

spread your statement and may not say what you have actually said and may not understand its meaning, and may interpret it incorrectly, so you should wait till you reach Al-Madīna as it is the place of emigration and the place of Prophet's *Sunna*; and there you can come in touch with the learned and noble people, and tell them your ideas with confidence, and the learned people will understand your statement and put it in its proper place.' On that, 'Umar said 'By Allāh! If Allāh will, I will do this in the first speech I will deliver before the people in Al-Madīna.'" Ibn 'Abbās added: We reached Al-Madīna by the end of the month of *Dhūl-Hijja*, and when it was Friday, we went quickly (to the mosque) as soon as the sun had declined, and I saw Sa'īd bin Zaid bin 'Amr bin Nufail sitting at the corner of the pulpit, and I, too, sat close to him so that my knee was touching his knee, and after a short while, 'Umar bin Al-Khaṭṭāb came out, and when I saw him coming towards us, I said to Sa'īd bin Zaid bin 'Amr bin Nufail, "Today, 'Umar will say such a thing as he has never said since he was chosen as caliph." Sa'īd denied my statement with astonishment and said, "What thing do you expect 'Umar to say the like of which he has never said before?" In the meantime, 'Umar sat down on the pulpit and when the *Muadh-dhin* had finished their call for *Ṣalāt* (prayer), 'Umar stood up, and having glorified and praised Allāh, as He deserved, he said, "*Amma Ba'du* (then after), I am going to tell you something which (Allāh) has written for me to say. I do not know; perhaps it portends my death, so whoever understands and remembers it, must narrate it to the others wherever his mount takes him, but if somebody is afraid that he does not understand it, then it is

الرَّحْمَنِ: فَقُلْتُ: يَا أَمِيرَ الْمُؤْمِنِينَ، لَا تَفْعَلْ، فَإِنَّ الْمَوْسِمَ يَجْمَعُ رِعَاعَ النَّاسِ وَغَوَاءَهُمْ، فَإِنَّهُمْ هُمُ الَّذِينَ يَغْلِبُونَ عَلَى قُرْبِكَ حِينَ تَقُومُ فِي النَّاسِ، وَأَنَا أَخْشَى أَنْ تَقُومَ فَتَقُولَ مَقَالَهَ يَطِيرُهَا عَنْكَ كُلُّ مُطَيِّرٍ، وَأَنْ لَا يَهُوَهَا وَأَنْ لَا يَضَعُوهَا عَلَى مَوَاضِعِهَا فَأَمْهَلْ حَتَّى تَقْدَمَ الْمَدِينَةَ فَإِنَّهَا دَارُ الْهَجْرَةِ وَالسُّنَّةِ، فَتَخْلَصُ بِأَهْلِ الْفِقْهِ وَأَشْرَافِ النَّاسِ فَتَقُولَ مَا قُلْتَ مُتَمَكِّنًا، فَيَجِيءُ أَهْلَ الْعِلْمِ مَقَالَتَكَ وَيَضَعُونَهَا عَلَى مَوَاضِعِهَا. فَقَالَ عُمَرُ: أُمُّ اللَّهِ إِنْ شَاءَ اللَّهُ، لِأَقُومَنَّ بِذَلِكَ أَوَّلَ مَقَامٍ أَقُومُهُ بِالْمَدِينَةِ. قَالَ ابْنُ عَبَّاسٍ: فَقَدِمْنَا الْمَدِينَةَ فِي عَقَبِ ذِي الْحِجَّةِ، فَلَمَّا كَانَ يَوْمَ الْجُمُعَةِ عَجَلْتُ الرِّوَاحَ حِينَ زَاغَتِ الشَّمْسُ حَتَّى أَجِدَ سَعِيدَ بْنِ زَيْدِ بْنِ عَمْرٍو بْنِ نُفَيْلٍ جَالِسًا إِلَى رُكْنِ الْمِنْبَرِ، فَجَلَسْتُ حَوْلَهُ تَمَسُّ رُكْبَتِي رُكْبَتَهُ. فَلَمَّ أَنْشَبَ أَنْ خَرَجَ عُمَرُ بْنُ الْخَطَّابِ، فَلَمَّا رَأَيْتُهُ مُقْبِلًا قُلْتُ لِسَعِيدِ ابْنِ زَيْدِ بْنِ عَمْرٍو بْنِ نُفَيْلٍ: لَيَقُولَنَّ الْعَشِيَّةَ مَقَالَهَ لَمْ يَقُلْهَا مِنْذُ اسْتُخْلِفتَ. فَأَنْكَرَ عَلَيَّ وَقَالَ: مَا عَسَيْتَ أَنْ يَقُولَ مَا لَمْ يَقُلْ قَبْلَهُ؟ فَجَلَسَ عُمَرُ عَلَى الْمِنْبَرِ، فَلَمَّا سَكَتَ الْمُؤَدِّنُونَ قَامَ فَأَثْنَى عَلَى اللَّهِ بِمَا هُوَ

unlawful for him to tell lies about me. Allāh sent Muḥammad ﷺ with the Truth and revealed the Book (the Qur'an) to him, and among what Allāh revealed, was the Verse of the *Rajm* (the stoning to death) of married person (male and female) who commits illegal sexual intercourse, and we did recite this Verse and understood and memorized it. Allāh's Messenger ﷺ did carry out the punishment of stoning and so did we after him. I am afraid that after a long time has passed, somebody will say, 'By Allāh, we do not find the Verse of the *Rajm* in Allāh's Book,' and thus they will go astray by leaving an obligation which Allāh has revealed. And the punishment of the *Rajm* is to be inflicted to any married person (male and female) who commits illegal sexual intercourse if the required evidence is available or there is conception or confession. And then we used to recite among the Verses in Allāh's Book: 'O people! Do not claim to be the offspring of other than your fathers, as it is disbelief on your part that you claim to be the offspring of other than your real father.' Then Allāh's Messenger ﷺ said, 'Do not praise me excessively as (Prophet) 'Isā bin Maryam (Jesus, son of Mary) was praised, but call me Allāh's slave and His Messenger'. (O people!) I have been informed that a speaker amongst you says, 'By Allāh, if 'Umar should die, I will give the *Bai'a* (pledge) to such and such person.' One should not deceive oneself by saying that the *Bai'a* given to Abū Bakr was given suddenly and it was successful. No doubt, it was like that, but Allāh saved (the people) from its evil, and there is none among you who has the qualities of Abū Bakr. Remember that whoever gives the *Bai'a* to anybody among you without consulting the other Muslims, neither that person, nor the

أهلُهُ، ثُمَّ قَالَ: أَمَا بَعْدُ فَإِنِّي قَائِلٌ لَكُمْ مَقَالَةً قَدْ فُذِّرَ لِي أَنْ أَقُولَهَا، لَا أُدْرِي لَعَلَّهَا بَيْنَ يَدَيَّ أَجَلِي، فَمَنْ عَقَلَهَا وَوَعَاها فَلْيُحَدِّثْ بِهَا حَيْثُ انْتَهَتْ بِهِ رَاحِلَتُهُ. وَمَنْ حَشِيَ أَنْ لَا يَعْقِلَهَا فَلَا أُحِلُّ لِأَحَدٍ أَنْ يَكْذِبَ عَلَيَّ. إِنَّ اللَّهَ بَعَثَ مُحَمَّدًا ﷺ بِالْحَقِّ، وَأَنْزَلَ عَلَيْهِ الْكِتَابَ، فَكَانَ مِمَّا أَنْزَلَ اللَّهُ آيَةَ الرَّجْمِ. فَقَرَأْنَاهَا وَعَقَلْنَاهَا وَوَعَيْنَاهَا. رَجَمَ رَسُولُ اللَّهِ ﷺ وَرَجَمْنَا بَعْدَهُ. فَأَخْشَى إِنْ طَالَ بِالنَّاسِ زَمَانٌ أَنْ يَقُولَ قَائِلٌ: وَاللَّهِ مَا نَجِدُ آيَةَ الرَّجْمِ فِي كِتَابِ اللَّهِ، فَيَضِلُّوا بِتَرْكِ فَرِيضَةٍ أَنْزَلَهَا اللَّهُ. وَالرَّجْمُ فِي كِتَابِ اللَّهِ حَقٌّ عَلَى مَنْ زَنَى إِذَا أَحْصَيْنَ مِنَ الرِّجَالِ وَالنِّسَاءِ، إِذَا قَامَتِ الْبَيِّنَةُ، أَوْ كَانَ الْحَبْلُ، أَوْ الْإِعْتِرَافُ، ثُمَّ إِنَّا كُنَّا نَقْرَأُ فِيمَا نَقْرَأُ مِنْ كِتَابِ اللَّهِ أَنْ لَا تَرْغَبُوا عَنْ آبَائِكُمْ فَإِنَّهُ كُفْرٌ بِكُمْ أَنْ تَرْغَبُوا عَنْ آبَائِكُمْ، أَوْ إِنْ كُفِرَ بِكُمْ أَنْ تَرْغَبُوا عَنْ آبَائِكُمْ. أَلَا تُمْ إِنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «لَا تُظْرُونِي كَمَا أَظْرِي عَيْسَى بْنِ مَرْيَمَ، وَقُولُوا: عَبْدُ اللَّهِ وَرَسُولُهُ». ثُمَّ إِنَّهُ بَلَغَنِي أَنَّ قَائِلًا مِنْكُمْ يَقُولُ: وَاللَّهِ لَوْ قَدْ مَاتَ عَمْرُ بَايَعْتُ فُلَانًا، فَلَا يَعْتَرَنَّ أَمْرًا أَنْ يَقُولَ: إِنَّمَا كَانَتْ بَيْعَةُ أَبِي بَكْرٍ فَلْتَةً

person to whom the *Bai'a* was given are to be supported, lest they both should be killed. And no doubt, after the death of the Prophet ﷺ we were informed that the *Anṣār* disagreed with us and gathered in the shed of Banī Sā'ida. 'Alī and Az-Zubair, and whoever was with them, opposed us, while the emigrants gathered with Abū Bakr. I said to Abū Bakr, 'Let's go to these *Anṣārī* brothers of ours.' So we set out seeking them, and when we approached them, two of their pious men met us and informed us of the final decision of the *Anṣār*, and said, 'O group of *Muhājirīn* (emigrants)! Where are you going?' We replied, 'We are going to these *Anṣārī* brothers of ours.' They said to us, 'You shouldn't go near them. Carry out whatever we have already decided.' I said, 'By Allāh, we will go to them.' And so we proceeded until we reached them at the shed of Banī Sā'ida. Behold! There was a man sitting amongst them, wrapped in something. I asked, 'Who is that man?' They said, 'He is Sa'd bin 'Ubāda'. I asked, 'What is wrong with him?' They said, 'He is sick.' After we sat for a while, the *Anṣār's* speaker said, '*Lā 'lāha illallāh* (none has the right to be worshipped but Allāh)' and praising Allāh as He deserved, he added, '*Amma B. 'adu*, we are Allāh's *Anṣār* (helpers) and the majority of the Muslim army, while you, the emigrants, are a small group and some people among you came with the intention of preventing us from practising this matter (of caliphate) and depriving us of it.' When the speaker had finished, I intended to speak as I had prepared speech which I liked and which I wanted to deliver in the presence of Abū Bakr, and I used to avoid provoking him. So, when I wanted to speak, Abū Bakr said, 'Wait a while.' I disliked to make him angry. So Abū Bakr himself gave a speech,

وَمَمَّتْ، أَلَا وَإِنَّهَا قَدْ كَانَتْ كَذَلِكَ،  
وَلَكِنَّ اللَّهَ وَفَى شَرِّهَا، وَلَيْسَ فِيكُمْ  
مَنْ تَقْطَعُ الْأَعْنَاقَ إِلَيْهِ مِثْلَ أَبِي بَكْرٍ.  
مَنْ بَايَعَ رَجُلًا مِنْ غَيْرِ مَشُورَةٍ مِنَ  
الْمُسْلِمِينَ فَلَا يُبَايِعُ هُوَ وَلَا الَّذِي  
بَايَعَهُ تَعْرِةً أَنْ يُقْتَلَ، وَإِنَّهُ قَدْ كَانَ مِنْ  
حَبْرِنَا حِينَ تَوَفَّى اللَّهُ نَبِيَّهُ ﷺ أَنْ  
الْأَنْصَارَ خَالَفُونَا وَاجْتَمَعُوا بِأَسْرِهِمْ  
فِي سَقِيفَةِ بَنِي سَاعِدَةَ، وَخَالَفَ عَنَّا  
عَلِيٌّ وَالزُّبَيْرُ وَمَنْ مَعَهُمَا، وَاجْتَمَعَ  
الْمُهَاجِرُونَ إِلَى أَبِي بَكْرٍ. فَقُلْتُ لِأَبِي  
بَكْرٍ: يَا أَبَا بَكْرٍ، أَنْظِلْنَا بِنَا إِلَى  
إِخْوَانِنَا هَؤُلَاءِ مِنَ الْأَنْصَارِ، فَأَنْظِلْنَا  
نُرِيدُهُمْ. فَلَمَّا دَنَوْنَا مِنْهُمْ، لَقِينَا مِنْهُمْ  
رَجُلَانِ صَالِحَانِ، فَذَكَرَا مَا تَتَمَالَأُ  
عَلَيْهِ الْقَوْمُ، فَقَالَا: أَيْنَ تُرِيدُونَ يَا  
مَعْشَرَ الْمُهَاجِرِينَ؟ فَقُلْنَا: نُرِيدُ  
إِخْوَانِنَا هَؤُلَاءِ مِنَ الْأَنْصَارِ، فَقَالَا:  
لَا، عَلَيْنَكُمُ أَنْ لَا تَقْرُبُوهُمْ، أَفْضُوا  
أَمْرَكُمْ، فَقُلْتُ: وَاللَّهِ لِنَأْتِيَنَّهُمْ.  
فَأَنْظِلْنَا حَتَّى آتَيْنَاهُمْ فِي سَقِيفَةِ بَنِي  
سَاعِدَةَ، فَإِذَا رَجُلٌ مُزْمَلٌ بَيْنَ  
ظَهْرَانِيهِمْ، فَقُلْتُ: مَنْ هَذَا؟ فَقَالُوا:  
هَذَا سَعْدُ بْنُ عُبَادَةَ، فَقُلْتُ: مَا لَهُ؟  
قَالُوا: يُوعَكُ. فَلَمَّا جَلَسْنَا قَلِيلًا  
تَشَهَّدَ خَطِيئَتَهُمْ، فَأَتَيْتُ عَلَى اللَّهِ بِمَا  
هُوَ أَهْلُهُ، ثُمَّ قَالَ: أَمَّا بَعْدُ فَخَحْنُ  
أَنْصَارُ اللَّهِ وَكُتَيْبَةُ الْإِسْلَامِ، وَأَنْتُمْ

and he was wiser and more patient than I. By Allāh, he never missed a sentence that I liked in my own prepared speech, but he said the like of it or better than it spontaneously. After a pause he said, 'O *Anṣār!* You deserve all (the qualities) that you have attributed to yourselves, but this question (of caliphate) is only for the *Quraish* as they are the best of the Arabs as regards their descent and homeland, and I am pleased to suggest that you choose either of these two men, so give the *Bai'a* to either of them as you wish. And then Abū Bakr held my hand and Abū 'Ubāida bin Al-Jarrāh's hand who was sitting amongst us. I hated nothing of what he had said except that proposal, for by Allāh, I would rather have my neck chopped off as expiation for a sin than become the ruler of a nation, one of whose member is Abū Bakr, unless at the time of my death my ownself suggests something I don't feel at present.' And then one of the *Anṣār* said, 'I am the pillar on which the camel with a skin disease (eczema) rubs itself to satisfy the itching (i.e., I am a noble), and I am as a high class palm-tree! O *Quraish*, there should be one ruler from us and one from you.' Then there was a hue and cry among the gathering and their voices rose so that I was afraid there might be great disagreement, so I said, 'O Abū Bakr! Hold your hand out.' He held his hand out and I gave the *Bai'a* to him, and then all the emigrants gave the *Bai'a* and so did the *Anṣār* afterwards. And so we became victorious over Sa'd bin 'Ubāda (whom *Al-Anṣār* wanted to make a ruler). One of the *Anṣār* said, 'You have killed<sup>(1)</sup> Sa'd bin 'Ubāda.' I replied, 'Allāh has killed Sa'd bin 'Ubāda.'" 'Umar added, "By Allāh, apart from the great tragedy that had happened to us (i.e.,

مَعَشَرَ الْمُهَاجِرِينَ رَهْطًا، وَقَدْ دَفَّتْ دَافَّةً مِنْ قَوْمِكُمْ، فَإِذَا هُمْ يُرِيدُونَ أَنْ يَخْتَرُوا مِنَّا مِنْ أَصْلَانَا، وَأَنْ يَحْضُنُونَا مِنَ الْأَمْرِ. فَلَمَّا سَكَتَ أَرَدْتُ أَنْ أَتَكَلَّمَ، وَكُنْتُ زَوَّرْتُ مَقَالَةَ أَعْجَبْتَنِي أَرَدْتُ أَنْ أَقْدِمَهَا بَيْنَ يَدَيْ أَبِي بَكْرٍ، وَكُنْتُ أَدَارِي مِنْهُ بَعْضَ الْحَدِّ. فَلَمَّا أَرَدْتُ أَنْ أَتَكَلَّمَ، قَالَ أَبُو بَكْرٍ: عَلَي رِسْلِكَ، فَكْرَهْتُ أَنْ أُغْضِبَهُ، فَتَكَلَّمْتُ أَبُو بَكْرٍ فَكَانَ هُوَ أَحْلَمَ مِنِّي وَأَوْفَرُ، وَاللَّهِ مَا تَرَكَ مِنْ كَلِمَةٍ أَعْجَبْتَنِي فِي تَرْوِيرِي إِلَّا قَالَ فِي بَدِيهِتِهِ مِثْلَهَا أَوْ أَفْضَلَ حَتَّى سَكَتَ. فَقَالَ: مَا ذَكَرْتُمْ فِيكُمْ مِنْ خَيْرٍ فَأَنْتُمْ لَهُ أَهْلٌ، وَلَنْ يُعْرَفَ هَذَا الْأَمْرُ إِلَّا لِهَذَا الْحَيِّ مِنْ قُرَيْشٍ، هُمْ أَوْسَطُ الْعَرَبِ نَسَبًا وَدَارًا، وَقَدْ رَضِيتُ لَكُمْ أَحَدَ هَذَيْنِ الرَّجُلَيْنِ، فَبَايَعُوا أَيُّهُمَا شِئْتُمْ. فَأَخَذَ بِيَدِي وَبِيدَ أَبِي عُبَيْدَةَ بْنِ الْجَرَّاحِ، وَهُوَ جَالِسٌ بَيْنَنَا، فَلَمْ أَكْرَهُ مِمَّا قَالَ غَيْرَهَا. كَانَ وَاللَّهِ أَنْ أَقْدَمَ فَضْضَرَبَ عُنُقِي لَا يُقْرَبُنِي ذَلِكَ مِنْ إِثْمٍ أَحَبَّ إِلَيَّ مِنْ أَنْ أَتَأَمَّرَ عَلَي قَوْمٍ فِيهِمْ أَبُو بَكْرٍ، اللَّهُمَّ إِلَّا أَنْ تَسْؤَلَ إِلَيَّ نَفْسِي عِنْدَ الْمَوْتِ شَيْئًا لَا أَجِدُهُ الْآنَ. فَقَالَ قَائِلُ الْأَنْصَارِ: أَنَا جُذَيْلُهَا الْمُحَكِّكُ، وَعَدْبُوقُهَا الْمَرْجَبُ، وَمِنَّا

(1) (H. 6830) i.e., you have prevented him from being caliph.

the death of the Prophet (ﷺ), there was no greater problem than the *Bai'a* given to Abū Bakr because we were afraid that if we left the people, they might give the *Bai'a* after us to one of their men, in which case we would have given them our consent for something against our real wish, or would have opposed them and caused great trouble. So, if any person gives the *Bai'a* to somebody (to become a caliph) without consulting the other Muslims, then the one he has selected should not be given the *Bai'a* lest both of them should be killed.”

أَمِيرٌ وَمِنْكُمْ أَمِيرٌ، يَا مَعْشَرَ قُرَيْشٍ .  
فَكَتَرَ اللَّغْطُ، وَارْتَفَعَتِ الْأَصْوَاتُ،  
حَتَّى فَرَّقْتُ مِنَ الْاِخْتِلَافِ، فَقُلْتُ:  
اِبْسُطْ يَدَكَ يَا أَبَا بَكْرٍ، فَبَسَطَ يَدَهُ  
فَبَايَعْتُهُ وَبَايَعَهُ الْمُهَاجِرُونَ ثُمَّ بَايَعْتُهُ  
الْأَنْصَارُ. وَنَزَوْنَا عَلَى سَعْدِ بْنِ  
عُبَادَةَ، فَقَالَ قَائِلٌ مِنْهُمْ: قَتَلْتُمْ سَعْدَ  
بْنَ عُبَادَةَ، فَقُلْتُ: قَتَلَ اللَّهُ سَعْدَ بْنَ  
عُبَادَةَ. قَالَ عُمَرُ: وَإِنَّا وَاللَّهِ مَا وَجَدْنَا  
فِيهَا حَضْرَنَا مِنْ أَمْرِ أَقْوَى مِنْ مُبَايَعَةِ  
أَبِي بَكْرٍ خَشِينَا إِنْ فَارَقْنَا الْقَوْمَ وَلَمْ  
تَكُنْ بَيْعَةٌ أَنْ يُبَايَعُوا رَجُلًا مِنْهُمْ  
بَعَدْنَا، فَأَمَّا بَايَعْنَاهُمْ عَلَى مَا لَا  
نَرْضَى وَإِنَّمَا نَخَالِفُهُمْ فَيَكُونُ فَسَادًا.  
فَمَنْ بَايَعَ رَجُلًا عَلَى غَيْرِ مَشُورَةٍ مِنَ  
الْمُسْلِمِينَ فَلَا يُتَابِعُ هُوَ وَلَا الَّذِي  
بَايَعَهُ نَعْرَةَ أَنْ يُقْتَلَا. [راجع: ٢٤٦٢]

(32) CHAPTER. Unmarried males and females (committing illegal sexual intercourse) should be flogged and exiled.

(And the Statement of Allāh (تعالى):

“The woman and the man guilty of illegal sexual intercourse, flog each of them with a hundred stripes. Let not pity withhold you in their case, in a punishment prescribed by Allāh, if you believe in Allāh and the Last Day. And let a party of the believers witness their punishment. (This punishment is for unmarried persons guilty of the above crime, but if married persons commit it, the punishment is to stone them to death, according to Allāh’s Law). The adulterer marries not but an adultress or a *Mushrikah*; and the adultress, none

(٣٢) **بَابُ**: الْبِكْرَانِ يُجْلَدَانِ وَيُنْفَيَانِ  
﴿الزَّانِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِنْهُمَا مِائَةَ  
جَلْدَةٍ وَلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ﴾ .  
قَالَ ابْنُ عُيَيْنَةَ: رَأْفَةٌ فِي إِقَامَةِ  
الْحَدِّ.

marries her except an adulterer or a *Mushrik* [and that means that the man who agrees to marry (have a sexual relation with) a *Mushrikah* (female polytheist, pagan or idolatress) or a prostitute, then surely, he is either an adulterer or a *Mushrik* (polytheist, idolater or pagan). And the woman who agrees to have a sexual relation with a *Mushrik* or an adulterer, then she is either a prostitute or a *Mushrikah*]. Such a thing is forbidden to the believers (of Islāmic Monotheism).” (V.24:2,3)

Ibn ‘Uyaina said, “You should not take pity in establishing the legal punishment.”

6831. Narrated Zaid bin Khālid Al-Juhānī: I heard the Prophet ﷺ ordering that an unmarried person guilty of illegal sexual intercourse, be flogged one hundred stripes and be exiled for one year.

٦٨٣١ - حَدَّثَنَا مَالِكُ بْنُ إِسْمَاعِيلَ: حَدَّثَنَا عَبْدُ الْعَزِيزِ: أَخْبَرَنَا ابْنُ شِهَابٍ، عَنْ عَبْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ بْنِ عُتْبَةَ، عَنْ زَيْدِ بْنِ خَالِدِ الْجُهَنِيِّ قَالَ: سَمِعْتُ النَّبِيَّ ﷺ يَأْمُرُ فِيمَنْ زَنَى وَلَمْ يُحْصَنْ: جَلْدَ مِائَةً وَتَغْرِبَ عَامًا. [راجع: ٢٣١٤]

6832. Narrated Urwa bin Zubair: ‘Umar bin Al-Khattāb also exiled such a person, and this *Sunna* (legal punishment) is still valid.

٦٨٣٢ - قَالَ ابْنُ شِهَابٍ: وَأَخْبَرَنِي عُرْوَةُ بْنُ الزُّبَيْرِ: أَنَّ عُمَرَ بْنَ الْخَطَّابِ غَرَّبَ ثُمَّ لَمْ تَزَلْ تِلْكَ السَّنَةَ.

6833. Narrated Abū Hurairah رضي الله عنه: Allāh’s Messenger ﷺ judged that the unmarried person who was guilty of illegal sexual intercourse be exiled for one year and receive the legal punishment (i.e., be flogged with one hundred stripes).

٦٨٣٣ - حَدَّثَنَا يَحْيَى بْنُ بُكَيْرٍ: حَدَّثَنَا اللَّيْثُ، عَنْ عُقَيْلٍ، عَنِ ابْنِ شِهَابٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ: أَنَّ رَسُولَ اللَّهِ ﷺ قَضَى فِيمَنْ زَنَى وَلَمْ يُحْصَنْ يَنْفِي عَامًا بِإِقَامَةِ الْحَدِّ عَلَيْهِ. [راجع: ٢٣١٥]

(33) CHAPTER. Exiling the sinners and effeminate men [those men who assume the similitude (manners) of women].

6834. Narrated Ibn 'Abbās رضي الله عنهما: The Prophet ﷺ cursed the effeminate men and those women who assume the similitude (manners) of men. He ﷺ also said, "Turn them out of your houses." He turned such and such person out, and 'Umar also turned out such and such person.

(34) CHAPTER. Whoever ordered somebody other than the ruler to carry out the legal punishment in the absence of the ruler.

6835, 6836. Narrated Abū Hurairah and Zaid bin Khalid: A bedouin came to the Prophet ﷺ while he (the Prophet ﷺ) was sitting, and said, "O Allāh's Messenger! Give your verdict according to Allāh's Laws (in our case)." Then his opponent got up and said, "He has told the truth, O Allāh's Messenger! Decide his case according to Allāh's Laws: My son was a labourer working for this person, and he committed illegal sexual intercourse with his wife, and the people told me that my son should be stoned to death, but I offered one hundred sheep and a slave-girl as a ransom for him. Then I asked the religious learned men, and they told me that my son should be flogged with one hundred stripes and be exiled for one year." The Prophet ﷺ said, "By Him in Whose Hand my soul is, I will judge between you according to Allāh's Laws: The sheep and the slave-girl will be returned to you and your son will be flogged one hundred stripes and be exiled for one year. And you, O Unais! Go to the wife of this man (and if she confesses), stone her to death." So Unais went in the morning and stoned her to death

(٣٣) بَابُ نَفْيِ أَهْلِ الْمَعَاصِي وَالْمُخْتَلِينَ

٦٨٣٤ - حَدَّثَنَا مُسْلِمٌ بْنُ إِبْرَاهِيمَ: حَدَّثَنَا هِشَامٌ: حَدَّثَنَا يَحْيَى، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: لَعَنَ النَّبِيُّ ﷺ الْمُخْتَلِينَ مِنَ الرِّجَالِ وَالْمُتَرَجَّلَاتِ مِنَ النِّسَاءِ، وَقَالَ: «أَخْرِجُوهُمْ مِنْ بُيُوتِكُمْ»، وَأَخْرَجَ فُلَانًا، وَأَخْرَجَ عُمَرَ فُلَانًا.

(٣٤) بَابُ مَنْ أَمَرَ غَيْرَ الْإِمَامِ بِإِقَامَةِ الْحَدِّ غَائِبًا عَنْهُ

٦٨٣٥، ٦٨٣٦ - حَدَّثَنَا عَاصِمٌ بْنُ عَلِيٍّ: حَدَّثَنَا ابْنُ أَبِي ذَنْبٍ، عَنِ الزُّهْرِيِّ، عَنْ عُبَيْدِ اللَّهِ، عَنْ أَبِي هُرَيْرَةَ وَزَيْدِ بْنِ خَالِدٍ: أَنَّ رَجُلًا مِنَ الْأَعْرَابِ جَاءَ إِلَى النَّبِيِّ ﷺ وَهُوَ جَالِسٌ فَقَالَ: يَا رَسُولَ اللَّهِ، أَقْضِ بِكِتَابِ اللَّهِ. فَقَامَ خَصْمُهُ فَقَالَ: صَدَقَ، أَقْضِ لَهُ يَا رَسُولَ اللَّهِ بِكِتَابِ اللَّهِ، إِنَّ ابْنِي كَانَ عَسِيفًا عَلَى هَذَا فَرَزَمَنِي بِأَمْرَاتِي فَأَخْبَرُونِي أَنَّ عَلَى ابْنِي الرَّجْمَ فَأَقْتَدَيْتُ بِمِائَةِ مِنَ الْعَنْمِ وَوَلِيدَةٍ، ثُمَّ سَأَلْتُ أَهْلَ الْعِلْمِ، فَرَعَمُوا أَنَّ مَا عَلَى ابْنِي جَلْدُ مِائَةٍ وَتَعْرِيبُ عَامٍ، فَقَالَ: «وَالَّذِي نَفْسِي بِيَدِهِ لَا أَقْضِيَنَّ بَيْنَكُمَا بِكِتَابِ اللَّهِ، أَمَّا الْعَنْمُ وَالْوَلِيدَةُ فَرَدُّ عَلَيْكَ، وَعَلَى ابْنِكَ جَلْدُ مِائَةٍ وَتَعْرِيبُ عَامٍ، وَأَمَّا

(after she had confessed).

(35) CHAPTER. The Statement of Allāh

تعالى:

“And whoever of you have not the means wherewith to wed free believing women, they may wed believing girls from among those (captives and slaves) whom their right hands possess, and Allāh has full knowledge about your Faith. You are one from another. Wed them with the permission of their own folk, (Auliya — guardians or masters) and give them their *Mahr* according to what is reasonable; they (the above said captive and slave-girls), should be chaste, not adulterous, nor taking boyfriends. And after they have been taken in wedlock, if they commit illegal sexual intercourse, their punishment is half that for free (unmarried) women. (1) This is for him among you who is afraid of being harmed in his religion or in his body; but it is better for you that you practise self-restraint, and Allāh is Oft-Forgiving, Most Merciful.” (V.4:25)

CHAPTER. If a lady-slave commits illegal sexual intercourse (then what is her legal punishment?)

6837, 6838. Narrated Abū Hurairah and Zaid bin Khālīd رَضِيَ اللهُ عَنْهُمَا: The verdict of Allāh’s Messenger ﷺ was sought about an unmarried slave-girl guilty of illegal sexual intercourse. He replied, “If she commits illegal sexual intercourse, then flog her (fifty stripes), and if she commits illegal sexual intercourse (after that for the second time), then flog her (fifty stripes), and if she commits illegal sexual intercourse (for the

أَنْتِ يَا أَنْثَى فَاغْدُ عَلَى امْرَأَةٍ هَذَا فَارْجُمِيهَا»، فَغَدَا أَنْثَى فَرَجَمَهَا.

[راجع: ٢٣١٤، ٢٣١٥]

(٣٥) بَابُ قَوْلِ اللَّهِ تَعَالَى: ﴿وَمَنْ لَمْ يَسْتَطِعْ مِنْكُمْ طَوْلًا أَنْ يَنْكَحَ الْمُحْصَنَاتِ الْمُؤْمِنَاتِ فَمِنْ مِمَّا مَلَكَتْ أَيْمَانُكُمْ مِنْ فِتْنَتِكُمُ الْمُؤْمِنَاتِ وَاللَّهُ أَعْلَمُ بِأَيْمَانِكُمْ بَعْضُكُمْ مِنْ بَعْضٍ فَانْكِحُوهُنَّ بِإِذْنِ أَهْلِهِنَّ وَءَاثُوهُنَّ أَجُورَهُنَّ بِالْمَعْرُوفِ مُحْصَنَاتٍ غَيْرَ مُسَفِّحَاتٍ - زَوَانِي - وَلَا مُتَّخِذَاتِ أَخْدَانٍ - أَخْلَاءَ - فَإِذَا أَحْصَيْنَ فَإِنْ آتَيْتُمْ بِمُحْصَنَةٍ فَلَمَّهِنَّ نِصْفَ مَا عَلَى الْمُحْصَنَاتِ مِنَ الْعَذَابِ ذَلِكَ لِمَنْ حَسِنَ الْعَمَلُ مِنْكُمْ وَأَنْ تَصِيرُوا خَيْرٌ لَكُمْ وَاللَّهُ غَفُورٌ رَحِيمٌ﴾ [النساء: ٢٥].

بَابُ: إِذَا زَنَّتِ الْأَمَةُ

٦٨٣٧، ٦٨٣٨ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ: أَخْبَرَنَا مَالِكٌ، عَنِ ابْنِ شِهَابٍ، عَنْ عُبَيْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ بْنِ عُتْبَةَ عَنْ أَبِي هُرَيْرَةَ وَزَيْدِ بْنِ خَالِدٍ رَضِيَ اللَّهُ عَنْهُمَا: أَنَّ رَسُولَ اللَّهِ ﷺ سُئِلَ عَنِ الْأَمَةِ إِذَا زَنَّتْ وَلَمْ تُحْصَنَ، قَالَ: «إِذَا زَنَّتْ فَاجْلِدُوهَا، ثُمَّ إِنْ

(1) (Ch. 35) Female or male slaves (married or unmarried); if they commit adultery, their punishment is fifty (50) lashes; neither stoning to death nor exile.

third time), then flog her (fifty stripes) and sell her for even a hair rope."

Ibn *Shihāb* said, "I am not sure whether the Prophet ﷺ ordered that she be sold after the third or fourth time of committing illegal sexual intercourse."

**(36) CHAPTER. If a lady-slave commits illegal sexual intercourse then she should neither be admonished nor exiled.**

6839. Narrated Abū Hurairah رَضِيَ اللهُ عَنْهُ: The Prophet ﷺ said, "If a lady-slave commits illegal sexual intercourse and she is proved guilty of illegal sexual intercourse, then she should be flogged (fifty stripes) but she should not be admonished; and if she commits illegal sexual intercourse again, then she should be flogged again but should not be admonished, and if she commits illegal sexual intercourse for the third time then she should be sold even for a hair rope."

**(37) CHAPTER. The legal regulation for non-Muslims under the protection of a Muslim state. The fact that a non-Muslim is married, is to be taken into consideration when he commits illegal sexual intercourse and is brought to the *Imān* (Muslim ruler).**

6840. Narrated Ash-Shaibānī: I asked 'Abdullāh bin Abī Aufā about the *Rajm* (stoning to death for committing illegal sexual intercourse). He replied, "The Prophet ﷺ carried out the penalty of *Rajm*." I asked, "Was that before or after the revelation of *Sūrat An-Nūr*?" He replied, "I do not know."

زَنْتَ فَاجْلِدُوهَا، ثُمَّ إِنْ زَنْتَ فَاجْلِدُوهَا، ثُمَّ يَبِعُوهَا وَلَوْ بِضَفِيرٍ.

قَالَ ابْنُ شِهَابٍ: لَا أَدْرِي بَعْدَ الثَّالِثَةِ أَوْ الرَّابِعَةِ. [راجع: ٢١٥٢،

٢١٥٤]

**(٣٦) بَابٌ: لَا يُتْرَبُ عَلَى الْأَمَةِ إِذَا زَنْتَ وَلَا تُنْفَى**

٦٨٣٩ - حَدَّثَنَا عَبْدُ اللَّهِ بْنُ يُوسُفَ: حَدَّثَنَا اللَّيْثُ، عَنْ سَعِيدِ الْمُقْبِرِيِّ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّهُ سَمِعَهُ يَقُولُ: قَالَ النَّبِيُّ ﷺ: «إِذَا زَنْتِ الْأَمَةَ فَتَبَيَّنَ زِنَاهَا فَلْيَجْلِدْهَا وَلَا يُتْرَبْ، ثُمَّ إِنْ زَنْتِ فَلْيَجْلِدْهَا وَلَا يُتْرَبْ، ثُمَّ إِنْ زَنْتِ الثَّالِثَةَ فَلْيَبِعْهَا وَلَوْ بِحَبْلِ مِنْ شَعْرِ». تَابَعَهُ إِسْمَاعِيلُ بْنُ أُمَيَّةَ، عَنْ سَعِيدٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ.

**(٣٧) بَابٌ أَحْكَامِ أَهْلِ الذِّمَّةِ وَإِخْصَانِهِمْ إِذَا زَنَوْا، وَرَفَعُوا إِلَى الْإِمَامِ**

٦٨٤٠ - حَدَّثَنَا مُوسَى بْنُ إِسْمَاعِيلَ: حَدَّثَنَا عَبْدُ الْوَاحِدِ: حَدَّثَنَا الشَّيْبَانِيُّ، سَأَلْتُ عَبْدَ اللَّهِ بْنَ أَبِي أَوْفَى عَنِ الرَّجْمِ فَقَالَ: رَجَمَ النَّبِيُّ ﷺ، فَقُلْتُ: أَقْبَلَ التُّورِ أَمْ بَعْدَ؟ قَالَ: لَا أَدْرِي. [راجع: ٦٨١٣]

تَابَعَهُ عَلِيُّ بْنُ مُسْهِرٍ، وَخَالِدُ بْنُ

عَبْدُ اللَّهِ، وَالْمُحَارِبِيُّ، وَعَبِيدَةُ بْنُ حُمَيْدٍ عَنِ الشَّيْبَانِيِّ. وَقَالَ بَعْضُهُمْ: الْمَائِدَةُ، وَالْأَوَّلُ أَصْحُ.

[راجع: ٦٨١٣]

6841. Narrated 'Abdullāh bin 'Umar رَضِيَ اللهُ عَنْهُمَا: The Jews came to Allāh's Messenger ﷺ and mentioned to him that a man and a woman among them had committed illegal sexual intercourse. Allāh's Messenger ﷺ said to them, "What do you find in the *Taurāt* (Torah) regarding the *Rajm*?" They replied, "We only disgrace and flog them with stripes." 'Abdullāh bin Salām said to them, "You have told a lie. The penalty of *Rajm* is in the *Taurāt* (Torah)." They brought the Torah and opened it. One of them put his hand over the verse of *Rajm* and read what was before and after it. 'Abdullāh bin Salām said to him, "Lift up your hand." When he lifted it there appeared the verse of *Rajm*. So they said, "O Muḥammad! He has said the truth, the verse of *Rajm* is in it (the *Taurāt*-Torah)." Then Allāh's Messenger ﷺ ordered that the two persons (guilty of illegal sexual intercourse) be stoned to death, and so they were stoned, and I saw the man bending over the woman so as to protect her from the stones.

٦٨٤١ - حَدَّثَنَا إِسْمَاعِيلُ بْنُ عَبْدِ اللَّهِ: حَدَّثَنِي مَالِكٌ، عَنِ نَافِعٍ، عَنِ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أَنَّهُ قَالَ: إِنَّ الْيَهُودَ جَاءُوا إِلَى رَسُولِ اللَّهِ ﷺ، فَذَكَرُوا لَهُ أَنَّ رَجُلًا مِنْهُمْ وَامْرَأَةً زَنِيًا، فَقَالَ لَهُمْ رَسُولُ اللَّهِ ﷺ: «مَا تَجِدُونَ فِي التَّوْرَةِ فِي شَأَنِ الرَّجْمِ؟» فَقَالُوا: نَفَضَحُهُمْ وَيُجْلِدُونَ. قَالَ عَبْدُ اللَّهِ بْنُ سَلَامٍ: كَذَبْتُمْ، إِنَّ فِيهَا الرَّجْمَ. فَأَتَوْا بِالتَّوْرَةِ فَتَشَرُّوْهَا فَوَضَعَ أَحَدُهُمْ يَدَهُ عَلَى آيَةِ الرَّجْمِ فَقَرَأَ مَا قَبْلَهَا وَمَا بَعْدَهَا، فَقَالَ لَهُ عَبْدُ اللَّهِ بْنُ سَلَامٍ: ارْفَعْ يَدَكَ، فَرَفَعَ يَدَهُ فَإِذَا فِيهَا آيَةُ الرَّجْمِ. قَالُوا: صَدَقَ يَا مُحَمَّدُ، فِيهَا آيَةُ الرَّجْمِ، فَأَمَرَ بِهِمَا رَسُولُ اللَّهِ ﷺ فَرَجِمَا، فَرَأَيْتُ الرَّجُلَ يَحْنِي عَلَى الْمَرْأَةِ يَقِيهَا الْحِجَارَةَ.

[راجع: ١٣٢٩]

(38) CHAPTER. If someone accuses his wife or another person's wife of committing illegal sexual intercourse in the presence of the ruler and the people, should the ruler send for the lady and ask her about what she has been accused of?

(٣٨) بَابٌ: إِذَا رَمَى امْرَأَتَهُ أَوْ امْرَأَةَ غَيْرِهِ بِالزَّنَا عِنْدَ الْحَاكِمِ وَالتَّائِسِ، هَلْ عَلَى الْحَاكِمِ أَنْ يَبْعَثَ إِلَيْهَا فَيَسْأَلَهَا عَمَّا رُمِيَتْ بِهِ؟

6842, 6843. Narrated Abū Hurairah and Zaid bin Khalīd رَضِيَ اللهُ عَنْهُمَا: Two men had a

٦٨٤٢، ٦٨٤٣ - حَدَّثَنَا عَبْدُ اللَّهِ