

Questions of the Prophet Muhammad (Peace Be upon Him) in Sunan Al-Tirmidhi, The Chapter of Personal Status (The Book of Marriage “Kitab Al-Nikaah”)

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Abstract

Praise be to God, and may blessings and peace be upon the Messenger of God (Peace be upon him), his family, his companions, and those who follow him. One of the Sunnah of the modern scholars in seeking knowledge is to travel and wander in the horizons, for Imam Al-Hafiz Abu Issa Al-Tirmidhi (may God have mercy on him), like the majority of scholars of his time, toured the country and heard the creation of Khurasanis, Iraqis and Hijazis, and he traveled to other Islamic countries, to hear from the sheikhs, and learn about The hand of Imam al-Bukhari (may God have mercy on him), and it is sufficient for him thanks to the fact that he was one of his students and shared with him among his sheikhs, such as Qutaybah bin Saeed, Ishaq bin Rahwayh, Muhammad bin Amr Al-Suwaq Al-Balkhi, and others. Lots, This research has proven its special position among the hadith scholars, and that it was trustworthy, and that the jurisprudential rulings deduced from the hadiths mentioned in his Sunnah contributed in an effective way by carefully reviewing the Sharia rulings contained therein, and from these rulings, If the husband divorces his wife three times, it is only permissible for him to marry another husband, and if she marries another man, then he divorces her before he consummates with her, it is not permissible for the first, and if the infidel converted to Islam and there were two sisters under him, then he converted to Islam with him, he must choose whichever one he wants, and leave the other And that if a woman falls under captivity in the possession of a man and has a husband residing in the abode of war, that her husband's marriage has dissolved, and it is permissible for her owner to have sexual intercourse after concealing, and that is why it is forbidden to have intercourse with a pregnant woman until she gives birth, and the barrier until she menstruates. With her permission, because intercourse is a right for her, and her acquisition of the child, the husband does not have the right to isolate his slave woman from his wife, except with the permission of her guardian, because the child is his, and the husband may isolate his slave girl without her permission, if he fears slavery for his child. And our last prayer is praise be to God, Lord of the worlds, and blessings and peace be upon the Master of the Messengers Muhammad (Peace be upon him) and upon all his family and companions.

Keywords

Not given

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Introduction

Praise be to God, praise the thankful, and prayers and peace be upon the Seal of the Prophets and Messengers, Muhammad (peace be upon him), and upon his good and pure family, his faithful companions, and those who follow them in goodness until the Day of Judgment.

And after...

God Almighty has bestowed upon the nation of the Prophet Muhammad (peace be upon him) many favors, and among these bounties is that He made for this nation eminent scholars who, by God's protection, preserved the order of its religion. They took religion into account and made it their life object.

Among those loyal scholars whom God Almighty has prepared for the Islamic nation to take care of and nurture by memorizing and reporting is Imam Al-Hafiz Abu Issa Al-Tirmidhi (may God have mercy on him), who in his book combined the science of hadith and jurisprudence clearly, and became mentioned in his book the legal rulings with evidence from the Sunnah.

Imam Al-Tirmidhi (may God have mercy on him) was an insightful jurist in the legal texts, and therefore he was more likely to be preferred in many cases, and this is what most of the hadith scholars followed. They are not only hadith scholars, but they were jurisprudence, and perhaps their arrangement of the chapters in hadith books indicates their jurisprudence. Based on this method that Imam Al-Tirmidhi (may God have mercy on him) followed in his collection, which attracted my attention, I chose one of the chapters of his collection, to be the topic of my research entitled. **Questions of the Prophet Muhammad (peace be upon him) in Sunan Al-Tirmidhi, The chapter of personal status (The Book of Marriage "Kitab Al-Nikaah")**. Collecting, Jurisprudence Study and Comparative

The Importance of The Topic

It is no secret that the Sunan Al-Tirmidhi book is one of the most important books of hadith and that Imam Al-Tirmidhi is one of the scholars of the noble hadith, and one of the six imams, who lived in the third century AH, the era of the followers, and it was the era of collecting the hadith, without dispute.

❖ The reasons for choosing the topic are:

- 1- My tendency to study the sciences of hadith related to the science of jurisprudence, and what is achieved from this is to derive jurisprudential rulings.
- 2- Investigate the nature of the questions raised by the Companions (may God be pleased with them) and how the Prophet (peace be upon him) answered them.
- 3- I desire to read the questions of the Prophet Muhammad (peace be upon him) in Sunan Al-Tirmidhi, to collect them and study the rulings related to them.
- 4- Imam Al-Tirmidhi (may God have mercy on him) was distinguished by his transfer of the opinions of the jurists on jurisprudential issues, and attributing these opinions to their companions, followers and jurists. This matter is easy for me to know the opinions of the jurists on each issue before searching in the books of the jurists.
- 5- Sunan Al-Tirmidhi (may God have mercy on him) included the hadith classified on jurisprudential chapters, it includes a statement of the correct and ill, which enriches the student and helps him from many other books and facilitates his work.

I divided this research into two sections preceded by an introduction in which I explained the importance of the topic and the reason for my choice of it, and my plan for it. The first section dealt with the biography of Imam Al-Tirmidhi (may God have mercy on him), and the first requirement includes his personal life, and the second requirement is his scientific life. The second section dealt with the personal status chapter, and the first requirement includes the provisions of marriage, and the second requirement includes jurisprudential issues related to marriage. As for the conclusion, it showed the most important results that it reaches after that a list of sources and references.

The First Section

The life of Imam Al-Tirmidhi “may God have mercy on him”

The first requirement: His personal life:

The first: his name, nickname, lineage and surname:

His name:

(Muhammad bin Issa bin Surah bin Mousa bin Al-Dahhak)¹.
It was said: (Muhammad bin Issa bin Yazid bin Surah bin Al-Sakan)².
It was said: (Muhammad bin Issa bin Surah bin Shaddad bin Issa Al-Sulami)³.
It was said: (Muhammad bin Issa bin Sawra bin Mousa Al-Sulami)⁴.

His nickname:

Imam Al-Tirmidhi (may God have mercy on him) was nicknamed Abu Issa, and the sources did not indicate the reason for his nickname that⁵.

His lineage:

The lineage of Imam Muhammad bin Isa (may God have mercy on him) is due to:-
Al-Tirmidhi: (This lineage is to an ancient city on the edge of the Balkh River, which is called Jayhon)⁶.
Al-Boughi: This is attributed to (Boug), which is one of the villages of Al-Tirmidh on six leagues⁷, and it is on the Balkh River⁸.
Al-Sulami: This is a reference to the grandfather, who was one of his fathers and grandfathers as Sulam⁹.

His surname:

The surname of Imam Muhammad bin Isa (may God have mercy on him) is Al-Tirmidhi¹⁰.
(And **Ibn Dihya** claimed in the book called “**Al-Mustawfa fi Akhbar Al-Mustafa**” that he is known as Ibn **Al-Dahan**)¹¹.

Second: His birth and death:

His birth:

There are many reports specifying the year in which Imam Abu Issa al-Tirmidhi (may God have mercy on him) was born. It was said that he was born around the year 210 AH¹².
Al-Shawkani said: He was born in Dhul-Hijjah in the year 200 AH¹³.
Imam Al-Dhahabi said: He was born in the year 200 AH and a few¹⁴.

¹ Sayr Aelam Al-Nubala'i: Hadith Edition: 17/146, Iikmal Tahdheeb Al-Kamal: 10/305, and Tabaqat Al-Hafiz by Al-Suyuti: (p. 282).

² Tahdheeb Al-Kamal fi Asma Al-Rijal:26/ 250, And Tadhhib Tahdheeb Al-Kamal fi Asma Al-Rijal: 8/248.

³ Al'iirshad fi Maerifat Ulama Al-hadith by Al-Khalili: 3/904, and Al-Bidaya wa Al-Nahayah: 11/66.

⁴ History of Islam, investigated by Tadmuri: 20/459.

⁵ Seen: History of Islam, investigated by Bashar: 6/617, And Tahdheeb Al-Tahdheeb: 9/ 387.

⁶ Al-Labbab fi Tahdheeb Al-Ansab: 1/213.

⁷ Seen: Al-Ansab by Al-Samani: 2/361, and Al-Labbab in Tahdheeb Al-Ansab: 1/188.

⁸ Seen: History of Islam: 20/460.

⁹ Seen: Al-Ansab Al-Samani: 7/179.

¹⁰ Seen: Al-Thiqat by Ibn Hibban: 9/153.

¹¹ Iikmal Tahdheeb Al-Kamal: 10/305.

¹² Seen: Muejam Al-Mualifina: 11/105.

¹³ Seen: Neil Al-Awtar: 1/23.

¹⁴ Seen: History of Islam: 6/618.

His death:

Historians differed about the date of the death of Imam Abu Issa Al-Tirmidhi (may God have mercy on him). It was said that he died in the village of Boug in the year two hundred and seventy-plus¹⁵, and it was said: He died thirteen nights ago in Rajab, on Monday night, in the year 279 in Tirmidh¹⁶, and it was said: He died in the village of Boug in the year 275¹⁷. And the most correct saying is that of the majority, He died thirteen nights ago in Rajab, on Monday night, in the year (279 AH)¹⁸.

The second requirement: His scientific life:**The first: His sheikhs and disciples:****His sheikhs:**

Imam Muhammad bin Issa (may God have mercy on him) took a high place among the hadith imams. It is sufficient for him, in addition, that he was one of the students of Imam Al-Bukhari (died: 256 AH), and he participated in his sheikhs, such as Muhammad bin Amr Al-Sawaq Al-Balkhi (died: 236 AH), Ishaq bin Rahwayh (died: 238 AH), Mahmoud bin Ghaylan (died: 239), Qutaiba bin Saeed (died: 240 AH), and Abu Musab Al-Zuhri (died: 241 AH), Muhammad Ibn Aban Al-Mustamli (died: 244 AH), Abdullah Ibn Muawiyah Al-Jamahi (died: 244 AH), Ismail Ibn Musa Al-Fazari (died: 245), and Bishr Ibn Muadh Al-Aqdi (died: 245 AH), Abdul-Jabbar bin Al-Ala' (died: 248 AH), Abu Kuraiib Muhammad bin Al-Ala' (died: 248), Ali bin Saeed bin Masrouq Al-Kindi (died: 249 AH), Al-Hassan bin Ahmed bin Abi Shuaib (died: 250 AH), Muhammad bin Humaid Al-Razi (died: 248 AH), Muhammad bin Abdul Malik bin Abi Al-Shawareb (died: 349 AH), and others¹⁹.

His disciples:

A group of students were taught by Imam Muhammad bin Issa Al-Tirmidhi (may God have mercy on him) a collection of students who carried knowledge from him and became scholars and spread his knowledge. Al-Hafiz Al-Mazi counted the students of Imam Al-Tirmidhi (may God have mercy on him) in his book "Tahdheeb Al-Kamal fi Asma Al-Rijal", so he counted many of them in character. Among the most prominent of these students who took knowledge from him, Muhammad Ibn Al-Mundhir Ibn Saeed Al-Harawi Shukr (died: 303 AH), and Abu Jaafar Muhammad Ibn Sufyan Ibn Al-Nadr Al-Nasfi, known as Al-Amin (died: 308 AH), Abu Muti' Makhoul bin Al-Fadl Al-Nasafi (died: 308 AH), Hammad bin Shaker Al-Warraaq (died: 311 AH), Abu Al-Harith Asad bin Hamdawayh Al-Nasafi (died: 315 AH), Abu Bakr Ahmed bin Ismail Al-Samarqandi (died: 321 AH), Daoud bin Nasr bin Suhail Al-Bazdawi (died: 323 AH), Al-Haytham bin Kulaib Al-Shashi (died: 335 AH), Ahmed bin Ali Al-Muqari (died: 445 AH), and others²⁰.

His caste:

They differed in defining the caste of Imam Abu Issa al-Tirmidhi (may God have mercy on him) as follows:-

A- Imam Al-Suyuti mentioned: He is from the tenth caste²¹.

B- Al-Hafiz Ibn Hajar Al-Asqalani mentioned: He is one of the minor ones who take from following the followers, such as Al-Tirmidhi is of the twelfth caste²².

The Second Section

¹⁵ Seen: Al-Labbab in Tahdheeb Al-Ansab: 1/213.

¹⁶ See: Al-Kashef: 2/208, Tadhkirat Al-Hafiz wa Tabsirat Al'ayyaz:1/231, and Qiladat Al-Nahr fi wafayat Aeyan Al'dahr :2/ 604.

¹⁷ Seen: likmal Tahdheeb Al-Kamal: 10/305.

¹⁸ Seen: Al-Ikmaal fi rafea Al'iariab ean Al-Mutalaf wa Al-Mukhtalif fi Al'asma' wa Al'kunaa wa Al-Ansab: 4/ 396, Sayr Aelam Al-Nubala'i: 13/270, And Tahdheeb Al-Tahdheeb: 9 / 388.

¹⁹ Seen: Al-Labbab in Tahdheeb Al-Ansab: 1/213, Sayr Aelam Al-Nubala'i: 13/271. Al-Mealim bi Sheikh Al-Bukhari wa Muslim: (p. 273). and Tahdheeb Al-Kamal fi Asma Al-Rijal: 7/401.

²⁰ Seen: Tahdheeb Al-Kamal fi Asma Al-Rijal: 26/251, History of Islam: 7/437. And silam Al'wusul 'ilaa Tabaqat Al-Fuhul: 2/ 64.

²¹ Seen: Tabaqat Al-Hafiz by Al-Suyuti: 1/282.

²² See:n Taqreeb Al-Tahdheeb: 1/75.

**Questions of the Prophet (peace be upon him) related to marriage, and it contains four issues:
The first issue: the marriage of a divorced wife who was consummated before the consummation of the second husband:**

A'isha told that "The wife of Rifa'ah Al-Qurzi came to the Messenger of Allah and said: 'I was with Rifa'ah and he divorced me irrevocably. Then I married Abdur-Rahman bin Az-Zubair, but he only has the likes of the fringe of a garment.' So he said: "Perhaps you want me to return to Rifa'ah? No, not until you taste his sweetness, and he tastes your sweetness."²³

Strange words:

Irrevocably: It is possible for the three divorces to occur at once, meaning he divorced me three times²⁴.

The fringe of a garment: She wanted his belongings, and that he was as loose as the hem of a garment, and that he was of no use to her²⁵.

Taste his sweetness, and he tastes your sweetness: This is a nice metaphor, for he likened the pleasure of intercourse to the sweetness of honey, or he called intercourse honey because the Arabs call everything that they deem sweet as honey, but he made it two because he wanted a piece of honey. And it was said: to give it the meaning of the sperm, and it was said: honey in the original is **Masculine and Feminine**, and from its young age it is feminine, he said: honey, and indicated by minimization to reduce the amount that is necessary to obtain sufficiency with it²⁶.

Hadith rule:

Imam Al-Tirmidhi (may God have mercy on him) said about it: (A good, authentic hadith)²⁷.

The jurisprudential ruling deduced from the hadith:

Ruling on marrying a divorced wife with whom she was consummated before the consummation of the second husband:

The jurists unanimously agreed that a woman divorced three times is not permissible for her first husband until after she has married another husband²⁸, and her solution depends on the divorce of the second husband, and the expiry of the waiting period from him²⁹.

They cited the following:

The first: The Holy Qur'an:

Almighty said: **{ And if he has divorced her [for the third time], then she is not lawful to him afterward until [after] she marries a husband other than him.}**³⁰.

The significance:

The Almighty's saying: **{ until [after] she marries a husband other than him}**. Indicate intercourse to induce speaking on the statement without repeating³¹.

The second: The Sunnah:

The hadith of the previous issue: On the authority of A'isha (may God be pleased with her) who said: "The wife of Rifa'ah Al-Qurzi came to the Messenger of Allah..."³²

²³ Sunan Al-Tirmidhi, Book of Marriage, chapter: : What Has Been Related About One Who Divorced His Wife Three Times, Then She Married Someone Else, And He Divorced Her Before Having Intercourse With Her. 4/425, hadith number 1144.

²⁴ Seen: Al-Laamie Al-Sabih bi Sharah Al-Jami' Al-Sahih: 13/380.

²⁵ Taj Al-Arous: 4/379, and Neil Al-Awtar: 6/301.

²⁶ Seen: Al-Misbah Al-Munir fi Gharib Al-Sharh Al-Kabeer: 2/409, and Al-Nihaya fi Gharib Al-Hadith wa Al-Athar: 3/237.

²⁷ Sunan Al-Tirmidhi, Book of Marriage, chapter: : What Has Been Related About One Who Divorced His Wife Three Times, Then She Married Someone Else, And He Divorced Her Before Having Intercourse With Her: 4/425.

²⁸ Seen: Al-Ijma' by Ibn Al-Mundhir: investigation by Abi Abd Al-Ala: (p. 95).

²⁹ Seen: Al-Hujjah ala Al-Madina: 4/107, Al-Najm Al-Wahaj fi Sharah Al-Minhaj: 7/179, Al-Mumti' fi Sharah Al-Muqni': 3/598.

³⁰ Surat Al-Baqarah: Verse (230).

³¹ Seen: An-Nayah Sharah Al-Hidayati: 4/179.

³² Sunan Al-Tirmidhi, Book of Marriage, chapter: : What Has Been Related About One Who Divorced His Wife Three Times, Then She Married Someone Else, And He Divorced Her Before Having Intercourse With Her: 4/425.

The significance:

In the hadith, there is an increase in the generality of its solution to him through intercourse and not otherwise, so this included his death, and the dissolution of his marriage after his health, and it entered into the generality of the taste of sweetness³³, and it is understood from his saying (peace be upon him): (until you taste his sweetness, and he tastes your sweetness) Their equator is in the realization of the pleasure of sexual intercourse, for if he had intercourse with her while she was asleep or unconscious, it would not be permissible for her divorced woman, because she had not tasted sweetness if she did not perceive it³⁴.

The Third: The Reasonable

The purpose of the second marriage to a divorced woman of three is a punishment for the first husband for what he did and to deter him from returning to the same. It is known that the contract itself is not alienated by nature and does not dislike it, as the woman is not severely affected by mere marriage unless intercourse is connected to it, so entering into it was a condition in it to be a rebuke to him, and to prevent him from committing it, and that only happens by intercourse without just the contract³⁵.

However, Saeed bin Al-Musayyib (may God have mercy on him) was alone in saying about the public, and he said: (If he married her in a valid marriage that she does not want to replace, then there is nothing wrong with him marrying her first)³⁶. We do not know of any of the scholars who said this statement of Saeed bin Al-Musayyib except for the Kharijites³⁷, and it is interpreted that the hadith of sweetness did not reach them, so they took the apparent meaning of the Almighty's saying: **{until [after] she marries a husband other than him.}**³⁸, Where he made the meaning of the name of marriage in this verse deals with the contract without intercourse³⁹.

Ibn Qudamah said in response to Saeed bin al-Musayyab's statement: With the statement of the Prophet (peace be upon him) clarifying what is meant by the Book of God Almighty and that it is not permissible for the first until the second tastes its sweetness and tastes his sweetness, he does not limp on anything but him, and no one justifies the fate of others with what is on the list of scholars, Among them are Ali bin Abi Talib, Ibn Omar, Ibn Abbas, Jaber and Aisha, and those who came after them were Masruq, Al-Zuhri, Malik, the people of Medina, Al-Thawri, the people of opinion, Al-Awza'i, the people of Levant, Al-Shafi'i, Abu Ubaidah (may God have mercy on them) and others⁴⁰.

Ibn Najim Al-Hanafi stated: (Said Ibn Al-Musayyib (reverted from his doctrine that entering into it is not a condition for it to become permissible for the first, and if a judge decides on it, his judgment will not be implemented).⁴¹

The second issue: Man Who Accepts Islam While He Is Married To Two Sisters:

On the authority of Ad-Dahhak bin Fayrouz al-Dailami, on the authority of his father, he said: "I went to the Prophet and said: 'O Messenger of Allah! I accepted Islam and I had two sisters (as wives).' So the Messenger of Allah said: 'Chose whichever of them you will'⁴²".

Hadith rule:

Imam Al-Tirmidhi (may God have mercy on him) said about him: (A good hadith)⁴³.

³³ Seen: Al-Muhalla bi Al-Athar: 9/416.

³⁴ Seen: Al-Mufhim lamaa 'ashkil min talkhis kitab Muslim: 4/235.

³⁵ Seen: Al'ishraf ala Nakit Masayil Al-khilafi: 2/ 756.

³⁶ Al-Ijma' by Ibn Al-Mundhir (p. 95).

³⁷ The Kharijites: They are a group of Muslims who dissented from Imam Ali bin Abi Talib (may God be pleased with him), by revolting against him and not submitting to him, whether they were previously submissive or not, as it seems. Seen: Nihat al-Muhtaqj ala Sharah al-Minhaj: 7/402.

³⁸ Surat Al-Baqarah: Verse (230).

³⁹ Seen: Al-Hawi Al-Kabeer: 10/326.

⁴⁰ Seen: Al-Mughni by Ibn Qudamah: 7/516.

⁴¹ Al-Bahr Al-Ra'iq, Shaarh kanz Al-Daqayiq wa Minhat Al-Khaliq wa Takmilat Al-Tuwri: 4/61.

⁴² Sunan al-Tirmidhi, Book of Marriage, Chapter: What Has Been Related About A Man Who Accepts Islam While He Is Married To Two Sisters: 4/446, hadith number 1158.

⁴³ Sunan al-Tirmidhi, Book of Marriage, Chapter: What Has Been Related About A Man Who Accepts Islam While He Is Married To Two Sisters: 4/446, hadith number 1158.

The jurisprudential ruling deduced from the hadith:

Ruling on Man Who Accepts Islam While He Is Married To Two Sisters:

The jurists are unanimously agreed that it is forbidden to combine two sisters in Islam in one contract or separate contracts, that they meet under the infallibility of one husband⁴⁴, because of the Almighty's saying: **{and that you take [in marriage] two sisters simultaneously, except for what has already occurred.Indeed,}**⁴⁵. However, they differed about the ruling on an infidel if he embraced Islam and he was married to two sisters, and they embraced Islam with him, which of the two remains under the infallibility of the man. It has two sayings, as follows:

The first saying: He has to choose which of them he wants and separate from the other, whether he marries them with one contract or with separate contracts, which is the Shafi'i school⁴⁶, Al-Maliki⁴⁷, Al-Hanbali⁴⁸, Al-Imami⁴⁹, Al-Zaydi⁵⁰, and the saying of Muhammad Ibn Al-Hasan Al-Shaibani from the Hanafi school⁵¹.

They cited the following:

The First: The Sunnah:

1- In the hadith of the previous issue: On the authority of Ad-Dahhak, the Messenger of God (peace be upon him) said to him: "Chose whichever of them you will"⁵².

2- On the authority of Ibn Umar that Ghaylan bin Salamah Al-Thaqafi embraced Islam and had ten wives in the pre-Islamic era, so they embraced Islam with him, so the Prophet (peace and blessings of Allah be upon him) commanded him: "Choose four of them"⁵³.

The significance of the foregoing:

This prohibition, which was objected to in some marriages after the marriage was valid, necessitates the choice without separation, as the Prophet (peace and blessings of Allah be upon him) indicated that, and deviation from other things is like ruling without evidence⁵⁴.

The Second: The reasonable:

1- By analogy with the one who divorced one of them before his conversion to Islam, then he embraced Islam and the other on his infallibility⁵⁵.

2- The fact that the infidels married him was valid in the first place, because the discourse of the Shari'a which enjoined the prohibition fell short of them, because they believed otherwise, as long as they did not convert to Islam. If it is proven that the marriage is valid, then the one contract and the separate contracts in it are like a war man. If he has four wives, he is enslaved and enslaved with him, then the single contract and the separate contracts in it are the same⁵⁶.

3-(Because the one remaining with a woman is permissible for him at the beginning of her marriage, it is permissible for him to maintain it, like any other woman)⁵⁷.

4- Because bringing two sisters together is forbidden in Islam. It resembles the addition to the four, so he must choose one of them⁵⁸.

⁴⁴ Ibn al-Mundhir (318 AH) said: (They are unanimously agreed that the marriage contract of two sisters in one contract is not permissible). Al-Ijma' by Ibn Al-Mundhir: (p.90).

⁴⁵ Surah An-Nisa: Verse 23.

⁴⁶ Seen: Al-Hawi Al-Kabeer: 9/255.

⁴⁷ Seen: Al-Mudawanah: 2/ 222-223, and Al-Tafrie fi fiqh Imam Malik bin Anas: 2/ 48-49.

⁴⁸ Seen: Sharh Al-Zarkashi ala Mukhtasar Al-Kharqi: 5/213.

⁴⁹ Seen: Fiqh Imam Ali bin Abi Talib (may God be pleased with him): 2/48.

⁵⁰ Seen: Al'sayl Al-Jaraar Al-Mutadafiq ala Hadayiq Al'azhari: (s: 399- 400).

⁵¹ Seen: Badaa' Al-Sana'i fi Tartib Al-Sharayie: 2/314.

⁵² Sunan al-Tirmidhi, Book of Marriage, Chapter: What Has Been Related About A Man Who Accepts Islam While He Is Married To Two Sisters: 4/446, hadith number 1158.

⁵³ Sunan al-Tirmidhi, Book of Marriage, Chapter: What Has Been Related About A Man Who Accepted Islam While Having Ten Wives: 4/443, hadith number 1156.

⁵⁴ Seen: Al-Mabsout by Sarakhsi: 5/54.

⁵⁵ Seen: Al-Mughni by Ibn Qudamah: 7/162.

⁵⁶ Seen: Al-Mabsout by Sarakhsi: 5/54.

⁵⁷ Kashaf Al-Qinae ean matn Al'iinae: 5/ 125.

⁵⁸ Seen: Al-Kafi fi Fiqh of Imam Ahmad: 3/53.

And I answer:

If these hadiths were true, there would be no argument for it, because Ghaylan married those women during the Jahiliyyah (age of ignorance) at a time when that number was permissible, and the marriage on him was established. Then God, Glory be to Him, created another ruling, which is the prohibition of more than four, and that was an emergency ruling⁵⁹.

The second saying: Whoever converts to Islam while he is married has two sisters, if he married them by one contract, there is a difference between him and them, and if he married them in separate contracts, the marriage of the first is valid, and the marriage of the second is invalid. This is the saying of Abu Hanafia and Abu Yusuf⁶⁰.

They cited the following:**The First: The Holy Qur'an:**

{and that you take [in marriage] two sisters simultaneously, except for what has already occurred. Indeed,}⁶¹.

The significance: God Almighty has forbidden the combination of two sisters, forbidden marriage in this text⁶².

The second: The reasonable:

The marriage of the first did not take place, so her marriage took place according to the rule of Islam. As for the marriage of the second, the combination took place, and her marriage was not valid according to the rule of Islam. Rather, the objection had to be made after Islam, because of the combination, as there is no reason here other than the combination of the two sisters, so corruption in the marriage must have occurred. The marriage of the second woman was invalid under the rule of Islam, not the one whose marriage did not take place. She is the first, so her marriage was valid under the rule of Islam. And if he marries them in one knot, then the combination occurred with them, and the annulment of the marriage of one of them was not prior to the other, so the marriage of both of them was annulled⁶³.

Preponderant:

After presenting the sayings of the jurists and their evidence, which appears to me to be more preponderant is the first saying which states that if an unbeliever converts to Islam while he is married, he has two sisters and they embrace Islam with him, he has to choose which of them he wants, and separates from the other. Whether a contract was concluded on them with one contract or two separate contracts, and Islam obligates what preceded it, and because ignorance of the legal rulings, prior to the Islamic invitation, is forgiven and not blamed for it, so the marriage of the infidels was valid. - And God Almighty knows -.

The third issue: Intercourse with married women slaves:

Abu Sa'eed Al-Khudri narrated: "We got some captives on the day of Awtas, and they had husbands among their people. They mentioned that to the Messenger of Allah, so the following was revealed: And women who are already married, except those whom your right hands possess."⁶⁴

⁵⁹ Seen: Al-Labbab fi Al-Jame bayn Al-Sunnah wa Al-Kitab: 2/675.

⁶⁰ Seen: Bada' Al-Sana'i fi Tartib Al-Sharayie: 2/314.

⁶¹ Surah An-Nisa: Verse 23.

⁶² Seen: Al-Mabsout by Sarakhsi: 5/54.

⁶³ Seen: Al-Mabsout by Sarakhsi: 5/54.

⁶⁴ Surah An-Nisa: Verse 24.

{And [also prohibited to you are all] married women except those your right hands possess.}⁶⁵

Strange words:

We got captives: captivity is the plural of captives who are not overpowered by the sons of Adam and enslaved, and captivity is a fixed attribute of the effect of captive, captivity, the women of the enemies took captivity⁶⁶.

Awtas: is a valley in the homes of Hawazen, which is the site of war on the day of Hunayn.⁶⁷

Hadith rule:

Imam Abu Issa al-Tirmidhi (may God have mercy on him) said about him: (A good hadith)⁶⁸.

The jurisprudential ruling deduced from the hadith:

About A Man, Who Captures A Slave Woman That Has A Husband

Captivity in Islam is the property of the oath, so captivity is among the spoils of Muslims until the captives are distributed among the people. Whoever has a captivity, it becomes owned by him by the right-hand man, and he may have intercourse with her, but after she is innocent. The jurists have unanimously agreed to prevent the intercourse of a pregnant female captive until she gives birth, and a barrier until she menstruates⁶⁹.

They cited the following:

The First: The Holy Qur'an:

{ And [also prohibited to you are all] married women except those your right hands possess. [This is] the decree of Allāh upon you. And lawful to you are [all others] beyond these, [provided] that you seek them [in marriage] with [gifts from] your property, desiring chastity, not unlawful sexual intercourse. So for whatever you enjoy [of marriage] from them, give them their due compensation as an obligation. And there is no blame upon you for what you mutually agree to beyond the obligation. Indeed, Allāh is ever Knowing and Wise.}⁷⁰.

The significance: The generality of the verse is specific to the woman who is married in the house of Islam⁷¹, and the text is general in all married couples, and whether her husband is a Muslim or an infidel, except for the female slave who is the one who has a captive husband alone. Then the Almighty excluded from them the possessions, and what is meant by them is the female slaves who have been taken captive, and they are married couples, so that the exception is of the sex of the excluded from him, and thus requires the prohibition of the marriage of every woman with a husband except for the one who has been taken into captivity⁷².

The second: The Sunnah:

1- On the authority of Busr bin Ubayd Allah, Ruwaifi bin Thabit narrated that: the Prophet said: "Whoever believes in Allah and the Last Day, then he does not levy his water on someone else's child."⁷³.

The significance: If he had intercourse with her before it was cleaned, it would lead to the mixing of men's water and the corruption of lineages. If she was menstruating at the time of her reign, she did not observe that menstruation, and he had to clean her up with a future menstruation, because the news requires a complete menstruation⁷⁴.

⁶⁵ Sunan al-Tirmidhi, Book of Marriage, Chapter About A Man, Who Captures A Slave Woman That Has A husband: is it permissible for him: 4/450, hadith number (1160).

⁶⁶ Seen: Mashariq Al-Anwar ala Sahih Al-Athar: 2/206, and Muejam Al-lughat Al-Arabia Al-Mueasirati: 2/1032.

⁶⁷ Mashariq Al-Anwar ala Sahih Al-Athar: 1/58.

⁶⁸ Sunan al-Tirmidhi, Book of Marriage, Chapter About A Man, Who Captures A Slave Woman That Has A husband: is it permissible for him: 4/450, hadith number (1160).

⁶⁹ Seen: Al-Ijma' by Ibn Al-Mundhir: (p 114).

⁷⁰ Surah An-Nisa: Verse 24.

⁷¹ Seen: Al-Mughni by Ibn Qudamah: 9/268.

⁷² Seen: Badaa' Al-Sana'i fi Tartib Al-Sharayie: 2/268.

⁷³ Sunan al-Tirmidhi, Book of Marriage, Chapter What came about a man buying a maid while she is pregnant: 4/448, hadith number 1159, its ruling on which Imam Abu Issa al-Tirmidhi (may God have mercy on him) said: (good hadith).

⁷⁴ Seen: Al-Kafi fi Fiqh of Imam Ahmad: 3/213.

2- On the authority of Abi Al-Waddak, on the authority of Abu Sa'id Al Khudri traced to Prophet the following statement regarding the captives taken at Atwas. There must be no intercourse with pregnant woman till she gives birth to her child or with the one who is not pregnant till she has had one menstrual period⁷⁵.

The significance: Text not to have intercourse with female slaves until they are healed. And the fact that the reason for this is Ota's captives does not indicate that the general pronouncement is limited to them when it was decided that the lesson is in the generality of the term and not in the specifics of the reason, as this is general for all those whose womb is not permitted to be empty, not for those whose womb is free with certainty such as the young and the firstborn⁷⁶.

3- Narrated Umm Habibah bint 'Irbad bin Sariyah: From her father who told her that the Messenger of Allah prohibited intercourse with female prisoners, until they deliver what is in their wombs⁷⁷.

The significance: The hadith is inferred from two Aspects:

The first: It stated the obligation of absolution on the master, because the prohibition of intercourse with the absolute monarch indicates the necessity of absolution, and because if it was not obligatory, the owner would not have been prevented from fulfilling his right, or because the solution to intercourse remained until the existence of **absolution**, so the solution was contingent on its existence⁷⁸.

The second: The hadith also indicated the reason for the necessity of purity in the slave-girl, and it is not permissible for the wisdom to be positive because it is tracked, and the cause is previous, then the ruling is legally linked to the apparent reason, which is the occurrence of the king of the solution because of the king of the neck, so the judgment is administered on him, so it is cleared⁷⁹.

The Third: The actions of the Companions: The Companions in the era of the Prophet (peace be upon him) were most of their captives from the infidels of the Arabs and they were idolaters, so they did not see their prohibition of that, and it was not reported from the Prophet (peace be upon him) that they were forbidden, nor did he command the companions (peace be upon him) to avoid them, for they are permissible for them after the expiry of their waiting period, and the delivery of their pregnancy, and this is apparent their permissibility⁸⁰.

The fourth issue: interrupts men's semen from women:

On the authority of Muhammad bin Abdul Rahman bin Thawban, on the authority of Jabir narrated: "We said: 'O Messenger of Allah! We practice Azl, but the Jews claim that it is minor infanticide.' So he said: 'The Jews lie. When Allah wants to create it, nothing can prevent Him.'⁸¹"

Strange words:

Azl in language: (Any semen interrupts from women warned pregnancy. interrupts him in the science of grammar and morphology)⁸².

Azl in idiomatic: (To have intercourse, and if he is close to ejaculation, he should exit without ejaculating in the vagina)⁸³.

It is of two types:

1- **interrupts from ejaculation:** it is for a man to have intercourse with his wife, and if ejaculation is close, he withdraws and ejaculates outside the vagina⁸⁴.

2- **interrupts from penetration:** It is for a man to have intercourse with his wife without the vagina and to ejaculate⁸⁵.

⁷⁵ Sunan Abi Dawood, Book of Marriage, Chapter on Intercourse with Captives: 2/248, Hadith No. (2157), Al-Albani's Ruling: (Sahih Hadith).

⁷⁶ Seen: Neil Al-Awtar: 6/365.

⁷⁷ Sunan al-Tirmidhi, Book of Sir, chapter of what came about the dislike of intercourse with pregnant women from captives: 6/257, hadith number (1657), the ruling on which Imam Abu Issa al-Tirmidhi (may God have mercy on him) said: (A strange hadith).

⁷⁸ Seen: Al-Binayia sharah Al-Hidayati: 12/ 171-172.

⁷⁹ Seen: Al-Binayia sharah Al-Hidayati: 12/ 171-172.

⁸⁰ Seen: Al-Sharh Al-Kabeer ala Matn Al-Muqni': 7/523.

⁸¹ Sunan al-Tirmidhi, Book of Marriage, Chapter: What Has Been Related About Azl: 4/459, hadith number (1166).

⁸² Mujamae Bihar Al-Anwar : 3/587.

⁸³ Durar Al-Hakam, Sharah Gharar Al-Ahkam: 1/314.

⁸⁴ Seen: Rawdat Al-Talibin wa Omdat Al-Muffini: 7/205.

⁸⁵ Seen: Al-Hawi Al-Kabeer: 11/159.

Minor infanticide: He made isolating semen from the woman the same as infanticide, except that it is hidden because whoever is isolated from his wife is isolated to escape from the boy. That is why he called her "Minor infanticide" because the infanticide of the living girls was "the great Minor infanticide."⁸⁶

Hadith rule:

Imam Al-Tirmidhi (may God have mercy on him) said about him: (A good, authentic hadith)⁸⁷.

The jurisprudential ruling deduced from the hadith:

The ruling on interrupts men's semen from women, and it has three aspects:

The first aspect: men's semen from a free wife:

The jurists differed in the ruling on semen interrupts from the free wife, according to four opinions, as follows:

The first saying: It is permissible to separate semen from a free wife, provided she gives her permission, and it is disliked without need. This is the view of the majority of jurists from Al-Hanafi⁸⁸, Al-Maliki⁸⁹, Al-Hanbali⁹⁰, Al-Imami⁹¹, and Al-Zaydi⁹², and the view of the Shafi'i⁹³.

They cited the following:

The first: The Sunnah:

1- What was authenticated on the authority of Abu Saeed Al-Khudri, who said:
"O Abu Sa'id, did you hear Allah's Messenger mentioning al-'azl? He said: Yes, and added: We went out with Allah's Messenger on the expedition to the Bi'l-Mustaliq and took captive some excellent Arab women; and we desired them, for we were suffering from the absence of our wives, (but at the same time) we also desired ransom for them. So we decided to have sexual intercourse with them but by observing 'azl (Withdrawing the male sexual organ before emission of semen to avoid-conception). But we said: We are doing an act whereas Allah's Messenger is amongst us; why not ask him? So we asked Allah's Messenger, and he said: It does not matter if you do not do it, for every soul that is to be born up to the Day of Resurrection will be born"⁹⁴.

The significance: It turns out that God Almighty, if he destined to be a boy, did not prevent him from isolating the sperm, if he wanted something from the sperm to reach the womb, and if it was said that the boy would be from him, and that isolating the sperm does not prevent the boy if God knows that it is a living being⁹⁵.

2- On the authority of `Umar b. al-Khattab (may God be pleased with him) that the Prophet (peace be upon him): "forbade 'azl (coitus interruptus) with a free woman, except with her permission"⁹⁶.

3- On the authority of Saeed bin Jubayr, they said:" A free woman is consulted from the province of semen for a man. And slave woman is not consulted"⁹⁷.

The significance of the foregoing:

These reports indicate that if a woman is free, the person who is forgotten is not separated from

⁸⁶ Tuhfat Al-Ahwadhi: 4/242, Lisan Al-Arab: 3/443.

⁸⁷ Sunan al-Tirmidhi, Book of Marriage, Chapter: What Has Been Related About Azl: 4/460.

⁸⁸ Seen: Badaa' Al-Sana'i fi Tartib Al-Sharayie: 2/334-335.

⁸⁹ Seen: Al-Bayan wa Al-Tahsil: 18/ 151.

⁹⁰ Seen: Al-Kafi fi Fiqh of Imam Ahmad: 3/84.

⁹¹ Seen: Al Kafi: 5/54.

⁹² Seen: Al'sayl Al-Jaraar Al-Mutadafiq ala Hadayiq Al'azhari: (p. 378).

⁹³ Seen: Al-Umm by Al-Shafi'i: 7/183.

⁹⁴ Sahih Muslim, Book of Marriage, Chapter: The ruling on coitus interrupts ('Azl): 2/1061, Hadith No. (1438).

⁹⁵ Seen: Al-Tawjih li sharah Al Jamie Al-Sahih: 16/215.

⁹⁶ Musnad Ahmad mukhrij: 1/339, Hadith No. (212).

⁹⁷ Musnaf Ibn Abi Shaybah, Salafi edition, Book of Marriage, Chapter: Who said: E'azl, from the nation, and asks al-Hurra: 4/222, Hadith No. (16878).

her except with her permission, and as for his female slave, he isolates semen from her without her permission⁹⁸.

The Second: the reasonable:

1- Because intercourse is the right of a free woman to eliminate lust and to achieve the boy, and for this reason she has the right to demand it And choose in "Al-Jab wa Al-Anah" ⁹⁹, and the required intercourse does not occur unless he is separated from the man's semen¹⁰⁰.

2- And what indicates that he is hated without need, and if the wife gives permission for it, is that this act is a way to cut off offspring¹⁰¹.

The second saying: It is permissible for the husband to isolate semen from his free wife without her permission. It is the most correct opinion according to the Shafi'is ¹⁰², and the approved saying according to Al-Imamia¹⁰³.

They cited the following:

The First: The Holy Qur'an:

{And [mention] when your Lord took from the children of Adam - from their loins - their descendants and made them testify of themselves, [saying to them], "Am I not your Lord?" They said, "Yes, we have testified." [This] - lest you should say on the Day of Resurrection, "Indeed, we were of this unaware.}"¹⁰⁴

The significance: Everything is created by God Almighty and the ability of the best appreciation. And on the day he was anointed on the back of Adam (peace be upon him), he brought out all his offspring and took from them the covenant, for he is created and saved, even if he is on a solid rock¹⁰⁵.

The Second: the reasonable:

The right of a free wife is enjoyment without ejaculating the man's semen, so it is permissible without her permission¹⁰⁶.

The third saying: It is not permissible for the husband to isolate the semen from his wife, whether she permits him or not, and this is al-zāhiriyyah doctrine¹⁰⁷.

They cited the following:

On the authority of Aisha (may God be pleased with her), Judama daughter of Wahb, sister of Ukkasha (Allah be pleased with her). reported:

"I went to Allah's Messenger along with some persons and he was saying: I intended to prohibit cohabitation with the suckling women, but I considered the Greeks and Persians, and saw that they suckle their children and this thing (cohabitation) does not do any harm to them (to the suckling women). Then they asked him about 'azl, whereupon he said. That is the secret (way of) burying alive¹⁰⁸, and Ubaidullah has made this addition in the hadith transmitted by al-Muqri and that is:" When the one buried alive is asked"¹⁰⁹.

The significance: That this text contains conclusive evidence for the prohibition of isolation, and it is the abrogation of all the previous permits that there is no doubt that they were before the

⁹⁸ Seen: Umdat Al-Qari, Sharah Sahih Al-Bukhari: 20/195.

⁹⁹ Al-Jab: (interrupt). Al-Qamus Al-Fiqhi: (p. 57). Al-Anah: (Incapacity that afflicts a man, and he is unable to have sexual intercourse). Al-Muejam Al-Wasiti: 2/633.

¹⁰⁰ Al-Hidayat fi Sharah bidayat Al-Mubtadi: 4/372. And Bustan Al-Ahbar, mukhtasar Nile al-Awtar: 2/258.

¹⁰¹ Seen: Hashiat Al-jamal eala sharah Al-manhaj = Futuhat Al-wahaab Bitawdihi sharah Manhaj Al-tulaabi: 4/ 430.

¹⁰² Seen: Al-Majmoo', Sharah Al-Muhadhab: 16/422.

¹⁰³ Seen: Al Kafi: 5/504.

¹⁰⁴ Surat Al-A'raf: Verse 172.

¹⁰⁵ Seen: Al Kafi: 5/504.

¹⁰⁶ Seen: Al-Mohadhab fi Fiqh Al-Imam Al-Shafi'i by Al-Shirazi: 2/482.

¹⁰⁷ Seen: Al-Muhalla at-Athar: 9/222.

¹⁰⁸ Sahih Muslim, Book of Marriage, Chapter: It is permissible to have intercourse with a breastfeeding woman (Ghilah), and 'Azl is disliked: 2/1067, Hadith No. (1442).

¹⁰⁹ Surat Al-Takwir: Verse (8).

resurrection and after the resurrection, and this is a certain matter, because he told (peace be upon him) that it is hidden infanticide, and infanticide is forbidden, so he abrogated the previous permit with certainty, whoever claims that That the abrogated permissibility has returned, and that the certain copying has been invalidated, he has claimed falsehood, endowed what he had no knowledge of, and came up with what he had no evidence for. { Say, "Produce your proof, if you should be truthful." }¹¹⁰. Abu Muhammad said: This is very authentic news¹¹¹.

And I answer:

The prohibition contained in this text indicates hatred without prohibition¹¹².

The fourth saying: It is not permissible to separate semen from the wife unless it is conditional between them. If the semen is isolated, the husband must give the blood money to the wife ten dinars, which is a saying of Al-Imamia¹¹³.

They cited the following:

Separation is prohibited, and he must pay the blood money for the loss of the sperm, and the principal is the discharge of the wife's obligation¹¹⁴.

Preference:

After presenting the sayings of the jurists and their evidence, which appears to me to be more preponderant, is the first saying that states that it is permissible to separate from a free wife on the condition of her permission. And because sexual intercourse without being separated from her is her right and she can give up on her willingly, and also because she has a right in the child and she has to isolate harm, so he is not separated from her without her consent. And God Almighty knows best.

The second aspect: isolating the free husband from his slave girl:

The jurists differed in the ruling on isolating the husband from his wife, according to four opinions, as follows:

The first saying: It is not permissible for the husband to separate from his slave wife except with the permission of her master, and this is the doctrine of Imam Abu Hanifa¹¹⁵, and the most correct opinion according to Al-Malikia¹¹⁶, and the saying of Al-Hanbalia¹¹⁷.

They cited the following:

The right here in the child belongs to the master, not the slave wife, and whoever says in it a decrease in the fulfillment of desire, then yes, but her right is in the origin of the fulfillment of desire, not in the description of perfection, do you not see that there are men who have no water and he has intercourse with his wife without ejaculation and she does not have the right to quarrel, This indicates that her right is in the origin of the fulfillment of desire, not in the description of perfection¹¹⁸.

The second saying: It is not permissible for the husband to isolate himself from his slave wife without her permission, and Abu Yusuf and Muhammad ibn al-Hasan from Al-Hanafia¹¹⁹, and the opinion of Al-Malikia¹²⁰, and the most correct opinion according to Al-Hanbalia¹²¹.

¹¹⁰ Surat Al-Baqarah: Verse 111.

¹¹¹ Seen: Al-Muhalla at-Athar: 9/223.

¹¹² Seen: Al-Mohadhab fi Fiqh Al-Imam Al-Shafi'i by Al-Shirazi: 2/482.

¹¹³ Seen: Al-Luma' Al-Damascus: (p. 109).

¹¹⁴ Seen: Mukhtalif Al-Shiyeati: 7/302.

¹¹⁵ Seen: Badaa' Al-Sana'i fi Tarb Al-Shari'a: 5/126.

¹¹⁶ Seen: Al-Bayan and Al-Tahshil: 18/152, and Al-Shamil fi Fiqh of Imam Malik: 1/334.

¹¹⁷ Seen: Al-Sharh Al-Kabeer Ali Al-Muqni', Investigation Al-Turki: 21/394.

¹¹⁸ Seen: Badaa' Al-Sana'i fi Tarb Al-Shari'a: 5/126.

¹¹⁹ Seen: Badaa' Al-Sana'i fi Tarb Al-Shari'a: 2/335.

¹²⁰ Seen: Al-Bayan and Al-Tahshil: 18/152, and Al-Shamil fi Fiqh of Imam Malik: 1/334.

¹²¹ Seen: Al-Sharh Al-Kabeer Ali Al-Muqni', Investigation Al-Turki: 21/394.

They cited the following:

1- Satisfying desire is her right, and separating semen from her necessitates a deficiency in that¹²².
 2- The permission to isolate the semen is given to the slave wife because intercourse is her right until the guardianship of the claim is established for her, and in the separation, her right is diminished, so her consent is required, as in the free woman¹²³.

The third saying: It is permissible for the husband to isolate semen from his slave wife without her permission and without the permission of her master, and this is the Shafi'i doctrine of thought¹²⁴.

They cited the following:

Because the husband has a purpose in isolating semen from his slave wife, which is that his son should not be owned¹²⁵.

The fourth saying: the prohibition of seclusion, regardless of whether the wife is free or a slave, and to this is the view of Al-Zuhri¹²⁶.

On the authority of Aisha (may God be pleased with her), Judama daughter of Wahb, sister of Ukkasha (Allah be pleased with her). reported:

"I went to Allah's Messenger along with some persons and he was saying: I intended to prohibit cohabitation with the suckling women, but I considered the Greeks and Persians, and saw that they suckle their children and this thing (cohabitation) does not do any harm to them (to the suckling women). Then they asked him about 'azl, whereupon he said. That is the secret (way of) burying alive¹²⁷, and Ubaidullah has made this addition in the hadith transmitted by al-Muqri and that is:" When the one buried alive is asked"¹²⁸.

The significance: And that this news is the abrogating all the previous permits, which there is no doubt that they were before the resurrection and after the resurrection. and this is a certain matter, because he told (peace be upon him) that it is hidden infanticide, and infanticide is forbidden, so he abrogated the previous permit with certainty, whoever claims that That the abrogated permissibility has returned, and that the certain copying has been invalidated, he has claimed falsehood, endowed what he had no knowledge of, and came up with what he had no evidence for. **{ Say, "Produce your proof, if you should be truthful."}**¹²⁹. Abu Muhammad said: This is very authentic news¹³⁰.

preference:

After presenting the sayings and evidence of the jurists, which appears to me to be more likely, is the first saying that states that it is not permissible to separate semen from the slave wife except with the permission of her master, because the right of the child is up to the master and not her. - And God Almighty knows best.

The third aspect: Isolating semen from the slave woman other than the wife:

The jurists agreed on the permissibility of semen being isolated from a female slave without her permission, and this is the school of Al-Hanafia¹³¹, Al-Malikia¹³², Shafi'ia¹³³, Hanbalia¹³⁴, and Al-Zaydiyyah¹³⁵.

They cited the following:

¹²² Seen: Badaa' Al-Sana'i fi Tarb Al-Shari'a: 2/335.

¹²³ Seen: Al-Hidayat fi Sharah bidayat Al-Mubtadi: 1/211.

¹²⁴ Seen: Al-Bayan fi Madhhab Al-Imam Al-Shafi'i: 9/507.

¹²⁵ Seen: Al-Bayan fi Madhhab Al-Imam Al-Shafi'i: 9/508.

¹²⁶ Seen: Al-Muhalla at-Athar: 9/222.

¹²⁷ Sahih Muslim, Book of Marriage, Chapter: It is permissible to have intercourse with a breastfeeding woman (Ghilah), and 'Azl is disliked: 2/1067, Hadith No. (1442).

¹²⁸ Surat Al-Takwir: Verse (8).

¹²⁹ Surat Al-Baqarah: Verse 111.

¹³⁰ Seen: Al-Muhalla at-Athar: 9/223.

¹³¹ Seen: Al-Ikhtiar li Taelil Al-Mukhtari: 4/163.

¹³² Seen: Al-Bayan and Al-Tahshil: 18/152.

¹³³ Seen: Al-Bayan fi Madhhab Al-Imam Al-Shafi'i: 9/507.

¹³⁴ Seen: Al-Mughni by Ibn Qudamah: 7/298.

¹³⁵ Seen: Al'sayl Al-Jaraar Al-Mutadafiq ala Hadayiq Al'azhari: (p.: 382).

The first: Sunnah:

Jabir (Allah be pleased with him) reported that a man came to Allah's Messenger and said: "I have a slave-girl who is our servant and she carries water for us¹³⁶ and I have intercourse with her¹³⁷, but I do not want her to conceive. He said: Practise 'azl, if you so like, but what is decreed for her will come to her. The person stayed back (for some time) and then came and said: The girl has become pregnant, whereupon he said: I told you what was decreed for her would come to her"¹³⁸.

The second: the reasonable:

- 1- By analogy with the fact that she does not have the right to claim the oath and semen, she does not have the right to prevent semen from being isolated from a fortiori¹³⁹.
- 2- Not having the right to intercourse, nor the right of the child¹⁴⁰.
- 3- Because separating the semen from her is to preserve her slavery, and to refrain from leading to her emancipation, so it is permissible, and because the right to the son of the slave belongs to the master without her¹⁴¹.

Conclusion

Praise be to God, Lord of the Worlds, and prayers and peace be upon the Master of the Messengers, Muhammad (Peace be upon him) and upon his pure family and companions, a prayer whose intercession will inform us on the Day of Judgment.

And after...

By the grace of God Almighty and His help and guidance, my journey with this research has come to an end. I have to show the most important results that I have reached:

- 1- Imam Muhammad bin Issa was nicknamed Abu Issa, and he was nicknamed Al-Tirmidhi, and he was also known as Ibn Al-Dahan.
- 2- He was born in the city of Tirmidh and also died there, and his journey in seeking knowledge was to Iraq, Khurasan, Hijaz and Medina, and he did not go to the Levant.
- 3- He studied with a number of senior sheikhs, including Imam al-Bukhari (may God have mercy on him), who testified to him by saying (I have not benefited you more than you benefited me). Imam Al-Tirmidhi (may God have mercy on him) was a sheikh of a group of students who took knowledge from him and became scholars, and among the most prominent of these students who took knowledge from him. Muhammad Ibn Al-Mundhir Ibn Sa'id Al-Harawi Shukr, Abu Ja'far Muhammad Ibn Sufyan Ibn Al-Nadr Al-Nasfi, Abu Muti' Makhul Ibn Al-Fadl Al-Nasafi, and others.
- 4- And they mentioned the merit of the book of Sunan al-Tirmidhi, and whoever had this book in his house (Sunan al-Tirmidhi), it was as if a prophet was speaking in his house.
- 5- If the husband divorces his wife three times, it is not permissible for him unless she marries another husband, and if she marries another man, then divorce her before consummating with her, she is not permissible for the first.
- 6- If an infidel converts to Islam and is married to two sisters, and they embrace Islam with him, he must choose which of them he wants, and separate from the other.
- 7- If a woman falls into captivity in the possession of a man and has a husband who is in war. That the marriage of her husband has been annulled, and it is permissible for her owner to have intercourse with her after purification, and therefore intercourse with a pregnant woman is prohibited until she gives birth, and a barrier until she menstruates.
- 8- It is not permissible for the husband to isolate semen from his free wife, except with her permission, because intercourse is a right for her and for her to obtain a child.

¹³⁶ That is, she used to water their palms for them. He likened it to the camel in it. See: Lisan Al Arab: 14/405.

¹³⁷ I am circumambulating her: (i.e. intercourse with her). Al-Kawkab Al-Wahaj sharah Sahih Muslim: 16/29.

¹³⁸ Sahih Muslim, Book of Marriage, Chapter: The ruling on coitus interrupts ('Azl): 2/1064, Hadith No. (1439).

¹³⁹ Seen: Al-Mubdi' in Sharh Al-Muqni': 6/246.

¹⁴⁰ Seen: Al-Mughni by Ibn Qudamah: 7/298.

¹⁴¹ Seen: Al-Hawi Al-Kabeer: 9/320.

- 9- The husband is not entitled to separate from his slave wife, except with the permission of her master, because the child is his.
- 10- The husband may isolate the semen from his slave-girl without her permission, if he fears slavery for his son.

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