

## The Second Volume of the Book of Iqtisār,

authored by Our master, the Judge al-Nu‘mān ibn Muḥammad, may God exalt his sacred resting place

### Mention of Buying and Selling

We have transmitted from the People of the Household, peace and blessings be upon them all, that they prohibited the sale of free persons, and everything whose ownership is lawful, and every prohibited thing. They said that there is no harm in selling grapes, grape juice, dates, and raisins to someone who makes wine or an intoxicating drink from them.

They prohibited selling freely available water at its source, and pasture on land which the seller does not own, unless he has taken care of it by watering it.

They prohibited sales involving uncertainty (*gharar*), and every sale in which the subject is unknown and neither the seller nor the buyer knows what it is. They also prohibited the sale of *walā’*.

They prohibited selling fruit before its ripeness becomes apparent or before it begins to mature. Once it has ripened, or some of it has ripened, it may be sold for one or two years, provided that the fruit does not fail to appear in the future; the price applies to what has ripened at the time of the contract. Other fruit may be sold along with it even if it has not yet ripened, once some of the fruit has ripened.

There is no harm in selling a runaway slave or a stray camel together with something present and available. Likewise, anything hidden but described may be sold if something present accompanies it, such as milk in the udders and things similar to it. It may not be sold by itself because that constitutes uncertainty.

They prohibited selling dates still on the palm trees in exchange for measured dates. They made an exception for *‘arāyā*, which refers to a small quantity of dates from a palm tree and similar cases.

Likewise, it is not permissible to sell grapes on the vine in exchange for measured raisins, nor unharvested grain in exchange for wheat. There is no harm in purchasing dates still on the palm trees in exchange for wheat.

Whoever purchases palm trees after they have been pollinated, their fruit belongs to the seller unless the purchaser stipulates otherwise.

They prohibited deceptive mixing in sales. There is no harm in mixing two types when the superior type predominates and the inferior type is concealed within it, and it is sold at its price. But there is no good in doing so if the superior type predominates while the inferior type is concealed and the mixture is sold at the price of the superior type.

They prohibited blowing air into meat for the purpose of selling it. There is no harm in blowing air between the skin and the meat when slaughtering and skinning.

They prohibited giving short measure or short weight.

They prohibited *taşriya*: this is when milk is allowed to accumulate in the udder of an animal by leaving it un milked for several days and then selling it, so that the buyer sees its large udder and assumes that it produces abundant milk.

The buyer of such an animal is given the option for three days. If he wishes, he may return it and return with it one ṣā‘ of dates.

They prohibited *najsh*, which is increasing the price of an item when the person making the increase does not actually intend to purchase it, but only wants another person to hear his bid and increase his own bid beyond it.

As for increases in weight and measure that people commonly tolerate in ordinary transactions, there is no harm in them. If the difference becomes excessive, it is an error and there is no good in it.

They prohibited two sales in one sale—for example, saying, “I will sell you this commodity for such-and-such if paid immediately, and for such-and-such if payment is deferred,” and then concluding the sale upon that basis, and similar arrangements, of which there are many.

They prohibited profit on something for which one has not assumed liability, selling combined with a loan, selling something that one does not possess, and *kālī’ bi-kālī’*, meaning a debt in exchange for a debt.

There is no harm in selling one animal for another animal, whether one animal is exchanged for more than one, provided the exchange is immediate or deferred.

The sale of meat in exchange for an animal is disliked.

Food should not be sold until it has been taken possession of. There is no harm in *tawliya* concerning it [selling it at cost to another buyer]. There is likewise no harm in this with other commodities.

There is no harm in purchasing food and having the buyer take possession of it according to the seller's measure, provided that he trusts the seller.

They prohibited hoarding (*ihtikār*) when food becomes scarce, and prohibited price fixing.

They prohibited *ribā* and issued an extremely severe warning concerning it. This applies to the one who deliberately commits it. Whoever repents from it must take only his original capital and return the excess.

*Ribā* is unequal exchange in things measured or weighed when one kind is exchanged for the same kind, even if one portion is of better quality than another. If they are all of one type, they may only be sold in equal amounts and hand-to-hand.

If the two types differ, there is no harm in unequal exchange between them.

There is no harm in taking silver in exchange for gold, or gold in exchange for silver, if they agree upon it.

Whoever lends dinars or dirhams and is repaid with better ones, there is no harm in that provided that the better repayment was not stipulated.

There is no harm in unequal exchange between two types when they differ.

Wheat and barley are considered one type, so unequal exchange between them is not permitted. Likewise, wheat and *sawīq* [roasted or dried grain flour] and flour are treated as one type.

Selling fresh dates in exchange for dried dates is disliked.

There is no harm in selling garments for other garments, whether immediately or on deferred payment, provided that they are properly described.

They prohibited selling food for food by estimation rather than by known measurement.

The two parties to a sale have the option [to cancel the transaction] until they physically separate.

A condition is valid when it concerns something lawful. If someone makes a condition concerning something unlawful, that condition is invalid.

The purchaser of an animal has the option concerning it for three days. If the animal dies during this period, it is from the seller's property, unless the buyer causes something to happen to it or the seller releases him from the option.

Whoever purchases a commodity and goes to bring the price has the right to do so as long as three days have not passed. Once three days have passed, he has no sale.

They prohibited fraud and deception.

Whoever sells a defective commodity should disclose the defect. Whoever knows of the defect should disclose it. It is not sufficient for him to say, "I sell it to you with exemption from liability," without explaining the defect.

Whoever purchases a commodity and discovers a defect that was not disclosed to him may return it if he wishes.

If the commodity consists of separate parts and he discovers a defect in some of them, he takes the value of the defective portion, unless the defect affects the essential nature or appearance of the commodity, in which case he may return the entire commodity.

If a defect occurs to the commodity while it is in his possession and he wishes to return it, he pays compensation for the defect that occurred while it was with him and receives compensation for the original defect. The choice is his.

An exception is a female slave whom he has had sexual relations with and then discovers a defect in her. In that case, he receives only compensation for the defect.

If, however, he finds that she was pregnant, he returns her and, if he had intercourse with her, returns with her one-half of one-tenth of her value.

If he knew about the defect before the transaction, or used the commodity, or caused something to happen to it after learning of the defect, the defect becomes his responsibility.

Selling by *murābaḥa* is disliked when one says, "I bought it for such-and-such," and then adds profit to that stated cost.

There is no harm in selling by *murābaḥa* when he says, "The cost was such-and-such, and the profit is such-and-such."

There is no harm in adding to the cost the fee of the launderer, porter, and whatever was spent on the commodity, provided that this is disclosed.

Whoever purchases a commodity with deferred payment and then sells it by *murābaḥa* without informing the second buyer of the deferred payment, the second buyer has the same period of deferment that the first seller had.

*Salam* [forward sale] is permissible for one who possesses the commodity and for one who does not possess it, provided that he pays dinars or dirhams in advance for food that is precisely described, with a known measure or weight, specifies the term, specifies the place where it will be delivered, and pays the price before the two parties separate.

If any of these matters is omitted, the *salam* transaction is invalid.

*Salam* is not permitted concerning a particular identified food item whose ripeness has not yet appeared.

There is no harm in *salam* for garments and animals if their characteristics are properly described.

There is no harm in taking collateral or a guarantor in a *salam* transaction.

If someone makes a *salam* payment for something and the seller fulfills only part of it, there is no harm in giving him the remaining principal if they agree to that arrangement, and accepting the remaining amount accordingly.

It is disliked for someone who made a *salam* purchase, when the term becomes due, to be told by the seller, "Take this money and purchase the commodity for yourself." He may not personally purchase it for himself in this way. Rather, he should appoint someone else to purchase it, and then receive it from that person.

Whoever sells a commodity and stipulates to the buyer that he may neither sell it nor give it away, the condition is valid.

If he stipulates that the commodity may not be inherited, the condition is invalid.

Every condition that contradicts the Book of God Most High and the Sunnah of His Messenger, peace and blessings of God be upon him and his family, is invalid.

Whoever sells a slave who possesses property unknown to the buyer, that property belongs to the seller unless the buyer stipulates that it belongs to him and the seller knows of the condition.

Whoever purchases something of the sort that people ordinarily document in writing, such as an animal or real estate, takes possession of it and claims that he has paid the price, while the seller denies this, then the seller's statement is accepted together with his oath. The buyer must provide evidence that he paid the price.

If the transaction concerns something that people do not ordinarily document in writing, such as meat or fruit, and the buyer has consumed or otherwise disposed of it, then his statement is accepted together with his oath.

Whoever sells a commodity and claims that he made a mistake in stating its price: if the mistake is obvious, he takes an oath and the commodity is returned to him. If it is a kind of sale in which people commonly tolerate such differences, the sale proceeds.

Whoever appoints an agent to sell something on his behalf, and the agent sells it at a price within the range that people commonly tolerate, the sale is valid, unless it is known that he deliberately committed *najsh* or acted unjustly.

If he sells part of the commodity in a manner that serves the owner's interest, the sale is valid.

If there are two agents and one of them sells without the other, the sale is not valid unless authority to do so was granted to them individually.

Whoever concludes a sale while excluding from it something unspecified, the sale is invalid.

If the ruler sells property belonging to a minor, an absent person, or someone otherwise unable to act, responsibility concerning the sold property rests upon the person on whose behalf it was sold; there is no liability upon the ruler or upon the person appointed by the ruler.

If someone's property is sold while he is present and he does not object, that does not harm him so long as he maintains his objection [or does not expressly approve the sale], unless he subsequently authorizes the sale.

Relatives who are closely related by blood should not be separated through sale, unless they are sold at a loss and consent to it.

Whoever does otherwise has dissociated himself from what was revealed to Muḥammad, peace and blessings of God be upon him and his family.

When the slave of a protected non-Muslim (*dhimmī*) accepts Islam, he is to be sold to them.

There is no good in a loan that generates a benefit when that benefit was stipulated as a condition.

There is no harm in taking money through a *saftaja* arrangement, whereby he gives the money in one place and receives it in another, with the obligation guaranteed.

There is no harm in bringing forward the payment of a debt before its due date on the condition that the creditor relinquishes part of it, if the two parties agree to this.

If a man has a debt owed to him by another man and transfers the debt to a third person, then if he releases the original debtor from the debt, he has no further recourse against him. If he does not release him, he may pursue whichever of them he wishes.

If two men jointly guarantee a debt owed to a man, he may pursue either one of them for the entire amount. The one who pays may then recover half of what he paid from the other guarantor.

Whoever guarantees to produce a particular man but fails to bring him: if the obligation owed by that man is known and the guarantor pays it, there is no further liability against him.

If the obligation is unknown, he is detained until he brings the person or until that person dies. If the person dies, there is no further liability against the guarantor.

There is no guarantee concerning a legal punishment (*ḥadd*).

The property of an orphan is to be preserved, and he is to be supported from it in an appropriate manner. It is not to be handed over to him until he reaches maturity and sound judgment is observed in him.

A mature person who wastes his property may be placed under legal restriction (*ḥajr*). When he becomes financially responsible and sound in conduct, the restriction is lifted.

If a person becomes insolvent and his creditors pursue him, and one of them finds his specific property among the insolvent person's possessions, he has the greatest right to it—unless it contains an increase in value.

If it contains an increase, he is entitled to his original capital.

Likewise, a hired worker who works on an identifiable item has priority in receiving his wage from that item over the other creditors.

Whoever purchases a slave and emancipates him, or purchases a commodity and gives it in charity, without having paid its price and while possessing no other property, his emancipation or charity is invalid, and the property is returned to its owners.

If, however, the person remains financially sound or possesses other property and only becomes insolvent afterward, his action remains valid.

All debts of an insolvent person become immediately due when the creditors take legal action against him.

If his inability to pay is established, he is not imprisoned.

If a person's child has property, that property may be sold for whatever portion of the debt becomes apparent, while he is detained concerning whatever remains in his possession.

If he persists in his stubborn refusal [to pay], he may be struck until he pays.

There is no harm in sharecropping (*muzāraʿa*) on the basis of one-quarter or one-half [of the produce], and upon such an arrangement ...upon whatever they agree regarding the work, provision of seed, and animals. No separate amount is to be assigned to the seed, nor to the cattle.

There is no harm in renting land in exchange for wheat on the condition that wheat be cultivated upon it.

There is no harm in *musāqāt* [sharecropping involving trees], whereby the worker receives a specified portion of what the trees produce.

Likewise, with ruined or uncultivated land, whoever develops and cultivates it may acquire the right to it.

Whoever cultivates a man's land without his permission and claims that the owner gave him permission, but has no evidence, the owner may require him to swear an oath. If he swears, he is still liable for the rent. If he does not make such a claim, or refuses to swear, the owner of the land may give him the value of the cultivation and expenses, and may take the crop if he wishes. He may not simply uproot the crop.

There is no harm in a person hiring himself out, or hiring out what he owns, for lawful purposes. This is not permissible for prohibited purposes.

There is no good in taking payment for teaching the Qur'an. There is no harm in taking payment for teaching writing, jurisprudence, and literature.

It is disliked to take payment for the call to prayer, except from the public treasury.

There is no harm in taking payment for performing a healing incantation using the Book of God and His Names, nor for teaching lawful crafts, nor for buying and selling.

Whoever takes payment for repairing something and then damages it is liable for the value of what he damaged, whether he did so deliberately or unintentionally.

If he claims that the item was lost, his claim is not accepted except with evidence, unless it was a well-known circumstance in which all of his property was lost.

There is no harm in renting houses and lands for lawful purposes.

There is no good in making a profit from houses, shops, and similar properties by renting them and then subletting them to someone else for more than the original rent, unless he works on the property and repairs or improves something in it.

There is no harm in occupying part of a rented property and renting out the remainder for the same amount proportionally as the rent he himself paid.

There is no harm in renting houses in exchange for money or goods, provided that the period of occupancy is specified.

Whoever rents a house on a monthly basis with the condition that if he occupies it for one day the entire month's rent becomes due, that is permissible. The landlord may not prevent him, when he leaves, from allowing someone else to occupy it.

It is not permissible to stipulate a condition that prevents this.

If the two parties disagree concerning payment of the rent, the owner of the house may take each day the amount corresponding to what is owed for that day.

If the house collapses, the tenant cannot be compelled to rebuild it. The tenant may leave if he wishes, and the remaining rent is waived.

Repairs and cleaning the latrine are the responsibility of the owner of the house.

If the two parties disagree concerning the rent and neither has evidence, they both retract from their claims and dissolve the agreement.

There is no harm in renting animals and ships for carrying a specified load or for a specified period, in exchange for money or described goods, whether or not the renter has seen the animals.

Such rentals should only be made for lawful purposes.

Whoever rents an animal to take it to a specified destination and goes beyond that destination, then if the animal dies, he is liable for it and owes no rent for the portion in which he exceeded the agreed terms.

The same applies if he loads upon it more than was stipulated.

Whoever rents a particular animal and it dies on the journey, or becomes ill, the rental contract is dissolved.

If he rents an animal to carry a specified load without specifying a particular animal, the person providing the rental is responsible for delivering the load.

There is no harm in a craftsman accepting a job and then having another person perform it for less than the amount he was paid, provided that he has worked on it himself or arranged and supervised the work.

Craftsmen are liable when they damage what they are working on, unless they were working without payment.

If they claim that they were working without payment and the person who employed them denies this, their claim is not accepted without evidence. The person who employed them must swear an oath concerning what they claim.

A pledge (*rahn*) is only valid when possession of it has been taken.

It is not permissible to benefit from the pledged property [in a manner that constitutes unauthorized use].

If the pledged property is destroyed while in the possession of the pledge-holder, the loss is borne by the property securing the pledge, and the debtor remains responsible for what he owes.

If the two parties disagree about the amount or subject of the pledge, evidence is required from the one claiming the additional amount.

There is no harm in partnership when each of the two partners contributes an amount of capital equal to the other's, mixes the two amounts so that they cannot be distinguished, and conducts the business jointly, unless each partner gives the other authority to act independently on his behalf.

If one of the partners dies, the partnership is dissolved.

Either partner may dissolve the partnership whenever he wishes.

The profit between the two parties in a *muḍāraba* [profit-sharing investment partnership] is according to whatever they mutually agreed upon.

Any loss is borne by the capital, and the *muḍārib* [managing partner] is not liable for it.

If the *muḍārib* is made liable for the capital, he is entitled only to the original capital and receives none of the profit.

If the *muḍārib* is accused or suspected [of wrongdoing], he takes an oath.

If he swears that he did not violate the instructions given to him, the profit is divided according to their agreement, and the loss falls upon the capital alone.

He is liable for any loss to the capital caused by exceeding his authority.

Partnership with a *dhimmī* [protected non-Muslim] is disliked.

There is no right of pre-emption (*shuf'a*) in property that is already divided.

Pre-emption exists when a partner sells his share in jointly owned real estate.

There is no right of pre-emption concerning a watercourse, a ship, or an animal, unless the property is jointly owned by two people and one sells his share; then the other partner has greater right to purchase it at the price offered, if he wishes.

The right of pre-emption remains for a minor until he reaches maturity, and for an absent person until he returns.

For an adult who is present, the right remains for one year from the time of the sale, unless he expressly relinquishes the sale.

Pre-emption is only obligatory for a Muslim.

The guardian and the father may exercise the child's right of pre-emption if they wish, as may the judge.

Pre-emption becomes obligatory through partnership in a wall and in everything that is owned as part of the real estate sold, together with the rights that accompany it and for which the sale is applicable.

### **Mention of Oaths and Vows**

We have transmitted from the People of the Household, peace and blessings be upon them all, that breaking an oath is cancelled by making an exception [such as saying "if God wills"].

There is no oath except by God, Mighty and Majestic, and no valid oath except concerning something over which the person taking the oath has authority.

Whoever swears not to do something lawful must make expiation for his oath and may then do what is lawful for him.

If he swears that he will commit something unlawful, he must not do it, and there is no expiation upon him.

Whoever declares something lawful to be forbidden to himself without taking an oath incurs nothing, although he should not do so.

There is no valid oath concerning an act of disobedience.

Whoever swears to perform an act of obedience to God must fulfill it. If he does not, he must make expiation for his oath.

There is no vow except for God, and there is no vow concerning an act of disobedience.

Whoever makes a vow saying, "If God cures my sick person," or "returns my absent person," or something similar, and vows to fast a certain number of days, give a certain charity, or perform some other act of righteousness that he has imposed upon himself, must fulfill that vow.

Whoever imposes a vow upon himself but does not specify what the vow is, incurs no obligation. If he nevertheless makes expiation, that is good.

The expiation for an oath by God, Glorious and Mighty, is to feed ten poor people with enough food to satisfy them, or clothe them with two garments, or free a slave.

The person making expiation may choose any one of these.

If he is unable to do any of them, he must fast three consecutive days.

### **Mention of Foods**

We have transmitted from the People of the Household, peace and blessings be upon them all, that they instructed people to wash their hands before and after eating, to mention God's name at the beginning of the meal, and to praise God at its end.

One should not rise from the meal until it has been cleared away, and afterward one should use a toothpick.

One should not use a reed, basil, or pomegranate [for cleaning between the teeth].

All grains, fruits, and vegetables that constitute nourishment for human beings and cause them no harm are lawful to eat.

Anything among them that is harmful and not a source of nourishment is unlawful to eat, except in cases of necessity or for medical treatment.

God has prohibited carrion, blood, and the flesh of swine.

The Messenger, peace and blessings of God be upon him and his family, prohibited every predator possessing fangs and every bird possessing talons.

It is not permissible to eat hyenas or foxes.

There is no harm in eating rabbits.

Eating lizards, hedgehogs, insects, crawling creatures, and all snakes is disliked.

As for locusts, they may be eaten as long as they have not become capable of independent flight. Once they fly, they may be eaten if they are captured alive.

It is disliked to eat one that has died naturally; if it is captured alive, it must be properly slaughtered.

They prohibited slaughtering healthy horses. As for a horse that has become incapacitated or badly injured, there is no harm in slaughtering it and eating its meat.

Mules and domestic donkeys are not to be eaten.

As for other livestock and birds, they are to be isolated and fed [before slaughter] until they are purified from whatever prohibited food they may have consumed.

Everything whose meat is lawful to eat has lawful milk and eggs.

Anything whose meat is unlawful to eat has milk that may not be drunk and eggs that may not be eaten.

Vinegar made from wine is disliked.

Eating glands, the spinal cord, the spleen, the penis, the testicles, the vulva, and the interior of the intestines is disliked.

Fish without scales may not be eaten unless it is found alive [and the passage appears to contain a textual qualification concerning this].

Everything that I have mentioned as prohibited becomes lawful for a person in a state of necessity, and he may eat until he is satisfied.

### **Mention of Drinks**

We have transmitted from the People of the Household, peace and blessings be upon them all, that every *nabīdh* and juice is lawful until it boils.

When it boils, drinking it becomes unlawful.

Wine is unlawful to drink, produce, sell, purchase, or transport.

The same applies to intoxicating drinks: both a small amount and a large amount are unlawful.

The use of precious or ostentatious vessels is disliked.

God, Mighty and Majestic, should be mentioned at the beginning of drinking, and He should be praised when one finishes drinking.

The same applies when taking a breath [while drinking].

It is disliked to drink water directly from one's mouth in large gulps or by scooping it up excessively. One is instructed instead to sip it.

Milk may be drunk in gulps, but it should not be swallowed in a forceful manner.

### **Mention of Medicine**

We have transmitted from the People of the Household, peace and blessings be upon them all, that they instructed the sick person to seek treatment through supplication and charity.

There is no harm in seeking protection and performing healing incantations using the Book of God, Mighty and Majestic, and His Names.

There is no harm in medical treatment, medicines, cupping, bloodletting, depilatory treatment (*nūra*), and induced vomiting for whoever requires them.

They permitted enemas and said that they enlarge the abdomen.

They prohibited excessive dietary restriction.

For someone who suffers from an illness requiring treatment, they discouraged abandoning the evening meal.

They said that one may recite “Praise be to God” forty times into a cup of water and pour it over the bath.

There is no harm in cauterization when it is not feared that it will cause death or disfigurement.

They disliked cauterization when death or disfigurement was feared.

It is recommended to apply *ithmid* antimony to the eyes an odd number of times before sleeping.

It is recommended for a woman who has recently given birth to eat fresh dates.

Eating the crumbs that fall from the dining table is beneficial for pain in the side and other ailments.

Dates and ‘*ajwa* dates are beneficial for colic and kill intestinal worms.

Eating pomegranate together with its inner membranes, and eating apples, strengthen and dry the stomach.

Cow's milk is a remedy, and its butterfat is medicine.

Vinegar kills worms and strengthens the mouth.

In *shūnīz* [black seed/nigella] there is a cure for every disease except death.

*Sanā* [senna] and *ḥarmal* [Syrian rue] are recommended.

*Shubrum* [a medicinal plant] is disliked.

*Sawīq* [roasted grain flour] causes flesh to grow, strengthens the bones, and dries phlegm.

They prohibited eating clay, baked clay, and charcoal.

They prohibited making a habit of eating fresh fish, and it was said that doing so dissolves the body.

Dates and honey counteract its harmful effects.

### **Mention of Clothing and Perfume**

We have transmitted from the People of the Household, peace and blessings be upon them all, that displaying God's blessing is recommended, while seeking notoriety through clothing and other things is disliked.

There is no harm in wearing fine or coarse clothing.

Whoever puts on a garment should praise God, Mighty and Majestic, for the blessing He has given him and should make whatever supplication he is able to make.

They prohibited garments that hang excessively below the ankles, and raising or shortening them is recommended.

Everything whose meat is lawful to eat: there is no harm in wearing its hide, wool, hair, or fur.

Whatever animal is unlawful to eat: prayer may not be performed while wearing anything made from it.

There is nevertheless no harm in using such material as a covering, just as one may cover oneself with a ritually impure garment.

Red garments dyed with *‘andam* [a red dye] are disliked for men.

It is not appropriate for a man to wear a garment made entirely of silk.

There is no harm in silk mixed with another lawful material.

There is no harm in women wearing silk.

Silk clothing and gold jewelry are not lawful for men except in a state of war.

They are lawful for women.

Women should not go without adornment and should not imitate men.

Rings should be worn on the right hand.

Among gemstones, ruby, carnelian (*‘aqīq*), and crystal are recommended.

Wearing rings of iron, or anything bearing an image, is disliked.

The perfume of women is that whose color is apparent, while the perfume of men is that whose scent is apparent.

It is disliked to refuse perfume.

There is no harm in musk.

### **Mention of Hunting**

We have transmitted from the People of the Household, peace and blessings be upon them all, that anything among wild animals and birds whose meat is lawful to eat may be hunted and eaten, except while in a state of pilgrimage consecration (*iḥrām*).

Hunting pigeons within towns and cities is disliked, as is keeping birds overnight [in circumstances associated with hunting].

Whoever sends a trained dog after game, mentions the name of God, Mighty and Majestic, and the dog catches and kills the game before its owner reaches it may lawfully eat it, provided that the dog was properly trained.

If the trained dog or cheetah eats some of the animal, what it caught may still be eaten.

They prohibited hunting with a black dog.

A Kurdish dog, such as a Salūqī, may be used for hunting once it has been trained.

Whatever is caught by trained falcons and other birds of prey may likewise be eaten.

If a person sends the hunting dog or bird and deliberately fails to mention God's name, the animal caught by it may not be eaten.

If he forgets to mention God's name, or does not know that it was required, he should mention God's name when he remembers and may then eat the animal.

If the hunter shoots the game with his spear or arrow, or strikes it with his sword, while mentioning the name of God, its meat is lawful even if he does not reach it in time to perform its ritual slaughter.

An animal killed by a stone, a stick, or something without a sharp edge may not be eaten.

There is no harm in using a *mi'rāḍ* [a hunting projectile that can kill by its blunt or sharp end] when no other arrow is available.

If the hunter shoots and strikes the game, then it disappears from him, and he later finds it dead with his arrow still in it, then if the arrow struck a lethal part and he knows that it died from his shot, he may eat it. Otherwise, he may not eat it.

If he shoots it and strikes it, causing it to fall into water, fire, or from a high place, then if he knows that its death resulted from the original strike, he may eat it. Otherwise, he may not eat it.

They prohibited the hunting of the Magians and the Arab Christians when the animal's ritual slaughter is not reached in time.

An animal killed by a snare may not be eaten.

### **Mention of Slaughtered Animals**

We have transmitted from the People of the Household, peace and blessings be upon them all, that they instructed the slaughterer to sharpen the blade, make the slaughter easy and painless for the animal, face the qiblah, and mention God's name.

If someone is ignorant of any of these requirements, or forgets them, there is nothing against him.

If he deliberately leaves them out, his slaughtered animal may not be eaten, and he has acted improperly.

They prohibited cutting off the head of the animal before it dies.

If the knife cuts through the head unintentionally, or the person was unaware of the ruling, there is nothing against him.

If he deliberately does this, he has acted improperly and his slaughtered animal may not be eaten.

The Sunnah concerning slaughter is to cut the *ḥulqūm* [windpipe], the *marī'* [esophagus], and the two jugular veins.

The knife should not be inserted so deeply that it cuts through the throat completely, nor should it cut into the bone.

If a camel or bull becomes uncontrollable and refuses to be restrained, or falls into a well, it may be stabbed and God's name mentioned over it, and it may then be eaten.

Everything is slaughtered by cutting the throat, except camels; the Sunnah for camels is to perform *naḥr*, stabbing or cutting at the base of the neck.

Slaughter may only be performed with a sharp iron implement.

The slaughtered animals of polytheists may not be eaten.

Nor may the slaughtered animals of the people who differ [from the recognized community] be eaten unless they mention God's name over them and the person who eats the meat is present [to hear or verify this].

There is no harm in an adolescent boy or a woman performing slaughter, provided that they perform it properly.

Any animal that moves or blinks its eye after slaughter may be eaten.

If it does not move and does not blink, it may not be eaten.

The remaining portions of an animal may be eaten if the animal was properly slaughtered.

### **Mention of Sacrificial Animals and 'Aqīqa**

We have transmitted from the People of the Household, peace and blessings be upon them all, that the sacrificial offering (*uḍḥiya*) is obligatory upon whoever is capable of it.

No one should slaughter before the Eid prayer. Whoever slaughters before it must repeat the sacrifice if he is able to find another animal.

The best time for slaughter is the Day of Sacrifice (*Yawm al-Naḥr*).

Slaughtering on the other days of Minā is also sufficient.

The preferred sacrificial animals are, in order:

1. Female camels;
2. Male camels;
3. Female cattle;
4. A fattened male sheep;
5. A sheep with its horns removed [the exact term in the manuscript is *al-mūjā*];
6. A ewe;
7. A castrated sheep;
8. A male goat;
9. A female goat.

It is recommended that the sacrificial animal be free from defects.

There is no harm in defects that are not excessive or severe.

A fat animal is preferred.

If the animal becomes thin after it has been purchased, it is still sufficient as a sacrifice.

Likewise, if it dies or is stolen after purchase, the sacrifice is still considered sufficient.

It is recommended that a person eat from his sacrifice, feed others from it, and give some of it in charity.

There is no fixed amount prescribed for any of these.

There is no harm in storing the meat of sacrificial animals or benefiting from their hides.

If someone gives their monetary value in charity, that is good.

An *‘aqīqa* is performed for a newborn on the seventh day.

A sheep is slaughtered on behalf of both a male and a female child.

One-quarter of it is given to the midwife.

The remainder is cut into portions, and people are fed from it.

The child's head is shaved, and an amount of silver equal in weight to the hair is given in charity.

The child is named on the seventh day.

All of these practices are performed on that day.

### **Mention of Marriage**

We have transmitted from the People of the Household, peace and blessings be upon them all, that marriage is encouraged and recommended.

Marriage to righteous people and people of *walāya* [loyalty/allegiance to the recognized religious authority] is recommended.

There is no harm in marrying someone who does not oppose [the community].

Marriage to chaste women is recommended.

There is no harm in marrying sexually immoral women if they reform themselves.

There is no harm in looking at a woman whom a man intends to marry, provided that he does not look at her private parts.

A wedding feast (*walīma*) and publicly announcing the marriage are recommended.

A man may not practice ‘*azl* [withdrawal/interruption of ejaculation to prevent pregnancy] with a free wife without her permission.

There is no harm in practicing ‘*azl* with female slaves.

A man should not consummate marriage with a woman until she reaches nine years of age.

Women are not to be approached sexually through the anus.

Marriage is not valid except with a guardian and witnesses.

Guardians should consult women regarding marriage before marrying them off.

The permission of a virgin is indicated by her silence.

If she refuses, he may not marry her off without her permission.

The marriage contracts made by fathers and grandfathers—meaning paternal grandfathers—on behalf of children are valid.

A marriage contract for a young girl may only be made by her father or her father's father.

The dowry is whatever the husband and wife mutually agree upon.

A marriage contract may be valid without specifying a dowry, according to judicial determination or delegation of its determination.

They prohibited *shighār*, which is marrying one woman in exchange for marrying another woman, without a dowry being assigned to either.

If there is a dispute concerning whether the dowry was paid, the woman's statement is accepted, provided that she has not had intercourse with him. She takes an oath, while the man must provide evidence that he paid it.

After intercourse, the man's statement is accepted together with his oath.

There is no deferred deadline for payment of the dowry after intercourse; therefore, he should not consummate the marriage without giving her something of her dowry.

A man may make the dowry of his female slave her emancipation.

Any condition that is not found in the Book of God, Mighty and Majestic, is not a valid condition.

Temporary marriage (*mut'a*) is not lawful.

It is not permissible to give away the right of sexual access to a female slave while retaining ownership of the rest of her person, nor is it permissible to lend her for sexual use.

If a man marries a woman and another woman is brought to him instead, the woman he married is returned to him.

The woman with whom he had intercourse is entitled to her dowry, and the person who deceived him is responsible for it.

If a man marries a woman and another man comes forward claiming that she is his female slave and produces evidence, she belongs to him.

The husband must pay her owner the value of any children born from her, unless he knew when he married her that she was enslaved.

If he knew that she was enslaved, the children are themselves slaves belonging to her master.

If someone deceived him concerning her status, he may recover the value of the children from the person who deceived him.

If a eunuch deceives his wife about his condition, she may choose to have the marriage dissolved.

A woman may reject a husband because of insanity, leprosy, vitiligo, or any disease affecting the sexual organs that prevents intercourse.

She is entitled to her dowry on account of the sexual access that was permitted through the marriage, and she may recover it from whoever deceived her.

If the wife of an impotent man brings the matter before the authorities, he is given one year.

If he is able to have intercourse with her within that period, the marriage continues. Otherwise, they are separated.

If he claims that he was able to have intercourse with her but she denies it, and she is a virgin, her statement is accepted together with her oath.

If she is not a virgin, his statement is accepted together with his oath.

There is no harm in marrying a eunuch if his condition is disclosed.

A man's mother becomes permanently forbidden to him once he contracts marriage with her daughter, whether or not he has consummated the marriage with the daughter.

The daughter does not become permanently forbidden merely because he marries her mother; consummation with the mother is required.

If he consummates the marriage with the mother, or looks at something of her that is forbidden for others to look at, her daughter becomes forbidden to him.

When a man contracts marriage with a woman, she becomes forbidden to his father and grandfathers, however far ascending, and to his sons, grandsons, granddaughters, and their descendants, once the marriage is consummated [the wording here is complex and appears to concern the established rules of marital prohibition].

If a man acquires ownership of a female slave, that ownership does not prevent any of these male relatives from having intercourse with her or looking at her with desire; rather, she becomes forbidden to all of them [the manuscript's wording here is difficult and may contain a textual issue].

It is not permissible to marry two free sisters simultaneously.

There is no harm in owning two enslaved sisters.

If a man has sexual relations with one of them, he should not sell her merely in order to have relations with her sister. He may only sell her if she dies, if he must sell her out of genuine necessity, or for some unavoidable reason.

If a man divorces his wife, he may not marry her sister until the divorced woman's waiting period (*'idda*) has ended.

Likewise, if he has four wives and divorces one of them, he may not marry another woman [who would bring the number beyond four] until her waiting period has ended.

If the divorced wife dies, or he divorces her with an irrevocable divorce, he may marry her sister, or marry a fifth woman in addition to the remaining three, whenever he wishes.

A man may not simultaneously marry a woman and her maternal aunt, nor a woman and her paternal aunt.

Unlawful sexual intercourse does not make a lawful marriage unlawful.

If a man marries two sisters, or five women, in one marriage contract, the marriage of the woman whose name was mentioned first at the time of the contract is established.

The fifth woman, and the woman whose name was mentioned second, do not have a valid marriage.

If it is not known which was mentioned first, the entire marriage is invalid.

Whoever marries a woman while she is in her waiting period, or marries two women who are mutually forbidden to be married simultaneously, then if both parties knew that this was unlawful, they are separated and she never becomes lawful for him.

If they were unaware, they are separated, and they may enter into a new marriage contract after she becomes lawful for the husband, if they wish.

A man may not marry the midwife who assisted him, nor her daughter.

Regarding a missing husband: if his wife brings her case before the ruler, he gives a period of four years and sends inquiries concerning him.

If no information about him is found, the matter is examined.

If he has property, she is supported from his property.

If he has no property, his guardian is brought before the authorities.

If the guardian supports her, she may not marry until his death or divorce of her is established with certainty.

If he has no property and his guardian refuses to support her, the ruler compels the guardian to divorce her.

She then observes her waiting period and may remarry.

If her first husband returns afterward, he has greater right to her.

She is entitled to the dowry from the second husband for the sexual access he had with her, if he consummated the marriage.

Through breastfeeding, the same relationships become forbidden as are forbidden through blood lineage.

If a man's wife breastfeeds a female child with her milk, that girl becomes forbidden to the husband, his father, his grandfathers however far ascending, and his sons, grandsons, granddaughters, and their descendants, whether they are children of the nursing woman or of another wife.

If the child being breastfed is a boy, the daughters of the nursing woman and the daughters of the man who fathered the milk become forbidden to him, together with their descendants, as does the woman who breastfed him.

A man may not marry the daughter, paternal aunt, or maternal aunt of his milk-brother or milk-sister.

A small amount of breastfeeding and a large amount are treated alike [according to this text].

Giving the milk by pouring it into the child's mouth (*wajūr*) or through the nose (*su'ūt*) has the same legal effect as breastfeeding.

There is no breastfeeding after two years of age, and an adult is not considered to be breastfed.

The milk of the male contributor (*laban al-faḥl*) also establishes the prohibited relationships.

A free man may not marry another man's female slave unless he fears falling into sexual misconduct and cannot afford to marry a free woman.

If this is the case, he may marry one Muslim female slave.

A Muslim may not marry female slaves belonging to polytheists.

A man may not marry a female slave while already married to a free woman.

If he does, the marriage to the slave is annulled.

A free woman may marry a female slave's master over the slave if the free wife agrees to it.

If she did not know about the slave, she has the choice once she learns of her existence: if she wishes, she may remain, and if she wishes, she may leave.

If a free man marries a female slave belonging to another group and stipulates to her owners that their children will be free, his condition is binding.

If he makes no such stipulation, the children are slaves belonging to the owner of the female slave.

He is responsible for supporting her if he allows her to be with him at night.

If she remains in her master's service both day and night, the husband is not responsible for her maintenance unless he explicitly stipulates that he will provide it.

A man may not have intercourse with a female slave in which another person has a share of ownership, nor may he marry her without the permission of his co-owner.

If a female slave is emancipated while she has a husband who is himself enslaved, she is given a choice.

If she wishes, she may remain with him; if she wishes, she may separate from him.

If she is a *mukātaba* [a slave under a contract of self-emancipation] and he assists her in fulfilling the contract, she has no such choice.

A free woman has no such option [because her husband remains free].

A female slave and a male slave may not marry without the permission of their master.

If they marry without permission, the master may annul the marriage if he wishes.

If he approves it, the marriage is valid.

A male slave may marry up to two free women.

He may marry four female slaves.

He may also take female slaves in concubinage as many as he wishes, provided that his master gives permission.

If a man marries his female slave to his own male slave, he may separate her from him whenever he wishes without divorce.

If he marries his female slave to another man's male slave or to a free man, he may not separate them unless he sells her.

If the person who purchases her wishes to separate her from her enslaved husband, he may do so.

Whoever purchases a female slave who has a husband must first observe *istibrā'* [a waiting period to establish that she is not pregnant].

He may then have intercourse with her if he wishes.

Her sale constitutes a divorce from her previous husband.

If he wishes to leave her in her existing marriage, he may do so.

If a woman acquires ownership of her husband, or of any part of him, he becomes forbidden to her and has no marital claim over her.

She may sell him, emancipate him, or retain him in slavery.

It is disliked for a Muslim man to marry a *dhimmī* woman if he has the means to marry a free Muslim woman.

A Muslim woman may not marry a polytheist.

A Muslim woman may not be married to a polytheist woman [the passage appears to concern a man who has a Muslim wife and a polytheist wife].

If such a marriage takes place, the Muslim woman has the choice once she learns of it: she may remain with him or leave him.

If a woman becomes Muslim while her husband is a polytheist, and he subsequently becomes Muslim, she remains his wife so long as her waiting period has not ended.

If her waiting period ends before he becomes Muslim, then if he later becomes Muslim, he is merely one of the prospective suitors. If she wishes, she may marry him; if she wishes, she may decline.

If a man becomes Muslim while his wife is a polytheist, she remains his wife unless he chooses to divorce her.

If a woman becomes Muslim while her polytheist husband has not consummated the marriage with her, she is separated from him and is entitled to half of the dowry.

Muslims may not marry the Christian Arabs.

Nor may they marry polytheist women in the land of war.

The division of nights and time between free Muslim wives must be equal when there are four, insofar as it concerns what the husband controls.

As for what concerns his personal inclination and affection, he is not held responsible for equality in that.

If a man has two wives, there is no harm in assigning three days to one and one day to the other.

But once he has four wives, he may not give one of them preference ...over the other. If a woman makes an agreement with her husband to relinquish her allotted share of his time, there is no harm in that. A newly married virgin is given seven nights, while a previously married woman is given three. A free Muslim woman is entitled to the same share as a dhimmī woman and a female slave.

The husband is responsible for his wife's maintenance and clothing according to what God, Mighty and Glorious is He, has provided him. If he has nothing, little or much, and is unable to maintain her, the two are separated if she wishes. If he subsequently brings something [with which to support her], they are not separated. There is no maintenance due to a wife for as long as she is *nāshiza* [rebellious/disobedient in the legal sense].

The maintenance of a parent is obligatory upon the child, and the maintenance of the child upon the parent, as well as their clothing according to what is customary and reasonable. The same applies to the mother.

## **Mention of Divorce**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that when a man wishes to divorce his wife, he divorces her. Divorce according to the prohibited innovation (*ṭalāq al-bid'ā*) is not permitted. If he performs such a divorce, then as for the divorce according to the prescribed waiting period (*ṭalāq al-'idda*), he divorces her while she is in a state of purity, during a period of purity in which he has not had intercourse with her, and he has two upright witnesses testify to it. He then takes her back before she menstruates, has witnesses testify to her return, and has intercourse with her. If he wishes to retain her, he retains her, and she remains with him with two divorces remaining.

If he wishes to proceed with divorcing her, he leaves her. When she menstruates and becomes pure, he divorces her and takes her back, likewise before she menstruates, and has intercourse with her. When she menstruates and becomes pure, he divorces her a third time

if he does not wish to retain her. She then becomes irrevocably separated from him and is not lawful for him until she marries another husband.

As for the divorce according to the Sunnah, it is that he divorces her as described, once. If he wishes, he takes her back, and she remains with him with two divorces remaining. If he leaves her until her waiting period ends, she becomes separated from him by that one divorce and has authority over herself. He may propose to her, and if she wishes, they may marry through a new marriage contract; she then remains with him according to the number of divorces still remaining to him.

As for the prohibited innovative divorce, it is that he divorces her while she is menstruating, or during a period of purity in which he has had intercourse with her, or without witnesses; or that he swears an oath concerning divorcing her and then violates the oath; or that he divorces her three times in a single sitting while she is menstruating or during a period of purity in which he has had intercourse with her. If she is pure, not having had intercourse with her during that period, and he divorces her three times or more and has witnesses testify to it, it counts as one divorce.

There are five women whom a man may divorce regardless of these circumstances: a pregnant woman; a young girl who has not menstruated; one who has reached menopause; one with whom he has not consummated the marriage; and one whose husband has been absent for a long time.

The wording of divorce is for him to say to her, as described, "You are divorced," or, after mentioning her, to refer to her indirectly by saying, "She is divorced." Or he may say to her, "Count [your waiting period]," while intending divorce.

If he says to her, "You are free of me," "You are released," "You are separated," "You are completely severed," "You are forbidden," or anything similar, that does not constitute divorce.

As for granting her the choice (*takhyīr*), the man gives his wife the choice while she is in the state of purity described in the rules of divorce. If she chooses him, nothing happens. If she chooses herself, it is one irrevocable divorce. If he withdraws the choice, or she gets up from the place where they are sitting, or he has intercourse with her, kisses her, or places his hand upon her before she makes her choice, she has no choice and no divorce occurs.

There is no divorce before marriage.

The divorce of a sick man is valid, and she inherits from him, while he does not inherit from her. There is no divorce by a drunkard who does not comprehend what he is saying, nor by a sleeping person, one overcome [by another], one compelled, or a child.

Khul' and *mubārāt* each constitute one irrevocable divorce. If the disobedience is on the part of the woman and she says, "I cannot fulfill God's limits with regard to you, and I do not want you," he may take from her what he gave her, and more than what he gave her, if the two of them agree to that.

In *mubārāt*, he may not take from her more than the dowry. It is [the separation in which] she does not transgress in her speech.

The two arbitrators do not have authority to reconcile the spouses or separate them until they have first sought the authorization [of the spouses].

### **Mention of *Īlā'***

*Īlā'* is when a man says to his wife, "By God, I will certainly cause you distress," or something similar, and then abandons her, does not have intercourse with her, and swears to do so. She has no claim [to demand action from him] until four months have passed.

When four months have elapsed, she brings him before the authority if she wishes. He must either return [to marital relations], reconciling with her or having intercourse with her vaginally, or he must divorce her.

*Īlā'* applies only to a woman with whom the marriage has been consummated. If a man abandons his wife and leaves her for as long as he wishes, without making such an oath, he is not considered one who has performed *īlā'*.

### **Mention of *Ẓihār***

*Ẓihār* may only be made during a period of purity in which he has not had intercourse with her, just as with divorce. There is no *Ẓihār* by means of an oath.

*Ẓihār* is when a man says to his wife, "You are to me like the back of my mother," or he mentions another woman permanently forbidden to him through kinship. He does not say, "If I do such-and-such," or, "If I do not do such-and-such"; rather, he intends *Ẓihār*, just as he intends divorce, without making it conditional upon an oath.

The expiation for this is what God, Mighty and Glorious is He, has said: freeing a slave; whoever cannot find one must fast two consecutive months; and whoever is unable to do that must feed sixty poor persons.

If he makes *Ẓihār* repeatedly, then for each occurrence of *Ẓihār* he owes an expiation.

*Ẓihār* only occurs after consummation of the marriage. Whoever makes *Ẓihār* concerning a woman with whom he has not consummated the marriage incurs nothing.

There is no *Ẓihār* between a man and his female slave.

The expiation for *Ẓihār* is required before intercourse. If he has intercourse before making expiation, he has done wrong, but he must still make the expiation.

*Ẓihār* is binding upon a male slave, but he is not required to free a slave or provide food unless his master voluntarily provides that for him. If he fasts, he must fast half the amount required of a free man.

The fasting for *ḡihār* must be consecutive. If he fasts one month or less and then breaks the fast, he begins the fasting again. If he completes consecutive fasting for some days of the second month and then breaks it, he completes the remainder that is owed to him.

The amount of food for each poor person is one *mudd*.

### **Mention of Li'ān**

Whoever claims that he saw his wife committing adultery, or denies that a child belongs to him, and brings the matter before the Imam, while she denies what he says, he performs *li'ān* with her.

He says:

"I bear witness by God that I saw a man committing adultery with her,"

or he says:

"I bear witness by God that this child is not from me."

He says this four times. Then, on the fifth, he says:

"If I am lying, then upon me be the curse of God."

The Imam then says "Āmīn."

If the woman admits what he has said, she is stoned. If she denies it, she gives four testimonies by God that he is among the liars. Then she says:

"If he is truthful, then upon me be the wrath of God."

The Imam then says "Āmīn."

This only applies when he claims to have seen [the adultery] or denies paternity of the pregnancy. If he merely accuses her without making such a claim, there is no *li'ān* between them.

When the two perform *li'ān* as described, they are separated and never come together again.

If, after making the accusation against her as described, he refuses to perform *li'ān* before the ruler, he is flogged with the punishment for slander unless he has evidence supporting what he said.

If she refuses to perform *li'ān*, she is stoned.

*Li'ān* takes place only before the Imam.

If the man retracts his accusation before the *li'ān*, or claims the child after having accused her, or retracts his denial of the child, he is subjected to the punishment for slander and she remains his wife.

If this occurs after the *li'ān*, he is subjected to the punishment for slander, but she does not return to him.

The child inherits from him, but he does not inherit from the child. The child's inheritance belongs to its mother and maternal uncles, and no one on the father's side inherits from the child.

*Li'ān* applies between a Muslim man and a dhimmī woman, between a free man and a female slave, between a male slave and a free woman, between two enslaved spouses, and between any two married spouses.

There is no *li'ān* between two children, nor between a man and his wife until the marriage has been consummated.

Whoever accuses his mute wife [of adultery] is separated from her.

### **Mention of the Waiting Period (‘*idda*)**

When a man dies leaving a wife, she observes a waiting period of four months and ten days, whether he consummated the marriage with her or not, and whether she is an adult woman or a young girl. She observes this waiting period wherever she wishes.

The waiting period of a divorced woman whose menstruation is regular is three *qurū’*. The *qurū’* is the period between two menstruations.

She must observe the waiting period in her husband's house and may not leave until her waiting period has ended.

The waiting period of a pregnant woman whose husband has died is the longer of the two periods. If she gives birth before four months and ten days have elapsed, she completes four months and ten days. If four months and ten days elapse without her giving birth, she waits until she gives birth.

The waiting period of a pregnant divorcee ends when she gives birth. As soon as she gives birth, she is separated from him. Anything she delivers that is known to be a pregnancy [a child] establishes the end of her waiting period. If there is another child in her womb, she does not become separated [with respect to that second child] until she gives birth to the second one.

Whoever divorces his wife once or twice and then dies, she observes the waiting period of a widow.

If an absent woman receives news of her husband's death, she begins her waiting period from the day the news reaches her. If she receives news of his divorce, she begins her waiting period from the day he divorced her.

A divorced woman with whom the marriage was not consummated has no waiting period.

A woman suffering irregular bleeding (*istiḥāḍa*) observes her waiting period when her menstruation begins. If she does not know [how to distinguish it], she observes it by months.

A woman who menstruates once or twice and then her menstruation ceases observes her waiting period by months and begins the waiting period anew.

A woman who has reached menopause observes a waiting period of three months. If she menstruates before that, she observes the waiting period according to menstruation and begins the waiting period anew.

A free woman divorced by a male slave observes three *qurū'*, and if the male slave dies leaving her as his wife, she observes four months and ten days.

A female slave divorced by a male slave or by a free man observes two months, and five days if he dies; if he divorces her, she observes two menstrual periods. If she does not menstruate, she observes one and a half months.

A pregnant divorced woman is entitled to maintenance and lodging. A widow is entitled to neither maintenance nor lodging.

A woman divorced by a revocable divorce according to the Sunnah is entitled to maintenance and lodging until her waiting period ends. A woman divorced irrevocably is entitled to neither maintenance nor lodging.

A woman whose husband has died does not observe mourning beyond the requirements of her waiting period. During that period she does not comb her hair, apply henna, or use kohl as adornment. She does not leave her house during the day or spend the night outside her house. She may go out after part of the night has passed and return before evening.

She must refrain from perfume, adornment, and dyeing, except for black dye.

A divorced woman does not observe mourning.

The compensatory gift (*mut'a*) is obligatory for a woman divorced according to the Sunnah, whether the marriage was consummated or not: the wealthy man gives according to his means, and the one of limited means gives according to his means.

The *mut'a* is given after the waiting period has ended.

There is no *mut'a* for a woman who separates through *khul'* or *mubārāt*.

A woman divorced three times is not lawful for the husband who divorced her until she marries another husband in a genuine marriage, and he consummates the marriage and has intercourse with her vaginally. It is not permissible to arrange or conspire for this purpose.

She is not made lawful for him by a castrated man, nor by a boy who has not reached puberty, except if he has intercourse with her after reaching puberty.

A temporary marriage (*mut'a*) does not make her lawful for him.

If he divorced her only once or twice, she became separated from him, then married another man, and the second husband died or divorced her, and she returned to the first husband, she remains with him according to the number of divorces remaining to him.

The divorce of a male slave from a free woman is three divorces, while the divorce of a free man from a female slave is two divorces.

Whoever divorces his wife before consummating the marriage owes her half of the dowry.

If he gave her livestock or slaves as her dowry and they reproduced while in her possession, then if they were already pregnant when he gave them to her, he takes back half of them and half of their offspring. If they became pregnant while in her possession, all of them belong to her.

If she gave her dowry back to him as a gift and he then divorced her, he takes back half of it.

If she was his female slave and he made her emancipation her dowry, he takes from her half of her value [upon divorce before consummation].

If he dies without having specified a dowry for her and without having consummated the marriage, she receives no dowry, but she inherits from him.

### **Mention of Emancipation**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that emancipation is only for the sake of God, Mighty and Glorious is He.

There is no emancipation by means of an oath, nor from one who is compelled. There is no emancipation except after ownership.

Whoever emancipates part of his slave at the time of death, the whole of the slave becomes free if it can be accommodated within one-third of his estate.

If he emancipates part of him while he is in good health, the whole of him becomes free.

If he emancipates his share in a slave and he is financially able, he must compensate his partners for their shares, and the entire slave becomes free through him. If he is not financially able, only the portion he emancipated becomes free, and the slave works to earn the amount required for the remainder.

Whoever emancipates several slaves while having no property other than them, one-third of them become free. If he named them at the time of his death, one after another, the first becomes free, then the next, and so on until one-third is reached, while the remainder remain enslaved. If he named them collectively and it is not known which one he intended first, lots are drawn among them, and one-third of them are emancipated.

If he emancipates them while he has a debt encompassing their value, they do not become free. Likewise, if the debt is greater than half their value, they do not become free. If the debt is half their value or less, they are held against the debt and the heirs' property; once the debt is paid, they become free.

Whoever emancipates a slave on a condition that he stipulates, provided the condition itself is lawful, the emancipation is valid and the condition is binding upon the slave.

Whoever comes to own someone permanently forbidden to him through close kinship becomes free automatically.

Whoever wishes to enter into a *mukātaba* [contract of self-purchase] with his slave may do so, but it is not obligatory upon him. There is no harm in entering into a *mukātaba* with a slave who has neither property nor a trade.

If the master stipulates in the *mukātaba* contract that the slave remains enslaved for as long as anything remains unpaid from his *mukātaba*, then the condition is binding. His legal status remains that of a slave, and he does not become free merely by paying the final installment, unless the master remits the remaining amount.

If he becomes unable to complete the payments, the master keeps what he has already received, and the slave remains enslaved as before.

If the master did not impose such a condition, emancipation proceeds with each installment: with every installment he pays, a corresponding portion of him becomes free, until he pays the final installment and becomes completely free. His legal status concerning the portion already paid is that of a free man, while concerning what remains unpaid it is that of a slave.

If a woman under a *mukātaba* gives birth during her contract, her children have the same status as she does. Likewise, the children born to a male *mukātib* from his female slave have his status.

A *mudabbār* [a slave whose emancipation is made effective upon the master's death] is counted against one-third of the estate. There is no harm in selling him, because the *tadbīr* is a bequest, and a man may alter whatever he wishes from his bequest.

The master may have intercourse with his *mudabbara* [female slave under *tadbīr*]. Her child has her status. If she was pregnant when the *tadbīr* was made and he did not expressly exclude the child from it, the child has her status as well.

The *umm walad* [slave woman who has borne her master a child] is like a female slave in most legal rulings, but she may not be sold except to pay the price of her own freedom if her master has no property other than her.

*Walā'* belongs to the one who emancipated [the slave], except when he emancipates a slave as *sā'iba* [without a patronage relationship]; in that case, the emancipated person may enter into *walā'* with whomever he wishes.

*Walā'* may neither be sold nor given as a gift.

A woman transfers the *walā'* of the person she emancipated, and after her death it passes to her relatives.

The *walā'* is inherited by those who inherit the estate, except for the two spouses.

If a man emancipates a slave who has a child by a free woman, he brings the child's *walā'* under his own *walā'*.

The *walāʾ* belongs to the eldest.

The meaning of “the *walāʾ* belongs to the eldest” is that a man emancipates a slave, then the emancipator dies leaving two sons. One of those sons subsequently dies leaving a son of his own. Then the emancipator dies, leaving no heir other than the sons of the man who emancipated him. His inheritance belongs to the son of the emancipator who is still living, rather than to the grandson of the deceased son.

### Mention of Gifts and Grants

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that a man may give preference to some of his children over others in his property and gifts, if he wishes.

A gift and a charitable donation are valid once accepted, whether or not they have been physically taken into possession.

Whoever gives a gift for the sake of God has no right to revoke it. In other cases, he may revoke a gift unless the recipient has given him compensation.

There is no harm in inheriting a gift, a charitable donation, a *ʿumrā* [grant tied to someone's lifetime], or a *ruqbā* [conditional lifetime grant]; they are all alike.

Whoever grants someone the lifetime use of something, or gives it to him as a dwelling, it belongs to him for his lifetime. If he stipulates that it will belong to the recipient's heirs, it belongs to them. If he does not make such a stipulation, it returns to the grantor's family when the person granted the *ʿumrā* dies.

Among gifts, those given for the sake of God, Mighty and Glorious is He, are recommended. Gifts given as a means of seeking favor or demanding compensation are disliked.

It is recommended to announce the obligatory zakāt and to conceal voluntary charity.

Whoever owns something may give it in charity even if the recipient has not yet taken possession of it. It is not permissible to revoke a charitable donation.

Whoever establishes a *ḥabs* [inalienable endowment] for his children, his *mawālī* [clients/patrons], or a group of people whom he names, it belongs to them. If they disagree concerning it and there is fear that this will corrupt their relations, they may sell it and divide its price among themselves.

If he makes its ultimate destination the cause of God, Mighty and Glorious is He, they may not sell it, and he may never reclaim it, nor may his descendants reclaim it. When all those for whom he established the endowment have died out, it returns to him.

If he stipulates that any woman among those entitled to the endowment who marries will have no share, but that if she becomes widowed she will return to entitlement, the condition is valid.

If he says, “If I become in need, I have greater right to it,” then it is treated as an inheritance.

## **Mention of Bequests**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that they commanded making bequests. A bequest of one-third or less is valid. Anything exceeding one-third is not valid unless the heirs approve it.

The bequest begins with emancipation, and whatever remains is distributed thereafter.

Whoever bequeaths that someone perform the pilgrimage on his behalf, the expense is taken from the principal of his estate if he had never previously performed the obligatory pilgrimage. If he had already performed the obligatory pilgrimage, then the expense comes from one-third of his estate.

There is no bequest for an heir unless the other heirs consent.

If a deceased person acknowledges a debt, his acknowledgment is valid in favor of his heir, whether made while healthy or ill, provided that he is upright. If there are two [heirs or parties concerned], his acknowledgment made during the illness from which he dies is not valid unless evidence testifies to the original existence of the debt.

A man may revoke whatever part of his bequest he wishes.

If he appoints his heirs as witnesses to his bequest, and it exceeds one-third and they authorize the excess, they may not revoke that authorization after his death.

## **Mention of the Prescribed Shares of Inheritance**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that whoever dies leaving sons and daughters, with no heir other than them, his inheritance is divided among them: the male receives the share of two females.

If they are all male, the inheritance is divided equally among them.

If there is only one male child, all the property belongs to him.

If there are two or more daughters, they receive two-thirds by the prescribed share, and the remainder is returned to them.

If there is only one daughter, she receives one-half by the prescribed share, and the remaining half is returned to her.

If there are also other heirs with prescribed shares, they receive their prescribed shares, and the children receive whatever remains, according to the rules described.

Children of children [grandchildren] take the place of children when there are no surviving children: their males take the position of males and their females the position of females.

The prescribed-share heirs receive the remainder by return (*radd*), except for the two spouses. The same applies to relatives and blood relations when there is no one else with them.

The closer relative excludes the more distant relative.

If a man leaves both parents, his mother receives one-third and his father two-thirds.

If there is a male child with them, each parent receives one-sixth and the remainder belongs to the child.

If there are several children, the remainder is divided among them according to what has been described.

If there is one daughter, she receives one-half, and one-sixth is returned to her and to the parents according to their respective shares.

Likewise, if he leaves one parent and one or two daughters, the father or mother receives one-sixth; the daughter receives one-half, or the two daughters receive two-thirds; and whatever remains is returned to them according to their shares.

If he leaves both parents and full brothers, or paternal brothers—whether two men, one man, or two women—the mother receives one-sixth and the father receives the remainder. The brothers receive nothing.

If they are maternal brothers, the mother receives one-third and the father two-thirds. The maternal brothers receive nothing, and they do not exclude their mother from inheritance.

No one inherits together with a child and both parents except a husband or wife and a grandmother.

The husband receives one-half of his wife's inheritance if she leaves no child, and one-quarter if she leaves a child.

If there are two, three, or four wives, they collectively receive one-quarter if he leaves no child, and one-eighth if he leaves a child, divided equally among them.

If a man leaves both parents and his wife, or if a woman leaves both parents and her husband, the husband receives one-half, the wife one-quarter, the mother one-third, and the father whatever remains.

Maternal siblings, two or more in number, receive one-third if the deceased leaves neither child nor parent. If they are the only heirs, whatever remains is returned to them, and males and females receive equal shares.

A single full brother or full sister, when the deceased leaves neither child nor parent, receives the entire estate remaining after the share of the husband or wife, if either exists.

If there are both male and female full siblings, the male receives the share of two females.

If there is one full sister, she receives one-half.

If there are two full sisters, they receive two-thirds, and the remainder is returned to them.

Full brothers exclude paternal brothers from inheritance. Full siblings take the place of paternal siblings when there are no full siblings.

Maternal siblings receive their prescribed share alongside them, as described.

The grandmother is like one of the full male siblings [in the relevant inheritance arrangement].

The maternal grandmother occupies the position of the mother, and the paternal grandmother occupies the position of the father when no one else is left.

Whichever grandmother is closer excludes those who are more distant.

It is narrated from the Prophet, peace and blessings of God be upon him, that he gave the grandmother one-sixth while her son was still alive.

Whoever dies leaving heirs with prescribed shares specified in the Book, they inherit according to their prescribed shares.

If he leaves no prescribed-share heirs, his inheritance belongs to whichever of his relatives is closest to him. If they are equal in closeness, they share it.

Whoever is related through the mother inherits the portion belonging to the maternal side.

Whoever is related through the father inherits the portion belonging to the paternal side.

Whoever is related through a brother inherits the portion belonging to a brother.

Whoever is related through an uncle inherits the portion belonging to an uncle.

Whoever is related through a maternal uncle inherits the portion belonging to a maternal uncle.

Whoever is related through a sister inherits the portion belonging to a sister.

Whoever is related through a daughter inherits the portion belonging to a daughter.

There is no *‘awl* [proportional reduction of all prescribed shares] in inheritance. One begins with those whom God has given precedence.

Whoever has a specified share when alone, but whose share changes when another heir is present, does not have his second share reduced. This applies to the husband, wife, mother, and father.

Whoever receives whatever remains bears any reduction; there is no increase [in the prescribed shares].

The son of *li‘ān* does not inherit from either of his parents.

A foundling does not inherit from either of his parents.

A person of uncertain parentage (*ḥamīl*) inherits and is inherited from so long as his relationship [to his family] continues to be acknowledged.

A fetus inherits if it is born alive.

Members of each religious community inherit from one another. The people of one religious community do not inherit from another religious community, except Muslims, who inherit from their relatives belonging to other religious communities.

A polytheist does not inherit from a Muslim.

An enslaved person does not inherit.

Whoever becomes free or embraces Islam before the inheritance is divided receives his share. If the inheritance has already been divided, he has no share.

A killer does not inherit anything from the property of the person he killed, nor from his blood-money, whether he killed him intentionally or accidentally.

The blood-money itself is inherited according to God's prescribed shares.

A man inherits from the blood-money of his wife, and a woman inherits from the blood-money of her husband.

Maternal siblings do not inherit anything from blood-money.

An intersex person (*khunthā*) inherits according to his or her apparent status; in an ambiguous case, lots are drawn to determine the matter.

When people die in a fire, drowning, or the collapse of a building, and it is not known who died first, each one inherits from the other, and each is inherited from by his heirs.

Whoever divorces his wife by an irrevocable divorce—whether through *khul'* or another irrevocable divorce in circumstances where he has no right to take her back—she does not inherit from him.

However, if he divorces her while he is ill, she inherits from him for as long as he remains in that illness, unless he recovers or she herself marries.

If he has the right to take her back, he inherits from her and she inherits from him.

When the master dies, his property belongs to his heirs. If he leaves no heir, his property belongs to his *mawālī* [those connected to him through *walā'*].

Whoever leaves no heir except a *mawlā*, his *mawlā* inherits from him.

If one of the heirs acknowledges another heir whose existence is not known, while the other heirs deny him, the acknowledged person receives from the acknowledging heir's share whatever portion he would have received had all of them acknowledged him.

## **Mention of Blood-Money (*Diyāt*)**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that the blood of Muslims is equal [in legal protection and liability].

A woman is killed in retaliation for a man, but a man is not killed in retaliation for a woman unless her heirs pay to the heirs of the man one-half of the blood-money.

If they accept blood-money instead, the blood-money of a woman is five hundred dinars, half the blood-money of a man.

A woman is equal to a man in the compensation for her injuries up to one-third of the full blood-money. Her injury compensation is therefore the same as that of a man. Once it exceeds one-third, it is reduced, and her compensation becomes half that of a man's blood-money.

If a slave kills a free person, the slave is handed over to the heirs of the deceased.

If a free person kills a slave, he must pay the slave's value and is punished.

If a dhimmī kills a Muslim, he is killed in retaliation. If a Muslim kills a dhimmī, he is not killed in retaliation unless he is accustomed to killing. If the heirs of the dhimmī wish him to be killed, they pay the difference between the blood-money of the Muslim and that of the dhimmī, and the ruler carries out the execution.

The blood-money of a dhimmī is eight hundred dirhams. Whoever kills him must pay his blood-money and is punished if he is not someone accustomed to killing.

A parent is not killed in retaliation for killing his child.

Retaliation may be carried out among other relatives against one another if they wish.

The killer is killed, while the person who restrained or held the victim is imprisoned until he dies.

There is no retaliation between free persons and slaves for injuries short of killing.

If a slave injures a free person, the slave is handed over to him unless his master ransoms or compensates for him.

If a free person injures a slave, the amount is charged against the slave's value in proportion to the corresponding portion of the free person's blood-money.

Retaliation is carried out on behalf of slaves, and among the People of the Book against one another.

If a person is killed and he leaves both minor and adult heirs, the adults are not required to wait for the minors. If the adults demand retaliation, retaliation is carried out.

Retaliation for an injury is not carried out until the injury has healed.

If the heirs of the victim accept blood-money or whatever settlement they agree upon, that is valid. If they pardon the killer, their pardon is valid.

If some of them pardon him while others refuse, the killing is cancelled, and those who did not pardon receive their corresponding share of the blood-money; there is no further retaliation.

Retaliation is not carried out with an iron implement [in the manner of mutilation], and mutilation has been prohibited.

The blood-money is one hundred camels, and [for another category] two hundred cattle, one thousand sheep, one hundred suits of clothing, one thousand dinars of gold, or their equivalent in silver.

From the people possessing each of these forms of wealth, the corresponding value of one thousand dinars is taken as the blood-money for a life. They are not required to pay what they do not possess.

The blood-money for intentional killing, when paid in camels, consists of forty pregnant camels carrying their young, between two-year-old camels and camels entering their sixth year; thirty *ḥiqqa* [four-year-old camels]; and thirty *bint labūn* [three-year-old female camels].

For accidental killing, it consists of thirty *ḥiqqa*, thirty *ibnat labūn*, twenty *ibnat makhād* [two-year-old females], and twenty *ibn labūn* [two-year-old males].

Intentional killing is whatever the assailant deliberately intends by whatever means he strikes. Accidental killing is when he intends something else but strikes and kills the person.

The expiation in accidental killing is due in addition to the blood-money. In intentional killing, if the blood-money is accepted, the expiation is freeing a believing slave. Whoever cannot find one must fast two consecutive months. Whoever is unable to do so must feed sixty poor persons.

The blood-money for accidental killing is borne by the *‘āqila*, meaning the male agnatic relatives responsible for the payment. Maternal brothers do not contribute anything toward the blood-money, nor do women, the insane, or the poor.

The *‘āqila* does not bear responsibility for intentional killing, nor for the killing of a slave, nor for a settlement, nor for an admission [of liability]. They bear responsibility for injuries only when the compensation is one-third of the blood-money or more. Anything less than that is paid from the property of the offender.

Whatever the People of the Covenant [dhimmīs] commit is paid from their own property.

The intentional acts of children and the insane are treated as accidental.

There is no retaliation in injuries where retaliation cannot safely be carried out or where the exact equivalent of retaliation cannot be achieved, such as a crushing fracture (*manqila*), a penetrating wound into a body cavity (*jā’ifa*), bone injuries, and things similar to these.

If, as a result of an injury inflicted upon a woman, male reproductive fluid is expelled from her, the compensation is twenty dinars. If it has become a blood clot (*'alaqa*), it is forty dinars. If it has become a lump of flesh (*mudgha*), it is sixty dinars. When it becomes bone, the compensation is eighty dinars. When its formation is complete but the spirit has not yet entered it, the compensation is one hundred dinars. When the spirit enters it, its full blood-money becomes due.

An injury inflicted upon a dead person is calculated from his blood-money. His blood-money is one hundred dinars, and the amount is spent on charitable purposes on his behalf. His heirs receive nothing from it.

Injury caused to livestock is compensated according to its value.

If livestock escape and cause damage, there is no liability for what they cause. Likewise, if they enter someone's property or enclosure [and cause damage]. But if their owners release them in an improper place, the owners are liable for whatever damage they cause.

Whoever attempts to violate a woman against her will, or attempts to take her property, or attempts to assault a man, and that person is killed, there is no liability for his death.

Whoever dies while a legal punishment or retaliation is being carried out has no further liability [for that punishment].

Whoever looks into the private parts of a people and they blind his eye, there is no liability for his eye.

*Qasāma* [the oath procedure in a suspected killing] is a legal right when there is suspicion, incriminating circumstance, or a cause warranting it. The heirs of the victim swear fifty oaths and thereby establish their claim to the blood and retaliation is carried out through the *qasāma*.

The oaths belong to the heirs of the victim, unless they refer them back to the accused, or the accused produce evidence establishing their innocence.

If a murdered person is found among a community and it is not known who killed him, the community is liable unless they establish *qasāma*, after swearing that they did not kill him and do not know who killed him.

If the victim is found between two villages, responsibility is assigned to whichever village is closer to him.

If the hair of the head is removed and does not grow back, the full blood-money is due. The same applies to the skin [of the head].

If the forehead is fractured and then heals, the compensation is one hundred dinars.

Anything in a person of which there is only one has the full blood-money, such as the nose, tongue, beard, and penis.

Anything of which there are two has the full blood-money for both together, and half the blood-money for each individually, such as the eyebrows, eyes, ears, hands, feet, and testicles.

Anything for which exact retaliation can be carried out without exceeding the injury, if it is caused accidentally, has its corresponding blood-money; if it is caused intentionally, retaliation applies unless the injured person accepts blood-money. Examples include the nose, eye, ear, tooth, and the clearly exposing wound (*mūḍiḥa*) and anything less severe than it.

For the eye of a one-eyed person, the full blood-money is due.

For hearing, the full blood-money is due; for speech, the full blood-money is due. Any reduction in either is compensated proportionally.

For the upper lip, half the blood-money is due. For the lower lip, two-thirds of the blood-money is due.

The front teeth—incisors, lateral incisors, and canines—number twelve. For each tooth, fifty dinars are due.

For the back teeth, the molars, twenty-five dinars are due for each molar.

Any portion of a tooth that is damaged is compensated proportionally.

For a child's tooth that has not yet been replaced by the permanent tooth, ten dinars are due.

If the collarbone is broken and then heals, forty dinars are due.

For the shoulder, upper arm, and elbow, one-tenth of the blood-money is due for each.

For the forearm and wrist, one-third of the blood-money is due for each.

For each finger of the hands and feet, one-tenth of the blood-money is due.

For the shoulder blade, forty dinars are due.

For the ribs adjoining the chest, twenty-five dinars are due for each rib.

For the ribs adjacent to the upper arms, ten dinars are due for each rib.

For a penetrating wound into a body cavity (*jā'ifa*), one-third of the blood-money is due.

For the hip, one-fifth of the blood-money is due; likewise for the thigh and the knee.

For a blow to the face that causes it to become red, two or—[according to the wording]—half a dinar is due.

If it becomes darkened and greenish, three dinars are due.

If the area around the eyes becomes red, three dinars are due. If it becomes darkened and greenish, six dinars are due.

For a minor bleeding wound (*dāmiyya ṣughrā*), five dinars are due.

For a major bleeding wound (*dāmiyya kubrā*), ten dinars are due.

For a fracture extending into the bone (*fāqira*), twelve and a half dinars are due.

For a wound that cuts through the flesh (*bāḍi'a*), twenty dinars are due.

For a wound that penetrates deeply into the flesh (*mutalāḥima*), thirty dinars are due.

For a wound reaching the thin membrane over the bone (*samhāq*, also called *mullaṭā*), forty dinars are due.

For a *mūḍiḥa*, fifty dinars are due.

For a *hāshima* [a fracture of the bone], one hundred dinars are due.

For a *munqila* [a fracture that displaces the bone], one hundred and fifty dinars are due.

For a *ma'mūma* [a wound reaching the membrane of the brain], one-third of the blood-money is due.

All of these amounts apply when the injuries are to the head. When such an injury occurs in another part of the body, its compensation is calculated according to the proportion of the blood-money assigned to that body part.

### **Mention of the Legal Punishments (*Ḥudūd*)**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that they prohibited suspending the legal punishments, and prohibited intercession and pleading for leniency once a matter has been brought before the ruler. There is no harm in pardoning what belongs to the people before the matter is brought before the ruler.

A previously married person who commits adultery is flogged one hundred lashes and then stoned. The same applies to a woman.

A virgin man and a virgin woman are each flogged one hundred lashes and exiled for one year.

Adultery is established only by four witnesses who testify to having seen the act itself, as clearly as a rod is seen inside a kohl container, or by confession on four separate occasions while the person is in a state of soundness.

A pit is dug for the person being stoned. The witnesses throw the first stones, followed by the Imam, and then the people, using small stones, until the person dies.

If the punishment is established through confession, the Imam begins the stoning, followed by the people.

A person is not considered legally married in the relevant sense of *iḥṣān* until he has consummated the marriage and the wife remains with him.

A female slave does not make a free man *muḥṣan*, nor does a male slave make a free woman *muḥṣana*.

The most severe flogging is the flogging of the adulterer, followed by the flogging of the slanderer, then the flogging of the one who drinks intoxicants, followed by reprimand.

A pregnant woman is not flogged until she gives birth and has recovered from childbirth.

No legal punishment is imposed upon someone against whom there is no evidence until he confesses four times.

If he confesses and then retracts his confession, he is not stoned, but he is flogged with the prescribed punishment.

There is no *ḥadd* upon a boy or girl. If an adult commits adultery with a child, the adult receives the punishment.

There is no *ḥadd* for *sifāḥ* [unlawful sexual relations] or for the act of the people of Lot: the active and passive participants are stoned if penetration occurs.

For lesbian sexual activity (*siḥāq*), one hundred lashes are administered.

Whoever has intercourse with a woman permanently forbidden to him through close kinship is killed. The same applies to one who forcibly violates a woman.

There is no *ḥadd* upon an insane person.

If a man and a woman are found under one covering, they are both flogged with the prescribed punishment. The same applies if two men are found under one covering.

If two women are found under one covering, they are beaten with less than the prescribed punishment.

A male or female slave is not stoned for adultery; each receives fifty lashes.

The punishment for slander (*qadhf*) is eighty lashes.

If the slanderer repents, his testimony is accepted.

If one person slanders a group of people and they all bring him before the authority together, he receives one punishment.

If they bring him before the authority one after another, he receives a separate punishment for each person who brings him.

There is no punishment for someone who slanders a polytheist, although he should not do so.

If the polytheist has a Muslim child, the person who slanders him is punished because of the sanctity of the Muslim.

If a free person slanders an enslaved person, he is disciplined.

If a dhimmī slanders a Muslim, he receives the prescribed punishment and is reprimanded.

If an enslaved person slanders a free person, he receives the full prescribed punishment.

If two people slander one another, both are disciplined.

Whoever says to his wife, "I did not find you a virgin," receives no prescribed punishment.

It is not permissible to pardon any of the punishments that belong to God.

Whoever accuses a man of having a fistula or similar sexual disease receives the prescribed punishment.

Whoever commits one of the legal offenses and is then falsely accused of another offense, the person making the false accusation receives the punishment for slander.

Whoever acknowledges his child and then denies him receives the prescribed punishment, and the child remains legally his.

There is no *ḥadd* for indirect or suggestive language (*ta' rīd*).

Whoever drinks wine, whether a little or a lot, receives eighty lashes.

If he drinks it a second time, he is punished again. If he drinks it a third time, he is killed.

The same applies to someone who persists in drinking intoxicants: he receives the punishment when he becomes intoxicated from them twice and is killed the third time.

If he drinks an intoxicant without becoming intoxicated, he is reprimanded. If he does so again, he is subjected to a severe disciplinary punishment.

A drunk person is one who cannot distinguish his sister from his wife, or his own clothing from another person's clothing.

Whoever drinks wine or an intoxicant without knowing that it is prohibited receives no prescribed punishment.

If a person confesses to drinking wine and then denies it, his retraction is not accepted and he receives the prescribed punishment.

The prescribed punishment for an enslaved person who drinks wine is eighty lashes.

The People of the Covenant, if they openly drink wine or intoxicants, are punished in the same manner as Muslims.

Prescribed punishments are avoided in cases of doubt.

There is no surety, testimony upon testimony, or judicial letter from one judge to another in matters of *ḥudūd*. No oath is taken in any of the *ḥudūd*.

No *ḥadd* or retaliation may be imposed through intimidation, nor through a confession obtained by imprisonment or beating.

Whoever has several punishments due against him, none of which carries the death penalty, then ...he is killed.

A man may not carry out a prescribed punishment on his slave without the authority of the ruler, unless the ruler gives him permission to do so. And God knows best; with God is success.

### **Mention of Thieves and Highway Robbers**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that a thief's hand is cut off if he steals property worth five dinars or more from a secure place, provided that it is property for which amputation is prescribed.

The right hand is cut off at the joint of the fingers, leaving the palm and thumb, if he steals for the first time. If he repeats the offense, his left leg is cut off from the middle of the foot. If the executioner makes a mistake and cuts off the left hand or right leg instead, that is sufficient.

If he steals after his hand and leg have been cut off, he is imprisoned permanently. If he steals while in prison, he is killed. When the hand or leg is cut off, the wound is cauterized with fire so that it may heal quickly and to protect against fatal complications. If he dies, there is nothing further [owed]. The stolen property is returned to its owners, and if the thief has destroyed it, he is liable for its value.

After his hand has been cut off, the thief is exiled to a town other than the one in which the amputation took place.

A guest is not subjected to amputation for stealing from the house of the person who hosted him, nor is an employee. There is no amputation for secretly snatching something, nor for openly committing prostitution [or taking property through such an act]. Whoever steals something in which he has a share is not subjected to amputation. There is no amputation for *khallāl* [a type of trickery or theft], nor for the *ṭarrār* [pickpocket], nor for anything involving doubt.

Whoever breaks through a wall or opens a door but does not take anything out is not subjected to amputation. There is no amputation for theft from a bathhouse, nor for anything made of stone other than precious gemstones. There is no amputation for dates, raisins, or birds, nor for anything stolen from places open to the public that may be entered without permission, such as taverns, bathhouses, and mills, unless the stolen property is itself taken from a secure location.

There is no amputation for stealing sheep from pasture.

If the thief confesses to the theft twice, his hand is cut off. If he steals and cannot be apprehended until he steals again, he is subjected to amputation for the first theft and made liable for the second.

Whoever is found in possession of stolen property, but there is no evidence against him that he stole it and he has not confessed, is not subjected to amputation. Rather, the stolen property is taken from his possession.

A child who steals is not subjected to amputation until he steals after reaching puberty; before that, he is disciplined.

The grave robber is subjected to amputation if he removes the shroud from the grave, because the grave is considered a secure place.

If a slave steals the property of his master, his hand is not cut off. If he steals property belonging to someone other than his master, his hand is cut off.

There is no amputation if a father steals his child's property, a child steals his father's property, a wife steals her husband's property, a husband steals his wife's property, or a brother steals his brother's property.

Whoever wages war against the Muslims, blocks the roads, and terrorizes people, and is brought before the imam, the imam has the choice concerning him: he may kill him; he may crucify him alive until he dies; he may cut off his hand and opposite leg; or he may exile him from one town to another. He may do whichever of these he chooses.

If he terrorizes the roads and wages war, it is considered *muḥāraba* whether or not he kills anyone and whether or not he takes property, so long as he does this on the road.

If he repents before he is apprehended, he is pardoned.

This does not constitute *muḥāraba* when carried out within cities. Whoever does such a thing openly within a city is a terrorizer, while whoever does it secretly is a thief who snatches property, and he is subjected to disciplinary punishment.

A person may defend himself and his property when he is able to do so. If he is killed while doing this, he is a martyr; if he refrains from doing so, there is no blame upon him.

### **Mention of Apostates and Innovators**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that the *zindīq* is given the opportunity to repent and Islam is presented to him for three days. If he repents, [he is spared]; otherwise, he is killed.

Whoever was born into Islam and then abandons his religion is killed without being given an opportunity to repent.

If a woman apostatizes, she is not killed. Rather, she is imprisoned until she dies. A male slave is killed [for apostasy], while a female slave is subjected to increasingly difficult service; she is given only clothing sufficient to cover her private parts and only enough food to sustain her

until she repents or dies. The same applies to the *umm walad* [a female slave who has borne her master a child].

If an apostate apostatizes and flees, whatever property he leaves behind is inheritance for his heirs; his apostasy is treated as his death. His wife observes her waiting period and may then marry, while his children remain Muslim.

If either parent becomes Muslim, their young children are Muslim by virtue of that parent's Islam.

A magician who practices magic against Muslims is killed. A magician among the polytheists is not killed, because his polytheism is considered more serious than his magic.

### **Mention of Anger and Transgression**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that they prohibited taking property without its rightful entitlement.

Whoever takes property unlawfully has no repentance except by disavowing it and returning it to its owners if they are known. If they are not known, he gives it in charity.

If someone unlawfully takes possession of a female slave and she bears him a child, she and the child belong to the person from whom she was taken. If the usurper sells her, and the purchaser impregnates her without knowing that she was unlawfully taken, then when her rightful owner establishes his claim, he takes her and the value of her child. The purchaser then has recourse against the usurping seller for that amount and for the price he paid for the slave.

Whoever unlawfully takes possession of a slave, an animal, or anything else, and it perishes while in his possession, he must pay its value. If its value increased while in his possession, the increase belongs to its owner; if its value decreased, the usurper is liable for the amount of the decrease.

If the thing taken is something that could be rented out, the rental proceeds belong to its owner.

Whoever transgresses against something among the instruments or objects of amusement and breaks it, or pours out wine or an intoxicating drink, bears no liability.

Whoever betrays or wrongfully takes from a person, and then gains possession of that person's actual property, may take it. But it is not lawful for him to betray or wrongfully take property from him as compensation in place of what he is owed.

### **Mention of the Loan for Use (‘*Āriya*)**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that if a borrower has undertaken liability for an item lent for use and it perishes while in his possession, he is liable for it, whether or not he caused damage to it.

If he did not undertake liability for it, there is nothing upon him if it perishes, unless he himself damages it. If he damages it and it then perishes because of that damage, he is liable.

The borrower is considered a trustee when he is trustworthy.

If he borrows dirhams or dinars and they perish, he is liable for them.

Whoever borrows an item and then pledges it or sells it, and its owners are subsequently identified, they may take it back. The purchaser may then seek reimbursement from the person who sold it to him for the price he paid, or for the amount against which he accepted it as a pledge.

### **Mention of Deposits**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that a deposit must be returned.

The person entrusted with a deposit must safeguard it and keep it in the manner in which deposits are normally safeguarded. If it is lost or destroyed without negligence or wrongdoing on his part, he is not liable. If he damages it or transgresses against it, he is liable.

If he claims that the owner instructed him to deliver it to another person, and says that he delivered it, but that person denies receiving it, and the owner of the deposit also denies the claim, his statement is not accepted without evidence. He is liable for the deposit after both parties have been made to swear an oath.

There is no harm in using a deposited loan for oneself if he has sufficient property to return it.

Whoever entrusts a child or a slave with a deposit without the permission of the slave's master bears no liability.

If two men entrust a person with a deposit and instruct him not to give it to either one of them without the other, but he gives it to one without the other, and the other subsequently comes and demands it, he has no claim against the custodian until his partner is present.

### **Mention of Lost Property, Foundlings, and Runaway Slaves**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that there is no harm in picking up lost property outside the Sacred Precinct, provided that the finder publicly announces it.

Whoever finds lost property must announce it for one year. If its owner comes, [it is returned]. Otherwise, he may either give it in charity or add it to his own property. If its owner subsequently comes, he returns it to him.

If the imam is present, [the lost property] is placed in the public treasury.

They regarded taking stray camels in particular as disliked.

Whoever finds lost food or other property that would spoil if left unattended should give it in charity or consume it. If its owner subsequently comes and wishes to take its equivalent, he may do so.

A foundling is free.

If the foundling becomes financially independent and seeks from the person who raised him reimbursement for his expenses, he must pay those expenses to him.

A runaway slave must be returned to the person from whom he ran away, and no fee is due for doing so.

And God knows best.

### **Mention of Partition and Construction**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that whenever something jointly owned by partners can be divided without being spoiled or rendered unusable by division, and the partners—or some of them—request its division, they are entitled to have it divided.

If it is something that would be spoiled by division and division would cause harm to them or to one of them, it should be sold and they should divide the proceeds.

There is no harm in dividing a house so that the lower floor belongs to one partner and the upper floor to another. The roof and walls of the lower floor are the responsibility of the owner of the lower floor, while the roof and walls of the upper floor are the responsibility of the owner of the upper floor. Whatever is situated in the upper floor belongs to its owner.

The roof of the lower floor forms the floor of the upper-floor owner's property. If it deteriorates without the upper-floor owner having caused the damage, the lower-floor owner is responsible for repairing it. The same applies to the walls.

Everything located in the lower floor is the responsibility of its owner to repair because it is his property, while the upper-floor owner is responsible for his own work.

If a wall belongs jointly to two men and it collapses, both are responsible for rebuilding it. If one of them refuses, the other may build it himself, but the one who refused may not make use of it until he pays half the expense.

No one may open a window in his wall through which he can look upon his neighbor's private parts. If he cannot look through it and it is only for admitting light, he may not be prevented from doing so.

The other person may build a wall on his own property if he wishes, even if it blocks that opening.

No one may be prevented from constructing on his own property whatever structure he wishes, provided that he has a legitimate right to do so, even if it conceals his neighbors [from view].

Whoever opens a door or digs a well in a public road, or makes an opening in a wall adjoining it, is not prevented from doing so. But if it is a private shared property, he may not do so without the permission of his partners in it.

No one should divert a public road from its established location. If it belongs to specific people and they consent to its relocation, then it is permissible to relocate it.

### **Mention of Testimony**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, their prohibition of false testimony.

A false witness is flogged with an unspecified number of lashes, paraded publicly, and exposed [as a false witness]. He is also liable for whatever damage was caused by his testimony.

The testimony of an upright believer is valid for anyone in whose favor he testifies, whether close or distant.

The testimony of an upright slave is valid, except in favor of his master and in matters from which his emancipation would result. If he testifies while enslaved concerning something that would lead to his emancipation, and he is subsequently freed, his testimony is valid.

The testimony of children concerning homicide is valid when accompanied by *qasāma* [the prescribed oath procedure], but is not valid in other matters until they reach maturity.

The testimony of a person under suspicion, nor that of a child born of unlawful sexual relations, is not valid. A partner may not testify for his partner concerning property jointly held between them. He may testify in his partner's favor concerning matters outside their partnership if he is upright.

The same applies to a subordinate, an employee, and a servant.

The testimony of a litigant is not valid, nor that of a person whose testimony would bring benefit to himself. The testimony of adherents of sectarian innovations is not accepted.

If a person who has committed *qadhf* [slandering accusation of unlawful sexual conduct] repents, his testimony becomes valid.

If a witness's testimony has been established, and the person against whom the testimony is given challenges the witness's integrity, the testimony is set aside if he brings upright witnesses who establish grounds for discrediting him through some form of misconduct, suspicion, or anything inconsistent with the character of an upright person.

Whoever prays in a mosque in congregation and openly demonstrates good conduct, with no known misconduct from him, may testify, unless someone comes forward with evidence discrediting him.

A Muslim's testimony is valid against polytheists, but the testimony of a polytheist against Muslims is not valid except concerning a will made during travel when no other witness can be found; in such a case, he is sworn.

The testimony of members of another religious community against one another is valid if, according to their own standards, they are in a condition in which testimony is acceptable.

If a non-Muslim testified while in a state of unbelief, or a minor testified while still a minor, and the non-Muslim subsequently becomes Muslim or the child reaches maturity, their testimony is valid, unless their testimony had previously been rejected.

Women's testimony is valid in marriage and financial matters, but not in divorce or prescribed punishments.

If three men and two women testify concerning adultery, stoning is carried out. If there are two men and four women, their testimony is not accepted.

Women's testimony is valid concerning the newborn's first cry, sneezing, and similar matters. The testimony of a midwife alone is valid if she is upright.

Women's testimony is not valid concerning the sighting of the new moon. Their testimony is valid concerning the waiting period, childbirth, and matters concerning women that men cannot ordinarily observe.

Testimony upon testimony is not valid in a *ḥadd* case.

The testimony of one man alone is not sufficient; two men are required.

If witnesses disagree concerning a divorce, their testimony is not accepted. If they disagree concerning the dowry, the woman swears an oath together with the single witness if she claims that his testimony supports her position.

No one should testify merely on the basis of a written document unless the testimony itself has been established.

If witnesses withdraw their testimony before judgment, their withdrawal is accepted. If they withdraw it after judgment, their withdrawal is not accepted.

If they retract their testimony before judgment, no judgment is issued on its basis. If they retract it after judgment, they are liable for whatever was destroyed as a result of their testimony.

Whoever is called upon to give testimony should not refuse. Whoever has been called as a witness before reaching maturity should not absent himself when he later becomes capable of giving testimony.

If a person hears people settling accounts or speaking about something, without having been formally called as a witness, and one of them asks him to testify concerning what he heard, he has the choice: if he wishes, he may testify, and if he wishes, he need not.

Testimony based on hearing is valid concerning death, imprisonment, lineage, and longstanding possession of property that has been known to be in the hands of its owners for a long period of time.

### **Mention of Claims and Evidence**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that a judge's ruling does not make something unlawful lawful.

Whoever is awarded something by a judgment when he has no rightful claim to it may not lawfully take it.

Judgment is based upon the apparent facts: in financial matters, the burden of evidence is upon the claimant, while the oath is upon the defendant.

No oath is to be sworn by anything other than God, Mighty and Glorious is He.

If the defendant refers the oath back to the claimant, and the claimant swears it, judgment is given to him according to his claim. If he refuses to swear, judgment is not given to him until he does so.

When evidence has been presented, the defendant may ask the claimant to swear that his right is established as testified to by the evidence. If he asks for this, he is entitled to it. If he does not ask, the judge informs him that he is entitled to do so.

If he does not request the oath and says, "I am satisfied with the witnesses," he is not made to swear, unless he is a child or absent. In that case, the judge makes the claimant swear together with his evidence and then awards him his right.

If the claimant has sworn on that basis and the defendant subsequently brings upright witnesses, judgment is still given to the claimant according to his right, and the defendant's oath is not considered.

Judgment may be given on the testimony of one witness together with the claimant's oath in financial matters only.

If the evidence of both parties concerning the same thing is equally matched, whether the thing is in the possession of one litigant, in the possession of both, or in the possession of neither, and the testimony is of equal strength, both are made to swear.

If both swear, lots are cast between them, and whoever's lot is drawn receives it.

If neither swears, the matter is suspended until one of them swears. If only one of them swears, the thing belongs to the one who swore.

If one party's evidence establishes that the original ownership of the thing belonged to him or that he owned it, while the other party's evidence merely establishes that it belongs to him without establishing how ownership came to him, the thing belongs to the person who establishes the original ownership, unless the other explains the manner in which ownership was transferred to him.

Judgment by lot is established in both financial and non-financial matters.

Whoever acknowledges that he is a slave is considered a slave. If he subsequently claims that he is free, his claim is not accepted without evidence.

If he has not acknowledged slavery and another person claims that he is a slave while he says that he is free, the burden of proof is upon the person claiming that he is a slave.

If a person receives dirhams from another man and later returns to him saying, "I found them to be defective," the person who gave them must swear that he gave him only good-quality currency, if he denies that they are his dirhams and says that he does not know whether these are his dirhams.

If he refuses to swear, he must provide their replacement. The person in whose possession the dirhams are may then swear, if he wishes to have him sworn, that they are precisely the dirhams he received from him.

If a man and a woman, or their heirs, dispute ownership of household goods and neither has evidence, they both swear.

Whoever refuses the oath gives the other party the right to what he claimed, provided that the other swears to it.

If both swear, the man receives those household items ordinarily recognized as belonging to men, and the woman receives those ordinarily recognized as belonging to women.

If a free man, a slave, and a polytheist have intercourse with a woman during the same period of purity and each claims the child, lots are cast to determine to whom the child belongs.

If a person sends dirhams with a man to another person, and the messenger says that he delivered them while the recipient denies receiving them, the messenger's statement is not accepted without evidence.

If he is told, "Give them in charity," and he says, "I gave them in charity," his statement is accepted together with his oath if there is suspicion concerning him.

And God knows best.

### **Mention of the Etiquette of Judges**

We have transmitted from the People of the Household, peace and blessings of God be upon them all, that no one should seek the office of judge, pursue it, or accept it from an unjust imam.

But he may not refuse it if a just imam calls him to it, provided that he has knowledge of judging. If he lacks such knowledge, he should present to the imam what knowledge he possesses and then follow whatever the imam commands him.

There is no harm in appointing a young man as a judge if he is a jurist.

Those who hold opposing doctrines should not be appointed as judges, nor should disputes be taken to them.

They said: Whoever acts unjustly deliberately or mistakenly is in the Fire. Whoever judges according to the truth and acts upon it is in Paradise.

A treacherous or bribed judge should be removed in the harshest manner, and both should repay whatever people's property they wrongfully received.

Whatever judgment they issued is not to be reopened merely because of their removal.

A judge should treat the two litigants equally in his glance, his gaze, his speech, his listening, and his inclination. He should not speak until he has heard what both have to say.

He should not issue judgments in a mosque, nor carry out a *hadd* punishment there.

He should maintain dignity and deliberation, and examine carefully the character and circumstances of those whom he employs and brings close to him.

He should keep himself away from mingling with the common marketplace people and from personally conducting buying and selling. Rather, he should appoint someone whose religious commitment and trustworthiness he trusts to conduct such affairs.

He should warn that person against cheating anyone or deliberately allowing himself to be cheated.

He should judge according to the Book of God, Mighty and Glorious is He. Whatever he does not find explicitly in the Book of God, he should seek in what is authentically transmitted from the Messenger of God, peace and blessings of God be upon him and his family, and from the Imams among his descendants, peace and blessings of God be upon them all.

If he has no knowledge of such a ruling and cannot find it, he should refer the matter to his imam and ask him about it.

He should not judge according to personal opinion, preference, analogy, or speculative reasoning.

He should not accept intercession, should not disadvantage one litigant in favor of the other, should not meet privately with one of them without the other, should not prompt either litigant with an argument, should not assist either one, and should not incline toward either party in any matter.

If he issues a judgment and subsequently discovers that it contradicts the truth, he must overturn it and judge according to the truth.

He should likewise do so with cases brought before him that were judged by another judge if those judgments contradict the teachings of the Imams, the Book, or the Sunnah.

As for judgments issued by the people of rebellion during their period, according to their own doctrines, he should not interfere with them even if they differ from his own judgment.

He should not issue judgment until he has exhausted the arguments available to the person against whom judgment is being made.

There is no harm in a judge receiving a stipend from the public treasury. But if he has sufficient means, abstaining from taking such a stipend is better for him.

He should inspect the markets of the Muslims, their measures, and their scales, and appoint someone whom he trusts to oversee them.

He should not imprison anyone merely on suspicion except in a matter involving bloodshed.

He should use the whip in villages for disciplinary punishment and correction.

When *ḥudūd* are imposed, the person should be struck with the whip.

He should not imprison an insolvent debtor for a debt. If a person who was born wealthy and has the means [to pay] persists in obstinacy and refusal, he may be imprisoned. If he continues in his contentious refusal, his property may be sold on his behalf and his debt paid from it.

A judge's written communication is not accepted concerning a *ḥadd*, divorce, or testimony upon testimony in such matters, nor is a guarantor taken for them.

The judgment of the previous judge is to be enforced.

The claimant is not required to restate his claim concerning it.

A judge's written communication is not accepted unless someone trustworthy testifies to it.

Any evidence recorded in the previous judge's register does not establish a judgment [by itself]. If the opposing party denies the testimony, he is made to swear. If he swears that the testimony was not given against him, the claimant is asked to produce evidence.

Agency may be accepted in the presence of the opposing party or in his absence.

Judgment may be issued against an absent person, and the judge makes it binding upon him as his proof when he appears.

The judge may adjudicate between People of the Book when they bring their dispute before him, according to the judgment of God.