FIQH
According to the Qur'ān & Sunnah
A Translation of the Book
Al-Lubāb Fee Fiqhus-Sunnah Wal-Kitāb

Volume 2

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DARUSSALAM
GLOBAL LEADER IN ISLAMIC BOOKS
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- The third section: The Hajj of the Prophet ﷺ.
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- The seventh section: The rites of Hajj.
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Al-Ka‘bāin: They are the bones which protrude from the point at which the legs join the feet (i.e. the ankles).

Al-Wars: It is a yellow plant, with a pleasant perfume, which is used as a dye; its meaning may be extended to include all yellow coloured garments.

2. A woman should not wear a niqab[1] nor should she wear gloves:

It is reported on the authority of ‘Abdullah Ibn ‘Umar ﷺ that the Prophet ﷺ said:

لا تطغِي المرأة المحرمة ولا تلبس الغمرين

“A woman who is in a state of ihram should not wear a niqab and nor should she wear gloves.” This is an authentic hadeeth.[2]

3. The muhriim should not apply perfume when entering the state of ihram:

It is reported on the authority of Safwan Ibn Ya‘la Ibn Umayyah that Ya‘la ﷺ used to say to Umar Ibn Al-Khattab ﷺ: “I wish I could see the Messenger of Allah ﷺ at the time when he is being inspired divinely.” Ya‘la ﷺ added: “While the Prophet ﷺ was at Al-Ji‘ranah, shaded with a cloth sheet (in the form of a tent) and there were staying with him some of his Companions ﷺ under it, suddenly there came to him a Bedouin wearing a cloak and perfumed extravagantly. He said: “Oh, Messenger of Allah! What is your opinion regarding a man who assumes the state of ihram for ‘Umrah wearing a cloak after applying perfume to his body?”’ Umar ﷺ signalled with his hand to Ya‘la ﷺ to come

[2] Narrated by Al-Bukhari (no. 1838), At-Tirmizi (no. 833), An-Nasa‘i (5/133), Ahmad (2/119) and Abu Dawood (no. 1825).

4. The muhriim should not trim his nails:

Ibn Al-Munzir said:[3] “There is a consensus among the scholars that trimming the nails is unlawful for the muhriim.”

[3] Narrated by Al-Bukhari (no. 1539) and Muslim (no. 33/1889).

See: ‘Al-Ijma‘ (no. 57).
These are the occasions on which it has been reported that it was abrogated, although there is some disagreement regarding the authenticity of some of them.

Firstly: At Khaibar

It was reported that 'Ali_pb said to Ibn 'Abbas_pb: “The Prophet_pb prohibited mut'ah marriage and domestic donkey meat at the time of Khaibar.” This is an authentic hadith.[1]

I say: The Prophet_pb prohibited mut'ah marriage on the day of the Battle of Khaibar and then he permitted it after that. Then he prohibited it once again in the year of the Conquest (of Makkah), but his license was not conveyed to 'Ali Ibn Abi Talib, so he based his statement on what he had heard from the Messenger of Allah Pb in the hadith of the prohibition on the day of the Battle of Khaibar and also on the final position in the matter.

Secondly: During 'Umrah Al-Qadah' (the Compensatory 'Umrah)

It is reported on the authority of Al-Hasan Al-Basri_pb that he said: “When the Messenger of Allah Pb arrived in Makkah, the women of Al-Madinah[2] beautified themselves and so the Companions of the Messenger of Allah Pb complained to him, so he said:


\[\text{Contract mut'ah marriages with them and make the period of marriage between you and them three days, for I do not know any man who takes possession of a woman for three days, except that he turns his back on her.’} \]

This is weak, due to its being mursal.[1]

Thirdly: The Year of the Conquest (of Makkah)

It is reported on the authority of Ar-Rabee' Ibn Saburah that his father_pb fought alongside the Messenger of Allah Pb in the conquest of Makkah and he said: “We stayed there for fifteen days (thirty between night and day) and the Messenger of Allah Pb permitted us to contract temporary marriage with women. So I and another person of my tribe went out, and I was more handsome than he, whereas he was almost ugly. Each one of us had a cloak. My cloak was worn out, whereas the cloak of my cousin was quite new. As we reached the lower or the upper side of Makkah, we came across a young woman like a young smart long-necked she-camel. We said: ‘Is it possible that one of us may contract temporary marriage with you?’ She said: ‘What will you give me as a dowry?’ Each one of us spread his cloak. She began to cast a glance on both the persons. My companion also looked at her while she was casting a glance at her side and he said: ‘This cloak of his is worn out, whereas my cloak is quite new.’ She, however, said twice or thrice: ‘There is no harm in (accepting) this cloak (the old one).’ So I contracted temporary marriage with her, and I did not come out of this until the Messenger of Allah Pb declared it forbidden.”[2]

Fourthly: The Year of Awtas.

It is reported on the authority of Salamah Ibn Al-Akwa’_pb that he said: “The Messenger of Allah Pb permitted us to contract temporary marriage for three nights in the year of Awtas and then he prohibited it.”[3]

[1] Narrated by Al-Bukhari (no. 5115) and Muslim (no. 1407).
[2] It seems most likely that the correct wording is: “the women of Makkah”, as required by the context.
The First Chapter: Types of unlawful sales.

The Second Chapter: Al-Riba.

The Third Chapter: Al-Khiyarat (Conditional Sales).

The Fourth Chapter: As-Salam.

The Fifth Chapter: Al-Qardh.

The Sixth Chapter: Ash-Shaf'ah.

The Seventh Chapter: Al-Ijarah.

The Eighth Chapter: Al-Ihya' and Al-Iqta'.

The Ninth Chapter: Ash-Sharikah.

The Tenth Chapter: Al-Rahn.

The Eleventh Chapter: Al-Wadee'ah and Al-'Ariyah.

The Twelfth Chapter: Al-Ghasb.

The Thirteenth Chapter: Al-'Itq.

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The Fifteenth Chapter: Al-Hadaya.

The Sixteenth Chapter: Al-Hibah.

The Seventeenth Chapter: Al-Wakalah.

The Eighteenth Chapter: Adh-Dhamanah or Al-Kafalah.

The Nineteenth Chapter: Al-Hawalah.

The Twentieth Chapter: Al-Muflis.

The Twenty-first Chapter: Al-Luqatah.

The Twenty-second Chapter: As-Sulh.

Types of Unlawful Sales

1. The legality of trade:

Allah, Most High says in Surah Al-Baqarah (2:275):

«وَأَحَلَّ اللَّهُ الْبُخْرَاءَ وَحَرَّمَ الْرَّبَا»

“Allah has permitted trading and forbidden riba (usury).”

And He, Most High says in Surah An-Nisa’ (4:29):

«يَا أَيُّهَا النَّاسُ أَنْتُمْ فِي مَثَالٍ مِّثْلِهِ مَالِكُهَا إِنَّ اللَّهَ يُوعِدُ الْمُؤْمِنِينَ أَنْ يَأْتُواهُمَا أَمْوَالَهُمْ بِالْمَطَالِبِ إِنْ كَانُواْ يُمْتِمُّونَ بِالْبَيْتِ»

“Allah has promised the believers that He will make their goods inheritable in the land if they fulfill the conditions by which they can inherit.”
27. It is not permissible to separate al-maharim when selling:

It is reported on the authority of Abu Ayyub that he said: "I heard the Messenger of Allah saying:

 moderation, in the case of a town dweller on behalf of a desert dweller; and similarly an-najsh was forbidden. And one should not urge somebody to return the goods to the seller so as to sell him his own goods; nor should one demand the hand of a girl who has already been engaged to someone else; and a woman should not try to cause some other woman to be divorced in order to take her place.” This is an authentic hadeeth.[1]

On the contrary, it is more correct to say that it is permissible to separate (them), based upon the hadeeth of Jabir Ibn ‘Abdillah, who said: “We sold the children’s mothers during the lifetime of the Messenger of Allah and (during the Caliphate) of Abu Bakr. Then when ‘Umar (became Caliph,) he prohibited us (from separating them), so we stopped doing it.”[2]

It is also narrated on the authority of Jabir that he said: “We used to sell our captives and the mothers of our children when the Prophet was living among us and he saw no objection to that.” This is an authentic hadeeth.

28. Selling by an-najsh is not permissible:

It is reported on the authority of ‘Abdullah Ibn ‘Abbas that he said: “The Messenger of Allah forbade an-najsh.” This is an authentic hadeeth.[3]

An-Najsh:

Offering a high price for something, not because one needs it, but in order to deceive others into buying it.

[1] Narrated by At-Tirmizi (3/580, no. 1283), who said: “This hadeeth is hasan-ghareeb.”

29. It is not permissible for a Muslim to sell something over the sale of his brother:

It is reported on the authority of Abu Hurairah that he said: “The Messenger of Allah forbade the selling of things by a town dweller on behalf of a desert dweller; and similarly an-najsh was forbidden. And one should not urge somebody to return the goods to the seller so as to sell him his own goods; nor should one demand the hand of a girl who has already been engaged to someone else; and a woman should not try to cause some other woman to be divorced in order to take her place.” This is an authentic hadeeth.[1]

30. The prohibition of going out to meet the caravans:

It is reported on the authority of ‘Abdullah Ibn ‘Abbas that he said: “The Messenger of Allah forbade going out to meet the caravans.”

I asked Ibn ‘Abbas: “What does he mean by not selling the goods of a desert dweller by a town dweller?” He said: “He should not become his broker.” This is an authentic hadeeth.[2]

And he has the choice (whether or not to proceed with the sale) if he knows that he has been deceived:

It is reported on the authority of Abu Hurairah that he said: “The Prophet forbade meeting the merchant on the way and
(i.e. powdered barley) and dates, and let you enter a (blessed) house that in which the Prophet entered?” Then he added: “You are in a country where the practice of riba (i.e. usury) is prevalent; so if somebody owes you something and he sends you a present of a load of chopped straw, or a load of barley or a load of fodder, then do not take it, as it is riba.” This is an authentic hadeeth.\footnote{1}

2. It is permissible for the borrower to do an act of kindness for the lender, without it being a condition of the loan:

   It is reported on the authority of Jabir Ibn ‘Abdillah \(\Rightarrow\) that he said: “I went to the Prophet \(\Rightarrow\) while he was in the mosque (Mis‘ar, the sub-narrator thinks that Jabir \(\Rightarrow\) went in the forenoon.) After the Prophet \(\Rightarrow\) told me to pray two rak‘ahs, he repaid me the debt he owed me and gave me an extra amount.” This is an authentic hadeeth.\footnote{2}

3. Granting time for the impoverished person to repay the loan:

   Allah, Most High says in Surah Al-Baqarah (2:280):

   \[
   
   
   \text{مَاتَ رَجُلُ فَقِيرُ لَهُ: ما أَنتُ تَفْوَلُ؟ قالُ: كَنْتَ أَبْعَثُ النَّاسَ فَأَتَجْوَرُ عَنَّ الْمُؤْسِسِينَ، وَأَحْفَظُ عَنَّ المُعْسِيِّينَ، فَقَبَّرَ لَهُ.}
   
   \text{And if the debtor is in a hard time (has no money), then grant him time till it is easy for him to repay, but if you remit it by way of charity, that is better for you if you did but know.”}
   
   And it is reported on the authority of Huzzaifah \(\Rightarrow\) that he said: “I heard the Prophet \(\Rightarrow\):

4. It is an act of injustice for the rich man to delay the repayment of a loan:

   It is reported on the authority of Abu Hurairah \(\Rightarrow\) that he said:

   “The Messenger of Allah \(\Rightarrow\) said:

   \[
   
   
   
   \text{ٌمَعْلَى الْعَفَّةِ ظَلُّمُ}
   
   \text{“Procrastination (delay) in paying debts by a wealthy man is injustice.” This is an authentic hadeeth.\footnote{2}}
   
5. One who takes the people’s wealth with the intention of repaying it or spoiling it:

   It is reported on the authority of Abu Hurairah \(\Rightarrow\) from the Prophet \(\Rightarrow\) that he said:

   “Whoever takes the money of the people with the intention of repaying it, Allah will repay it on his behalf, and whoever takes it in order to spoil it, then Allah will spoil him.” This is an authentic hadeeth.\footnote{3}

6. To be generous in repayment:

   It is reported on the authority of Abu Hurairah \(\Rightarrow\) that he said:

\[\text{Narrated by Al-Bukhari (no. 2391).} \]
\[\text{Narrated by Al-Bukhari (no. 2400) and Muslim (no. 1564).} \]
\[\text{Narrated by Al-Bukhari (no. 2387).} \]
The Book of Al-Libas (Clothing)

2. It is unlawful for males to wear gold and silk and it is lawful for females:

It is reported on the authority of ‘Umar Ibn Al-Khattab ﷺ that he said: “The Messenger of Allah ﷺ said:

لا تلبسوا الحرير فإنم ليبسُه في الدنيا من ليبسُه في الآخرة

“Do not wear silk, for those who wear it in this world will not wear it in the Hereafter.” This is an authentic hadeeth.[2]

And it is reported on the authority of Abu Moosa Al-Ash’ari ﷺ that the Messenger of Allah ﷺ said:

3. It is permissible to wear four fingers’ length of silk only for men:

It is reported on the authority of Abu ‘Uthman that he said: “Umar ﷺ wrote to us when we were in Azarbeijan (Azerbaijan) saying that: “The Prophet ﷺ forbade the wearing of silk except this much. Then the Prophet ﷺ approximated his two fingers (index and middle fingers) (to illustrate that) to us.” Zuhair (the sub-narrator) raised his middle and index fingers. This is an authentic hadeeth.[2]

In another version, narrated by Muslim, it was said: “He ﷺ forbade the wearing of silk, but to the extent of two or three fingers or four fingers.”

This is an authentic hadeeth.[3]

4. It is permissible for males to wear silk, if it is for the purpose of treating an ailment:

It is reported on the authority of Anas Ibn Malik ﷺ that he said: “The Prophet ﷺ permitted Az-Zubair and ‘Abdur-Rahman ﷺ to wear silk due the itching from which they both suffered.” This is an authentic hadeeth.[4]

[1] Narrated by An-Nasa’i (8/161, no. 5148) and At-Tirmizi (4/217, no. 1720), who said that it is hasan.
[3] Narrated by Muslim (15/2069) and others.
[4] Narrated by Al-Bukhari (10/295, no. 5839), Muslim (3/1646, no. 25/2076) and others.
The First Chapter: The Punishment for Illegal Sexual Intercourse

The Second Chapter: The Punishment for Stealing

The Third Chapter: The Punishment for Falsely Accusing a Person of Adultery

The Fourth Chapter: The Punishment for Consuming Alcoholic Beverages

The Fifth Chapter: The Punishment for the Muharib

The Sixth Chapter: Those Who Deserve Capital Punishment

1. The meaning of al-hudood:

It is the plural of al-hadd, the original meaning of which is something that separates between two things. Linguistically, it means prevention.

In legal terms, it means, the lawful punishments prescribed the crimes, in order to prevent other incidences of such crimes from occurring.

2. The dislike of intercession in al-hadd, once the case has been referred to those in authority:

It is reported on the authority of ‘A‘ishah ‏ that Quraish became very worried about the Makhzoomiyyah lady who had
And the Words of Allah, Most High in Surah Al-Baqarah (2:179):

«وَلَقَدْ قُلْتُ إِنَّ اللَّهَ كَانَ يَكْسِبُ الرِّجْسَاءَ وَلَمْ يَكْسِبُ ذَكْرَىً»

“And there is (a saving of) life for you in al-qisas (the law of equality in punishment), oh, men of understanding.”

It is reported on the authority of Abu Hurairah that he said: “When Allah, the Almighty, the All-powerful gave victory to the Messenger of Allah over Makkah, stood up among the people and after glorifying Allah, said:

...وَمَنْ قَتَلَ لَهُ فَقَتَلَ فَهُوَ يُحِي بِالنَّفْسِ الْمُقْتَلَةِ...”

“...And he whose relative is murdered has the option either to accept a compensation for it or to retaliate.” This is an authentic hadeeth.[1]

2. Exaltation of the inviolability of the Muslims:

Allah, Most High says:

«إِنَّ اللَّهَ كَانَ يَكْسِبُ الرِّجْسَاءَ وَلَمْ يَكْسِبُ ذَكْرَىً وَلَمْ يَكْسِبُ ذَكْرَىً وَلَمْ يَكْسِبُ ذَكْرَىً»

“Do not kill yourselves and do not kill one another). Surely, Allah is Most Merciful to you. And whoever commits that through aggression and injustice, We shall cast him into the Fire, and that is easy for Allah.” (Surah An-Nisa' 4:29-30)

And He, Most High says:

[1] Narrated by Al-Bukhari (1/205, no. 112) and Muslim (2/988, no. 447/1355).
And the aforementioned hadith of Abu Hurairah, in the Book of Jihad, paragraph 10.

And it is reported on the authority of ‘Abdullah Ibn ‘Umar from the Prophet ﷺ that he said:

اِنْتَطَعِلْ وَالْقَطَاعِ عَلَى الْمُمْلِمِينَ فِي مَا أَصَابَ وَكَذَا مَا لَمْ يُؤْمِرْ بِمُعَصِيَّةٍ، إِنَّأَمَرُ بِمُعَصِيَّةٍ فَلَا أَنْتَطَعِلْ وَلَا طَاعَةٍ

"A Muslim has to listen to and obey (the order of his ruler) whether he likes it or not, as long as his orders do not involve one in disobedience (to Allah), but if an act of disobedience (to Allah) is imposed, one should not listen to it or obey it." This is an authentic hadith.1

2. It is not permissible to rise up against the ruler, so long as he establishes prayer and does not display open signs of disbelief:

It is reported on the authority of ‘Awf Ibn Malik Al-Ashja’i that he said: "I heard the Messenger of Allah ﷺ saying:

جَبَرُ أَفْطَرُكُمْ الْذِّينَ يَتَعَظُّوْنَ وَيُتَقُوُّنَ وَيَنْصُرُوْنَ عَلَيْهِمْ وَيُنْصُرُوْنَ عَلَيْهِمْ وَيَشْرَعُوْنَ أَن يَنْصُرُوْنَ عَلَيْهِمْ وَيُنْصُرُوْنَ عَلَيْهِمْ وَيَشْرَعُوْنَ أَن يَنْصُرُوْنَ عَلَيْهِمْ وَيُنْصُرُوْنَ عَلَيْهِمْ وَيَشْرَعُوْنَ أَن يَنْصُرُوْنَ عَلَيْهِمْ وَيُنْصُرُوْنَ عَلَيْهِمْ

"Yes," I said: "How?" Whereupon he said: "There will be leaders who will not be led by my guidance and who will not adopt my ways. There will be among them men who will have the hearts of devils in the bodies of human beings." I said: "What should I do, oh, Messenger of Allah, if I (happen) to live in that time?" He replied: "You should listen to the Ameer and carry out his orders, even if your back is flogged and your wealth is snatched, you should listen and obey." This is an authentic hadith.2

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1 Narrated by Al-Bukhari (13/121, no. 7144) and Muslim (3/1469, no. 38/1839).

2 Narrated by Muslim (3/1476, no. 52/1847).