# Fara'id - Muwatta Malik - Sunnah.com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه و سلم)

Yahya related to me from Malik, "The generally agreed upon way of  
doing things among us and what I have seen the people of knowledge  
doing in our city about the fixed shares of inheritance of children  
from the mother or father when one or other of them dies is that if  
they leave male and female children, the male takes the portion of two  
females. If there are only females, and there are more than two, they  
get two thirds of what is left between them. If there is only one, she  
gets a half. If someone shares with the children, who has a fixed  
share and there are males among them, the reckoner begins with the  
ones with fixed shares. What remains after that is divided among the  
children according to their inheritance.  
  
  
"When there are no  
children, grandchildren through sons have the same position as  
children, so that grandsons are like sons and grand-daughters are like  
daughters. They inherit as they inherit and they overshadow as they  
overshadow. If there are both children and grandchildren through sons,  
and there is a male among the children, then the grandchildren through  
sons do not share in the inheritance with him.  
  
  
"If there is  
no surviving male among the children, and there are two or more  
daughters, the granddaughters through a son do not share in the  
inheritance with them unless there is a male who is in the same  
position as them in relation to the deceased, or further than them.  
His presence gives access to whatever is left over, if any, to whoever  
is in his position and whoever is above him of the granddaughters  
through sons. If something is left over, they divide it among them,  
and the male takes the portion of two females. If nothing is left  
over, they have nothing.  
  
  
"If the only descendant is a  
daughter, she takes half, and if there are one or more grand-daughters  
through a son who are in the same position to the deceased, they share  
a sixth. If there is a male in the same position as the granddaughters  
through a son in relation to the deceased, they have no share and no  
sixth .  
  
  
"If there is a surplus after the allotting of shares  
to the people with fixed shares, the surplus goes to the male and  
whoever is in his position and whoever is above him of the female  
descendants through sons. The male has the share of two females. The  
one who is more distant in relationship than grandchildren through  
sons has nothing. If there is no surplus, they have nothing. That is  
because Allah, the Blessed, the Exalted, said in His Book, 'Allah  
charges you about your children that the male has the like of the  
portion of two females. If there are more than two women they have two  
thirds of what is left. If there is one, she has a half.' (Sura 4 ayat  
10)

USC-MSA web (English) reference : Book 27, Hadith 0Report Error | Share | Copy ▼

----------------------------------------

Malik said, "The inheritance of a husband from a wife when she  
leaves no children or grandchildren through sons is a half. If she  
leaves children or grandchildren through sons, male or female, by her  
present or previous husbands, the husband has a quarter after bequests  
or debts. The inheritance of a wife from a husband who does not leave  
children or grandchildren through sons is a quarter. If he leaves  
children or grandchildren through sons, male or female, the wife has  
an eighth after bequests and debts. That is because Allah, the  
Blessed, the Exalted! said in His Book, 'You have a half of what your  
wives leave if they have no children. If they have children, you have  
a fourth of what they leave after bequests and debts. They have a  
fourth of what you leave if you have no children. If you have  
children, they have an eighth after bequests or debts.' " (Sura4ayat  
11).

USC-MSA web (English) reference : Book 27, Hadith 0Report Error | Share | Copy ▼

----------------------------------------

Malik said, "The generally agreed on way of doing things among us  
about which there is no dispute and what I have seen the people of  
knowledge in our city doing is that when a father inherits from a son  
or a daughter and the deceased leaves children, or grandchildren  
through a son, the father has a fixed share of one sixth. If the  
deceased does leave any children or male grandchildren through a son,  
the apportioning begins with those with whom the father shares in the  
fixed shares. They are given their fixed shares. If a sixth or more is  
left over, the sixth and what is above it is given to the father, and  
if there is less than a sixth left, the father is given his sixth as a  
fixed share, (i.e. the other shares are adjusted.)  
  
  
"The  
inheritance of a mother from her child, if her son or daughter dies  
and leaves children or male or female grandchildren through a son, or  
leaves two or more full or half siblings is a sixth. If the deceased  
does not leave any children or grandchildren through a son, or two or  
more siblings, the mother has a whole third except in two cases. One  
of them is if a man dies and leaves a wife and both parents. The wife  
has a fourth, the mother a third of what remains, (which is a fourth  
of the capital). The other is if a wife dies and leaves a husband and  
both parents. The husband gets half, and the mother a third of what  
remains, (which is a sixth of the capital). That is because Allah, the  
Blessed, the Exalted, says in His Book, 'His two parents each have a  
sixth of what he leaves if he has children. If he does not have  
children, and his parents inherit from him, his mother has a third. If  
he has siblings, the mother has a sixth.' (Sura 4 ayat 11). The sunna  
is that the siblings be two or more."

USC-MSA web (English) reference : Book 27, Hadith 0Report Error | Share | Copy ▼

----------------------------------------

Malik said, "The generally agreed upon way of doing things among  
us is that maternal half-siblings do not inherit anything when there  
are children or grandchildren through sons, male or female. They do  
not inherit anything when there is a father or the father's father.  
They inherit in what is outside of that. If there is only one male or  
female, they are given a sixth. If there are two, each of them has a  
sixth. If there are more than that, they share in a third which is  
divided among them. The male does not have portion of two females.  
That is because Allah, the Blessed, the Exalted, says in His Book, 'If  
a man or woman has no direct heir, and he has a brother or sister, by  
the mother, each of them has a sixth. If there are more than two, they  
share equally in a third.' " (Sura 4 ayat 12).

USC-MSA web (English) reference : Book 27, Hadith 0Report Error | Share | Copy ▼

----------------------------------------

Malik said, "The generally agreed on way of doing things among us  
is that full siblings do not inherit anything with sons nor anything  
with grandsons through a son, nor anything with the father. They do  
inherit with the daughters and the granddaughters through a son when  
the deceased does not leave a paternal grandfather. Any property that  
is left over, they are in it as paternal relations. One begins with  
the people who are allotted fixed shares. They are given their shares.  
If there is anything left over after that, it belongs to the full  
siblings. They divide it between themselves according to the Book of  
Allah, whether they are male or female. The male has a portion of two  
females. If there is nothing left over, they have nothing.  
  
  
"If the deceased does not leave a father or a paternal grandfather or  
children or male or female grandchildren through a son, a single full  
sister gets a half. If there are two or more full sisters, they get  
two thirds. If there is a brother with them, sisters, whether one or  
more, do not have a fixed share. One begins with whoever shares in the  
fixed shares. They are given their shares. Whatever remains after that  
goes to the full siblings. The male has the portion of two females  
except in one case, in which the full siblings have nothing. They  
share in this case the third of the half-siblings by the mother. That  
case is when a woman dies and leaves a husband, a mother, half-  
siblings by her mother, and full siblings. The husband has a half. The  
mother has one sixth. The half-siblings by the mother have a third.  
Nothing is left after that, so the full siblings share in this case  
with the half-siblings by the mother in their third. The male has the  
portion of two females in as much as all of them are siblings of the  
deceased by the mother. They inherit by the mother. That is because  
Allah, the Blessed, the Exalted, said in His Book, 'If a man or a  
woman has no direct heir and he has a brother or a sister, each one of  
the two gets a sixth. If there are more than that, they share equally  
in the third. ' (Sura 4 ayat 12) . They therefore share in this case  
because all of them are siblings of the deceased by the mother."

USC-MSA web (English) reference : Book 27, Hadith 0Report Error | Share | Copy ▼

----------------------------------------

Malik said, "The generally agreed on wayof doing things among us  
is that when there are no full siblings with them, half-siblings by  
the father take the position of full siblings. Their males are like  
the males of the full siblings, and their females are like their  
females except in the case where the half-siblings by the mother and  
the full siblings share, because they are not offspring of the mother  
who joins these."  
  
  
Malik said, "If there are both full  
siblings and half-siblings by the father and there is a male among the  
full siblings none of the half-siblings by the father have any  
inheritance. If there is one or more females in the full siblings and  
there is no male with them, the one full sister gets a half, and the  
half sister by the father gets a sixth, completing the two-thirds. If  
there is a male with the half-sisters by the father, they have no  
share. The people of fixed shares are given their shares and if there  
is something left after that it is divided between the half-siblings  
by the father. The male has the portion of two females. If there is  
nothing left over, they get nothing. If the full siblings consist of  
two or more females, they get two-thirds, and the half-sisters by the  
father get nothing with them unless there is a half-brother by the  
father with them. If there is a half-brother by the father with them,  
the people of fixed shares are given their shares and if there is  
something left over after that, it is divided between the half-  
siblings by the father. The male gets the portion of two females. If  
there is nothing left over, they get nothing. Half-siblings by the  
mother, full-siblings, and half-siblings by the father, each have a  
sixth (when they are onlyone). Two and more share a third. The male  
has the same portion as the female. They are in the same position in  
it."

USC-MSA web (English) reference : Book 27, Hadith 0Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik from Yahya ibn Said that he had  
heard that Muawiya ibn Abi Sufyan wrote to Zayd ibn Thabit asking him  
about the grandfather. Zayd ibn Thabit wrote to him, "You have written  
to me asking me about the grandfather. Allah knows best. That is part  
of what is only determined by the amirs, i.e. the khalifs. I was  
present with two khalifs before you who gave the grandfather a half  
with one sibling, and a third with two. If there were more siblings,  
they did not decrease his third."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّهُ بَلَغَهُ أَنَّ مُعَاوِيَةَ بْنَ أَبِي سُفْيَانَ، كَتَبَ إِلَى زَيْدِ بْنِ ثَابِتٍ يَسْأَلُهُ عَنِ الْجَدِّ، فَكَتَبَ إِلَيْهِ زَيْدُ بْنُ ثَابِتٍ إِنَّكَ كَتَبْتَ إِلَىَّ تَسْأَلُنِي عَنِ الْجَدِّ، وَاللَّهُ، أَعْلَمُ وَذَلِكَ مِمَّا لَمْ يَكُنْ يَقْضِي فِيهِ إِلاَّ الأُمَرَاءُ - يَعْنِي الْخُلَفَاءَ - وَقَدْ حَضَرْتُ الْخَلِيفَتَيْنِ قَبْلَكَ يُعْطِيَانِهِ النِّصْفَ مَعَ الأَخِ الْوَاحِدِ وَالثُّلُثَ مَعَ الاِثْنَيْنِ فَإِنْ كَثُرَتِ الإِخْوَةُ لَمْ يُنَقِّصُوهُ مِنَ الثُّلُثِ ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 1Arabic reference : Book 27, Hadith 1077Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik from Ibn Shihab from Qabisa ibn  
Dhu'ayba that Umar ibn al-Khattab gave the grandfather "what people  
give him today."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ قَبِيصَةَ بْنِ ذُؤَيْبٍ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ، فَرَضَ لِلْجَدِّ الَّذِي يَفْرِضُ النَّاسُ لَهُ الْيَوْمَ ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 2Arabic reference : Book 27, Hadith 1078Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik that he had heard that Sulayman  
ibn Yasar said, ''Umar ibn al-Khattab, Uthman ibn Affan, andZayd ibn  
Thabit gave the grandfather a third with full siblings". Malik said,  
"The generally agreed on way of doing things among us and what I have  
seen the people of knowledge in our city doing is that the paternal  
grandfather does not inherit anything at all with the father. He is  
given a sixth as a fixed share with the son and the grandson through a  
son. Other than that, when the deceased does not leave a mother or a  
paternal aunt, one begins with whoever has a fixed share, and they are  
given their shares. If there is a sixth of the property left over, the  
grandfather is given a sixth as a fixed share."  
  
  
Malik said,  
"When someone shares with the grandfather and the full siblings in a  
specified share, one begins with whoever shares with them of the  
people of fixed shares. They are given their shares. What is left over  
after that belongs to the grandfather and the full siblings. Then one  
sees which is the more favourable of two alternatives for the portion  
of the grandfather. Either a third is allotted to him and the siblings  
to divide between them, and he gets a share as if he were one of the  
siblings, or else he takes a sixth from all the capital. Whichever is  
the best portion for the grandfather is given to him. What is left  
after that, goes to the full siblings. The male gets the portion of  
two females except in one particular case. The division in this case  
is different from the preceding one. This case is when a woman dies  
and leaves a husband, mother, full sister and grandfather. The husband  
gets a half, the mother gets a third, the grandfather gets a sixth,  
and the full sister gets a half. The sixth of the grandfather and the  
half of the sister are joined and divided into thirds. The male gets  
the share of two females. Therefore, the grandfather has two thirds,  
and the sister has one third."  
  
  
Malik said, "The inheritance  
of the half-siblings by the father with the grandfather when there are  
no full siblings with them, is like the inheritance of the full  
siblings (in the same situation). The males are the same as their  
males and the females are the same as their females. When there are  
both full siblings and half-siblings by the father, the full siblings  
include in their number the number of half-siblings by the father, to  
limit the inheritance of the grandfather, i.e., if there was only one  
full sibling with the grandfather. They would share, after the  
allotting of the fixed shares, the remainder of the inheritance  
between them equally. If there were also two half-siblings by the  
father, their number is added to the division of the sum, which would  
then be divided four ways. A quarter going to the grandfather and  
three-quarters going to the full siblings who annex the shares  
technically allotted to the half-siblings by the father. They do not  
include the number of half-siblings by the mother, because if there  
were only half-siblings by the father they would not inherit anything  
with the grandfather and all the capital would belong to the  
grandfather, and so the siblings would not get anything after the  
portion of the grandfather.  
  
  
"It belongs to the full siblings  
more than the half-siblings by the father, and the half-siblings by  
the father do not get anything with them unless the full siblings  
consist of one sister. If there is one full sister, she includes the  
grandfather with the half-siblings by her father in the division,  
however many. Whatever remains for her and these half-siblings by the  
father goes to her rather than them until she has had her complete  
share, which is half of the total capital. If there is surplus beyond  
half of all the capital in what she and the half-siblings by the  
father acquire it goes to them. The male has the portion of two  
females. If there is nothing left over, they get nothing."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ عَنْ سُلَيْمَانَ بْنِ يَسَارٍ، أَنَّهُ قَالَ فَرَضَ عُمَرُ بْنُ الْخَطَّابِ وَعُثْمَانُ بْنُ عَفَّانَ وَزَيْدُ بْنُ ثَابِتٍ لِلْجَدِّ مَعَ الإِخْوَةِ الثُّلُثَ ‏.‏ قَالَ مَالِكٌ وَالأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا وَالَّذِي أَدْرَكْتُ عَلَيْهِ أَهْلَ الْعِلْمِ بِبَلَدِنَا أَنَّ الْجَدَّ أَبَا الأَبِ لاَ يَرِثُ مَعَ الأَبِ دِنْيَا شَيْئًا وَهُوَ يُفْرَضُ لَهُ مَعَ الْوَلَدِ الذَّكَرِ وَمَعَ ابْنِ الاِبْنِ الذَّكَرِ السُّدُسُ فَرِيضَةً وَهُوَ فِيمَا سِوَى ذَلِكَ مَا لَمْ يَتْرُكِ الْمُتَوَفَّى أَخًا أَوْ أُخْتًا لأَبِيهِ يُبَدَّأُ بِأَحَدٍ إِنْ شَرَّكَهُ بِفَرِيضَةٍ مُسَمَّاةٍ فَيُعْطَوْنَ فَرَائِضَهُمْ فَإِنْ فَضَلَ مِنَ الْمَالِ السُّدُسُ فَمَا فَوْقَهُ فُرِضَ لِلْجَدِّ السُّدُسُ فَرِيضَةً ‏.‏ قَالَ مَالِكٌ وَالْجَدُّ وَالإِخْوَةُ لِلأَبِ وَالأُمِّ إِذَا شَرَّكَهُمْ أَحَدٌ بِفَرِيضَةٍ مُسَمَّاةٍ يُبَدَّأُ بِمَنْ شَرَّكَهُمْ مِنْ أَهْلِ الْفَرَائِضِ فَيُعْطَوْنَ فَرَائِضَهُمْ فَمَا بَقِيَ بَعْدَ ذَلِكَ لِلْجَدِّ وَالإِخْوَةِ مِنْ شَىْءٍ فَإِنَّهُ يُنْظَرُ أَىُّ ذَلِكَ أَفْضَلُ لِحَظِّ الْجَدِّ أُعْطِيَهُ الثُّلُثُ مِمَّا بَقِيَ لَهُ وَلِلإِخْوَةِ أَوْ يَكُونُ بِمَنْزِلَةِ رَجُلٍ مِنَ الإِخْوَةِ فِيمَا يَحْصُلُ لَهُ وَلَهُمْ يُقَاسِمُهُمْ بِمِثْلِ حِصَّةِ أَحَدِهِمْ أَوِ السُّدُسُ مِنْ رَأْسِ الْمَالِ كُلِّهِ أَىُّ ذَلِكَ كَانَ أَفْضَلَ لِحَظِّ الْجَدِّ أُعْطِيَهُ الْجَدُّ وَكَانَ مَا بَقِيَ بَعْدَ ذَلِكَ لِلإِخْوَةِ لِلأَبِ وَالأُمِّ لِلذَّكَرِ مِثْلُ حَظِّ الأُنْثَيَيْنِ إِلاَّ فِي فَرِيضَةٍ وَاحِدَةٍ تَكُونُ قِسْمَتُهُمْ فِيهَا عَلَى غَيْرِ ذَلِكَ وَتِلْكَ الْفَرِيضَةُ امْرَأَةٌ تُوُفِّيَتْ وَتَرَكَتْ زَوْجَهَا وَأُمَّهَا وَأُخْتَهَا لأُمِّهَا وَأَبِيهَا وَجَدَّهَا فَلِلزَّوْجِ النِّصْفُ وَلِلأُمِّ الثُّلُثُ وَلِلْجَدِّ السُّدُسُ وَلِلأُخْتِ لِلأُمِّ وَالأَبِ النِّصْفُ ثُمَّ يُجْمَعُ سُدُسُ الْجَدِّ وَنِصْفُ الأُخْتِ فَيُقْسَمُ أَثْلاَثًا لِلذَّكَرِ مِثْلُ حَظِّ الأُنْثَيَيْنِ فَيَكُونُ لِلْجَدِّ ثُلُثَاهُ وَلِلأُخْتِ ثُلُثُهُ ‏.‏ قَالَ مَالِكٌ وَمِيرَاثُ الإِخْوَةِ لِلأَبِ مَعَ الْجَدِّ إِذَا لَمْ يَكُنْ مَعَهُمْ إِخْوَةٌ لأَبٍ وَأُمٍّ كَمِيرَاثِ الإِخْوَةِ لِلأَبِ وَالأُمِّ سَوَاءٌ ذَكَرُهُمْ كَذَكَرِهِمْ وَأُنْثَاهُمْ كَأُنْثَاهُمْ فَإِذَا اجْتَمَعَ الإِخْوَةُ لِلأَبِ وَالأُمِّ وَالإِخْوَةُ لِلأَبِ فَإِنَّ الإِخْوَةَ لِلأَبِ وَالأُمِّ يُعَادُّونَ الْجَدَّ بِإِخْوَتِهِمْ لأَبِيهِمْ فَيَمْنَعُونَهُ بِهِمْ كَثْرَةَ الْمِيرَاثِ بِعَدَدِهِمْ وَلاَ يُعَادُّونَهُ بِالإِخْوَةِ لِلأُمِّ لأَنَّهُ لَوْ لَمْ يَكُنْ مَعَ الْجَدِّ غَيْرُهُمْ لَمْ يَرِثُوا مَعَهُ شَيْئًا وَكَانَ الْمَالُ كُلُّهُ لِلْجَدِّ فَمَا حَصَلَ لِلإِخْوَةِ مِنْ بَعْدِ حَظِّ الْجَدِّ فَإِنَّهُ يَكُونُ لِلإِخْوَةِ مِنَ الأَبِ وَالأُمِّ دُونَ الإِخْوَةِ لِلأَبِ وَلاَ يَكُونُ لِلإِخْوَةِ لِلأَبِ مَعَهُمْ شَىْءٌ إِلاَّ أَنْ يَكُونَ الإِخْوَةُ لِلأَبِ وَالأُمِّ امْرَأَةً وَاحِدَةً فَإِنْ كَانَتِ امْرَأَةً وَاحِدَةً فَإِنَّهَا تُعَادُّ الْجَدَّ بِإِخْوَتِهَا لأَبِيهَا مَا كَانُوا فَمَا حَصَلَ لَهُمْ وَلَهَا مِنْ شَىْءٍ كَانَ لَهَا دُونَهُمْ مَا بَيْنَهَا وَبَيْنَ أَنْ تَسْتَكْمِلَ فَرِيضَتَهَا وَفَرِيضَتُهَا النِّصْفُ مِنْ رَأْسِ الْمَالِ كُلِّهِ فَإِنْ كَانَ فِيمَا يُحَازُ لَهَا وَلإِخْوَتِهَا لأَبِيهَا فَضْلٌ عَنْ نِصْفِ رَأْسِ الْمَالِ كُلِّهِ فَهُوَ لإِخْوَتِهَا لأَبِيهَا لِلذَّكَرِ مِثْلُ حَظِّ الأُنْثَيَيْنِ فَإِنْ لَمْ يَفْضُلْ شَىْءٌ فَلاَ شَىْءَ لَهُمْ ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 31Arabic reference : Book 27, Hadith 1079Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik from Ibn Shihab from Uthman ibn  
Ishaq ibn Kharasha that Qabisa ibn Dhu'ayb said, "A grandmother came  
to Abu Bakr as-Siddiq and asked him for her inheritance. Abu Bakr said  
to her, 'You have nothing in the Book of Allah, and I do not know that  
you have anything in the sunna of the Messenger of Allah, may Allah  
bless him and grant him peace. Go away therefore, until I have  
questioned the people.' (i.e.the Companions). He questioned the  
people, and al-Mughira ibn Shuba said, 'I was present with the  
Messenger of Allah, may Allah bless him and grant him peace, when he  
gave the grandmother a sixth.' Abu Bakr said, 'Was there anybody else  
with you?' Muhammad ibn Maslama al-Ansari stood up and said the like  
of what al-Mughira said. Abu Bakr as-Siddiq gave it to her. Then the  
other grandmother came to Umar ibn al-Khattab and asked him for her  
inheritance. He said to her, "You have nothing in the Book of Allah,  
and what has been decided is only for other than you, and I am not one  
to add to the fixed shares, other than that sixth. If there are two of  
you together, it is between you. If eitherof you is left alone with  
it, it is hers."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ عُثْمَانَ بْنِ إِسْحَاقَ بْنِ خَرَشَةَ، عَنْ قَبِيصَةَ بْنِ ذُؤَيْبٍ، أَنَّهُ قَالَ جَاءَتِ الْجَدَّةُ إِلَى أَبِي بَكْرٍ الصِّدِّيقِ تَسْأَلُهُ مِيرَاثَهَا فَقَالَ لَهَا أَبُو بَكْرٍ مَا لَكِ فِي كِتَابِ اللَّهِ شَىْءٌ وَمَا عَلِمْتُ لَكِ فِي سُنَّةِ رَسُولِ اللَّهِ صلى الله عليه وسلم شَيْئًا فَارْجِعِي حَتَّى أَسْأَلَ النَّاسَ فَسَأَلَ النَّاسَ ‏.‏ فَقَالَ الْمُغِيرَةُ بْنُ شُعْبَةَ حَضَرْتُ رَسُولَ اللَّهِ صلى الله عليه وسلم أَعْطَاهَا السُّدُسَ ‏.‏ فَقَالَ أَبُو بَكْرٍ هَلْ مَعَكَ غَيْرُكَ فَقَامَ مُحَمَّدُ بْنُ مَسْلَمَةَ الأَنْصَارِيُّ فَقَالَ مِثْلَ مَا قَالَ الْمُغِيرَةُ فَأَنْفَذَهُ لَهَا أَبُو بَكْرٍ الصِّدِّيقُ ثُمَّ جَاءَتِ الْجَدَّةُ الأُخْرَى إِلَى عُمَرَ بْنِ الْخَطَّابِ تَسْأَلُهُ مِيرَاثَهَا فَقَالَ لَهَا مَا لَكِ فِي كِتَابِ اللَّهِ شَىْءٌ وَمَا كَانَ الْقَضَاءُ الَّذِي قُضِيَ بِهِ إِلاَّ لِغَيْرِكِ وَمَا أَنَا بِزَائِدٍ فِي الْفَرَائِضِ شَيْئًا وَلَكِنَّهُ ذَلِكَ السُّدُسُ فَإِنِ اجْتَمَعْتُمَا فَهُوَ بَيْنَكُمَا وَأَيَّتُكُمَا خَلَتْ بِهِ فَهُوَ لَهَا ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 4Arabic reference : Book 27, Hadith 1080Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik from Yahya ibn Said that al-Qasim  
ibn Muhammad said, "Two grandmothers came to Abu Bakr asSiddiq, and he  
wanted to give the sixth to the one who was from the mother's side,  
and a man of the Ansar said, 'What? Are you omitting the one from whom  
he would inherit if she died while he was alive?' Abu Bakr divided the  
sixth between them.~

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، أَنَّهُ قَالَ أَتَتِ الْجَدَّتَانِ إِلَى أَبِي بَكْرٍ الصِّدِّيقِ فَأَرَادَ أَنْ يَجْعَلَ السُّدُسَ، لِلَّتِي مِنْ قِبَلِ الأُمِّ فَقَالَ لَهُ رَجُلٌ مِنَ الأَنْصَارِ أَمَا إِنَّكَ تَتْرُكُ الَّتِي لَوْ مَاتَتْ وَهُوَ حَىٌّ كَانَ إِيَّاهَا يَرِثُ فَجَعَلَ أَبُو بَكْرٍ السُّدُسَ بَيْنَهُمَا ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 5Arabic reference : Book 27, Hadith 1081Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik from Abdu Rabbih ibn Said that Abu  
Bakr ibn Abd ar-Rahman ibn al-Harith ibn Hisham only gave a fixed  
share to two grandmothers (together).  
  
  
Malik said, "The  
generally agreed on way of doing things among us in which there is no  
dispute and which I saw the people of knowledge in our city doing, is  
that the maternal grandmother does not inherit anything at all with  
the mother. Outside of that, she is given a sixth as a fixed share.  
The paternal grandmotherdoes not inherit anything along with the  
mother or the father. Outside of that she is given a sixth as a fixed  
share." If both the paternal grandmother and maternal grandmother are  
alive, and the deceased does not have a father or mother outside of  
them, Malik said,."I have heard that if the maternal grandmother is  
the nearest of the two of them, then she has a sixth instead of the  
paternal grandmother. If the paternal grandmother is nearer, or they  
are in the same position in relation to the deceased, the sixth is  
divided equally between them."  
  
  
Malik said, "None of the  
female grand-relations except for these two has any inheritance  
because I have heard that the Messenger of Allah, may Allah bless him  
and grant him peace, gave the grandmother inheritance, and then Abu  
Bakr asked about that until someone reliable related from the  
Messenger of Allah, may Allah bless him and grant him peace, that he  
had made the grandmother an heir and given a share to her. Another  
grandmother came to Umar ibn al-Khattab, and he said, 'I am not one to  
add to fixed shares. If there are two of you together, it is between  
you. If either of you is left alone with it, it is hers.' " Malik  
said, "We do not know of anyone who made other than the two  
grandmothers heirs from the beginning of Islam to this day."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ عَبْدِ رَبِّهِ بْنِ سَعِيدٍ، أَنَّ أَبَا بَكْرِ بْنَ عَبْدِ الرَّحْمَنِ بْنِ الْحَارِثِ بْنِ هِشَامٍ، كَانَ لاَ يَفْرِضُ إِلاَّ لِلْجَدَّتَيْنِ ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا الَّذِي لاَ اخْتِلاَفَ فِيهِ وَالَّذِي أَدْرَكْتُ عَلَيْهِ أَهْلَ الْعِلْمِ بِبَلَدِنَا أَنَّ الْجَدَّةَ أُمَّ الأُمِّ لاَ تَرِثُ مَعَ الأُمِّ دِنْيَا شَيْئًا وَهِيَ فِيمَا سِوَى ذَلِكَ يُفْرَضُ لَهَا السُّدُسُ فَرِيضَةً وَأَنَّ الْجَدَّةَ أُمَّ الأَبِ لاَ تَرِثُ مَعَ الأُمِّ وَلاَ مَعَ الأَبِ شَيْئًا وَهِيَ فِيمَا سِوَى ذَلِكَ يُفْرَضُ لَهَا السُّدُسُ فَرِيضَةً فَإِذَا اجْتَمَعَتِ الْجَدَّتَانِ أُمُّ الأَبِ وَأُمُّ الأُمِّ وَلَيْسَ لِلْمُتَوَفَّى دُونَهُمَا أَبٌ وَلاَ أُمٌّ ‏.‏ قَالَ مَالِكٌ فَإِنِّي سَمِعْتُ أَنَّ أُمَّ الأُمِّ إِنْ كَانَتْ أَقْعَدَهُمَا كَانَ لَهَا السَّدُسُ دُونَ أُمِّ الأَبِ وَإِنْ كَانَتْ أُمُّ الأَبِ أَقْعَدَهُمَا أَوْ كَانَتَا فِي الْقُعْدَدِ مِنَ الْمُتَوَفَّى بِمَنْزِلَةٍ سَوَاءً فَإِنَّ السُّدُسَ بَيْنَهُمَا نِصْفَانِ ‏.‏ قَالَ مَالِكٌ وَلاَ مِيرَاثَ لأَحَدٍ مِنَ الْجَدَّاتِ إِلاَّ لِلْجَدَّتَيْنِ لأَنَّهُ بَلَغَنِي أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم وَرَّثَ الْجَدَّةَ ثُمَّ سَأَلَ أَبُو بَكْرٍ عَنْ ذَلِكَ حَتَّى أَتَاهُ الثَّبَتُ عَنْ رَسُولِ اللَّهِ صلى الله عليه وسلم أَنَّهُ وَرَّثَ الْجَدَّةَ فَأَنْفَذَهُ لَهَا ثُمَّ أَتَتِ الْجَدَّةُ الأُخْرَى إِلَى عُمَرَ بْنِ الْخَطَّابِ فَقَالَ لَهَا مَا أَنَا بِزَائِدٍ فِي الْفَرَائِضِ شَيْئًا فَإِنِ اجْتَمَعْتُمَا فَهُوَ بَيْنَكُمَا وَأَيَّتُكُمَا خَلَتْ بِهِ فَهُوَ لَهَا ‏.‏ قَالَ مَالِكٌ ثُمَّ لَمْ نَعْلَمْ أَحَدًا وَرَّثَ غَيْرَ جَدَّتَيْنِ مُنْذُ كَانَ الإِسْلاَمُ إِلَى الْيَوْمِ ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 6Arabic reference : Book 27, Hadith 1082Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik from Zayd ibn Aslam that Umar ibn  
al-Khattab asked the Messenger of Allah, may Allah bless him and grant  
him peace, about someone who died without parents or offspring, and  
the Messenger of Allah, may Allah bless him and grant him peace, said  
to him, "The ayat which was sent down in the summer at the end of the  
Surat an-Nisa (Sura 4) is enoughfor you."  
  
  
Malik said, "The  
generally agreed on way of doing things among us, in which there is no  
dispute, and which I saw the people of knowledge in our city doing, is  
that the person who leaves neither parent or offspring can be of two  
types. As for the kind described in the ayat which was sent down at  
the beginning of the Surat an-Nisa in which Allah, the Blessed, the  
Exalted! said, 'If a man or a woman has no direct heir, but has a  
brother or a sister by the mother, each of the two has a sixth. If  
there are more than that, they share equally in a third.' (Sura 4 ayat  
12) This heirless one does not have heirs among his mother's siblings  
since there are no children or parents. As for the other kind  
described in the ayat which comes at the end of the Surat an-Nisa,  
Allah, the Blessed, the Exalted, said in it, 'They will ask you for a  
decision. Say, "Allah gives you a decision about the indirect heirs.  
If a man perishes having no children, but he has a sister, she shall  
receive a half of what he leaves, and he is her heir if she has no  
children. If there are two sisters, they shall receive two-thirds of  
what he leaves. If there are brothers and sisters, the male shall  
receive the portion of two females. Allah makes clear to you that you  
might not go astray. Allah has knowledge of everything" ' " (Sura 4  
ayat 176).  
  
  
Malik said, "If this person without direct heirs  
(parents) or children has siblings by the father, they inherit with  
the grandfather from the person without direct heirs. The grandfather  
inherits with the siblings because he is more entitled to the  
inheritance than them. That is because he inherits a sixth with the  
male children of the deceased when the siblings do not inherit  
anything with the male children of the deceased. How can he not be  
like one of them when he takes a sixth with the children of the  
deceased? How can he not take a third with the siblings while the  
brother's sons take a third with them? The grandfather is the one who  
overshadows the half-siblings by the mother and keeps them from  
inheriting. He is more entitled to what they have because they are  
omitted for his sake. If the grandfather did not take that third, the  
half-siblings by the mother would take it and would take what does not  
return to the half-siblings by the father. The half-siblings by the  
mother are more entitled to that third than the half-siblings by the  
father while the grandfather is more entitled to that than the half-  
siblings by the mother."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ زَيْدِ بْنِ أَسْلَمَ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ، سَأَلَ رَسُولَ اللَّهِ صلى الله عليه وسلم عَنِ الْكَلاَلَةِ فَقَالَ لَهُ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏  
"‏ يَكْفِيكَ مِنْ ذَلِكَ الآيَةُ الَّتِي أُنْزِلَتْ فِي الصَّيْفِ آخِرَ سُورَةِ النِّسَاءِ ‏"‏ ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 7Arabic reference : Book 27, Hadith 1083Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik from Muhammad ibn Abi Bakr ibn  
Muhammad ibn Amribn Hazm that Abdar-Rahman ibn Hanthala az-Zurqi was  
informed by a mawla of Quraysh,who used to be known as Ibn Mursi, that  
he was sitting with Umar ibn al-Khattab, and when they had prayed  
dhuhr, he said, "Yarfa! Bring that letter! (a letter which he had  
written about the paternal aunt.) We asked about her and asked for  
information about her." Yarfa brought it to him. He called for a small  
vessel or a drinking-bowl in which there was water. He erased the  
letter in it. Then he said, "Had Allah approved of you as an heir, we  
would have confirmed you. Had Allah approved of you, we would have  
confirmed you."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ مُحَمَّدِ بْنِ أَبِي بَكْرِ بْنِ مُحَمَّدِ بْنِ عَمْرِو بْنِ حَزْمٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ حَنْظَلَةَ الزُّرَقِيِّ، أَنَّهُ أَخْبَرَهُ عَنْ مَوْلًى، لِقُرَيْشٍ كَانَ قَدِيمًا يُقَالُ لَهُ ابْنُ مِرْسَى أَنَّهُ قَالَ كُنْتُ جَالِسًا عِنْدَ عُمَرَ بْنِ الْخَطَّابِ فَلَمَّا صَلَّى الظُّهْرَ قَالَ يَا يَرْفَا هَلُمَّ ذَلِكَ الْكِتَابَ - لِكِتَابٍ كَتَبَهُ فِي شَأْنِ الْعَمَّةِ - فَنَسْأَلَ عَنْهَا وَنَسْتَخْبِرَ فِيهَا ‏.‏ فَأَتَاهُ بِهِ يَرْفَا فَدَعَا بِتَوْرٍ أَوْ قَدَحٍ فِيهِ مَاءٌ فَمَحَا ذَلِكَ الْكِتَابَ فِيهِ ثُمَّ قَالَ لَوْ رَضِيَكِ اللَّهُ وَارِثَةً أَقَرَّكِ لَوْ رَضِيَكِ اللَّهُ أَقَرَّكِ ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 8Arabic reference : Book 27, Hadith 1084Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik that Muhammad ibn Abi Bakr ibn  
Hazm heard his father say many times, ''Umar ibn al-Khattab used to  
say, 'It is a wonder that the paternal aunt is inherited from and does  
not inherit.' "

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ مُحَمَّدِ بْنِ أَبِي بَكْرِ بْنِ حَزْمٍ، أَنَّهُ سَمِعَ أَبَاهُ، كَثِيرًا يَقُولُ كَانَ عُمَرُ بْنُ الْخَطَّابِ يَقُولُ عَجَبًا لِلْعَمَّةِ تُورَثُ وَلاَ تَرِثُ ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 9Arabic reference : Book 27, Hadith 1085Report Error | Share | Copy ▼

----------------------------------------

Malik said, "The generally agreed on way of doing things among  
us, in which there is no dispute, and which I saw the people of  
knowledge in our city doing, about paternal relations is that full  
brothers are more entitled to inherit than half-brothers by the father  
and half-brothers by the father are more entitled to inherit than the  
children of the full brothers. The sons of the full brothers are more  
entitled to inherit than the sons of the half-brothers by the father.  
The sons of the half-brothers by the father are more entitled to  
inherit than the sons of the sons of the full brothers. The sons of  
the sons of the half-brothers by the father's side are more entitled  
to inherit than the paternal uncle, the full brother of the father.  
The paternal uncle, the full brother of the father, is more entitled  
to inherit than the paternal uncle, the half-brotherof the father on  
the father's side. The paternal uncle, the half-brother of the father  
on the father's side is more entitled to inherit than the sons of the  
paternal uncle, the full brother of the father. The son of the  
paternal uncle on the father's side is more entitled to inherit than  
the paternal great uncle, the full brother of the paternal  
grandfather."  
  
  
Malik said, "Everything about which you are  
questioned concerning the inheritance of the paternal relations is  
like this. Trace the genealogy of the deceased and whoever among the  
paternal relations contends for inheritance. If you find that one of  
them reaches the deceased by a father and none of them except him  
reaches him by a father, then make his inheritance to the one who  
reaches him by the nearest father, rather than the one who reaches him  
by what is above that. If you find that they all reach him by the same  
father who joins them, then see who is the nearest of kin. If there is  
only one half-brother by the father, give him the inheritance rather  
than more distant paternal relations. If there is a full brother and  
you find them equally related from a number of fathers or to one  
particular father so that they all reach the genealogy of the deceased  
and they are all half-brothers by the father or full brothers, then  
divide the inheritance equally among them. If the parent of one of  
them is an uncle (the full-brother of the father of the deceased) and  
whoever is with him is an uncle (the paternal half brother of the  
father of the deceased), the inheritance goes to the sons of the full  
brother of the father rather than the sons of the paternal half-  
brother of the father. That is because Allah, the Blessed, the  
Exalted, said, 'Those related by blood are nearer to one another in  
the Book of Allah, surely Allah has knowledge of everything.' "  
  
  
Malik said, "The paternal grandfather, is more entitled to inherit  
than sons of the full-brother, and more entitled than the uncle, the  
full brother of the father. The son of the father's brother is more  
entitled to inherit from mawali retainers (freed slaves) than the  
grandfathers."

USC-MSA web (English) reference : Book 27, Hadith 9Report Error | Share | Copy ▼

----------------------------------------

Malik said, "The generally agreed on way of doing things among us  
in which there is no dispute and which I saw the people of knowledge  
in our citydoing, is that the child of the half-sibling by the mother,  
the paternal grandfather, the paternal uncle who is the maternal half-  
brother of the father, the maternal uncle, the great-grandmother who  
is the mother of the mother's father, the daughter of the full-  
brother, the paternal aunt, and the maternal aunt do not inherit  
anything by their kinship."  
  
  
Malik said, "The woman who is the  
furthest relation of the deceased of those who were named in this  
book, does not inherit anything by her kinship, and women do not  
inherit anything apart from those that are named in the Qur'an. Allah,  
the Blessed, the Exalted, mentioned in His Book the inheritance ofthe  
mother from her children, the inheritance of the daughters from their  
father, the inheritance of the wife from her husband, the inheritance  
of the full sisters, the inheritance of the half-sisters by the father  
and the inheritance of the half-sisters by the mother. The grandmother  
is made an heir by the example of the Prophet, may Allah bless him and  
grant him peace, made about her. A woman inherits from a slave she  
frees herself because Allah, the Blessed, the Exalted, said in His  
Book, 'They are your brothers in the deen and your mawali.' "

USC-MSA web (English) reference : Book 27, Hadith 9Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik from Ibn Shihab from Ali ibn  
Husayn ibn Ali from Umar ibn Uthman ibn Affan from Usama ibn Zayd that  
the Messenger of Allah, may Allah bless him and grant him peace, said,  
"A muslim does not inherit from a kafir."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ عَلِيِّ بْنِ حُسَيْنِ بْنِ عَلِيٍّ، عَنْ عُمَرَ بْنِ عُثْمَانَ بْنِ عَفَّانَ، عَنْ أُسَامَةَ بْنِ زَيْدٍ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ لاَ يَرِثُ الْمُسْلِمُ الْكَافِرَ ‏"‏ ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 10Arabic reference : Book 27, Hadith 1086Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik from Ibn Shihab that Ali ibn  
Husayn ibn Ali ibn Abi Talib told him that Aqil and Talib inherited  
from Abu Talib, and Ali did not inheritfrom him. Ali said, "Because of  
that, we have given up our portion of ash Shab." (A house belonging to  
Banu Hashim).

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ عَلِيِّ بْنِ حُسَيْنِ بْنِ عَلِيِّ بْنِ أَبِي طَالِبٍ، أَنَّهُ أَخْبَرَهُ إِنَّمَا، وَرِثَ أَبَا طَالِبٍ عَقِيلٌ وَطَالِبٌ وَلَمْ يَرِثْهُ عَلِيٌّ - قَالَ - فَلِذَلِكَ تَرَكْنَا نَصِيبَنَا مِنَ الشِّعْبِ ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 11Arabic reference : Book 27, Hadith 1087Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik from Yahya ibn Said from Sulayman  
ibn Yasar that Muhammad ibn al-Ashath told him that he had a christian  
or jewish paternal aunt who died. Muhammad ibn al-Ashath mentioned  
that to Umar ibn al-Khattab and said to him, "Who inherits from her?"  
Umar ibn al-Khattab said to him, "The people of her deen inherit from  
her." Then he went to Uthman ibn Affan, and asked him about that.  
Uthman said to him, "Do you think that I have forgotten what Umar ibn  
al-Khattab said to you? The people.of her deen inherit from her."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ سُلَيْمَانَ بْنِ يَسَارٍ، أَنَّ مُحَمَّدَ بْنَ الأَشْعَثِ، أَخْبَرَهُ أَنَّ عَمَّةً لَهُ يَهُودِيَّةً أَوْ نَصْرَانِيَّةً تُوُفِّيَتْ وَأَنَّ مُحَمَّدَ بْنَ الأَشْعَثِ ذَكَرَ ذَلِكَ لِعُمَرَ بْنِ الْخَطَّابِ وَقَالَ لَهُ مَنْ يَرِثُهَا فَقَالَ لَهُ عُمَرُ بْنُ الْخَطَّابِ يَرِثُهَا أَهْلُ دِينِهَا ‏.‏ ثُمَّ أَتَى عُثْمَانَ بْنَ عَفَّانَ فَسَأَلَهُ عَنْ ذَلِكَ فَقَالَ لَهُ عُثْمَانُ أَتَرَانِي نَسِيتُ مَا قَالَ لَكَ عُمَرُ بْنُ الْخَطَّابِ يَرِثُهَا أَهْلُ دِينِهَا ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 12Arabic reference : Book 27, Hadith 1088Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik from Yahya ibn Said from Ismail  
ibn Abi Hakim that Umar ibn Abd al-Aziz freed a christian who then  
died. Ismail said, ''Umar ibn Abd al-Aziz ordered me to put his  
property in the bayt al-mal."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ إِسْمَاعِيلَ بْنِ أَبِي حَكِيمٍ، أَنَّ نَصْرَانِيًّا، أَعْتَقَهُ عُمَرُ بْنُ عَبْدِ الْعَزِيزِ هَلَكَ - قَالَ إِسْمَاعِيلُ - فَأَمَرَنِي عُمَرُ بْنُ عَبْدِ الْعَزِيزِ أَنْ أَجْعَلَ مَالَهُ فِي بَيْتِ الْمَالِ ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 13Arabic reference : Book 27, Hadith 1089Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik from a reliable source of his who  
had heard Said ibn al-Musayyab say, ''Umar ibn al-Khattab refused to  
let anyone inherit from the non-arabs except for one who was born  
among the arabs."  
  
  
Malik said, "If a pregnant woman comes from  
the land of the enemy and gives birth in arab land so that he is her  
(an arab) child, he inherits from her if she dies, and she inherits  
from him if he dies, by the Book of Allah."  
  
  
Malik said, "The  
generally agreed on way of doing things among us and the sunna in  
which there is no dispute, and what I saw the people of knowledge in  
our city doing, is that a Muslim does not inherit from a kafir by  
kinship, clientage (wala'), or maternal relationship, nor does he (the  
Muslim) overshadow any (of the kafirs) from his inheritance.  
  
  
Malik said, "Similarly, someone who forgoes his inheritance when he is  
the chief heir does not overshadow anyone from his inheritance."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ الثِّقَةِ، عِنْدَهُ أَنَّهُ سَمِعَ سَعِيدَ بْنَ الْمُسَيَّبِ، يَقُولُ أَبَى عُمَرُ بْنُ الْخَطَّابِ أَنْ يُوَرِّثَ، أَحَدًا مِنَ الأَعَاجِمِ إِلاَّ أَحَدًا وُلِدَ فِي الْعَرَبِ ‏.‏ قَالَ مَالِكٌ وَإِنْ جَاءَتِ امْرَأَةٌ حَامِلٌ مِنْ أَرْضِ الْعَدُوِّ فَوَضَعَتْهُ فِي أَرْضِ الْعَرَبِ فَهُوَ وَلَدُهَا يَرِثُهَا إِنْ مَاتَتْ وَتَرِثُهُ إِنْ مَاتَ مِيرَاثَهَا فِي كِتَابِ اللَّهِ ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا وَالسُّنَّةُ الَّتِي لاَ اخْتِلاَفَ فِيهَا وَالَّذِي أَدْرَكْتُ عَلَيْهِ أَهْلَ الْعِلْمِ بِبَلَدِنَا أَنَّهُ لاَ يَرِثُ الْمُسْلِمُ الْكَافِرَ بِقَرَابَةٍ وَلاَ وَلاَءٍ وَلاَ رَحِمٍ وَلاَ يَحْجُبُ أَحَدًا عَنْ مِيرَاثِهِ ‏.‏ قَالَ مَالِكٌ وَكَذَلِكَ كُلُّ مَنْ لاَ يَرِثُ إِذَا لَمْ يَكُنْ دُونَهُ وَارِثٌ فَإِنَّهُ لاَ يَحْجُبُ أَحَدًا عَنْ مِيرَاثِهِ ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 14Arabic reference : Book 27, Hadith 1090Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman  
from more than one of the people of knowledge of that time, that those  
who were killed on the Day of the Camel, the Day of Siffin, the Day of  
al-Harra, and the Day of Qudayd did not inherit from each other. None  
of them inherited anything from his companion unless it was known that  
he had been killed before his companion.  
  
  
Malik said, "That is  
the way of doing things about which there is no dispute, and which  
none of the people of knowledge in our city doubt. The procedure with  
two mutual heirs who are drowned, or killed in another way, when it is  
not known which of them died first is the same - neither of them  
inherits anything from his companion. Their inheritance goes to  
whoever remains of their heirs. They are inherited from by the  
living."  
  
  
Malik said, "No one should inherit from anyone else  
when there is doubt, and one should only inherit from the other when  
there is certainty of knowledge and witnesses. That is because a man  
and his mawla whom his father has freed might die at the same time.  
The sons of the free man could say, 'Our father inherited from the  
mawla.' They should not inherit from the mawla without knowledge or  
testimony that he died first. The living people most entitled to his  
wala' inherit from him."  
  
  
Malik said, "Another example is two  
full brothers who die. One of them has children and the other does  
not. They have a half-brother by their father. It is not known which  
of them died first, so the inheritance of the childless one goes to  
his half-brother by the father. The children of the full-brother get  
nothing."  
  
  
Malik said, "Another example is when a paternal  
aunt and the son of her brother die, or else the daughter of the  
brother and her paternal uncle. It is not known which of them died  
first. The paternal uncle does not inherit anything from the daughter  
of his brother, and the son of the brother does not inherit anything  
from his paternal aunt."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ رَبِيعَةَ بْنِ أَبِي عَبْدِ الرَّحْمَنِ، عَنْ غَيْرِ، وَاحِدٍ، مِنْ عُلَمَائِهِمْ ‏.‏ أَنَّهُ لَمْ يَتَوَارَثْ مَنْ قُتِلَ يَوْمَ الْجَمَلِ وَيَوْمَ صِفِّينَ وَيَوْمَ الْحَرَّةِ ثُمَّ كَانَ يَوْمَ قُدَيْدٍ فَلَمْ يُوَرَّثْ أَحَدٌ مِنْهُمْ مِنْ صَاحِبِهِ شَيْئًا إِلاَّ مَنْ عُلِمَ أَنَّهُ قُتِلَ قَبْلَ صَاحِبِهِ ‏.‏ قَالَ مَالِكٌ وَذَلِكَ الأَمْرُ الَّذِي لاَ اخْتِلاَفَ فِيهِ وَلاَ شَكَّ عِنْدَ أَحَدٍ مِنْ أَهْلِ الْعِلْمِ بِبَلَدِنَا وَكَذَلِكَ الْعَمَلُ فِي كُلِّ مُتَوَارِثَيْنِ هَلَكَا بِغَرَقٍ أَوْ قَتْلٍ أَوْ غَيْرِ ذَلِكَ مِنَ الْمَوْتِ إِذَا لَمْ يُعْلَمْ أَيُّهُمَا مَاتَ قَبْلَ صَاحِبِهِ لَمْ يَرِثْ أَحَدٌ مِنْهُمَا مِنْ صَاحِبِهِ شَيْئًا وَكَانَ مِيرَاثُهُمَا لِمَنْ بَقِيَ مِنْ وَرَثَتِهِمَا يَرِثُ كُلَّ وَاحِدٍ مِنْهُمَا وَرَثَتُهُ مِنَ الأَحْيَاءِ ‏.‏ وَقَالَ مَالِكٌ لاَ يَنْبَغِي أَنْ يَرِثَ أَحَدٌ أَحَدًا بِالشَّكِّ وَلاَ يَرِثُ أَحَدٌ أَحَدًا إِلاَّ بِالْيَقِينِ مِنَ الْعِلْمِ وَالشُّهَدَاءِ وَذَلِكَ أَنَّ الرَّجُلَ يَهْلِكُ هُوَ وَمَوْلاَهُ الَّذِي أَعْتَقَهُ أَبُوهُ فَيَقُولُ بَنُو الرَّجُلِ الْعَرَبِيِّ قَدْ وَرِثَهُ أَبُونَا فَلَيْسَ ذَلِكَ لَهُمْ أَنْ يَرِثُوهُ بِغَيْرِ عِلْمٍ وَلاَ شَهَادَةٍ إِنَّهُ مَاتَ قَبْلَهُ وَإِنَّمَا يَرِثُهُ أَوْلَى النَّاسِ بِهِ مِنَ الأَحْيَاءِ ‏.‏ قَالَ مَالِكٌ وَمِنْ ذَلِكَ أَيْضًا الأَخَوَانِ لِلأَبِ وَالأُمِّ يَمُوتَانِ وَلأَحَدِهِمَا وَلَدٌ وَالآخَرُ لاَ وَلَدَ لَهُ وَلَهُمَا أَخٌ لأَبِيهِمَا فَلاَ يُعْلَمُ أَيُّهُمَا مَاتَ قَبْلَ صَاحِبِهِ فَمِيرَاثُ الَّذِي لاَ وَلَدَ لَهُ لأَخِيهِ لأَبِيهِ وَلَيْسَ لِبَنِي أَخِيهِ لأَبِيهِ وَأُمِّهِ شَىْءٌ ‏.‏ قَالَ مَالِكٌ وَمِنْ ذَلِكَ أَيْضًا أَنْ تَهْلَكَ الْعَمَّةُ وَابْنُ أَخِيهَا أَوِ ابْنَةُ الأَخِ وَعَمُّهَا فَلاَ يُعْلَمُ أَيُّهُمَا مَاتَ قَبْلُ فَإِنْ لَمْ يُعْلَمْ أَيُّهُمَا مَاتَ قَبْلُ لَمْ يَرِثِ الْعَمُّ مِنِ ابْنَةِ أَخِيهِ شَيْئًا وَلاَ يَرِثُ ابْنُ الأَخِ مِنْ عَمَّتِهِ شَيْئًا ‏.‏

USC-MSA web (English) reference : Book 27, Hadith 15Arabic reference : Book 27, Hadith 1091Report Error | Share | Copy ▼

----------------------------------------

Yahya related to me from Malik that he had heard that Urwa ibn  
az-Zubayr said about the child of lian and the child of fornication,  
that if they died, the mother inherited her right from them according  
to the Book of Allah, the Mighty, the Majestic! The siblings by the  
mother had their rights. The rest was inherited by the former masters  
of the mother if she was a freed slave. If she was a free woman by  
origin, she inherited her due and the siblings by the mother inherited  
their due, and the rest went to the Muslims.  
  
  
Malik said, "I  
heard the same as that from Sulayman ibn Yasar."  
  
  
Malik said,  
"That is what I saw the people of knowledge in our city doing."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ عُرْوَةَ بْنَ الزُّبَيْرِ، كَانَ يَقُولُ فِي وَلَدِ الْمُلاَعَنَةِ وَوَلَدِ الزِّنَا إِنَّهُ إِذَا مَاتَ وَرِثَتْهُ أُمُّهُ حَقَّهَا فِي كِتَابِ اللَّهِ عَزَّ وَجَلَّ وَإِخْوَتُهُ لأُمِّهِ حُقُوقَهُمْ وَيَرِثُ الْبَقِيَّةَ مَوَالِي أُمِّهِ إِنْ كَانَتْ مَوْلاَةً وَإِنْ كَانَتْ عَرَبِيَّةً وَرِثَتْ حَقَّهَا وَوَرِثَ إِخْوَتُهُ لأُمِّهِ حُقُوقَهُمْ وَكَانَ مَا بَقِيَ لِلْمُسْلِمِينَ ‏.‏   
 قَالَ مَالِكٌ وَبَلَغَنِي عَنْ سُلَيْمَانَ بْنِ يَسَارٍ، مِثْلُ ذَلِكَ ‏.‏ قَالَ مَالِكٌ وَعَلَى ذَلِكَ أَدْرَكْتُ أَهْلَ الْعِلْمِ بِبَلَدِنَا ‏.

USC-MSA web (English) reference : Book 27, Hadith 16Arabic reference : Book 27, Hadith 1092Report Error | Share | Copy ▼

----------------------------------------