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ قَالَ كَانَ عُمَرُ وَعُثْمَانُ يَفْعَلَانِ ذَلِكَ [البخاري: كِتَاب الصَّلَاةِ؛ بَاب الِاسْتِلْقَاءِ فِي الْمَسْجِدِ وَمَدِّ الرِّجْلِ]

L794 (36) ‘…He heard Umar ibn Abi Salama say: I was a boy in the care of the Messenger of Allah ﷺ, and my hand would roam about the dish. The Messenger of Allah ﷺ told me: “Boy, mention Allah’s name, eat with your right hand and eat from what is nearest to you.” That remained my way of eating thereafter.’ [Al-Bukhari, Book of Foods, chapter: Mentioning Allah’s name over food and eating with the right hand.][29]

(36)“..... سَمِعَ عُمَرَ بْنَ أَبِي سَلَمَةَ يَقُولُ كُنْتُ غُلَامًا فِي حَجْرِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَكَانَتْ يَدِي تَطِيشُ فِي الصَّحْفَةِ فَقَالَ لِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَا غُلَامُ سَمِّ اللَّهَ وَكُلْ بِيَمِينِكَ وَكُلْ مِمَّا يَلِيكَ فَمَا زَالَتْ تِلْكَ طِعْمَتِي بَعْدُ” [البخاري: كِتَاب الْأَطْعِمَةِ؛ بَاب التَّسْمِيَةِ عَلَى الطَّعَامِ وَالْأَكْلِ بِالْيَمِينِ]

L795–796 (37) ‘…He heard Anas ibn Malik say: A tailor invited the Messenger of Allah ﷺ to a meal he had prepared. Anas said: I went with the Messenger of Allah ﷺ and saw him seeking pieces of gourd from around the bowl. He said: “I have loved gourd ever since that day.”’ [Al-Bukhari, Book of Foods, chapter: One who seeks food from around the bowl…][30]

(37)“.... سَمِعَ أَنَسَ بْنَ مَالِكٍ يَقُولُ إِنَّ خَيَّاطًا دَعَا رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لِطَعَامٍ صَنَعَهُ قَالَ أَنَسٌ فَذَهَبْتُ مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَرَأَيْتُهُ يَتَتَبَّعُ الدُّبَّاءَ مِنْ حَوَالَيْ الْقَصْعَةِ قَالَ فَلَمْ أَزَلْ أُحِبُّ الدُّبَّاءَ مِنْ يَوْمِئِذٍ [البخاري: كِتَاب الْأَطْعِمَةِ ؛بَاب مَنْ تَتَبَّعَ حَوَالَيْ الْقَصْعَةِ .....]

L797 (38) Anas, may Allah be pleased with him, said: ‘The Prophet ﷺ continued fasting without breaking the fast at the month’s end, and some people did likewise. News reached him, and he said: “Had the month been prolonged for me, I would have continued fasting in a way which would make those who go to excess abandon their excess. I am not like you. My Lord continues to feed me and give me drink.”’ [Al-Bukhari, Book of Wishes, chapter: Permissible uses of “if”, and His words, “If only I had strength against you.”][31][32]

(38)“ عَنْ أَنَسٍ رَضِيَ اللَّهُ عَنْهُ قَالَ وَاصَلَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ آخِرَ الشَّهْرِ وَوَاصَلَ أُنَاسٌ مِنْ النَّاسِ فَبَلَغَ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ لَوْ مُدَّ بِيَ الشَّهْرُ لَوَاصَلْتُ وِصَالًا يَدَعُ الْمُتَعَمِّقُونَ تَعَمُّقَهُمْ إِنِّي لَسْتُ مِثْلَكُمْ إِنِّي أَظَلُّ يُطْعِمُنِي رَبِّي وَيَسْقِينِ” [البخاري: كِتَاب التَّمَنِّي؛ بَاب مَا يَجُوزُ مِنْ اللَّوْ وَقَوْلِهِ تَعَالَى { لَوْ أَنَّ لِي بِكُمْ قُوَّةً }]

L798 (39) Said ibn Abi Said al-Maqburi reported from Abu Salama ibn Abd al-Rahman that he asked Aisha, may Allah be pleased with her, about the Mes-

(39) “عَنْ سَعِيدِ بْنِ أَبِي سَعِيدٍ الْمَقْبُرِيِّ عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ أَنَّهُ أَخْبَرَهُ أَنَّهُ سَأَلَ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا كَيْفَ كَانَتْ صَلَاةُ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي رَمَضَانَ فَقَالَتْ مَا كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَزِيدُ فِي رَمَضَانَ وَلَا فِي غَيْرِهِ

[29] **Hadith references (L794):** Sahih al-Bukhari 5376.
[30] **Hadith references (L795):** Sahih al-Bukhari 5379.
[31] **Hadith references (L797):** Sahih al-Bukhari 7241.
[32] **Qur’an references (L797):** Qur’an 11:80 (Hud).

senger's prayer ﷺ in Ramadan. She said: 'The Messenger of Allah ﷺ did not exceed eleven units, in Ramadan or outside it. He prayed four—do not ask about their beauty and length—then four—do not ask about their beauty and length—then three.' Aisha said: 'I asked: "Messenger of Allah, do you sleep before praying witr?" He said: "Aisha, my eyes sleep but my heart does not."' [Al-Bukhari, Book of Friday Prayer, chapter: The Prophet's night prayer ﷺ in Ramadan and outside it.][33]

L799 (40) Aisha reported: 'A man said to the Messenger of Allah ﷺ, while he stood at the door and I listened: "Messenger of Allah, I find myself in a state of major ritual impurity at dawn while intending to fast." He ﷺ said: "I too find myself in that state at dawn while intending to fast, so I bathe and fast." The man said: "Messenger of Allah, you are not like us. Allah has forgiven your earlier and later sins." The Messenger of Allah ﷺ became angry and said: "By Allah, I hope to be the most fearful of Allah among you and the most knowledgeable of what I must guard against."' [Malik's Muwatta, Book of Fasting, chapter: A person in major ritual impurity at dawn in Ramadan.]

L800 (40) '…Anas ibn Malik, may Allah be pleased with him, said: Three men came to the houses of the Prophet's wives ﷺ, asking about his worship. When told, they seemed to consider it little, saying: "Where are we compared with the Prophet ﷺ? His earlier and later sins have been forgiven." One said: "I shall pray all night forever." Another said: "I shall fast continually and never break my fast." Another said: "I shall abstain from women and never marry." The Messenger of Allah ﷺ came and said: "Are you those who said such-and-such? By Allah, I am the most fearful and mindful of Allah among you. Yet I fast and break my fast, pray and sleep, and marry women. Whoever turns away from my Sunnah is not of me."' [Al-Bukhari, Book of Marriage, chapter: Encouragement to marry.][34]

عَلَى إِحْدَى عَشْرَةَ رَكْعَةً يُصَلِّي أَرْبَعًا فَلَا تَسَلْ عَنْ حُسْنِهِنَّ وَطُولِهِنَّ ثُمَّ يُصَلِّي أَرْبَعًا فَلَا تَسَلْ عَنْ حُسْنِهِنَّ وَطُولِهِنَّ ثُمَّ يُصَلِّي ثَلَاثًا قَالَتْ عَائِشَةُ فَقُلْتُ يَا رَسُولَ اللَّهِ أَتَنَامُ قَبْلَ أَنْ تُوتِرَ فَقَالَ يَا عَائِشَةُ إِنَّ عَيْنَيَّ تَنَامَانِ وَلَا يَنَامُ قَلْبِي" [البخاري: كِتَاب الْجُمُعَةِ؛ بَاب قِيَامِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِاللَّيْلِ فِي رَمَضَانَ وَغَيْرِهِ]

(40)"عَنْ عَائِشَةَ أَنَّ رَجُلًا قَالَ لِرَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهُوَ وَاقِفٌ عَلَى الْبَابِ وَأَنَا أَسْمَعُ يَا رَسُولَ اللَّهِ إِنِّي أُصْبِحُ جُنُبًا وَأَنَا أُرِيدُ الصِّيَامَ فَقَالَ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَنَا أُصْبِحُ جُنُبًا وَأَنَا أُرِيدُ الصِّيَامَ فَأَغْتَسِلُ وَأَصُومُ فَقَالَ لَهُ الرَّجُلُ يَا رَسُولَ اللَّهِ إِنَّكَ لَسْتَ مِثْلَنَا قَدْ غَفَرَ اللَّهُ لَكَ مَا تَقَدَّمَ مِنْ ذَنْبِكَ وَمَا تَأَخَّرَ فَغَضِبَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَقَالَ وَاللَّهِ إِنِّي لَأَرْجُو أَنْ أَكُونَ أَخْشَاكُمْ لِلَّهِ وَأَعْلَمَكُمْ بِمَا أَتَّقِي" [موطأ مالك: كِتَاب الصِّيَامِ؛ بَاب مَا جَاءَ فِي صِيَامِ الَّذِي يُصْبِحُ جُنُبًا فِي رَمَضَانَ]

(40)"..... أَنَسَ بْنَ مَالِكٍ رَضِيَ اللَّهُ عَنْهُ يَقُولُ: جَاءَ ثَلَاثَةُ رَهْطٍ إِلَى بُيُوتِ أَزْوَاجِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَسْأَلُونَ عَنْ عِبَادَةِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَلَمَّا أُخْبِرُوا كَأَنَّهُمْ تَقَالُّوهَا فَقَالُوا وَأَيْنَ نَحْنُ مِنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَدْ غُفِرَ لَهُ مَا تَقَدَّمَ مِنْ ذَنْبِهِ وَمَا تَأَخَّرَ قَالَ أَحَدُهُمْ أَمَّا أَنَا فَإِنِّي أُصَلِّي اللَّيْلَ أَبَدًا وَقَالَ آخَرُ أَنَا أَصُومُ الدَّهْرَ وَلَا أُفْطِرُ وَقَالَ آخَرُ أَنَا أَعْتَزِلُ النِّسَاءَ فَلَا أَتَزَوَّجُ أَبَدًا فَجَاءَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِلَيْهِمْ فَقَالَ أَنْتُمْ الَّذِينَ قُلْتُمْ كَذَا وَكَذَا أَمَا وَاللَّهِ إِنِّي لَأَخْشَاكُمْ لِلَّهِ وَأَتْقَاكُمْ لَهُ لَكِنِّي أَصُومُ وَأُفْطِرُ وَأُصَلِّي وَأَرْقُدُ وَأَتَزَوَّجُ النِّسَاءَ فَمَنْ رَغِبَ عَنْ سُنَّتِي فَلَيْسَ مِنِّي [البخاري: كِتَاب النِّكَاحِ؛ بَاب التَّرْغِيبِ فِي النِّكَاحِ]

[33] **Hadith references (L798):** Sahih al-Bukhari 1147.

[34] **Hadith references (L800):** Sahih al-Bukhari 5063; Mishkat al-Masabih 145; Riyad as-Salihin 143.

L801 (40) Ata ibn Yasar reported: ‘A man kissed his wife while fasting in Ramadan and became deeply distressed. He sent his wife to ask about it. She entered upon Umm Salama, the Prophet’s wife ﷺ, and told her. Umm Salama told her that the Messenger of Allah ﷺ kissed while fasting. She returned and told her husband. This only worsened his distress. He said: “We are not like the Messenger of Allah ﷺ. Allah permits His Messenger ﷺ whatever He wishes.” His wife returned to Umm Salama and found the Messenger of Allah ﷺ with her. He asked: “What is the matter with this woman?” Umm Salama told him. The Messenger of Allah ﷺ said: “Did you not tell her that I do that?” She said: “I did. She went to her husband and told him, but it only worsened his distress. He said: ‘We are not like the Messenger of Allah ﷺ. Allah permits His Messenger whatever He wishes.’” The Messenger of Allah ﷺ became angry and said: “By Allah, I am the most mindful of Allah among you and the most knowledgeable of His limits.” [Malik’s Muwatta, Book of Fasting, chapter: Permission for a person fasting to kiss.]

(40)” عَنْ عَطَاءِ بْنِ يَسَارٍ أَنَّ رَجُلًا قَبَّلَ امْرَأَتَهُ وَهُوَ صَائِمٌ فِي رَمَضَانَ فَوَجَدَ مِنْ ذَلِكَ وَجْدًا شَدِيدًا فَأَرْسَلَ امْرَأَتَهُ تَسْأَلُ لَهُ عَنْ ذَلِكَ فَدَخَلَتْ عَلَى أُمِّ سَلَمَةَ زَوْجِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَذَكَرَتْ ذَلِكَ لَهَا فَأَخْبَرَتْهَا أُمُّ سَلَمَةَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُقَبِّلُ وَهُوَ صَائِمٌ فَرَجَعَتْ فَأَخْبَرَتْ زَوْجَهَا بِذَلِكَ فَزَادَهُ ذَلِكَ شَرًّا وَقَالَ لَسْنَا مِثْلَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ اللَّهُ يُحِلُّ لِرَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَا شَاءَ ثُمَّ رَجَعَتْ امْرَأَتُهُ إِلَى أُمِّ سَلَمَةَ فَوَجَدَتْ عِنْدَهَا رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَا لِهَذِهِ الْمَرْأَةِ فَأَخْبَرَتْهُ أُمُّ سَلَمَةَ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَلَا أَخْبَرْتِيهَا أَنِّي أَفْعَلُ ذَلِكَ فَقَالَتْ قَدْ أَخْبَرْتُهَا فَذَهَبَتْ إِلَى زَوْجِهَا فَأَخْبَرَتْهُ فَزَادَهُ ذَلِكَ شَرًّا وَقَالَ لَسْنَا مِثْلَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ اللَّهُ يُحِلُّ لِرَسُولِهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَا شَاءَ فَغَضِبَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَقَالَ وَاللَّهِ إِنِّي لَأَتْقَاكُمْ لِلَّهِ وَأَعْلَمُكُمْ بِحُدُودِهِ” [موطأ مالك: كِتَاب الصِّيَامِ، بَاب مَا جَاءَ فِي الرُّخْصَةِ فِي الْقُبْلَةِ لِلصَّائِمِ]

L802 (40) Abu Qatada reported: ‘A man came to the Prophet ﷺ and asked: “How do you fast?” The Messenger of Allah ﷺ became angry. When Umar, may Allah be pleased with him, saw his anger, he said: “We are content with Allah as Lord, Islam as religion and Muhammed as Prophet. We seek refuge with Allah from Allah’s anger and His Messenger’s anger.” Umar continued repeating this until his anger subsided. Umar asked: “Messenger of Allah, what of someone who fasts all the time?” He said: “He neither fasted nor broke his fast”—or: “He has neither fasted nor broken his fast.” He asked: “What of someone who fasts two days and breaks the fast one day?” He said: “Can anyone manage that?” He asked: “What of someone who fasts a day and breaks the fast a day?” He said: “That is Dawud’s fast, peace be upon him.” He asked: “What of someone who fasts a day and breaks the fast

(40)” عَنْ أَبِي قَتَادَةَ: رَجُلٌ أَتَى النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ كَيْفَ تَصُومُ فَغَضِبَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَلَمَّا رَأَى عُمَرُ رَضِيَ اللَّهُ عَنْهُ غَضَبَهُ قَالَ رَضِينَا بِاللَّهِ رَبًّا وَبِالْإِسْلَامِ دِينًا وَبِمُحَمَّدٍ نَبِيًّا نَعُوذُ بِاللَّهِ مِنْ غَضَبِ اللَّهِ وَغَضَبِ رَسُولِهِ فَجَعَلَ عُمَرُ رَضِيَ اللَّهُ عَنْهُ يُرَدِّدُ هَذَا الْكَلَامَ حَتَّى سَكَنَ غَضَبُهُ فَقَالَ عُمَرُ يَا رَسُولَ اللَّهِ كَيْفَ بِمَنْ يَصُومُ الدَّهْرَ كُلَّهُ قَالَ لَا صَامَ وَلَا أَفْطَرَ أَوْ قَالَ لَمْ يَصُمْ وَلَمْ يُفْطِرْ قَالَ كَيْفَ مَنْ يَصُومُ يَوْمَيْنِ وَيُفْطِرُ يَوْمًا قَالَ وَيُطِيقُ ذَلِكَ أَحَدٌ قَالَ كَيْفَ مَنْ يَصُومُ يَوْمًا وَيُفْطِرُ يَوْمًا قَالَ ذَاكَ صَوْمُ دَاوُدَ عَلَيْهِ السَّلَام قَالَ كَيْفَ مَنْ يَصُومُ يَوْمًا وَيُفْطِرُ يَوْمَيْنِ قَالَ

two days?" He said: "I wish I had been given the capacity for that." Then the Messenger of Allah ﷺ said: "Three days each month, and Ramadan to Ramadan: that is fasting all the time. Fasting on the Day of Arafat—I expect Allah to expiate by it the year before and the year after. Fasting on the Day of Ashura—I expect Allah to expiate by it the year before."' [Muslim, Book of Fasting, chapter: The recommendation of fasting three days each month, the Day of Arafat, Ashura, Monday and Thursday.][35][36]

وَدِدْتُ أَنِّي طُوِّقْتُ ذَلِكَ ثُمَّ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ثَلَاثٌ مِنْ كُلِّ شَهْرٍ وَرَمَضَانُ إِلَى رَمَضَانَ فَهَذَا صِيَامُ الدَّهْرِ كُلِّهِ صِيَامُ يَوْمِ عَرَفَةَ أَحْتَسِبُ عَلَى اللَّهِ أَنْ يُكَفِّرَ السَّنَةَ الَّتِي قَبْلَهُ وَالسَّنَةَ الَّتِي بَعْدَهُ وَصِيَامُ يَوْمِ عَاشُورَاءَ أَحْتَسِبُ عَلَى اللَّهِ أَنْ يُكَفِّرَ السَّنَةَ الَّتِي قَبْلَهُ" [مسلم: كِتَاب الصِّيَامِ؛ بَاب اسْتِحْبَابِ صِيَامِ ثَلَاثَةِ أَيَّامٍ مِنْ كُلِّ شَهْرٍ وَصَوْمِ يَوْمِ عَرَفَةَ وَعَاشُورَاءَ وَالِاثْنَيْنِ وَالْخَمِي

L803 (40) Umar ibn Abi Salama asked the Messenger of Allah ﷺ whether someone fasting could kiss. The Messenger of Allah ﷺ told him: 'Ask this woman'—meaning Umm Salama. She told him that the Messenger of Allah ﷺ did so. He said: 'Messenger of Allah, Allah has forgiven your earlier and later sins.' The Messenger of Allah ﷺ said: 'By Allah, I am the most mindful of Allah among you and the most fearful of Him.' [Muslim, Book of Fasting, chapter: Kissing during a fast is not forbidden.]

(40) "فعَنْ عُمَرَ بْنِ أَبِي سَلَمَةَ أَنَّهُ سَأَلَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَيُقَبِّلُ الصَّائِمُ فَقَالَ لَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: سَلْ هَذِهِ لِأُمِّ سَلَمَةَ، فَأَخْبَرَتْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَصْنَعُ ذَلِكَ. فَقَالَ يَا رَسُولَ اللَّهِ قَدْ غَفَرَ اللَّهُ لَكَ مَا تَقَدَّمَ مِنْ ذَنْبِكَ وَمَا تَأَخَّرَ فَقَالَ لَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: أَمَا وَاللَّهِ إِنِّي لَأَتْقَاكُمْ لِلَّهِ وَأَخْشَاكُمْ لَهُ" [مسلم: كِتَاب الصِّيَامِ؛ بَاب بَيَانِ أَنَّ الْقُبْلَةَ فِي الصَّوْمِ لَيْسَتْ مُحَرَّمَةً]

L804 (41) Jabir said: 'We practised withdrawal during the Prophet's time ﷺ while the Qur'an was being revealed.' [Al-Bukhari, Book of Marriage, chapter: Withdrawal.]

(41)"وعَنْ جَابِرٍ قَالَ كُنَّا نَعْزِلُ عَلَى عَهْدِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَالْقُرْآنُ يَنْزِلُ" [البخاري: كِتَاب النِّكَاحِ؛ بَاب الْعَزْلِ]

L805 (42) Abu Said al-Khudri said: 'Withdrawal was mentioned in the presence of the Messenger of Allah ﷺ. He said: "Why does one of you do that?" He did not say: "Let none of you do it." "There is no soul created except that Allah creates it."'[37]

(42)" عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ قَالَ ذُكِرَ الْعَزْلُ عِنْدَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ وَلِمَ يَفْعَلُ ذَلِكَ أَحَدُكُمْ وَلَمْ يَقُلْ فَلَا يَفْعَلْ ذَلِكَ أَحَدُكُمْ فَإِنَّهُ لَيْسَتْ نَفْسٌ مَخْلُوقَةٌ إِلَّا اللَّهُ خَالِقُهَا"

L806 (42) Abu Said al-Khudri said: 'We acquired captives and practised withdrawal. We asked the Messenger of Allah ﷺ, who said: "Do you really do

(42)" عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ قَالَ أَصَبْنَا سَبْيًا فَكُنَّا نَعْزِلُ فَسَأَلْنَا رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ أَوَإِنَّكُمْ لَتَفْعَلُونَ قَالَهَا ثَلَاثًا مَا مِنْ نَسَمَةٍ كَائِنَةٍ إِلَى يَوْمِ الْقِيَامَةِ إِلَّا هِيَ كَائِنَةٌ" [البخاري: كِتَاب النِّكَاحِ؛ بَاب الْعَزْلِ]

[35] **Translator's note (L802):** The source citation ends partway through the Arabic word for Thursday. The obvious weekday is written out in the English citation; the damaged ending remains unchanged in the Arabic.

[36] **Hadith references (L802):** Sahih Muslim 1162a; Mishkat al-Masabih 2044.

[37] **Hadith references (L805):** Sahih Muslim 1438j.

that?" He said it three times. "Every soul which is to exist until the Day of Resurrection will exist."' [Al-Bukhari, Book of Marriage, chapter: Withdrawal.]

L807 (42) Abu Said al-Khudri, may Allah be pleased with him, said: 'Withdrawal was mentioned to the Messenger of Allah ﷺ. He said: "Why does one of you do that?" He did not say: "Do not do it." "There is no soul created except that Allah creates it."' [Al-Bukhari, Book of Sales, chapter: Selling slaves; Muslim, Book of Marriage, chapter: The ruling on withdrawal.]

L808 (43) Ubayd Allah ibn Said and Muhammed ibn Abi Umar related to us: al-Muqri related to us: Said ibn Abi Ayyub related to us: Abu al-Aswad related to me from Urwa, from Aisha, from Judama bint Wahb, Ukkasha's sister, who said: 'I was present with the Messenger of Allah ﷺ among some people when he said: "I considered forbidding intercourse with a nursing woman. I looked at the Romans and Persians, who do so, and it does not harm their children at all." Then they asked him about withdrawal. The Messenger of Allah ﷺ said: "That is hidden infanticide."' Ubayd Allah added in his report from al-Muqri: 'It is: "When the girl buried alive is questioned."' [Muslim, Book of Marriage, chapter: Permission for ghila—intercourse with a nursing woman—and disapproval of withdrawal.][38][39]

L809 (44) Ubayd ibn Rifaa reported from his father: 'I was sitting with Umar ibn al-Khattab, may Allah be pleased with him, when a man came and said: "Commander of the Believers, Zayd ibn Thabit is giving people fatwas about the full ritual bath after major impurity according to his own opinion."

L810 Umar, may Allah be pleased with him, said: 'Bring him to me quickly.' Zayd came.

(42)"عَنْ أَبِي سَعِيدٍ الخُدْرِيِّ - رَضِيَ اللهُ عَنْهُ، قَالَ: ذُكِرَ العَزْلُ لِرَسُولِ اللهِ صلى الله عليه وسلم -، فَقَالَ: "وَلِمَ يَفْعَلُ ذَلِكَ أَحَدُكُمْ؟ "، وَلَمْ يَقُلْ: فَلَا يَفْعَلْ "فَإِنَّهُ لَيْسَتْ نَفْسٌ مَخْلُوقَةٌ إِلا اللهُ خَالِقُهَا" [البخاري: كتاب البيوع،باب بيع الرقيق] [مسلم: كِتَاب النِّكَاحِ، بَاب حُكْمِ الْعَزْلِ]

(43)"حَدَّثَنَا عُبَيْدُ اللَّهِ بْنُ سَعِيدٍ وَمُحَمَّدُ بْنُ أَبِي عُمَرَ قَالَا حَدَّثَنَا الْمُقْرِئُ حَدَّثَنَا سَعِيدُ بْنُ أَبِي أَيُّوبَ حَدَّثَنِي أَبُو الْأَسْوَدِ عَنْ عُرْوَةَ عَنْ عَائِشَةَ عَنْ جُدَامَةَ بِنْتِ وَهْبٍ أُخْتِ عُكَّاشَةَ قَالَتْ حَضَرْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي أُنَاسٍ وَهُوَ يَقُولُ لَقَدْ هَمَمْتُ أَنْ أَنْهَى عَنْ الْغِيلَةِ فَنَظَرْتُ فِي الرُّومِ وَفَارِسَ فَإِذَا هُمْ يُغِيلُونَ أَوْلَادَهُمْ فَلَا يَضُرُّ أَوْلَادَهُمْ ذَلِكَ شَيْئًا ثُمَّ سَأَلُوهُ عَنْ الْعَزْلِ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ذَلِكَ الْوَأْدُ الْخَفِيُّ؛ زَادَ عُبَيْدُ اللَّهِ فِي حَدِيثِهِ عَنْ الْمُقْرِئِ وَهِيَ { وَإِذَا الْمَوْءُودَةُ سُئِلَتْ } [مسلم: كِتَاب النِّكَاحِ، بَاب جَوَازِ الْغِيلَةِ وَهِيَ وَطْءُ الْمُرْضِعِ وَكَرَاهَةِ الْعَزْلِ]

(44)"عَنْ عُبَيْدِ بْنِ رِفَاعَةَ عَنْ أَبِيهِ قَالَ : إِنِّي لَجَالِسٌ عِنْدَ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ ، إِذْ جَاءَ رَجُلٌ فَقَالَ : يَا أَمِيرَ الْمُومِنِينَ ، هَذَا زَيْدُ بْنُ ثَابِتٍ يُفْتِي النَّاسَ فِي الْغُسْلِ مِنْ الْجَنَابَةِ بِرَأْيِهِ .

فَقَالَ عُمَرُ رَضِيَ اللَّهُ عَنْهُ : أَعْجِلْ عَلَيَّ بِهِ ، فَجَاءَ زَيْدٌ .

[38] **Hadith references (L808):** Sahih Muslim 1442b; Mishkat al-Masabih 3189.
[39] **Qur'an references (L808):** Qur'an 81:8 (At-Takwir).

فَقَالَ عُمَرُ رَضِيَ اللَّهُ عَنْهُ : قَدْ بَلَغَنِي مِنْ أَمْرِك أَنْ تُفْتِيَ النَّاسَ بِالْغُسْلِ مِنْ الْجَنَابَةِ بِرَأْيِك فِي مَسْجِدِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ لَهُ زَيْدٌ أَمْ وَاَللَّهِ يَا أَمِيرَ الْمُؤْمِنِينَ ، مَا أَفْتَيْت بِرَأْيِي ، وَلَكِنِّي سَمِعْت مِنْ أَعْمَامِي شَيْئًا فَقُلْت بِهِ .

فَقَالَ : مِنْ أَيِّ أَعْمَامِك ؟ فَقَالَ : مِنْ أُبَيِّ بْنِ كَعْبٍ ، وَأَبِي أَيُّوبَ ، وَرِفَاعَةَ بْنِ رَافِعٍ .

فَالْتَفَتَ إلَيَّ عُمَرُ فَقَالَ : مَا يَقُولُ هَذَا الْفَتَى ؟ قَالَ قُلْت : إنَّا كُنَّا لَنَفْعَلُهُ عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ثُمَّ لَا نَغْتَسِلُ .

قَالَ : أَفَسَأَلْتُمْ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ ذَلِكَ ؟ فَقُلْت : لَا.

قَالَ عَلِيٌّ بِالنَّاسِ ، فَاتَّفَقَ النَّاسُ أَنَّ الْمَاءَ لَا يَكُونُ إلَّا مِنْ الْمَاءِ ، إلَّا مَا كَانَ مِنْ عَلِيٍّ وَمُعَاذِ بْنِ جَبَلٍ فَقَالَا : إذَا جَاوَزَ الْخِتَانُ الْخِتَانَ ، فَقَدْ وَجَبَ الْغُسْلُ .

فَقَالَ علي: يَا أَمِيرَ الْمُؤْمِنِينَ لَا أَجِدُ أَحَدًا أَعْلَمُ بِهَذَا مِنْ أَمْرِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، مِنْ أَزْوَاجِهِ .

فَأَرْسَلَ إلَى حَفْصَةَ رَضِيَ اللَّهُ عَنْهَا فَقَالَتْ : لَا عِلْمَ لِي .

فَأَرْسَلَ إلَى عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا فَقَالَتْ : " إذَا جَاوَزَ الْخِتَانُ الْخِتَانَ ، فَقَدْ وَجَبَ الْغُسْلُ " .

فَتَحَطَّمَ عُمَرُ ، وَقَالَ : لَئِنْ أُخْبِرْت بِأَحَدٍ يَفْعَلُهُ ثُمَّ لَا يَغْتَسِلُ لَأُنْهِكَنَّهُ عُقُوبَةً (أَيْ لَمَا لِنْت فِي عُقُوبَتِهِ) .

Umar, may Allah be pleased with him, said: ‘I have heard that you give people fatwas in the Prophet’s mosque ﷺ about the full ritual bath after major impurity according to your own opinion.’ Zayd told him: ‘By Allah, Commander of the Believers, I have not given fatwas according to my opinion. I heard something from my uncles and adopted it.’

He asked: ‘Which uncles?’ He answered: ‘Ubayy ibn Kab, Abu Ayyub and Rifaa ibn Rafi.’

Umar turned to me and asked: ‘What is this young man saying?’ I said: ‘We used to do it in the Messenger’s time ﷺ and then not bathe.’

He asked: ‘Did you ask the Prophet ﷺ about it?’ I said: ‘No.’

He said: ‘Bring me the people.’ They agreed that water was required only because of water, except Ali and Muadh ibn Jabal, who said: ‘When circumcision passes circumcision, the full ritual bath becomes obligatory.’

Ali said: ‘Commander of the Believers, I know of no one more knowledgeable about this aspect of the Messenger’s practice ﷺ than his wives.’

He sent to Hafsa, may Allah be pleased with her, who said: ‘I have no knowledge of it.’

He sent to Aisha, may Allah be pleased with her, who said: ‘When circumcision passes circumcision, the full ritual bath becomes obligatory.’

Umar became incensed, saying: ‘If I am told of anyone doing it and then not bathing, I shall punish him severely’—meaning that I shall not be lenient in punishing him.

[Sharh Mushkil al-Athar, by Abu Jafar Ahmad ibn Muhammed ibn Salama ibn Abd al-Malik ibn Salama

al-Azdi al-Hajri al-Misri, known as al-Tahawi, who died in 321 AH.]

[شرح مشكل الآثار لأبى جعفر أحمد بن محمد بن سلامة بن عبد الملك بن سلمة الأزدي الحجري المصري المعروف بالطحاوي (المتوفى: 321هـ)]

L821 [The commentator on Sunan Ibn Majah said: 'Authentic. Al-Haythami included it in Majma al-Zawaid, 1:266, attributing it to Ahmad's Musnad and al-Tabarani's Al-Kabir. Ahmad's men are trustworthy, except that Ibn Ishaq practises tadlis, though trustworthy. Part of it is in the Sahih.' Sharh Sunan Ibn Majah—Al-Ilam bi-Sunnatihi alayhi al-Salam, by Mughaltay ibn Qilij ibn Abd Allah al-Bakjari al-Misri al-Hakari al-Hanafi, Abu Abd Allah Ala al-Din, who died in 762 AH.]

[وقال شارح سنن ابن ماجه: صحيح؛ أورده الهيثمي في " مجمع الزوائد " (1/266) وعزاه إلى أحمد في " مسنده " والطبراني في " الكبير " ورجال أحمد ثقات إلا ابن إسحاق مدلس وهو ثقة، وفي الصحيح طرف منه][شرح سنن ابن ماجه - الإعلام بسنته عليه السلام المؤلف: مغلطاي بن قليج بن عبد الله البكجري المصري الحكري الحنفي، أبو عبد الله، علاء الدين (المتوفى: 762هـ)]

L822 [Al-Haythami said in Majma al-Zawaid, 1:266: 'Rifaa ibn Rafi, who attended al-Aqaba and Badr, said: "I was with Umar, Allah's mercy upon him, when he was told: Zayd ibn Thabit, Allah's mercy upon him..."' He mentioned the hadith, then said: 'Ahmad and al-Tabarani in Al-Kabir related it. Ahmad's men are trustworthy, except that Ibn Ishaq practises tadlis, though trustworthy. Part of it is in the Sahih.' Majma al-Zawaid wa-Manba al-Fawaid, by Abu al-Hasan Nur al-Din Ali ibn Abi Bakr ibn Sulayman al-Haythami, who died in 807 AH.]

[وقال الهيثمي فى مجمع الزوائد (1/ 266) "وعن رفاعة بن رافع وكان عقبيا بدريا قال كنت عند عمر رحمة الله عليه فقيل له إن زيد بن ثابت رحمه الله .....وذكر الحديث ثم قال: رواه أحمد والطبراني في الكبير ورجال أحمد ثقات إلا أن ابن اسحاق مدلس وهو ثقة ، وفي الصحيح طرف منه][مجمع الزوائد ومنبع الفوائد لأبى الحسن نور الدين علي بن أبي بكر بن سليمان الهيثمي (المتوفى: 807هـ)]

L823 [Al-Ayni said in Umdat al-Qari Sharh Sahih al-Bukhari, by Abu Muhammed Mahmud ibn Ahmad ibn Musa ibn Ahmad ibn Husayn al-Ghitabi al-Hanafi Badr al-Din al-Ayni, who died in 855 AH: '...Ibn Abi Shayba included it in his

[وقال العينى فى كتابه عمدة القاري شرح صحيح البخاري لأبى محمد محمود بن أحمد بن موسى بن أحمد بن حسين الغيتابى الحنفى بدر الدين العينى

Musannaf, saying: ...from his father, Rifaa ibn Rafi, who said: "While I was with Umar ibn al-Khattab, may Allah be pleased with him, a man entered and said: Commander of the Believers, Zayd ibn Thabit..."' He mentioned the hadith. Musannaf Ibn Abi Shayba fi al-Ahadith wa-l-Athar, by the hadith master Abd Allah ibn Muhammed ibn Abi Shayba Ibrahim ibn Uthman ibn Abi Bakr ibn Abi Shayba al-Kufi al-Absi, who died in 235 AH.]

(المتوفى: 855هـ):..... وأخرج ابْن أبي شيبَة فِي (مُصَنفه) قَالَ: ..... عَن أَبِيه رِفَاعَة بن رَافع، قَالَ: (بَينا أَنا عِنْد عمر بن الْخطاب، رَضِي الله تَعَالَى عَنهُ، إِذْ دخل عَلَيْهِ رجل فَقَالَ: يَا أَمِير الْمُؤمنِينَ، هَذَا زيد بن ثَابت... وذكر الديث] [مصنف ابن أبي شيبة في الاحاديث والاثار للحافظ عبد الله بن محمد بن أبي شيبة ابراهيم بن عثمان ابن أبي بسكر بن أبي شيبة الكوفي العبسي المتوفي سنة 235]

L824 (44) Sahl ibn Sad reported: 'Ubayy ibn Kab related to me that the ruling they used to give, "Water is required because of water," was a dispensation which the Messenger of Allah granted at the beginning of Islam. Later he ordered bathing.' [Sunan Abi Dawud, Book of Purification, chapter: Intercourse without ejaculation; al-Albani's assessment: authentic.]

(44) " عَنْ سَهْلِ بْنِ سَعْدٍ حَدَّثَنِي أُبَيُّ بْنُ كَعْبٍ أَنَّ الْفُتْيَا الَّتِي كَانُوا يَفْتُونَ أَنَّ الْمَاءَ مِنْ الْمَاءِ كَانَتْ رُخْصَةً رَخَّصَهَا رَسُولُ اللَّهِ فِي بَدْءِ الْإِسْلَامِ ثُمَّ أَمَرَ بِالِاغْتِسَالِ بَعْدُ" [سنن أبي داود: كِتَاب الطَّهَارَةِ؛ بَاب فِي الْإِكْسَالِ] [تحقيق الألباني :صحيح]

L825 (45) Ibn Shihab reported: 'Salim told me that Abd Allah ibn Umar, may Allah be pleased with them both, said: "I knew during the Messenger's time ﷺ that land was leased." Abd Allah then feared that the Prophet ﷺ might have introduced something concerning it which he did not know, so he abandoned leasing land.' [Al-Bukhari, Book of Agriculture, chapter: The Prophet's Companions ﷺ helping one another in cultivation and fruit.][40]

(45)" عَنْ ابْنِ شِهَابٍ أَخْبَرَنِي سَالِمٌ أَنَّ عَبْدَ اللَّهِ بْنَ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ كُنْتُ أَعْلَمُ فِي عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّ الْأَرْضَ تُكْرَى ثُمَّ خَشِيَ عَبْدُ اللَّهِ أَنْ يَكُونَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَدْ أَحْدَثَ فِي ذَلِكَ شَيْئًا لَمْ يَكُنْ يَعْلَمُهُ فَتَرَكَ كِرَاءَ الْأَرْضِ" [البخاري: كِتَاب الْمُزَارَعَةِ؛ بَاب مَا كَانَ مِنْ أَصْحَابِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُوَاسِي بَعْضُهُمْ بَعْضًا فِي الزِّرَاعَةِ وَالثَّمَرَةِ]

L826 Ibn Shihab said: 'Salim ibn Abd Allah told me that Abd Allah ibn Umar used to lease his lands until he heard that Rafi ibn Khadij al-Ansari forbade leasing land. Abd Allah met him and asked: "Ibn Khadij, what do you relate from the Messenger of Allah ﷺ about leasing land?" Rafi ibn Khadij told Abd Allah: "I heard my two paternal uncles, who attended Badr, tell the people of the household that the Messenger of Allah ﷺ forbade leasing land." Abd

" عَنْ ابْنِ شِهَابٍ أَنَّهُ قَالَ أَخْبَرَنِي سَالِمُ بْنُ عَبْدِ اللَّهِ أَنَّ عَبْدَ اللَّهِ بْنَ عُمَرَ كَانَ يُكْرِي أَرَضِيهِ حَتَّى بَلَغَهُ أَنَّ رَافِعَ بْنَ خَدِيجٍ الْأَنْصَارِيَّ كَانَ يَنْهَى عَنْ كِرَاءِ الْأَرْضِ فَلَقِيَهُ عَبْدُ اللَّهِ فَقَالَ يَا ابْنَ خَدِيجٍ مَاذَا تُحَدِّثُ عَنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي كِرَاءِ الْأَرْضِ قَالَ رَافِعُ بْنُ خَدِيجٍ لِعَبْدِ اللَّهِ سَمِعْتُ عَمَّيَّ وَكَانَا قَدْ شَهِدَا بَدْرًا يُحَدِّثَانِ أَهْلَ

[40] **Hadith references (L825):** Sahih al-Bukhari 2345.

Allah said: “I knew during the Messenger’s time ﷺ that land was leased.” Abd Allah then feared that the Messenger of Allah ﷺ might have introduced something concerning it which he did not know, so he abandoned leasing land.’ [Muslim, Book of Sales, chapter: Leasing land.]

الدَّارِ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ كِرَاءِ الْأَرْضِ قَالَ عَبْدُ اللَّهِ لَقَدْ كُنْتُ أَعْلَمُ فِي عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّ الْأَرْضَ تُكْرَى ثُمَّ خَشِيَ عَبْدُ اللَّهِ أَنْ يَكُونَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَحْدَثَ فِي ذَلِكَ شَيْئًا لَمْ يَكُنْ عَلِمَهُ فَتَرَكَ كِرَاءَ الْأَرْضِ” [مسلم: كِتَاب الْبُيُوعِ، بَاب كِرَاءِ الْأَرْضِ]

L827 In a report in al-Bukhari’s Sahih and Ahmad’s Musnad, Ibn Umar used to lease his land during the rule of Abu Bakr, Umar, Uthman and the early part of Muawiya’s rule.

وفى رواية للبخارى فى صحيحه وأحمد فى مسنده أَنَّ ابْنَ عُمَرَ كَانَ يُكْرِي أَرْضَهُ فِي عَهْدِ أَبِي بَكْرٍ وَعَهْدِ عُمَرَ وَعَهْدِ عُثْمَانَ وَصَدْرِ إِمَارَةِ مُعَاوِيَةَ.

L828 (45) Nafi reported: ‘Ibn Umar, may Allah be pleased with them both, used to lease his farms during the time of the Prophet ﷺ, Abu Bakr, Umar, Uthman and the early part of Muawiya’s rule. Then he was told that Rafi ibn Khadij related that the Prophet ﷺ forbade leasing farms. Ibn Umar went to Rafi, and I went with him. He asked him, and he said: “The Prophet ﷺ forbade leasing farms.” Ibn Umar said: “I knew that we used to lease our farms during the Messenger’s time ﷺ for what grew alongside the irrigation channels and some straw.”’ [Al-Bukhari, Book of Agriculture, chapter: The Prophet’s Companions ﷺ helping one another in cultivation and fruit.]

(45)“ فَعَنْ نَافِعٍ أَنَّ ابْنَ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا كَانَ يُكْرِي مَزَارِعَهُ عَلَى عَهْدِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَبِي بَكْرٍ وَعُمَرَ وَعُثْمَانَ وَصَدْرًا مِنْ إِمَارَةِ مُعَاوِيَةَ ثُمَّ حُدِّثَ عَنْ رَافِعِ بْنِ خَدِيجٍ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ كِرَاءِ الْمَزَارِعِ فَذَهَبَ ابْنُ عُمَرَ إِلَى رَافِعٍ فَذَهَبْتُ مَعَهُ فَسَأَلَهُ فَقَالَ نَهَى النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ كِرَاءِ الْمَزَارِعِ فَقَالَ ابْنُ عُمَرَ قَدْ عَلِمْتَ أَنَّا كُنَّا نُكْرِي مَزَارِعَنَا عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِمَا عَلَى الْأَرْبِعَاءِ وَبِشَيْءٍ مِنْ التِّبْنِ” [البخاري:كِتَاب الْمُزَارَعَةِ، بَاب مَا كَانَ مِنْ أَصْحَابِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُوَاسِي بَعْضُهُمْ بَعْضًا فِي الزِّرَاعَةِ وَالثَّمَرَةِ]

L829 (45) Nafi reported from Ibn Umar: ‘I knew that land was leased during the Messenger’s time ﷺ for what grew alongside the irrigation channels and some straw—I do not know how much. Ibn Umar used to lease his land during the rule of Abu Bakr, Umar, Uthman and the early part of Muawiya’s rule. Towards its end he heard that Rafi was relating the Messenger’s prohibition ﷺ of this. He came to him while I was with him and asked him. He said: “Yes, the Messenger of Allah ﷺ forbade leasing farms.” Ibn Umar abandoned it and would not lease them. When asked, he would say: “Ibn Khadij says that the Messenger of Allah ﷺ forbade leasing farms.”’ [Ahmad’s Musnad, Musnad of Abd Allah ibn Umar ibn al-Khattab, may Allah be pleased with them both.]

(45)“وَعَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ قَالَ قَدْ عَلِمْتُ أَنَّ الْأَرْضَ كَانَتْ تُكْرَى عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِمَا عَلَى الْأَرْبِعَاءِ وَشَيْءٍ مِنْ التِّبْنِ لَا أَدْرِي كَمْ هُوَ وَإِنَّ ابْنَ عُمَرَ كَانَ يُكْرِي أَرْضَهُ فِي عَهْدِ أَبِي بَكْرٍ وَعَهْدِ عُمَرَ وَعَهْدِ عُثْمَانَ وَصَدْرِ إِمَارَةِ مُعَاوِيَةَ حَتَّى إِذَا كَانَ فِي آخِرِهَا بَلَغَهُ أَنَّ رَافِعًا يُحَدِّثُ فِي ذَلِكَ بِنَهْيِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَأَتَاهُ وَأَنَا مَعَهُ فَسَأَلَهُ فَقَالَ نَعَمْ نَهَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ كِرَاءِ الْمَزَارِعِ فَتَرَكَهَا ابْنُ عُمَرَ فَكَانَ لَا يُكْرِيهَا فَكَانَ إِذَا سُئِلَ يَقُولُ زَعَمَ ابْنُ خَدِيجٍ

أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ كِرَاءِ الْمَزَارِعِ" [مسند أحمد : مُسْنَدُ عَبْدِ اللَّهِ بْنِ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ تَعَالَى عَنْهُمَا]

L830 (46) Jabir ibn Abd Allah reported that the Messenger of Allah ﷺ forbade leasing land. [Muslim, Book of Sales, chapter: Leasing land.]

(46)" عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ كِرَاءِ الْأَرْضِ" [مسلم: كِتَاب الْبُيُوعِ؛ بَاب كِرَاءِ الْأَرْضِ]

L831 (47) Jabir ibn Abd Allah said: 'We sold slave women who had borne their masters' children during the time of the Messenger of Allah ﷺ and Abu Bakr. When Umar came, he forbade us, and we desisted.' [Sunan Abi Dawud, Book of Emancipation, chapter: Emancipating slave women who have borne their masters' children.]

(47)" عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ بِعْنَا أُمَّهَاتِ الْأَوْلَادِ عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَبِي بَكْرٍ فَلَمَّا كَانَ عُمَرُ نَهَانَا فَانْتَهَيْنَا" [سنن أبي داود: كِتَاب الْعِتْقِ؛ بَاب فِي عِتْقِ أُمَّهَاتِ الْأَوْلَادِ]

L832 (47) Abu Said al-Khudri said: 'We used to sell slave women who had borne their masters' children during the Messenger's time ﷺ.' None of these hadiths says that the Prophet ﷺ knew of this and approved it. We have related what indicates its prohibition. Allah knows best. [Al-Bayhaqi, Al-Sunan al-Kubra, Book of Emancipating Slave Women Who Have Borne Their Masters' Children, chapter: Disagreement concerning such women.][41]

(47)" عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، قَالَ: " كُنَّا نَبِيعُ أُمَّهَاتِ الْأَوْلَادِ عَلَى عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ ". لَيْسَ فِي شَيْءٍ مِنْ هَذِهِ الْأَحَادِيثِ أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَلِمَ بِذَلِكَ فَأَقَرَّهُمْ عَلَيْهِ , وَقَدْ رُوِّينَا مَا يَدُلُّ عَلَى النَّهْيِ وَاللهُ أَعْلَمُ. [السنن الكبرى للبيهقي: كِتَابُ عِتْقِ أُمَّهَاتِ الْأَوْلَادِ، بَابٌ: الْخِلَافُ فِي أُمَّهَاتِ الْأَوْلَادِ]

L833 (47) Ikrima reported from Ibn Abbas: 'When Mariya gave birth to Ibrahim, the Messenger of Allah ﷺ said: "Her child has freed her."' This report has a good chain: all its narrators are trustworthy. [Al-Muhalla, 9:217, question 1683: Every slave woman who conceives by her master and miscarries…]

(47)"عن عكرمة عن ابن عباس قال: لما ولدت مارية ابراهيم قال رسول الله صلى الله عليه وسلم: (اعتقها ولدها) فهذا خبر جيد السند كل رواته ثقة" [المحلى (9/ 217): مسألة 1683 وكل مملوكة حملت من سيدها فاسقطت .....]

L834 (47) The Messenger of Allah ﷺ said: 'Whoever owns a blood-relative within the prohibited degrees, that relative is free.' [Sunan Abi Dawud, Book of Emancipation, chapter: Whoever owns a blood-relative within the prohibited degrees; Sahih wa-Daif Sunan Abi Dawud, 8:449, al-Albani's assessment: Sahih Ibn Majah.]

(47)" قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَنْ مَلَكَ ذَا رَحِمٍ مَحْرَمٍ فَهُوَ حُرٌّ" [سنن أبي داود: كِتَاب الْعِتْقِ؛ بَاب فِيمَنْ مَلَكَ ذَا رَحِمٍ مَحْرَمٍ][صحيح وضعيف سنن أبي داود (8/ 449): تحقيق الألباني : صحيح ابن ماجة]

[41] **Translator's note (L832):** The assessment following Abu Said's report belongs to the cited Bayhaqi passage; it is not a new judgement by the translator.

L835 (47) Abu al-Malih reported from his father that a man of Hudhayl emancipated his share in a slave. The Messenger of Allah ﷺ said: 'He is wholly free. Allah, blessed and exalted is He, has no partner.' [Ahmad's Musnad, beginning of the Musnad of the Basrans, hadith of Usama al-Hudhali, may Allah be pleased with him; Sahih al-Jami al-Saghir wa-Ziyadatuhu, al-Albani's assessment: authentic; Sahih wa-Daif al-Jami al-Saghir, al-Albani's assessment: authentic.]

(47)"عَنْ أَبِي الْمَلِيحِ عَنْ أَبِيهِ أَنَّ رَجُلًا مِنْ هُذَيْلٍ أَعْتَقَ شَقِيصًا لَهُ مِنْ مَمْلُوكٍ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ هُوَ حُرٌّ كُلُّهُ لَيْسَ لِلَّهِ تَبَارَكَ وَتَعَالَى شَرِيكٌ"[مسند أحمد: أَوَّلُ مُسْنَدِ الْبَصْرِيِّينَ، حَدِيثُ أُسَامَةَ الْهُذَلِيِّ رَضِيَ اللَّهُ تَعَالَى عَنْهُ] [صحيح الجامع الصغير وزيادته : تحقيق الألباني : صحيح][صحيح وضعيف الجامع الصغير: تحقيق الألباني: صحيح]

L836 (47) Abu al-Malih reported—Abu al-Walid said: from his father—that a man emancipated his share in a slave boy. This was mentioned to the Prophet ﷺ, who said: 'Allah has no partner.' [Sunan Abi Dawud, Book of Emancipation, chapter: Whoever emancipates his share in a slave; Sahih wa-Daif Sunan Abi Dawud, al-Albani's assessment: authentic.]

(47)" عَنْ أَبِي الْمَلِيحِ قَالَ أَبُو الْوَلِيدِ عَنْ أَبِيهِ أَنَّ رَجُلًا أَعْتَقَ شِقْصًا لَهُ مِنْ غُلَامٍ فَذُكِرَ ذَلِكَ لِلنَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ لَيْسَ لِلَّهِ شَرِيكٌ" [سنن أبي داود: كِتَاب الْعِتْقِ، بَاب فِيمَنْ أَعْتَقَ نَصِيبًا لَهُ مِنْ مَمْلُوكٍ][صحيح وضعيف سنن أبي داود: تحقيق الألباني :صحيح]

L837 Since a child is part of his father and part of his mother, he must become free through his father. Since that is obligatory, part of her must be free. If part of her is free, all of her is free.[42]

ولما كان الولد بعض أبيه وبعض أمه، فوجب أن يعتق على أبيه، فلما وجب ذلك وجب أن بعضها حر، واذ بعضها حر فكلها حر.

L838 (48) Qays ibn Amr said: 'The Messenger of Allah ﷺ saw a man praying two units after the dawn prayer. He said: "The dawn prayer is two units." The man said: "I had not performed the two units before it, so I have prayed them now." The Messenger of Allah ﷺ remained silent.' [Sunan Abi Dawud, Book of Prayer, chapter: When someone who misses them makes them up; Sahih wa-Daif Sunan Abi Dawud, 3:267, al-Albani's assessment: authentic.]

(48)" عَنْ قَيْسِ بْنِ عَمْرٍو قَالَ رَأَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ رَجُلًا يُصَلِّي بَعْدَ صَلَاةِ الصُّبْحِ رَكْعَتَيْنِ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ صَلَاةُ الصُّبْحِ رَكْعَتَانِ فَقَالَ الرَّجُلُ إِنِّي لَمْ أَكُنْ صَلَّيْتُ الرَّكْعَتَيْنِ اللَّتَيْنِ قَبْلَهُمَا فَصَلَّيْتُهُمَا الْآنَ فَسَكَتَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ"[سنن أبي داود: كِتَاب الصَّلَاةِ، بَاب مَنْ فَاتَتْهُ مَتَى يَقْضِيهَا] [صحيح وضعيف سنن أبي داود (3/ 267): تحقيق الألباني : صحيح]

L839 (49) Abu Hurayra reported that the Messenger of Allah ﷺ forbade prayer after the afternoon prayer until sunset, and after the dawn prayer until sunrise. [Muslim, Book of Travellers' Prayer, chapter: Times during which prayer is forbidden.]

(49) "عَنْ أَبِي هُرَيْرَةَ "أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ الصَّلَاةِ بَعْدَ الْعَصْرِ حَتَّى تَغْرُبَ الشَّمْسُ وَعَنْ الصَّلَاةِ بَعْدَ الصُّبْحِ حَتَّى تَطْلُعَ الشَّمْسُ" [مسلم كتاب صلاة المسافرين باب الاوقات المنهى عن الصلاة فيها]

[42]**Translator's note (L837):** This abridges Ibn Hazm, Al-Muhalla, question 1684 in our Arabic witness. The author's supplied reference to 1683 is retained.