

## Book 18: KITAB AL-AQDIYYA (THE BOOK PERTAINING TO JUDICIAL DECISIONS)

### Chapter 1 :

#### IT IS THE DEFENDANT WHO SHOULD SWEAR (TO PROVE HIS INNOCENCE)

**Hadith 4244:** Ibn Abbas reported Allah's Apostle (may peace be upon him) as saying: If the people were given according to their claims, they would claim the lives of persons and their properties, but the oath must be taken by the defendant.

**Hadith 4245:** Ibn 'Abbas reported that Allah's Messenger (may peace be upon him) pronounced judgment on the basis of oath by the defendant.

**Hadith 4246:** Ibn 'Abbas reported that Allah's Messenger (may peace be upon him) pronounced judgment on the basis of an oath and a witness (by the plaintiff).

### Chapter 2 :

#### JUDGMENT IS TO BE PRONOUNCED ON EVIDENCE, AND ONE WHO IS ELOQUENT IN HIS PLEA (MAY WIN THE CASE)

**Hadith 4247:** Umm Salama reported Allah's Messenger (may peace be upon him) as saying: You bring to me, for (judgment) your disputes, some of you perhaps being more eloquent in their plea than others, so I give judgment on their behalf according to what I hear from them. (Bear in mind, in my judgment) if I slice off anything for him from the right of his brother, he should not accept that, for I sliced off for him a portion from the Hell.

**Hadith 4248:** This hadith has been narrated on the authority of

Hisham with the same chain of transmitters.

**Hadith 4249:** Umm Salama, the wife of Allah's Apostle (may peace be upon him), reported that Allah's Messenger (may peace be upon him) heard the clamor of contenders at the door of his apartment. He went to them, and said: I am a human being and the claimants bring to me (the dispute) and perhaps some of them are more eloquent than the others. I judge him to be on the right, and thus decide in his favor. So he whom I, by my judgment, (give the undue share) out of the right of a Muslim, I give him a portion of Fire; he may burden himself with it or abandon it.

**Hadith 4250:** This hadith has been transmitted on the authority of Ma'mar with a slight variation of words.

**Hadith 4251:** A'isha reported: Hind, the daughter of 'Utba, wife of Abu Sufyan, came to Allah's Messenger (may peace be upon him) and said: Abu Sufyan is a miserly person. He does not give adequate maintenance for me and my children, but (I am constrained) to take from his wealth (some part of it) without his knowledge. Is there any sin for me? Thereupon Allah's Messenger (may peace be upon him) said: Take from his property what is customary which may suffice you and your children.

**Hadith 4252:** This hadith has been narrated on the authority of Hisham with the same chain of transmitters.

**Hadith 4253:** A'isha reported that Hind came to Allah's Apostle (may peace be upon him) and said: Messenger of Allah, by Allah, there was no other household upon the surface of the earth than

your household about which I cherished Allah bringing disgrace upon it, (and now) there is no other household upon the surface of the earth than your household about which I cherish Allah granting it honor. Allah's Apostle (may peace be upon him) said: It is so, by Him in Whose Hand is my life She said: Allah's Messenger, Abu Sufyan is a niggardly person. Is there any harm for me if I spend upon his children out of his wealth without his permission? Thereupon Allah's Apostle (may peace be upon him) said: There is no harm for you if you spend upon them what is reasonable.

**Hadith 4254:** A'isha reported that Hind, daughter of Utba h. Rabi', came to Allah's Messenger (may peace be upon him) and said: Allah's Messenger, by Allah, there was no household upon the surface of the earth than your household about which I cherished that it should be disgraced. But today there is no household on the surface of the earth than your household about which I cherish that it be honored Thereupon Allah's Messenger (may peace be upon him) said. It will increase, by Him in Whose Hand is my life. She then said: Messenger of Allah, Abu Sufyan is a niggardly person; is there any harm for me if I spend out of that which belongs to him on our children? He said to her: No, but only that what is reasonable.

### Chapter 3 :

## IT IS FORBIDDEN TO ASK MANY QUESTIONS AND WASTING OF WEALTH

**Hadith 4255:** Abu Huraira reported Allah's Messenger (may peace be upon him) as saying: Verily Allah likes three things for you and He disapproves three things for you. He is pleased with you that you worship Him and associate nor anything with Him, that you hold fast the rope of Allah, and be not scattered; and He disapproves for you irrelevant talk, persistent questioning and the

wasting of wealth.

**Hadith 4256:** This hadith has been narrated on the authority of Suhail with the same chain of transmitters, but with a slight variation of words.

**Hadith 4257:** Mughira b. Shu'ba reported Allah's Messenger (may peace be upon him) as saying: Verity Allah, the Glorious and Majestic, has forbidden for you: disobedience to mothers, and burying alive daughters, withholding the right of others in spite of having the power to return that to them and demanding that (which is not one's legitimate right). And He disapproved three things for you; irrelevant talk, persistent questioning and wasting of wealth.

**Hadith 4258:** A hadith like this has been transmitted on the authority of Mansur with a slight variation of words.

**Hadith 4259:** Sha'bi reported that the scribe of al-Mughira b. Shu'ba said: Mu'awiya wrote to Mughira: Write for me something which you heard from Allah's Messenger (may peace be upon him); and he wrote: I heard Allah's Messenger (may peace be upon him) as saying. Verily Allah disapproves three things for you: irrelevant talk, wasting of wealth and persistent questioning.

**Hadith 4260:** Warrad reported that al-Mughira wrote to Mu'awiya: Peace be upon you, and then coming to the point (I should say) that I heard Allah's Messenger (may peace be upon him) as saying: Verily Allah has Prohibited three things and has forbidden three things. He has declared absolutely haram the

disobedience of father, burying of daughters alive, and withholding that which you have power to return, and has forbidden three things: irrelevant talk, persistent questioning, and wasting of wealth.

#### Chapter 4 :

### THE REWARD OF THE JUDGE WHEN HE TRIES TO ARRIVE AT A DECISION, WHETHER THAT DECISION IS CORRECT OR INCORRECT

**Hadith 4261:** 'Amr b. al-'As reported that he heard Allah's Messenger(may peace be upon him) as saying: When a judge gives a decision, having tried his best to decide correctly and is right, there are two rewards for him; and if he gave a judgment after having tried his best (to arrive at a correct decision) but erred, there is one reward for him.

**Hadith 4262:** This hadith has been narrated on the authority of Abu Huraira with another chain of transmitters.

**Hadith 4263:** This hadith has been transmitted on the authority of Usama b. al-Had al-Laithi.

#### Chapter 5 :

### IT IS NOT DESIRABLE TO GIVE JUDGMENT IN A FIT OF RAGE

**Hadith 4264:** Abd al-Rabmin b. Abu Bakra reported: My father dictated (and I wrote for him) to Ubaidullah b. Abu Bakra while he was the judge of Sijistan: Do not judge between two persons when you are angry, for I have heard Allah's Messenger (may peace be upon him) as saying: None of you should judge between two persons when he is angry.

**Hadith 4265:** This hadith has been narrated on the authority of 'Abd al-Rahman b. Abu Bakra through another chain of transmitters.

### Chapter 6 :

## REJECTING OF THE WRONG THINGS AND THE INNOVATIONS (IN RELIGION)

**Hadith 4266:** 'A'isha reported Allah's Messenger (may peace be upon him) as saying: He who innovates things in our affairs for which there is no valid (reason) (commits sin) and these are to be rejected.

**Hadith 4267:** Sa'd b. Ibrahim reported: I asked Qasim b. Muhammad about a person who had three dwelling houses and he willed away the third part of every one of these houses; he (Qasim b. Muhammad) said: All of them could be combined in one house; and then said: 'A'isha informed me that Allah's Messenger (may peace be upon him) said: He who did any act for which there is no sanction from our behalf, that is to be rejected.

### Chapter 7 :

## AN EXCELLENT WITNESS

**Hadith 4268:** Zaid b. Khalid al-Juhani reported Allah's Apostle (may peace be upon him) as saying: Should I not tell you of the best witnesses? He is the one who produces his evidence before he is asked for it.

### Chapter 8 :

## THE DIFFERENCE OF THOSE WHO ENDEAVOUR TO ARRIVE AT THE CORRECT DECISION

**Hadith 4269:** Abu Huraira reported Allah's Apostle (may peace be upon him) as saying: While two women had been going along with their two sons, a wolf came and made away with the child of one of them. One of them said to her companion: It is with your

child that it (the wolf) has run away The other one said: It has run away with your child. They brought the matter to (Hadrat) Dawud (David) for decision and he made a decision in favour of the elder one. They then went to Sulaiman b. Dawud (may there be peace upon both of them) and told them (the story). He said: Bring me a knife so that I may cut him (the child) (into two parts) for you. The younger one said: No, it can't be, may Allah have mercy upon you, he (the child) belongs to her (the elder). So he gave a decision in favor of the younger one. Abu Huraira said: If ever I heard of the word as-sikin at all, it was that day. We called it by no other name but al-Mudya.

**Hadith 4270:** This hadith has been narrated on the authority of Abu az-Zinad with the same chain of transmitters.

### Chapter 9 :

## IT IS MERITORIOUS FOR A JUDGE TO BRING ABOUT CONCILIATION BETWEEN TWO CONTENDING PERSONS OR PARTIES

**Hadith 4271:** Hammim b. Munabbih said: Abu Huraira reported (so many) ahadith of Allah's Messenger (may peace be upon him), and one of them is this: A person bought from another person a piece of land, and the person who had, bought that land found in it an earthen ware which contained gold. The person who had bought the land said (to the seller of the land): Take your gold from me, for I bought only the land from you and not the gold. The man who had sold the land said: I sold the land to you and whatever was in it. They referred the matter to a person. One who was made as a judge said to them: Have you any issue? One of them said: I have a boy, and the other said: I have a young daughter He (the judge) said: Marry this young boy with the girl, and spend something on yourselves and also give (some) charity out of it.

## Chapter 10 :

### STRAY THING FOUND BY ANYONE

**Hadith 4272:** Zaid b. Khalid al-Juhani reported: A man came to Allah's Apostle (may peace be upon him) and asked him about picking up of stray articles. He said: Recognize (well) its bag and the strap (by which it is tied) then make announcement of that for a year. If its owner comes (within this time return that to him), otherwise it is yours. He (again) said: (What about) the lost goat? Thereupon he (the Holy Prophet) said: It is yours or for your brother, or for the wolf. He said: (What about) the lost camel? Thereupon he said: You have nothing to do with it; it has a leather bag along with it, and its shoes also. It comes to the watering-place, eats (the leaves of the) trees until its master finds him.

**Hadith 4273:** Zaid b. Khalid al-Juhani reported that a person asked Allah's Apostle (may peace be upon him) about picking up of stray articles, whereupon he said: Make announcement about it for a year, and recognize well the strap and the bag (containing that); then spend that; and if its owner comes, make him the payment of that. He (the inquirer) said: Messenger of Allah, what about the lost goat? he said: Take it, for that is yours or for your brother, or for the wolf. He (again) said: (What about) the lost camel? The Messenger of Allah (may peace be upon him) was enraged until his cheeks became red (or his face became red) and then said: You have nothing to do about that; it has feet and a leather bag (to quench its thirst) until its owner finds it.

**Hadith 4274:** This hadith has been narrated on the authority of Rabi'a b. Abu Abd al-Rahman with the same chain of transmitters but with this addition: "There came a person to



Allah's Messenger (may peace be upon him) while I was with him, and he asked him about picking up of a stray article, and he said: When none comes to demand it, then spend that."

**Hadith 4275:** Zaid b. Khalid al-Juhani reported. There came to Allah's Messenger (may peace be upon him) a person, the rest of the hadith is the same but with the variation (of these words): His face became red, his forehead too, and he felt annoyed; and made an addition after the words: He should make announcement of that for a year, and if its owner does not turn up, then it is a trust with you.

**Hadith 4276:** Zaid b. Khalid al-Juhani, the Companion of Allah's Messenger (may peace be upon him), said that Allah's Messenger (may peace be upon him) was asked about the picking up of stray gold or silver, whereupon he said: Recognize well the strap and the bag (containing) that and then make an announcement regarding that for one year, but if none recognises it, then spend that and it would be a trust with you; and if someone comes one day to make demand of that, then pay that to him. He (the inquirer) asked about the lost camel, whereupon he said: You have nothing to do with that. Leave that alone, for it has feet and also a leather bag, it drinks water, and eats (the leaves) of the trees. He asked him about sheep, whereupon he said: Take it, it is for you, or for your brother, or for the wolf.

**Hadith 4277:** Zaid b. Khalid al-Juhani reported: A person asked Allah's Apostle (may peace be upon him) about a lost camel; Rabi'a made this addition: He (the Holy Prophet) was so much annoyed that his cheeks became red." The rest of the hadith is the same. He (the narrator) made this addition: "If its (that of the

article) owner comes and he recognizes the bag (which contained it) and its number, and the strap. then give that to them, but if not, then it is for you."

**Hadith 4278:** Zaid b. Khalid al-Juhani reported that Allah's Messenger (may peace be upon him) was asked about picking up of stray things, whereupon he said: Make announcement of that for one year, but if it is not recognized (by the owner), then recognise its big and strap, then eat it; and if its owner comes, then give that to him. This hadith has been narrated on the authority of Al-Dahhak b. Uthman with the same chain of transmitters but with a slight variation of words.

**Hadith 4279:** Salama b. Kuhail reported: I heard Sowaid b. Ghafala say: I went out, and also Zaid b. Suhan and Salman b. Rabi'a for Jibad, and I found a whip and took it up. They said to me: Leave it. I said: No. but I will make announcement of it and if its owner comes (then I will return that), otherwise I will use it, and I refused them. When we returned from Jihad. by a good fortune for me, I performed Pilgrimage. I came to Medina and met Ubayy b. Ka'b, and related to him the affair of the whip and their opinion (the opinion of Zaid b. Suhan and Salman b. Rabi'a) about it (i.e. I should throw it). Thereupon he said: I found a money bag during the lifetime of Allah's Messenger (may peace be upon him) which contained one hundred dinars. I came to him along with it, and he said: Make an announcement of it for one year; so I announced it, but did not find anyone who could (claim it after) recognizing it. I again came to him and he said: Make announcement for one year. So I made announcement of it, but I found none who could recognize it. I came to him he said: Make announcement of it for one year. I made announcement of that but did not find one who could recognize it, whereupon he

said: Preserve (in your mind) its number, its bag and its strap, and if its owner comes (then return that to him), otherwise make use of it. So I made use of that. I (Shu'ba) met him (Salama b. Kuhail) after this in Mecca, and he said: I do not know whether he said three years or one year.

**Hadith 4280:** Shu'ba reported: Salama b. Kuhail informed me or he informed people and I was among them. He said: I heard Sawaid b. Ghafala who reported: I went out along with Zaid b. Suhan and Salman b. Rabi'a, and found a whip, the rest of the hadith is the same up to the words: "I made use of that." Shu'ba said: I heard him say after ten years, that he made an announcement of it for one year.

**Hadith 4281:** This hadith has been narrated on the authority of Salama b. Kuhail through different chains of transmitters. In their ahadith, it is three years, except in the hadith of Hammid b. Salama it is two years or three years. In the hadith transmitted on the authority of Sufyan and Zaid b. Abu Unaisa and Hammid b. Salama (the words are): "If someone comes and informs you about the number (of articles) of the bag and the straps, then give that to him." Sufyan has made this addition in the narration of Waki': "Otherwise it is like your property." And in the narration of Ibn Numair the words are: "Otherwise make use of that."

## Chapter 11 :

### STRAY THINGS OF THE PILGRIMS

**Hadith 4282:** 'Abd al-Rahman b. 'Uthman al-Taimi reported that Allah's Messenger (may peace be upon him) forbade taking into custody the stray thing of the pilgrims.

**Hadith 4283:** Zaid b. Khalid al-Juhani reported Allah's

Messenger (may peace be upon him) as saying.: He who found a stray article is himself led astray if he does not advertise it.

### Chapter 12 :

## IT IS FORBIDDEN TO MILK AN ANIMAL WITHOUT THE PERMISSION OF ITS OWNER

**Hadith 4284:** Ibn 'Umar reported Allah's Messenger (may peace be upon him) having said this: None (of you) should milk the animal of another, but with his permission. Does any one of you like that his chamber be raided, and his vaults be broken, and his foodstuff be removed? Verily the treasures for them (those who keep animals) are the udders of the animals which feed them. So none of you should milk the animal of another but with his permission.

**Hadith 4285:** This hadith has been narrated through another chain of transmitters with a slight variation of words.

### Chapter 13 :

## ENTERTAINMENT OF THE GUEST

**Hadith 4286:** Abd Shuraib al-Adawi reported: My eare listened and my eye saw when Allah's Messenger (may peace be upon him) spoke and said: He who believes In Allah and the eireafter should show respect to the guest even with utmost kindness and courtesy. They said: Messenger of Allah, what is this utmost kindness and courtesy? He replied: It is for a day and a night. Hospitality extends for three days, and what is beyond that is a Sadaqa for him; and he who believes in Allah and the Hereafter should say something good or keep quiet.

**Hadith 4287:** Abu Shuriah al-Khuza'i reported Allah's Messenger (may peace be upon him) as saying: (The period of the entertainment of a guest is three days, and utmost kindness and

courtesy is for a day and a night.=" It is not permissible for a Muslim to stay with, his brother until he makes him sinful. They said: Messenger of Allah, how he would make him sinful? He (the Holy Prophet) said: He stays with him (so long) that nothing is left with him to entertain him.

**Hadith 4288:** Sa'id al-Maqburi reported: I heard Abu Shuraih al-Khuzill saying: My ears heard and my eyes saw and my mind retained it, when Allah's Messenger (may peace be upon him) spok this, and he then narrated the hadith and made mention of this: "It is not permissible for any one of you to stay with his brother until he makes him sinful."

**Hadith 4289:** 'Uqba b. Amir reported: We said to Allah's Messenger (may peace be upon him): You send us out and we come to the people who do not give us hospitality, so what is your opinion? Thereupon Allah's Messenger (may peace be upon him) said: If you come to the people who order for you what is befitting a guest, accept it; but if they do not. take from them what befits them to give to a guest.

#### Chapter 14 :

### IT IS MERITORIOUS TO SPEND THE SURPLUS WEALTH FOR ONE'S BROTHER

**Hadith 4290:** Abu Sa'id al-Khudri reported: While we were with the Apostle of Allah (may peace be upon him) on a journey, a person came upon his mount and began to stare on the right and on the left, (it was at this moment) that Allah's Messenger (may peace be upon him) said: He who has an extra mount should give that to one who has no mount for him, and he who has surplus of provisions should give them to him who has no provisions, and he made mention of so many kinds of wealth until we were of the

opinion that none of us has any right over the surplus.

## Chapter 15 :

### IN CASE THE PROVISIONS RUN SHORT, THESE SHOULD BE POOLED

**Hadith 4291:** Iyas b. Salama reported on the authority of his father: We set out on an expedition with, Allah's Messenger (may peace be upon him). We faced hardship (in getting provisions) until we decided to slaughter some of our riding animals. Allah's Apostle (may peace be upon him), commanded us to pool our provisions of food. So we spread a sheet of leather and the provisions of the people were collected on it. I stretched myself to measure how much that was (the length and, breadth of the sheet on which the provisions were laid). I measured it and (found) that it was (in length and breadth) of (so much size) on which a goat could sit. We were fourteen hundred persons. We (all) ate until we were fully satisfied and then filled our bags with provisions. Then Allah's Apostle (may peace be upon him) said: Is there any water for performing ablution. Then there came a man with a small bucket containing some water. He threw it in a basin. We all fourteen hundred persons performed ablution using the water in plenty. Then there came after that eight persons and they said: Is there any water to perform ablution? Thereupon Allah's Messenger (may peace be upon him) said: The ablution has already been performed.