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

Yahya related to me from Malik from Muhammad ibn Yahya ibn Habban  
from al-Araj from Abu Hurayra that the Messenger of Allah, may Allah  
bless him and grant him peace, said, "Do not ask for a woman in  
marriage when another muslim has already done so."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ مُحَمَّدِ بْنِ يَحْيَى بْنِ حَبَّانَ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ لاَ يَخْطُبُ أَحَدُكُمْ عَلَى خِطْبَةِ أَخِيهِ ‏"‏ ‏.‏

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Yahya related to me from Malik from Nafi from Abdullah ibn Umar  
that the Messenger of Allah, may Allah bless him and grant him peace,  
said, "Do not ask for a woman in marriage when another muslim has  
already done so."  
  
  
Malik said, "The explanation of the  
statement of the Messenger of Allah, may Allah bless him and grant him  
peace, according to what we think - and Allah knows best - is that 'Do  
not ask for a woman in marriage when another muslim has already done  
so' means that when a man has asked for a woman in marriage, and she  
has inclined to him and they have agreed on a bride-price, which she  
has suggested and with which they are mutually satisfied, it is  
forbidden for another man to ask for that woman in marriage. It does  
not mean that when a man has asked for a woman in marriage, and his  
suit does not agree with her and she does not incline to him that no  
one else can ask for her in marriage. That is a door to misery for  
people."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ لاَ يَخْطُبُ أَحَدُكُمْ عَلَى خِطْبَةِ أَخِيهِ ‏"‏ ‏.‏

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Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim  
that his father said about the word of Allah, the Blessed, the  
Exalted, "There is no fault in you about the proposal you offer to  
women, or hide in yourselves. Allah knows that you will be mindful of  
them; but do not make troth with them secretly without honourable  
words," (Sura 2 ayat 235) that it referred to a man saying to a woman  
while she was still in her idda after the death of her husband, "You  
are dear to me, and I desire you, and Allah brings provision and  
blessing to you," and words such as these.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ، عَنْ أَبِيهِ، أَنَّهُ كَانَ يَقُولُ فِي قَوْلِ اللَّهِ تَبَارَكَ وَتَعَالَى ‏{‏وَلاَ جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ خِطْبَةِ النِّسَاءِ أَوْ أَكْنَنْتُمْ فِي أَنْفُسِكُمْ عَلِمَ اللَّهُ أَنَّكُمْ سَتَذْكُرُونَهُنَّ وَلَكِنْ لاَ تُوَاعِدُوهُنَّ سِرًّا إِلاَّ أَنْ تَقُولُوا قَوْلاً مَعْرُوفًا‏}‏ أَنْ يَقُولَ الرَّجُلُ لِلْمَرْأَةِ وَهِيَ فِي عِدَّتِهَا مِنْ وَفَاةِ زَوْجِهَا إِنَّكِ عَلَىَّ لَكَرِيمَةٌ وَإِنِّي فِيكِ لَرَاغِبٌ وَإِنَّ اللَّهَ لَسَائِقٌ إِلَيْكِ خَيْرًا وَرِزْقًا وَنَحْوَ هَذَا مِنَ الْقَوْلِ ‏.‏

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Malik related to me from Abdullah ibn al-Fadl from Nafi ibn  
Jubayr ibn Mutim from Abdullah ibn Abbas that the Messenger of Allah,  
may Allah bless him and grant him peace, said, "A woman who has been  
previously married is more entitled to her person than her guardian,  
and a virgin must be asked for her consent for herself, and her  
consent is her silence "

حَدَّثَنِي مَالِكٌ، عَنْ عَبْدِ اللَّهِ بْنِ الْفَضْلِ، عَنْ نَافِعِ بْنِ جُبَيْرِ بْنِ مُطْعِمٍ، عَنْ عَبْدِ اللَّهِ بْنِ عَبَّاسٍ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ الأَيِّمُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا وَالْبِكْرُ تُسْتَأْذَنُ فِي نَفْسِهَا وَإِذْنُهَا صُمَاتُهَا ‏"‏ ‏.‏

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Yahya related to me from Malik that he had heard that Said ibn  
al-Musayyab had said that Umar ibn al-Khattab said, "A woman is only  
married with the consent of her guardian, someone of her family with  
sound judgement or the Sultan.

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّهُ قَالَ قَالَ عُمَرُ بْنُ الْخَطَّابِ لاَ تُنْكَحُ الْمَرْأَةُ إِلاَّ بِإِذْنِ وَلِيِّهَا أَوْ ذِي الرَّأْىِ مِنْ أَهْلِهَا أَوِ السُّلْطَانِ ‏.‏

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Yahya related to me from Malik that he had heard that al-Qasim  
ibn Muhammad and Salim ibn Abdullah were marrying off their daughters  
and they did not consult them.  
  
  
Malik said, "That is what is  
done among us about the marriage of virgins."  
  
  
Malik said, "A  
virgin has no right to her property until she enters her house and her  
state (competence, maturity etc.) is known for sure."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ الْقَاسِمَ بْنَ مُحَمَّدٍ، وَسَالِمَ بْنَ عَبْدِ اللَّهِ، كَانَا يُنْكِحَانِ بَنَاتِهِمَا الأَبْكَارَ وَلاَ يَسْتَأْمِرَانِهِنَّ ‏.‏ قَالَ مَالِكٌ وَذَلِكَ الأَمْرُ عِنْدَنَا فِي نِكَاحِ الأَبْكَارِ ‏.‏ قَالَ مَالِكٌ وَلَيْسَ لِلْبِكْرِ جَوَازٌ فِي مَالِهَا حَتَّى تَدْخُلَ بَيْتَهَا وَيُعْرَفَ مِنْ حَالِهَا ‏.‏

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Yahya related to me from Malik that he had heard that al-Qasim  
ibn Muhammad and Salim ibn Abdullah and Sulayman ibn Yasar said about  
the virgin given by her father in marriage without her permission,  
"That is binding on her."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ الْقَاسِمَ بْنَ مُحَمَّدٍ، وَسَالِمَ بْنَ عَبْدِ اللَّهِ، وَسُلَيْمَانَ بْنَ يَسَارٍ، كَانُوا يَقُولُونَ فِي الْبِكْرِ يُزَوِّجُهَا أَبُوهَا بِغَيْرِ إِذْنِهَا إِنَّ ذَلِكَ لاَزِمٌ لَهَا ‏.‏

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Yahya related to me from Malik from Malik from Abu Hazim ibn  
Dinar from Sahl ibn Sad as-Saidi that a woman came to the Messenger of  
Allah, may Allah bless him and grant him peace, and said, "Messenger  
of Allah! I have given myself to you." She stood for a long time, and  
then a man got up and said, "Messenger of Allah, marry her to me if  
you have no need of her." The Messenger of Allah, may Allah bless him  
and grant him peace, said, "Do you have anything to give her as a  
bride-price?" He said, "I possess only this lower garment of mine."  
The Messenger of Allah, may Allah bless him and grant him peace, said,  
"If you give it to her you will not have a garment to wear so look for  
something else." He said, "I have nothing else." He said, "Look for  
something else, even if it is only an iron ring." He looked, and found  
that he had nothing. The Messenger of Allah, may Allah bless him and  
grant him peace, said, "Do you know any of the Qur'an?" He said, "Yes.  
I know such-and-such a sura and such-and-such a sura," which he named.  
The Messengerof Allah, may Allah bless him and grant him peace, said  
to him, "I have married her to you for what you know of the Qur'an."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ أَبِي حَازِمِ بْنِ دِينَارٍ، عَنْ سَهْلِ بْنِ سَعْدٍ السَّاعِدِيِّ، ‏.‏ أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم جَاءَتْهُ امْرَأَةٌ فَقَالَتْ يَا رَسُولَ اللَّهِ إِنِّي قَدْ وَهَبْتُ نَفْسِي لَكَ فَقَامَتْ قِيَامًا طَوِيلاً فَقَامَ رَجُلٌ فَقَالَ يَا رَسُولَ اللَّهِ زَوِّجْنِيهَا إِنْ لَمْ تَكُنْ لَكَ بِهَا حَاجَةٌ ‏.‏ فَقَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ هَلْ عِنْدَكَ مِنْ شَىْءٍ تُصْدِقُهَا إِيَّاهُ ‏"‏ ‏.‏ فَقَالَ مَا عِنْدِي إِلاَّ إِزَارِي هَذَا ‏.‏ فَقَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ إِنْ أَعْطَيْتَهَا إِيَّاهُ جَلَسْتَ لاَ إِزَارَ لَكَ فَالْتَمِسْ شَيْئًا ‏"‏ ‏.‏ فَقَالَ مَا أَجِدُ شَيْئًا ‏.‏ قَالَ ‏"‏ الْتَمِسْ وَلَوْ خَاتَمًا مِنْ حَدِيدٍ ‏"‏ ‏.‏ فَالْتَمَسَ فَلَمْ يَجِدْ شَيْئًا ‏.‏ فَقَالَ لَهُ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ هَلْ مَعَكَ مِنَ الْقُرْآنِ شَىْءٌ ‏"‏ ‏.‏ فَقَالَ نَعَمْ مَعِي سُورَةُ كَذَا وَسُورَةُ كَذَا ‏.‏ لِسُوَرٍ سَمَّاهَا ‏.‏ فَقَالَ لَهُ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ قَدْ أَنْكَحْتُكَهَا بِمَا مَعَكَ مِنَ الْقُرْآنِ ‏"‏ ‏.‏

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Yahya related to me from Malik from Yahya ibn Said that Said ibn  
al-Musayyab had said that Umar ibn al-Khattab said, "If a man marries  
a woman who is insane, or has leprosy or white leprosy, without being  
told of her condition by her guardian, and he has sexual relations  
with her, she keeps her bride-price in its entirety. Her husband has  
damages against her guardian."  
  
  
Malik said, "The husband has  
damages against her guardian when the guardian is her father, brother,  
or one who is deemed to have knowledge of her condition. If the  
guardian who gives her in marriage is a nephew, a mawla or a member of  
her tribe who is not deemed to have knowledge of her condition, there  
are no damages against him, and the woman returns what she has taken  
of her bride-price, and the husband leaves her whatever amount is  
thought to be fair."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّهُ قَالَ قَالَ عُمَرُ بْنُ الْخَطَّابِ أَيُّمَا رَجُلٍ تَزَوَّجَ امْرَأَةً وَبِهَا جُنُونٌ أَوْ جُذَامٌ أَوْ بَرَصٌ فَمَسَّهَا فَلَهَا صَدَاقُهَا كَامِلاً وَذَلِكَ لِزَوْجِهَا غُرْمٌ عَلَى وَلِيِّهَا ‏.‏ قَالَ مَالِكٌ وَإِنَّمَا يَكُونُ ذَلِكَ غُرْمًا عَلَى وَلِيِّهَا لِزَوْجِهَا إِذَا كَانَ وَلِيُّهَا الَّذِي أَنْكَحَهَا هُوَ أَبُوهَا أَوْ أَخُوهَا أَوْ مَنْ يُرَى أَنَّهُ يَعْلَمُ ذَلِكَ مِنْهَا فَأَمَّا إِذَا كَانَ وَلِيُّهَا الَّذِي أَنْكَحَهَا ابْنَ عَمٍّ أَوْ مَوْلًى أَوْ مِنَ الْعَشِيرَةِ مِمَّنْ يُرَى أَنَّهُ لاَ يَعْلَمُ ذَلِكَ مِنْهَا فَلَيْسَ عَلَيْهِ غُرْمٌ وَتَرُدُّ تِلْكَ الْمَرْأَةُ مَا أَخَذَتْهُ مِنْ صَدَاقِهَا وَيَتْرُكُ لَهَا قَدْرَ مَا تُسْتَحَلُّ بِهِ ‏.‏

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Yahya related to me from Malik from Nafi that the daughter of  
Ubaydullah ibn Umar whose mother was the daughter of Zayd ibn al-  
Khattab, married the son of Abdullah ibn Umar. He died and had not yet  
consummated the marriage or specified her bride-price. Her mother  
wanted the bride-price, and Abdullah ibn Umar said, "She is not  
entitled to a bride-price. Had she been entitled to a bride-price, we  
would not have kept it and we would not do her an injustice. "The  
mother refused to accept that. Zayd ibn Thabit was brought to  
adjudicate between them and he decided that she had no bride-price,  
but that she did inherit.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ نَافِعٍ، أَنَّ ابْنَةَ عُبَيْدِ اللَّهِ بْنِ عُمَرَ، - وَأُمُّهَا بِنْتُ زَيْدِ بْنِ الْخَطَّابِ - كَانَتْ تَحْتَ ابْنٍ لِعَبْدِ اللَّهِ بْنِ عُمَرَ فَمَاتَ وَلَمْ يَدْخُلْ بِهَا وَلَمْ يُسَمِّ لَهَا صَدَاقًا فَابْتَغَتْ أُمُّهَا صَدَاقَهَا فَقَالَ عَبْدُ اللَّهِ بْنُ عُمَرَ لَيْسَ لَهَا صَدَاقٌ وَلَوْ كَانَ لَهَا صَدَاقٌ لَمْ نُمْسِكْهُ وَلَمْ نَظْلِمْهَا ‏.‏ فَأَبَتْ أُمُّهَا أَنْ تَقْبَلَ ذَلِكَ فَجَعَلُوا بَيْنَهُمْ زَيْدَ بْنَ ثَابِتٍ فَقَضَى أَنْ لاَ صَدَاقَ لَهَا وَلَهَا الْمِيرَاثُ ‏.‏

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Yahya related to me from Malik that he had heard that Umar ibn  
Abd al-Aziz during his khalifate, wrote to one of his governors,  
"Whatever a father, or guardian, who gives someone in marriage, makes  
a condition in the way of unreturnable gift or of favour, belongs to  
the woman if she wants it."  
  
  
Malik spoke about a woman whose  
father gave her in marriage and made an unreturnable gift a condition  
of the bride-price which was to be given. He said, "Whatever is given  
as a condition by which marriage occurs belongs to the woman if she  
wants it. If the husband parts from her before the marriage is  
consummated, the husband has half of the unreturnable gift by which  
the marriage occurred."  
  
  
Malik said about a man who married  
off his young son and the son had no wealth at all, that the bride-  
price was obliged of the father if the young man had no property on  
the day of marriage. If the young man did have property the bride-  
price was taken from his property unless the father stipulated that he  
would pay the bride-price. The marriage was affirmed for the son if he  
was a minor only if he was under the guardianship of his father.  
  
  
Malik said that if a man divorced his wife before he had  
consummated the marriage and she was a virgin, her father returned  
half of the bride-price to him. That half was permitted to the husband  
from the father to compensate him for his expenses.  
  
  
Malik  
said that that was because Allah, the Blessed, the Exalted, said in  
His Book, "Unless they (women with whom he had not consummated  
marriage) make remission or he makes remission to him in whose hand is  
the knot of marriage." (Sura 2 ayat 237). (He being the father of a  
virgin daughter or the master of a female slave.)  
  
  
Malik said,  
"That is what I have heard about the matter, and that is how things  
are done among us."  
  
  
Malik said that a jewish or christian  
woman who was married to a jew or christian and then became muslim  
before the marriage had been consummated, did not keep anything from  
the bride-price.  
  
  
Malik said, "I do not think that women  
should be married for less than a quarter of a dinar. That is the  
lowest amount for which cutting off the hand is obliged ."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ عُمَرَ بْنَ عَبْدِ الْعَزِيزِ، كَتَبَ فِي خِلاَفَتِهِ إِلَى بَعْضِ عُمَّالِهِ أَنَّ كُلَّ مَا اشْتَرَطَ الْمُنْكِحُ - مَنْ كَانَ أَبًا أَوْ غَيْرَهُ - مِنْ حِبَاءٍ أَوْ كَرَامَةٍ فَهُوَ لِلْمَرْأَةِ إِنِ ابْتَغَتْهُ ‏.‏ قَالَ مَالِكٌ فِي الْمَرْأَةِ يُنْكِحُهَا أَبُوهَا وَيَشْتَرِطُ فِي صَدَاقِهَا الْحِبَاءَ يُحْبَى بِهِ إِنَّ مَا كَانَ مِنْ شَرْطٍ يَقَعُ بِهِ النِّكَاحُ فَهُوَ لاِبْنَتِهِ إِنِ ابْتَغَتْهُ وَإِنْ فَارَقَهَا زَوْجُهَا قَبْلَ أَنْ يَدْخُلَ بِهَا فَلِزَوْجِهَا شَطْرُ الْحِبَاءِ الَّذِي وَقَعَ بِهِ النِّكَاحُ ‏.‏ قَالَ مَالِكٌ فِي الرَّجُلِ يُزَوِّجُ ابْنَهُ صَغِيرًا لاَ مَالَ لَهُ إِنَّ الصَّدَاقَ عَلَى أَبِيهِ إِذَا كَانَ الْغُلاَمُ يَوْمَ تَزَوَّجَ لاَ مَالَ لَهُ وَإِنْ كَانَ لِلْغُلاَمِ مَالٌ فَالصَّدَاقُ فِي مَالِ الْغُلاَمِ إِلاَّ أَنْ يُسَمِّيَ الأَبُ أَنَّ الصَّدَاقَ عَلَيْهِ وَذَلِكَ النِّكَاحُ ثَابِتٌ عَلَى الاِبْنِ إِذَا كَانَ صَغِيرًا وَكَانَ فِي وِلاَيَةِ أَبِيهِ ‏.‏ قَالَ مَالِكٌ فِي طَلاَقِ الرَّجُلِ امْرَأَتَهُ قَبْلَ أَنْ يَدْخُلَ بِهَا وَهِيَ بِكْرٌ فَيَعْفُوَ أَبُوهَا عَنْ نِصْفِ الصَّدَاقِ إِنَّ ذَلِكَ جَائِزٌ لِزَوْجِهَا مِنْ أَبِيهَا فِيمَا وَضَعَ عَنْهُ ‏.‏ قَالَ مَالِكٌ وَذَلِكَ أَنَّ اللَّهَ تَبَارَكَ وَتَعَالَى قَالَ فِي كِتَابِهِ ‏{‏إِلاَّ أَنْ يَعْفُونَ‏}‏ فَهُنَّ النِّسَاءُ اللاَّتِي قَدْ دُخِلَ بِهِنَّ ‏{‏أَوْ يَعْفُوَ الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ‏}‏ فَهُوَ الأَبُ فِي ابْنَتِهِ الْبِكْرِ وَالسَّيِّدُ فِي أَمَتِهِ ‏.‏ قَالَ مَالِكٌ وَهَذَا الَّذِي سَمِعْتُ فِي ذَلِكَ وَالَّذِي عَلَيْهِ الأَمْرُ عِنْدَنَا ‏.‏ قَالَ مَالِكٌ فِي الْيَهُودِيَّةِ أَوِ النَّصْرَانِيَّةِ تَحْتَ الْيَهُودِيِّ أَوِ النَّصْرَانِيِّ فَتُسْلِمُ قَبْلَ أَنْ يَدْخُلَ بِهَا أَنَّهُ لاَ صَدَاقَ لَهَا ‏.‏ قَالَ مَالِكٌ لاَ أَرَى أَنْ تُنْكَحَ الْمَرْأَةُ بِأَقَلَّ مِنْ رُبْعِ دِينَارٍ وَذَلِكَ أَدْنَى مَا يَجِبُ فِيهِ الْقَطْعُ ‏.‏

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Yahya related to me from Malik from Yahya ibn Said from Said ibn  
al-Musayyab that 'Umar ibn al-Khattab decided about the woman who was  
married by a man and the marriage had been consummated, that the  
bride-price was obligatory.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ، قَضَى فِي الْمَرْأَةِ إِذَا تَزَوَّجَهَا الرَّجُلُ أَنَّهُ إِذَا أُرْخِيَتِ السُّتُورُ فَقَدْ وَجَبَ الصَّدَاقُ ‏.‏

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Yahya related to me from Malik from Ibn Shihab that Zayd ibn  
Thabit said, "When a man takes his wife to his house and co-habits  
with her then the bride-price is obliged."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، أَنَّ زَيْدَ بْنَ ثَابِتٍ، كَانَ يَقُولُ إِذَا دَخَلَ الرَّجُلُ بِامْرَأَتِهِ فَأُرْخِيَتْ عَلَيْهِمَا السُّتُورُ فَقَدْ وَجَبَ الصَّدَاقُ ‏.‏

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Yahya related to  
me from Malik that he had heard that Said ibn al-Musayyab said, "When  
a man comes to his wife in her room, he is believed. When she comes to  
him in his room, she is believed."  
  
  
Malik commented, "I think  
that this refers to sexual intercourse. When he comes in to her in her  
room and she says, 'He has had intercourse with me' and he says, 'I  
have not touched her', he is believed. When she comes in to him in his  
room and he says, 'I have not had intercourse with her' and she says,  
'He had intercourse with me', she is believed."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ سَعِيدَ بْنَ الْمُسَيَّبِ، كَانَ يَقُولُ إِذَا دَخَلَ الرَّجُلُ بِالْمَرْأَةِ فِي بَيْتِهَا صُدِّقَ الرَّجُلُ عَلَيْهَا وَإِذَا دَخَلَتْ عَلَيْهِ فِي بَيْتِهِ صُدِّقَتْ عَلَيْهِ ‏.‏ قَالَ مَالِكٌ أَرَى ذَلِكَ فِي الْمَسِيسِ إِذَا دَخَلَ عَلَيْهَا فِي بَيْتِهَا فَقَالَتْ قَدْ مَسَّنِي وَقَالَ لَمْ أَمَسَّهَا صُدِّقَ عَلَيْهَا فَإِنْ دَخَلَتْ عَلَيْهِ فِي بَيْتِهِ فَقَالَ لَمْ أَمَسَّهَا وَقَالَتْ قَدْ مَسَّنِي صُدِّقَتْ عَلَيْهِ ‏.‏

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Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn  
Muhammad ibn Amr ibn Hazm from Abd al-Malik ibn Abi Bakr ibn Abd ar-  
Rahman ibn al-Harith ibn Hisham al-Makhzumi from his father that when  
the Messenger of Allah, may Allah bless him and grant him peace,  
married Umm Salama and then spent the night with her, he said to her,  
"You are not being humbled in your right. If you wish, I will stay  
with you for seven nights as I stayed seven nights with the others. If  
you wish, I will stay with you for three nights, and then visit the  
others in turn." She said, "Stay three nights."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ عَبْدِ اللَّهِ بْنِ أَبِي بَكْرِ بْنِ مُحَمَّدِ بْنِ عَمْرِو بْنِ حَزْمٍ، عَنْ عَبْدِ الْمَلِكِ بْنِ أَبِي بَكْرِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ الْحَارِثِ بْنِ هِشَامٍ الْمَخْزُومِيِّ، عَنْ أَبِيهِ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم حِينَ تَزَوَّجَ أُمَّ سَلَمَةَ وَأَصْبَحَتْ عِنْدَهُ قَالَ لَهَا ‏  
"‏ لَيْسَ بِكِ عَلَى أَهْلِكِ هَوَانٌ إِنْ شِئْتِ سَبَّعْتُ عِنْدَكِ وَسَبَّعْتُ عِنْدَهُنَّ وَإِنْ شِئْتِ ثَلَّثْتُ عِنْدَكِ وَدُرْتُ ‏"‏ ‏.‏ فَقَالَتْ ثَلِّثْ ‏.‏

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Yahya related to me from Malik from Humayd at-Tawil that Anas ibn  
Malik said, "A virgin has seven nights, and a woman who has been  
previously married has three nights."  
  
  
Malik affirmed, "That  
is what is done among us."  
  
  
Malik added, "If the man has  
another wife, he divides his time equally between them after the  
wedding nights. He does not count the wedding nights against the one  
he has just married."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ حُمَيْدٍ الطَّوِيلِ، عَنْ أَنَسِ بْنِ مَالِكٍ، أَنَّهُ كَانَ يَقُولُ لِلْبِكْرِ سَبْعٌ وَلِلثَّيِّبِ ثَلاَثٌ ‏.‏

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Yahya related to me from Malik that he had heard that Said ibn  
al-Musayyab was asked about a woman who made a stipulation on her  
husband not to take her away from her town. Said ibn al-Musayyab said,  
"He takes her away if he wishes."  
  
  
Malik said, "The custom  
among us is that when a man marries a woman, and he makes a condition  
in the marriage contract that he will not marry after her or take a  
concubine, it means nothing unless there is an oath of divorce or  
setting-free attached to it. Then it is obliged and required of him."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ سَعِيدَ بْنَ الْمُسَيَّبِ، سُئِلَ عَنِ الْمَرْأَةِ، تَشْتَرِطُ عَلَى زَوْجِهَا أَنَّهُ لاَ يَخْرُجُ بِهَا مِنْ بَلَدِهَا فَقَالَ سَعِيدُ بْنُ الْمُسَيَّبِ يَخْرُجُ بِهَا إِنْ شَاءَ ‏.‏ قَالَ مَالِكٌ فَالأَمْرُ عِنْدَنَا ذَلِكَ أَنَّهُ إِذَا شَرَطَ الرَّجُلُ لِلْمَرْأَةِ وَإِنْ كَانَ ذَلِكَ عِنْدَ عُقْدَةِ النِّكَاحِ أَنْ لاَ أَنْكِحَ عَلَيْكِ وَلاَ أَتَسَرَّرَ إِنَّ ذَلِكَ لَيْسَ بِشَىْءٍ إِلاَّ أَنْ يَكُونَ فِي ذَلِكَ يَمِينٌ بِطَلاَقٍ أَوْ عِتَاقَةٍ فَيَجِبُ ذَلِكَ عَلَيْهِ وَيَلْزَمُهُ ‏.‏

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Yahya related to me from Malik from al-Miswar ibn Rifaa al-  
Quradhi from az-Zubayr ibn Abd ar-Rahman ibn az-Zubayr that Rifaa ibn  
Simwal divorced his wife, Tamima bint Wahb, in the time of the  
Messenger of Allah, may Allah bless him and grant him peace, three  
times. Then she married Abd ar-Rahman ibn az-Zubayr and he turned from  
her and could not consummate the marriage and so he parted from her.  
Rifaa wanted to marry her again and it was mentioned to the Messenger  
of Allah, may Allah bless him and grant him peace, and he forbade him  
to marry her. He said, "She is not halal for you until she has tasted  
the sweetness of intercourse."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ الْمِسْوَرِ بْنِ رِفَاعَةَ الْقُرَظِيِّ، عَنِ الزُّبَيْرِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ الزَّبِيرِ، أَنَّ رِفَاعَةَ بْنَ سِمْوَالٍ، طَلَّقَ امْرَأَتَهُ تَمِيمَةَ بِنْتَ وَهْبٍ فِي عَهْدِ رَسُولِ اللَّهِ صلى الله عليه وسلم ثَلاَثًا فَنَكَحَتْ عَبْدَ الرَّحْمَنِ بْنَ الزَّبِيرِ فَاعْتَرَضَ عَنْهَا فَلَمْ يَسْتَطِعْ أَنْ يَمَسَّهَا فَفَارَقَهَا فَأَرَادَ رِفَاعَةُ أَنْ يَنْكِحَهَا - وَهُوَ زَوْجُهَا الأَوَّلُ الَّذِي كَانَ طَلَّقَهَا - فَذَكَرَ ذَلِكَ لِرَسُولِ اللَّهِ صلى الله عليه وسلم فَنَهَاهُ عَنْ تَزْوِيجِهَا وَقَالَ ‏  
"‏ لاَ تَحِلُّ لَكَ حَتَّى تَذُوقَ الْعُسَيْلَةَ ‏"‏ ‏.‏

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Yahya related to me from Malik from Yahya ibn Said from al-Qasim  
ibn Muhammad that A'isha, the wife of the Prophet, may Allah bless him  
and grant him peace, said when asked whether it was permissible for a  
man to marry again a wife he had divorced irrevocably if she had  
married another man who divorced her before consummating the marriage,  
"Not until she has tasted the sweetness of intercourse."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنْ عَائِشَةَ، زَوْجِ النَّبِيِّ صلى الله عليه وسلم أَنَّهَا سُئِلَتْ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ الْبَتَّةَ فَتَزَوَّجَهَا بَعْدَهُ رَجُلٌ آخَرُ فَطَلَّقَهَا قَبْلَ أَنْ يَمَسَّهَا هَلْ يَصْلُحُ لِزَوْجِهَا الأَوَّلِ أَنْ يَتَزَوَّجَهَا فَقَالَتْ عَائِشَةُ لاَ حَتَّى يَذُوقَ عُسَيْلَتَهَا ‏.‏

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Yahya related to me from Malik that he had heard that when asked  
whether it was permissible for a man to return to his wife if he had  
divorced her irrevocably and then another man had married her after  
him and died before consummating the marriage, al-Qasim ibn Muhammad  
said, "It is not halal for the first husband to return to her."  
  
  
Malik said, about the muhallil, that he could not remain in the  
marriage until he undertook a new marriage. If he had intercourse with  
her in that marriage, she had her dowry.

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ الْقَاسِمَ بْنَ مُحَمَّدٍ، سُئِلَ عَنْ رَجُلٍ، طَلَّقَ امْرَأَتَهُ الْبَتَّةَ ثُمَّ تَزَوَّجَهَا بَعْدَهُ رَجُلٌ آخَرُ فَمَاتَ عَنْهَا قَبْلَ أَنْ يَمَسَّهَا هَلْ يَحِلُّ لِزَوْجِهَا الأَوَّلِ أَنْ يُرَاجِعَهَا فَقَالَ الْقَاسِمُ بْنُ مُحَمَّدٍ لاَ يَحِلُّ لِزَوْجِهَا الأَوَّلِ أَنْ يُرَاجِعَهَا ‏.‏ قَالَ مَالِكٌ فِي الْمُحَلِّلِ إِنَّهُ لاَ يُقِيمُ عَلَى نِكَاحِهِ ذَلِكَ حَتَّى يَسْتَقْبِلَ نِكَاحًا جَدِيدًا فَإِنْ أَصَابَهَا فِي ذَلِكَ فَلَهَا مَهْرُهَا ‏.‏

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Yahya related to me from Malik from Abu'z-Zinad from al-Araj from  
Abu Hurayra that the Messenger of Allah, may Allah bless him and grant  
him peace, said "One cannot be married to a woman and her paternal  
aunt, or a woman and her maternal aunt at the same time."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ لاَ يُجْمَعُ بَيْنَ الْمَرْأَةِ وَعَمَّتِهَا وَلاَ بَيْنَ الْمَرْأَةِ وَخَالَتِهَا ‏"‏ ‏.‏

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Yahya related to me from Malik from Yahya ibn Said that Said ibn  
al-Musayyab said, "It is forbidden to be married to a woman and her  
paternal or maternal aunt at the same time, and for a man to have  
intercourse with a female slave who is carrying another man's child."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّهُ كَانَ يَقُولُ يُنْهَى أَنْ تُنْكَحَ الْمَرْأَةُ عَلَى عَمَّتِهَا أَوْ عَلَى خَالَتِهَا وَأَنْ يَطَأَ الرَّجُلُ وَلِيدَةً وَفِي بَطْنِهَا جَنِينٌ لِغَيْرِهِ ‏.‏

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Yahya related to me from Malik from Yahya ibn Said that Zayd ibn  
Thabit asked whether it was halal for a man who married a woman and  
then separated from her before he had cohabited with her, to marry her  
mother. Zayd ibn Thabit said, "No. The mother is prohibited  
unconditionally. There are conditions, however about foster-mothers."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّهُ قَالَ سُئِلَ زَيْدُ بْنُ ثَابِتٍ عَنْ رَجُلٍ، تَزَوَّجَ امْرَأَةً ثُمَّ فَارَقَهَا قَبْلَ أَنْ يُصِيبَهَا هَلْ تَحِلُّ لَهُ أُمُّهَا فَقَالَ زَيْدُ بْنُ ثَابِتٍ لاَ الأُمُّ مُبْهَمَةٌ لَيْسَ فِيهَا شَرْطٌ وَإِنَّمَا الشَّرْطُ فِي الرَّبَائِبِ ‏.‏

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Yahya related to me from Malik from more than one source that  
when Abdullah ibn Masud was in Kufa, he was asked for an opinion about  
marrying the mother after marrying the daughter when the marriage with  
the daughter had not been consummated. He permitted it. When Ibn Masud  
came to Madina, he asked about it and was told that it was not as he  
had said, and that this condition referred to foster-mothers. Ibn  
Masud returnedto Kufa,and he had just reached his dwelling when the  
man who had asked him for the opinion came to visit and he ordered him  
to separate from his wife.  
  
  
Malik said that if a man married  
the mother of a woman who was his wife and he had sexual relations  
with the mother then his wife was haram for him, and he had to  
separate from both of them. They were both haram to him forever, if he  
had had sexual relations with the mother. If he had not had relations  
with the mcther, his wife was not haram for him, and he separated from  
the mother.  
  
  
Malik explained further about the man who married  
a woman, and then married her mother and cohabited with her, "The  
mother will never be halal for him, and she is not halal for his  
father or his son, and any daughters of hers are not halal for him and  
so his wife is haram for him."  
  
  
Malik said, "Fornication  
however, does not make any of that haram because Allah, the Blessed,  
the Exalted, mentioned 'the mothers of your wives,' as one whom  
marriage made haram, and he didn't mention the making haram by  
fornication. Every marriage in a halal manner in which a man cohabits  
with his wife, is a halal marriage. This is what I have heard, and  
this is how things are done among us."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ غَيْرِ، وَاحِدٍ، أَنَّ عَبْدَ اللَّهِ بْنَ مَسْعُودٍ، اسْتُفْتِيَ وَهُوَ بِالْكُوفَةِ عَنْ نِكَاحِ الأُمِّ، بَعْدَ الاِبْنَةِ إِذَا لَمْ تَكُنْ الاِبْنَةُ مُسَّتْ فَأَرْخَصَ فِي ذَلِكَ ثُمَّ إِنَّ ابْنَ مَسْعُودٍ قَدِمَ الْمَدِينَةَ فَسَأَلَ عَنْ ذَلِكَ فَأُخْبِرَ أَنَّهُ لَيْسَ كَمَا قَالَ وَإِنَّمَا الشَّرْطُ فِي الرَّبَائِبِ فَرَجَعَ ابْنُ مَسْعُودٍ إِلَى الْكُوفَةِ فَلَمْ يَصِلْ إِلَى مَنْزِلِهِ حَتَّى أَتَى الرَّجُلَ الَّذِي أَفْتَاهُ بِذَلِكَ فَأَمَرَهُ أَنْ يُفَارِقَ امْرَأَتَهُ ‏.‏ قَالَ مَالِكٌ فِي الرَّجُلِ تَكُونُ تَحْتَهُ الْمَرْأَةُ ثُمَّ يَنْكِحُ أُمَّهَا فَيُصِيبُهَا إِنَّهَا تَحْرُمُ عَلَيْهِ امْرَأَتُهُ وَيُفَارِقُهُمَا جَمِيعًا وَيَحْرُمَانِ عَلَيْهِ أَبَدًا إِذَا كَانَ قَدْ أَصَابَ الأُمَّ فَإِنْ لَمْ يُصِبِ الأُمَّ لَمْ تَحْرُمْ عَلَيْهِ امْرَأَتُهُ وَفَارَقَ الأُمَّ ‏.‏ وَقَالَ مَالِكٌ فِي الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ ثُمَّ يَنْكِحُ أُمَّهَا فَيُصِيبُهَا إِنَّهُ لاَ تَحِلُّ لَهُ أُمُّهَا أَبَدًا وَلاَ تَحِلُّ لأَبِيهِ وَلاَ لاِبْنِهِ وَلاَ تَحِلُّ لَهُ ابْنَتُهَا وَتَحْرُمُ عَلَيْهِ امْرَأَتُهُ ‏.‏ قَالَ مَالِكٌ فَأَمَّا الزِّنَا فَإِنَّهُ لاَ يُحَرِّمُ شَيْئًا مِنْ ذَلِكَ لأَنَّ اللَّهَ تَبَارَكَ وَتَعَالَى قَالَ ‏{‏وَأُمَّهَاتُ نِسَائِكُمْ‏}‏ فَإِنَّمَا حَرَّمَ مَا كَانَ تَزْوِيجًا وَلَمْ يَذْكُرْ تَحْرِيمَ الزِّنَا فَكُلُّ تَزْوِيجٍ كَانَ عَلَى وَجْهِ الْحَلاَلِ يُصِيبُ صَاحِبُهُ امْرَأَتَهُ فَهُوَ بِمَنْزِلَةِ التَّزْوِيجِ الْحَلاَلِ فَهَذَا الَّذِي سَمِعْتُ وَالَّذِي عَلَيْهِ أَمْرُ النَّاسِ عِنْدَنَا ‏.‏

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Malik said that a man who had committed fornication with a woman  
and the hadd-punishment had been applied to him for it, could marry  
that woman's daughter and his son could marry the woman herself if he  
wished. That was because he had haram relations with her, and the  
relations Allah had made haram were from the relations made in a halal  
manner or in a manner resembling marriage. Allah, the Blessed, the  
Exalted, said, "Do not marry the women your fathers have married. "  
(Sura 4 ayat 21)  
  
  
Malik said, "If a man were to marry a woman  
in her idda-period in a halal marriage and have relations with her, it  
would be haram for his son to marry the woman. That is because the  
father married her in a halal manner, and the hadd-punishment would  
not have been applied to him. Any child who was born to him would be  
attached to him as the father. Just as it would be haram for the son  
to marry a woman whom his father had married in her idda-period and  
had relations with, so the woman's daughter would be haram for the  
father if he had had sexual relations with her."

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Yahya related to me from Malik from Nafi from Abdullah ibn Umar  
that the Messenger of Allah, may Allah bless him and grant him peace,  
forbade shighar, which meant one man giving his daughter in marriage  
to another man on the condition that the other gave his daughter to  
him in marriage without either of them paying the bride-price.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنِ الشِّغَارِ وَالشِّغَارُ أَنْ يُزَوِّجَ الرَّجُلُ ابْنَتَهُ عَلَى أَنْ يُزَوِّجَهُ الآخَرُ ابْنَتَهُ لَيْسَ بَيْنَهُمَا صَدَاقٌ ‏.‏

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Yahya related to me from Malik from Abd ar-Rahman ibn al-Qasim  
from his father from Abd ar-Rahman and Mujamma the sons of Yazid ibn  
Jariya al-Ansari from Khansa bint Khidam al-Ansariya that her father  
gave her in marriage and she had been previously married. She  
disapproved of that, and went to the Messenger of Allah, may Allah  
bless him and grant him peace, and he revoked the marriage.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ، عَنْ أَبِيهِ، عَنْ عَبْدِ الرَّحْمَنِ، وَمُجَمِّعٍ، ابْنَىْ يَزِيدَ بْنِ جَارِيَةَ الأَنْصَارِيِّ عَنْ خَنْسَاءَ بِنْتِ خِدَامٍ الأَنْصَارِيَّةِ، أَنَّ أَبَاهَا، زَوَّجَهَا وَهِيَ ثَيِّبٌ فَكَرِهَتْ ذَلِكَ فَأَتَتْ رَسُولَ اللَّهِ صلى الله عليه وسلم فَرَدَّ نِكَاحَهُ ‏.‏

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Yahya related to me from Malik from Abu'z-Zubayr al-Makki that a  
case was brought to Umar about a marriage which had only been  
witnessed by one man and one woman . He said, "This is a secret  
marriage and I do not permit it. Had I been the first to come upon it,  
I would have ordered them to be stoned."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ أَبِي الزُّبَيْرِ الْمَكِّيِّ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ، أُتِيَ بِنِكَاحٍ لَمْ يَشْهَدْ عَلَيْهِ إِلاَّ رَجُلٌ وَامْرَأَةٌ فَقَالَ هَذَا نِكَاحُ السِّرِّ وَلاَ أُجِيزُهُ وَلَوْ كُنْتُ تَقَدَّمْتُ فِيهِ لَرَجَمْتُ ‏.‏

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Yahya related to me from Malik from Ibn Shihab from Said ibn al-  
Musayyab and from Sulayman ibn Yasar that Tulayha al-Asadiya was the  
wife of Rushayd ath-Thaqafi. He divorced her, and she got married in  
her idda-period. Umar ibn al-Khattab beat her and her husband with a  
stick several times, and separated them. Then Umar ibn al-Khattab  
said, "If a woman marries in her idda-period, and the new husband has  
not consummated the marriage, then separate them, and when she has  
completed the idda of her first husband, the other becomes a suitor.  
If he has consummated the marriage then separate them. Then she must  
complete her idda from her first husband, and then the idda from the  
other one, and they are never to be reunited."  
  
  
Malik added,  
''Said ibn al-Musayyab said that she had her dowry because he had  
consummated the marriage."  
  
  
Malik said,"The practice with us  
concerning a free woman whose husband dies, is that she does an idda  
of four months and ten days and she does not marry if she doubts her  
period until she is free of any doubt or if she fears that she is  
pregnant."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، وَعَنْ سُلَيْمَانَ بْنِ يَسَارٍ، أَنَّ طُلَيْحَةَ الأَسَدِيَّةَ، كَانَتْ تَحْتَ رُشَيْدٍ الثَّقَفِيِّ فَطَلَّقَهَا فَنَكَحَتْ فِي عِدَّتِهَا فَضَرَبَهَا عُمَرُ بْنُ الْخَطَّابِ وَضَرَبَ زَوْجَهَا بِالْمِخْفَقَةِ ضَرَبَاتٍ وَفَرَّقَ بَيْنَهُمَا ثُمَّ قَالَ عُمَرُ بْنُ الْخَطَّابِ أَيُّمَا امْرَأَةٍ نَكَحَتْ فِي عِدَّتِهَا فَإِنْ كَانَ زَوْجُهَا الَّذِي تَزَوَّجَهَا لَمْ يَدْخُلْ بِهَا فُرِّقَ بَيْنَهُمَا ثُمَّ اعْتَدَّتْ بَقِيَّةَ عِدَّتِهَا مِنْ زَوْجِهَا الأَوَّلِ ثُمَّ كَانَ الآخَرُ خَاطِبًا مِنَ الْخُطَّابِ وَإِنْ كَانَ دَخَلَ بِهَا فُرِّقَ بَيْنَهُمَا ثُمَّ اعْتَدَّتْ بَقِيَّةَ عِدَّتِهَا مِنَ الأَوَّلِ ثُمَّ اعْتَدَّتْ مِنَ الآخَرِ ثُمَّ لاَ يَجْتَمِعَانِ أَبَدًا ‏.‏ قَالَ

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Yahya related to me from Malik that he had heard that Abdullah  
ibn Abbas and Abdullah ibn Umar were asked about a man who had a free  
woman as a wife and then wanted to marry a slave-girl. They  
disapproved that he should combine the two of them.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ عَبْدَ اللَّهِ بْنَ عَبَّاسٍ، وَعَبْدَ اللَّهِ بْنَ عُمَرُ، سُئِلاَ عَنْ رَجُلٍ، كَانَتْ تَحْتَهُ امْرَأَةٌ حُرَّةٌ فَأَرَادَ أَنْ يَنْكِحَ عَلَيْهَا أَمَةً فَكَرِهَا أَنْ يَجْمَعَ بَيْنَهُمَا ‏.‏

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Yahya related to me from Malik from Yahya ibn Said that Said ibn  
al-Musayyab said, "The slave girl is not married when there is a free  
woman who is a wife unless the free woman wishes it. If the free woman  
complies, she has two-thirds of the division of time."  
  
  
Malik  
said, "A free man must not marry a slave-girl when he can afford to  
marry a free-woman, and he should not marry a slave-girl when he  
cannot afford a free woman unless he fears fornication. That is  
because Allah, may he be Blessed and Exalted, says in His Book, 'If  
you are not affluent enough to marry believing women, who are  
muhsanat, take slave-girls who are believing women that your right  
hands own.' (Sura 4 ayat 24) He says, 'That is for those of you who  
fear al-anat.' "  
  
  
Malik said, "Al-anat is fornication."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّهُ كَانَ يَقُولُ لاَ تُنْكَحُ الأَمَةُ عَلَى الْحُرَّةِ إِلاَّ أَنْ تَشَاءَ الْحُرَّةُ فَإِنْ طَاعَتِ الْحُرَّةُ فَلَهَا الثُّلُثَانِ مِنَ الْقَسْمِ ‏.‏ قَالَ مَالِكٌ وَلاَ يَنْبَغِي لِحُرٍّ أَنْ يَتَزَوَّجَ أَمَةً وَهُوَ يَجِدُ طَوْلاً لِحُرَّةٍ وَلاَ يَتَزَوَّجَ أَمَةً إِذَا لَمْ يَجِدْ طَوْلاً لِحُرَّةٍ إِلاَّ أَنْ يَخْشَى الْعَنَتَ وَذَلِكَ أَنَّ اللَّهَ تَبَارَكَ وَتَعَالَى قَالَ فِي كِتَابِهِ ‏{‏وَمَنْ لَمْ يَسْتَطِعْ مِنْكُمْ طَوْلاً أَنْ يَنْكِحَ الْمُحْصَنَاتِ الْمُؤْمِنَاتِ فَمِمَّا مَلَكَتْ أَيْمَانُكُمْ مِنْ فَتَيَاتِكُمُ الْمُؤْمِنَاتِ‏}‏ وَقَالَ ‏{‏ذَلِكَ لِمَنْ خَشِيَ الْعَنَتَ مِنْكُمْ‏}‏ قَالَ مَالِكٌ وَالْعَنَتُ هُوَ الزِّنَا ‏.‏

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Yahya related to me from Malik from Ibn Shihab from Abu Abd ar-  
Rahman that Zayd ibn Thabit said that if a man divorced his slave-girl  
three times and then bought her, she was not halal for him until she  
had married another husband.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ أَبِي عَبْدِ الرَّحْمَنِ، عَنْ زَيْدِ بْنِ ثَابِتٍ، أَنَّهُ كَانَ يَقُولُ فِي الرَّجُلِ يُطَلِّقُ الأَمَةَ ثَلاَثًا ثُمَّ يَشْتَرِيهَا إِنَّهَا لاَ تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ ‏.‏

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Yahya related to me from Malik that he had heard that Said ibn  
al-Musayyab and Sulayman ibn Yasar were asked whether, when a man  
married a slave of his to a slave-girl and the slave divorced her  
irrevocably, and then her master gave her to the slave, she was then  
halal for the slave by the possession of the right hand. They said,  
"No. She is not halal until she has married another husband."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ سَعِيدَ بْنَ الْمُسَيَّبِ، وَسُلَيْمَانَ بْنَ يَسَارٍ، سُئِلاَ عَنْ رَجُلٍ، زَوَّجَ عَبْدًا لَهُ جَارِيَةً فَطَلَّقَهَا الْعَبْدُ الْبَتَّةَ ثُمَّ وَهَبَهَا سَيِّدُهَا لَهُ هَلْ تَحِلُّ لَهُ بِمِلْكِ الْيَمِينِ فَقَالاَ لاَ تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ ‏.‏

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Yahya related to me from Malik that he had asked Ibn Shihab about  
a man who had a slave-girl as a wife, and then he bought her, and  
divorced her once. He said, "She is halal for him by the possession of  
the right hand as long as he does not make his divorce irrevocable. If  
he irrevocably divorces her, she is not halal for him by the  
possession of the right hand until she has married another husband."  
  
  
Malik said that if a man rnarried a female slave and then she  
had a child by him, and then he bought her, she was not an umm walad  
for him because of the child born to him while she belonged to  
another, until she had had a child by him while she was in his  
possession after he had purchased her.  
  
  
Malik said, "If he  
buys her and she is pregnant by him and she then gives birth while she  
belongs to him, she is his umm walad by that pregnancy, according to  
what we think, and Allah knows best."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ سَأَلَ ابْنَ شِهَابٍ عَنْ رَجُلٍ، كَانَتْ تَحْتَهُ أَمَةٌ مَمْلُوكَةٌ فَاشْتَرَاهَا وَقَدْ كَانَ طَلَّقَهَا وَاحِدَةً فَقَالَ تَحِلُّ لَهُ بِمِلْكِ يَمِينِهِ مَا لَمْ يَبُتَّ طَلاَقَهَا فَإِنْ بَتَّ طَلاَقَهَا فَلاَ تَحِلُّ لَهُ بِمِلْكِ يَمِينِهِ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ ‏.‏ قَالَ مَالِكٌ فِي الرَّجُلِ يَنْكِحُ الأَمَةَ فَتَلِدُ مِنْهُ ثُمَّ يَبْتَاعُهَا إِنَّهَا لاَ تَكُونُ أُمَّ وَلَدٍ لَهُ بِذَلِكَ الْوَلَدِ الَّذِي وَلَدَتْ مِنْهُ وَهِيَ لِغَيْرِهِ حَتَّى تَلِدَ مِنْهُ وَهِيَ فِي مِلْكِهِ بَعْدَ ابْتِيَاعِهِ إِيَّاهَا ‏.‏ قَالَ مَالِكٌ وَإِنِ اشْتَرَاهَا وَهِيَ حَامِلٌ مِنْهُ ثُمَّ وَضَعَتْ عِنْدَهُ كَانَتْ أُمَّ وَلَدِهِ بِذَلِكَ الْحَمْلِ فِيمَا نُرَى وَاللَّهُ أَعْلَمُ ‏.‏

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Yahya related to me from Malik from Ibn Shihab from Ubaydullah  
ibn Abdullah ibn Utba ibn Masud from his father that Umar ibn al-  
Khattab was asked about a woman and her daughter who were in the  
possession of the right hand, and whether one could have intercourse  
with one of them after the other Umar said, "I dislike both being  
permitted together." He then forbade that.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ عُبَيْدِ اللَّهِ بْنِ عَبْدِ اللَّهِ بْنِ عُتْبَةَ بْنِ مَسْعُودٍ، عَنْ أَبِيهِ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ، سُئِلَ عَنِ الْمَرْأَةِ، وَابْنَتِهَا، مِنْ مِلْكِ الْيَمِينِ تُوطَأُ إِحْدَاهُمَا بَعْدَ الأُخْرَى فَقَالَ عُمَرُ مَا أُحِبُّ أَنْ أَخْبُرَهُمَا جَمِيعًا ‏.‏ وَنَهَى عَنْ ذَلِكَ ‏.‏

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Yahya related to me from Malik from Ibn Shihab from Qabisa ibn  
Dhu'ayb that a man asked Uthman ibn Affan whether one could have  
intercourse with two sisters who one owned. Uthman said, "One ayat  
makes them halal, and one ayat makes them haram. As for me, I wouldn't  
like to do it." The man left him and met one of the companions of the  
Messenger of Allah, may Allah bless him and grant him peace, and asked  
him about it, and he said, "Had I any authority and I found someone  
who had done it, I would punish him as an example."  
  
  
Ibn  
Shihab added, "I think that it was Ali ibn Abi Talib. "

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ قَبِيصَةَ بْنِ ذُؤَيْبٍ، أَنَّ رَجُلاً، سَأَلَ عُثْمَانَ بْنَ عَفَّانَ عَنِ الأُخْتَيْنِ، مِنْ مِلْكِ الْيَمِينِ هَلْ يُجْمَعُ بَيْنَهُمَا فَقَالَ عُثْمَانُ أَحَلَّتْهُمَا آيَةٌ وَحَرَّمَتْهُمَا آيَةٌ فَأَمَّا أَنَا فَلاَ أُحِبُّ أَنْ أَصْنَعَ ذَلِكَ ‏.‏ قَالَ فَخَرَجَ مِنْ عِنْدِهِ فَلَقِيَ رَجُلاً مِنْ أَصْحَابِ رَسُولِ اللَّهِ صلى الله عليه وسلم فَسَأَلَهُ عَنْ ذَلِكَ فَقَالَ لَوْ كَانَ لِي مِنَ الأَمْرِ شَىْءٌ ثُمَّ وَجَدْتُ أَحَدًا فَعَلَ ذَلِكَ لَجَعَلْتُهُ نَكَالاً ‏.‏ قَالَ ابْنُ شِهَابٍ أُرَاهُ عَلِيَّ بْنَ أَبِي طَالِبٍ ‏.‏

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Yahya related to me from Malik that he had heard that az-Zubayr  
ibn al-Awwam said the like of that.  
  
  
Malik said that if a man  
had sexual relations with a female slave that he owned, and then he  
wanted to also have relations with her sister, the sister was not  
halal for a man until intercourse with the slave-girl had been made  
haram for him by marriage, setting free, kitaba, or the like of that -  
for instance, if he had married her to his slave or someone other than  
his slave.

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ عَنِ الزُّبَيْرِ بْنِ الْعَوَّامِ، مِثْلُ ذَلِكَ ‏.‏ قَالَ مَالِكٌ فِي الأَمَةِ تَكُونُ عِنْدَ الرَّجُلِ فَيُصِيبُهَا ثُمَّ يُرِيدُ أَنْ يُصِيبَ أُخْتَهَا إِنَّهَا لاَ تَحِلُّ لَهُ حَتَّى يُحَرِّمَ عَلَيْهِ فَرْجَ أُخْتِهَا بِنِكَاحٍ أَوْ عِتَاقَةٍ أَوْ كِتَابَةٍ أَوْ مَا أَشْبَهَ ذَلِكَ يُزَوِّجُهَا عَبْدَهُ أَوْ غَيْرَ عَبْدِهِ ‏.‏

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Yahya related to me from Malik that he had heard that Umar ibn  
al-Khattab gave his son a slave-girl and said, "Do not touch her, for  
I have uncovered her."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ عُمَرَ بْنَ الْخَطَّابِ، وَهَبَ لاِبْنِهِ جَارِيَةً فَقَالَ لاَ تَمَسَّهَا فَإِنِّي قَدْ كَشَفْتُهَا ‏.‏

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Yahya related to me from Malik that  
Abd arRahman ibn al-Mujabbir said that Salim ibn Abdullah gave his son  
a slave-girl and said, "Do not go near her, for I wanted her, and did  
not act towards her."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْمُجَبَّرِ، أَنَّهُ قَالَ وَهَبَ سَالِمُ بْنُ عَبْدِ اللَّهِ لاِبْنِهِ جَارِيَةً قَالَ لاَ تَقْرَبْهَا فَإِنِّي قَدْ أَرَدْتُهَا فَلَمْ أَنْشَطْ إِلَيْهَا ‏.‏

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Yahya related to me from Malik from Yahya ibn Said that Abu  
Nahshal ibn al-Aswad said to al-Qasim ibn Muhammad,"I saw a slave-girl  
of mine uncovered in the moonlight, and so I sat on her as a man sits  
on a woman. She said that she was menstruating, so I stood up and have  
not gone near her after that. Can I give her to my son to have  
intercourse with?" Al-Qasim forbade that.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّ أَبَا نَهْشَلِ بْنَ الأَسْوَدِ، قَالَ لِلْقَاسِمِ بْنِ مُحَمَّدٍ إِنِّي رَأَيْتُ جَارِيَةً لِي مُنْكَشِفًا عَنْهَا وَهِيَ فِي الْقَمَرِ فَجَلَسْتُ مِنْهَا مَجْلِسَ الرَّجُلِ مِنِ امْرَأَتِهِ فَقَالَتْ إِنِّي حَائِضٌ فَقُمْتُ فَلَمْ أَقْرَبْهَا بَعْدُ أَفَأَهَبُهَا لاِبْنِي يَطَؤُهَا فَنَهَاهُ الْقَاسِمُ عَنْ ذَلِكَ ‏.‏

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Yahya related to me from Malik from Ibrahim ibn Abi Abla from Abd  
al-Malik ibn Marwan that he gave a slave-girl to a friend of his, and  
later asked him about her. He said, "I intended to give her to my son  
to do such-and-such with her." Abd al-Malik said, "Marwan was more  
scrupulous than you. He gave a slave-girl to his son, and then he  
said, 'Do not go near her, for I have seen her leg uncovered .' "

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ إِبْرَاهِيمَ بْنِ أَبِي عَبْلَةَ، عَنْ عَبْدِ الْمَلِكِ بْنِ مَرْوَانَ، أَنَّهُ وَهَبَ لِصَاحِبٍ لَهُ جَارِيَةً ثُمَّ سَأَلَهُ عَنْهَا فَقَالَ قَدْ هَمَمْتُ أَنْ أَهَبَهَا لاِبْنِي فَيَفْعَلَ بِهَا كَذَا وَكَذَا ‏.‏ فَقَالَ عَبْدُ الْمَلِكِ لَمَرْوَانُ كَانَ أَوْرَعَ مِنْكَ وَهَبَ لاِبْنِهِ جَارِيَةً ثُمَّ قَالَ لاَ تَقْرَبْهَا فَإِنِّي قَدْ رَأَيْتُ سَاقَهَا مُنْكَشِفَةً ‏.‏

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Malik said, "It is not halal to marry a christian or jewish  
slave-girl because Allah the Blessed, the Exalted, said in His Book,  
'Believing women who are muhsanat and women of those who were given  
the Book before you who are muhsanat', (sura 5 ayat 6) and they are  
free women from the Christians and Jews. Allah, the Blessed, the  
Exalted, said in His Book, 'If you are not affluent enough to marry  
believing women who are muhsanat, take believing slave-girls whom your  
right hands own.' " (Sura 4 ayat 24)  
  
  
Malik said, "In our  
opinion, Allah made marriage to believing slave-girls halal, and He  
did not make halal marriage to christian and jewish slave-girls from  
the People of the Book."  
  
  
Malik said, "The christian and  
jewish slave-girl are halal for their master by right of possession,  
but intercourse with a magian slave-girl is not halal by the right of  
possession."

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Yahya related to me from Malik from Ibn Shihab that Said ibn al-  
Musayyab said, "The muhsanat among women are those who have husbands."  
That referred to the fact that Allah has made fornication haram.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّهُ قَالَ الْمُحْصَنَاتُ مِنَ النِّسَاءِ هُنَّ أُولاَتُ الأَزْوَاجِ وَيَرْجِعُ ذَلِكَ إِلَى أَنَّ اللَّهَ حَرَّمَ الزِّنَا ‏.‏

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Yahya related to me from Malik from Ibn Shihab, and he had heard  
from al-Qasim ibn Muhammad that they said, "When a free man marries a  
slave-girl and consummates the marriage, she makes him muhsan."  
  
  
Malik said, "All (of the people of knowledge) I have seen said  
that a slave-girl makes a free man muhsan when he marries her and  
consummates the marriage."  
  
  
Malik said, "A slave makes a free  
woman muhsana when he consummates a marriage with her and a free woman  
only makes a slave muhsan when he is freed and he is her husband and  
has had sexual relations with her after he has been set free. If he  
parts from her before he is free, he is not a muhsan unless he marries  
her after having been set free and he consummates the marriage."  
  
  
Malik said, "When a slave-girl is married to a free man and then  
he separates from her before she is set free, his marriage to her does  
not make her muhsana. She is not muhsana until she has married after  
she has been set free and she has had intercourse with her husband.  
That gives her ihsan. If she is the wife of a freeman and then she is  
set free while she is his wife before he separates from her, the man  
makes her muhsana if he has intercourse with her after she has been  
set free."  
  
  
Malik said, "The christian and jewish free women  
and the muslim slave-girl all make a muslim free man muhsan when he  
marries one of them and has intercourse with her."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، وَبَلَغَهُ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، أَنَّهُمَا كَانَا يَقُولاَنِ إِذَا نَكَحَ الْحُرُّ الأَمَةَ فَمَسَّهَا فَقَدْ أَحْصَنَتْهُ ‏.‏ قَالَ مَالِكٌ وَكُلُّ مَنْ أَدْرَكْتُ كَانَ يَقُولُ ذَلِكَ تُحْصِنُ الأَمَةُ الْحُرَّ إِذَا نَكَحَهَا فَمَسَّهَا فَقَدْ أَحْصَنَتْهُ ‏.‏ قَالَ مَالِكٌ يُحْصِنُ الْعَبْدُ الْحُرَّةَ إِذَا مَسَّهَا بِنِكَاحٍ وَلاَ تُحْصِنُ الْحُرَّةُ الْعَبْدَ إِلاَّ أَنْ يَعْتِقَ وَهُوَ زَوْجُهَا فَيَمَسَّهَا بَعْدَ عِتْقِهِ فَإِنْ فَارَقَهَا قَبْلَ أَنْ يَعْتِقَ فَلَيْسَ بِمُحْصَنٍ حَتَّى يَتَزَوَّجَ بَعْدَ عِتْقِهِ وَيَمَسَّ امْرَأَتَهُ ‏.‏ قَالَ مَالِكٌ وَالأَمَةُ إِذَا كَانَتْ تَحْتَ الْحُرِّ ثُمَّ فَارَقَهَا قَبْلَ أَنْ تَعْتِقَ فَإِنَّهُ لاَ يُحْصِنُهَا نِكَاحُهُ إِيَّاهَا وَهِيَ أَمَةٌ حَتَّى تُنْكَحَ بَعْدَ عِتْقِهَا وَيُصِيبَهَا زَوْجُهَا فَذَلِكَ إِحْصَانُهَا وَالأَمَةُ إِذَا كَانَتْ تَحْتَ الْحُرِّ فَتَعْتِقُ وَهِيَ تَحْتَهُ قَبْلَ أَنْ يُفَارِقَهَا فَإِنَّهُ يُحْصِنُهَا إِذَا عَتَقَتْ وَهِيَ عِنْدَهُ إِذَا هُوَ أَصَابَهَا بَعْدَ أَنْ تَعْتِقَ ‏.‏ وَقَالَ مَالِكٌ وَالْحُرَّةُ النَّصْرَانِيَّةُ وَالْيَهُودِيَّةُ وَالأَمَةُ الْمُسْلِمَةُ يُحْصِنَّ الْحُرَّ الْمُسْلِمَ إِذَا نَكَحَ إِحْدَاهُنَّ فَأَصَابَهَا ‏.‏

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Yahya related to me from Malik from Ibn Shihab from Abdullah and  
Hasan, the sons of Muhammad ibn Ali ibn Abi Talib from their ather,  
mayAllah be pleased with him, that the Messenger of Allah, may Allah  
bless him and grant him peace, forbade temporary marriage with women  
and the flesh of domestic donkeys on the Day of Khaybar.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ عَبْدِ اللَّهِ، وَالْحَسَنِ، ابْنَىْ مُحَمَّدِ بْنِ عَلِيِّ بْنِ أَبِي طَالِبٍ عَنْ أَبِيهِمَا، عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ، رضى الله عنه أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنْ مُتْعَةِ النِّسَاءِ يَوْمَ خَيْبَرَ وَعَنْ أَكْلِ لُحُومِ الْحُمُرِ الإِنْسِيَّةِ ‏.‏

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Yahya related to me from Malik from Ibn Shihab from Urwa ibn az-  
Zubayr that Khawla ibn Hakim came to Umar ibn al-Khattab and said,  
''Rabia ibn Umayya made a temporary marriage with a woman and she is  
pregnant by him.'' Umar ibn al-Khattab went out in dismay dragging his  
cloak, saying, "This temporary marriage, had I come across it, I would  
have ordered stoning and done away with it! "

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ بْنِ الزُّبَيْرِ، أَنَّ خَوْلَةَ بِنْتَ حَكِيمٍ، دَخَلَتْ عَلَى عُمَرَ بْنِ الْخَطَّابِ فَقَالَتْ إِنَّ رَبِيعَةَ بْنَ أُمَيَّةَ اسْتَمْتَعَ بِامْرَأَةٍ فَحَمَلَتْ مِنْهُ ‏.‏ فَخَرَجَ عُمَرُ بْنُ الْخَطَّابِ فَزِعًا يَجُرُّ رِدَاءَهُ فَقَالَ هَذِهِ الْمُتْعَةُ وَلَوْ كُنْتُ تَقَدَّمْتُ فِيهَا لَرَجَمْتُ ‏.‏

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Yahya related to me from Malik that he heard Rabia ibn Abd ar-  
Rahman say that a slave could marry four women.  
  
  
Malik said,  
"This is the best of what I have heard about the matter."  
  
  
Malik said, "The slave differs with the muhallil if the slave is given  
permission by his master for his ex-wife. If his master does not give  
him permission, he separates them. The muhallil is separated in any  
case if he intends to make the woman halal by marriage."  
  
  
Malik said, "When a slave is owned by his wife or a husband owns his  
wife, the possession of each of them is rendered void without divorce.  
If a man, for instance, is married to a slave-girl, and then he buys  
her, he must divorce her as a matter of course. They can then re-  
marry. If they re-marry afterwards, that separation was not divorce."  
  
  
Malik said, "When a slave is freed by his wife who owns him  
and she is in the idda-period from him, they can only return to each  
other after she has made another marriage."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ سَمِعَ رَبِيعَةَ بْنَ أَبِي عَبْدِ الرَّحْمَنِ، يَقُولُ يَنْكِحُ الْعَبْدُ أَرْبَعَ نِسْوَةٍ ‏.‏ قَالَ مَالِكٌ وَهَذَا أَحْسَنُ مَا سَمِعْتُ فِي ذَلِكَ ‏.‏ قَالَ مَالِكٌ وَالْعَبْدُ مُخَالِفٌ لِلْمُحَلِّلِ إِنْ أَذِنَ لَهُ سَيِّدُهُ ثَبَتَ نِكَاحُهُ وَإِنْ لَمْ يَأْذَنْ لَهُ سَيِّدُهُ فُرِّقَ بَيْنَهُمَا وَالْمُحَلِّلُ يُفَرَّقُ بَيْنَهُمَا عَلَى كُلِّ حَالٍ إِذَا أُرِيدَ بِالنِّكَاحِ التَّحْلِيلُ ‏.‏ قَالَ مَالِكٌ فِي الْعَبْدِ إِذَا مَلَكَتْهُ امْرَأَتُهُ أَوِ الزَّوْجُ يَمْلِكُ امْرَأَتَهُ إِنَّ مِلْكَ كُلِّ وَاحِدٍ مِنْهُمَا صَاحِبَهُ يَكُونُ فَسْخًا بِغَيْرِ طَلاَقٍ وَإِنْ تَرَاجَعَا بِنِكَاحٍ بَعْدُ لَمْ تَكُنْ تِلْكَ الْفُرْقَةُ طَلاَقًا ‏.‏ قَالَ مَالِكٌ وَالْعَبْدُ إِذَا أَعْتَقَتْهُ امْرَأَتُهُ إِذَا مَلَكَتْهُ وَهِيَ فِي عِدَّةٍ مِنْهُ لَمْ يَتَرَاجَعَا إِلاَّ بِنِكَاحٍ جَدِيدٍ ‏.‏

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Malik related to me from Ibn Shihab that he had heard that in the  
time of the Messenger of Allah, may Allah bless him and grant him  
peace, women were becoming muslim in their own lands and they did not  
do hijra while their husbands were still kafirun although they  
themselves had become muslim. Among them was the daughter of al-Walid  
ibn al-Mughira and she was the wife of Safwan ibn Umayya. She became  
muslim on the day of the conquest (of Makka), and her husband, Safwan  
ibn Umayya fled from Islam. The Messenger of Allah, may Allah bless  
him and grant him peace, sent Safwan's paternal cousin, Wahb ibn Umayr  
with the cloak of the Messenger of Allah, may Allah bless him and  
grant him peace, as a safe-conduct for Safwan ibn Umayya, and the  
Messenger of Allah, may Allah bless him and grant him peace, called  
him to Islam and asked for him to come to him and if he was pleased  
with the matter to accept it. If not he would have a respite for two  
months.  
  
  
When Safwan came to the Messenger of Allah, may Allah  
bless him and grant him peace, with his cloak, he called out to him  
over the heads of the people, "Muhammad! Wahb ibn Umayr brought me  
your cloak and claimed that you had summoned me to come to you and if  
I was pleased with the matter, I should accept it and if not, you  
would give me a respite for two months. "The Messenger of Allah, may  
Allah bless him and grant him peace, said, "Come down, Abu Wahb." He  
said, "No, by Allah! I will not come down until you make it clear to  
me." The Messenger of Allah, may Allah bless him and grant him peace,  
said, "You have a respite of four months." The Messenger of Allah, may  
Allah bless him and grant him peace, went out toward Hawazin at  
Hunayn. He sent to Safwan ibn Umayya to borrow some equipment and arms  
that he had. Safwan said, "Willingly or unwillingly?" He said,  
"Willingly." Therefore he lent him the equipment and arms which he  
had. Then Safwan went out with the Messenger of Allah, may Allah bless  
him and grant him peace, while he was still a kafir. He was present at  
the battles of Hunayn and at-Ta'if while he was still a kafir and his  
wife was a muslim. The Messenger of Allah, may Allah bless him and  
grant him peace, did not separate Safwan and his wife until he had  
become muslim, and his wife was settled with him by that marriage.

حَدَّثَنِي مَالِكٌ، عَنِ ابْنِ شِهَابٍ، أَنَّهُ بَلَغَهُ أَنَّ نِسَاءً، كُنَّ فِي عَهْدِ رَسُولِ اللَّهِ صلى الله عليه وسلم يُسْلِمْنَ بِأَرْضِهِنَّ وَهُنَّ غَيْرُ مُهَاجِرَاتٍ وَأَزْوَاجُهُنَّ حِينَ أَسْلَمْنَ كُفَّارٌ مِنْهُنَّ بِنْتُ الْوَلِيدِ بْنِ الْمُغِيرَةِ ‏.‏ وَكَانَتْ تَحْتَ صَفْوَانَ بْنِ أُمَيَّةَ فَأَسْلَمَتْ يَوْمَ الْفَتْحِ وَهَرَبَ زَوْجُهَا صَفْوَانُ بْنُ أُمَيَّةَ مِنَ الإِسْلاَمِ فَبَعَثَ إِلَيْهِ رَسُولُ اللَّهِ صلى الله عليه وسلم ابْنَ عَمِّهِ وَهْبَ بْنَ عُمَيْرٍ بِرِدَاءِ رَسُولِ اللَّهِ صلى الله عليه وسلم أَمَانًا لِصَفْوَانَ بْنِ أُمَيَّةَ وَدَعَاهُ رَسُولُ اللَّهِ صلى الله عليه وسلم إِلَى الإِسْلاَمِ وَأَنْ يَقْدَمَ عَلَيْهِ فَإِنْ رَضِيَ أَمْرًا قَبِلَهُ وَإِلاَّ سَيَّرَهُ شَهْرَيْنِ فَلَمَّا قَدِمَ صَفْوَانُ عَلَى رَسُولِ اللَّهِ صلى الله عليه وسلم بِرِدَائِهِ نَادَاهُ عَلَى رُءُوسِ النَّاسِ فَقَالَ يَا مُحَمَّدُ إِنَّ هَذَا وَهْبَ بْنَ عُمَيْرٍ جَاءَنِي بِرِدَائِكَ وَزَعَمَ أَنَّكَ دَعَوْتَنِي إِلَى الْقُدُومِ عَلَيْكَ فَإِنْ رَضِيتُ أَمْرًا قَبِلْتُهُ وَإِلاَّ سَيَّرْتَنِي شَهْرَيْنِ ‏.‏ فَقَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ انْزِلْ أَبَا وَهْبٍ ‏"‏ ‏.‏ فَقَالَ لاَ وَاللَّهِ لاَ أَنْزِلُ حَتَّى تُبَيِّنَ لِي ‏.‏ فَقَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ بَلْ لَكَ تَسِيرُ أَرْبَعَةَ أَشْهُرٍ ‏"‏ ‏.‏ فَخَرَجَ رَسُولُ اللَّهِ صلى الله عليه وسلم قِبَلَ هَوَازِنَ بِحُنَيْنٍ ‏.‏ فَأَرْسَلَ إِلَى صَفْوَانَ بْنِ أُمَيَّةَ يَسْتَعِيرُهُ أَدَاةً وَسِلاَحًا عِنْدَهُ فَقَالَ صَفْوَانُ أَطَوْعًا أَمْ كَرْهًا فَقَالَ ‏"‏ بَلْ طَوْعًا ‏"‏ ‏.‏ فَأَعَارَهُ الأَدَاةَ وَالسِّلاَحَ الَّتِي عِنْدَهُ ثُمَّ خَرَجَ صَفْوَانُ مَعَ رَسُولِ اللَّهِ صلى الله عليه وسلم وَهُوَ كَافِرٌ فَشَهِدَ حُنَيْنًا وَالطَّائِفَ وَهُوَ كَافِرٌ وَامْرَأَتُهُ مُسْلِمَةٌ وَلَمْ يُفَرِّقْ رَسُولُ اللَّهِ صلى الله عليه وسلم بَيْنَهُ وَبَيْنَ امْرَأَتِهِ حَتَّى أَسْلَمَ صَفْوَانُ وَاسْتَقَرَّتْ عِنْدَهُ امْرَأَتُهُ بِذَلِكَ النِّكَاحِ ‏.‏

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Yahya related to me from Malik that Ibn Shihab said, "Between the  
Islam of Safwan and the Islam of his wife there was about one month."  
  
  
Ibn Shihab said, "We have not heard about any woman doing  
hijra for Allah and His Messenger while her husband was a kafir  
abiding in the land of kufr, but that her hijra separated her and her  
husband unless her husband came in hijra before her period of idda had  
been completed."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، أَنَّهُ قَالَ كَانَ بَيْنَ إِسْلاَمِ صَفْوَانَ وَبَيْنَ إِسْلاَمِ امْرَأَتِهِ نَحْوٌ مِنْ شَهْرٍ ‏.‏ قَالَ ابْنُ شِهَابٍ وَلَمْ يَبْلُغْنَا أَنَّ امْرَأَةً هَاجَرَتْ إِلَى اللَّهِ وَرَسُولِهِ وَزَوْجُهَا كَافِرٌ مُقِيمٌ بِدَارِ الْكُفْرِ إِلاَّ فَرَّقَتْ هِجْرَتُهَا بَيْنَهَا وَبَيْنَ زَوْجِهَا إِلاَّ أَنْ يَقْدَمَ زَوْجُهَا مُهَاجِرًا قَبْلَ أَنْ تَنْقَضِيَ عِدَّتُهَا ‏.‏

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Yahya related to me from Malik from Ibn Shihab that Umm Hakim  
bint al-Harith ibn Hisham who was the wife of Ikrima ibn Abi Jahl  
became muslim on the day of the conquest of Makka, and her husband  
Ikrima fled from Islam as far as the Yemen. Umm Hakim set out after  
him until she came to him in the Yemen and she called him to Islam,  
and he became muslim. He went to the Messenger of Allah, may Allah  
bless him and grant him peace, in the year of the conquest. When the  
Messenger of Allah, may Allah bless him and grant him peace, saw him,  
he rushed to him in joy and did not bother to put on his cloak until  
he had made the pledge with him. They were confirmed in their  
marriage.  
  
  
Malik said, "If a man becomes muslim before his  
wife, a separation occurs between them when he presents Islam to her  
and she does not become muslim, because Allah, the Blessed, the  
Exalted, said in His Book, 'Do not hold fast to the ties of women who  
are kafirun.' "

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، أَنَّ أُمَّ حَكِيمٍ بِنْتَ الْحَارِثِ بْنِ هِشَامٍ، وَكَانَتْ، تَحْتَ عِكْرِمَةَ بْنِ أَبِي جَهْلٍ فَأَسْلَمَتْ يَوْمَ الْفَتْحِ وَهَرَبَ زَوْجُهَا عِكْرِمَةُ بْنُ أَبِي جَهْلٍ مِنَ الإِسْلاَمِ حَتَّى قَدِمَ الْيَمَنَ فَارْتَحَلَتْ أُمُّ حَكِيمٍ حَتَّى قَدِمَتْ عَلَيْهِ بِالْيَمَنِ فَدَعَتْهُ إِلَى الإِسْلاَمِ فَأَسْلَمَ وَقَدِمَ عَلَى رَسُولِ اللَّهِ صلى الله عليه وسلم عَامَ الْفَتْحِ فَلَمَّا رَآهُ رَسُولُ اللَّهِ صلى الله عليه وسلم وَثَبَ إِلَيْهِ فَرِحًا وَمَا عَلَيْهِ رِدَاءٌ حَتَّى بَايَعَهُ فَثَبَتَا عَلَى نِكَاحِهِمَا ذَلِكَ ‏.‏ قَالَ مَالِكٌ وَإِذَا أَسْلَمَ الرَّجُلُ قَبْلَ امْرَأَتِهِ وَقَعَتِ الْفُرْقَةُ بَيْنَهُمَا إِذَا عُرِضَ عَلَيْهَا الإِسْلاَمُ فَلَمْ تُسْلِمْ لأَنَّ اللَّهَ تَبَارَكَ وَتَعَالَى يَقُولُ فِي كِتَابِهِ ‏{‏وَلاَ تُمْسِكُوا بِعِصَمِ الْكَوَافِرِ‏}‏‏.‏

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Yahya related to me from Malik from Humayd at-Tawil from Anas ibn  
Malik that Abd ar-Rahman ibn Awf came to the Messenger of Allah, may  
Allah bless him and grant him peace, and he had a traceof yellow on  
him. The Messenger of Allah, may Allah bless him and grant him peace,  
asked about it. He told him that he had just been married. The  
Messenger of Allah, may Allah bless him and grant him peace, said,  
"How much did you hand over to her?" He said, "The weight of a date  
pit in gold." The Messenger of Allah, may Allah bless him and grant  
him peace, said to him, "Hold a feast, even if it is only with a  
sheep.

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ حُمَيْدٍ الطَّوِيلِ، عَنْ أَنَسِ بْنِ مَالِكٍ، أَنَّ عَبْدَ الرَّحْمَنِ بْنَ عَوْفٍ، جَاءَ إِلَى رَسُولِ اللَّهِ صلى الله عليه وسلم وَبِهِ أَثَرُ صُفْرَةٍ فَسَأَلَهُ رَسُولُ اللَّهِ صلى الله عليه وسلم فَأَخْبَرَهُ أَنَّهُ تَزَوَّجَ فَقَالَ لَهُ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ كَمْ سُقْتَ إِلَيْهَا ‏"‏ ‏.‏ فَقَالَ زِنَةَ نَوَاةٍ مِنْ ذَهَبٍ ‏.‏ فَقَالَ لَهُ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ أَوْلِمْ وَلَوْ بِشَاةٍ ‏"‏ ‏.‏

USC-MSA web (English) reference : Book 28, Hadith 47Arabic reference : Book 28, Hadith 1142Report Error | Share | Copy ▼

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Yahya related to me from Malik that Yahya ibn Said said, "I have  
heard that the Messenger of Allah, may Allah bless him and grant him  
peace, held a wedding feast in which there was neither meat nor  
bread."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّهُ قَالَ لَقَدْ بَلَغَنِي أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم كَانَ يُولِمُ بِالْوَلِيمَةِ مَا فِيهَا خُبْزٌ وَلاَ لَحْمٌ ‏.‏

USC-MSA web (English) reference : Book 28, Hadith 48Arabic reference : Book 28, Hadith 1143Report Error | Share | Copy ▼

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Yahya related to me from Malik from Nafi from Abdullah ibn Umar  
that the Messenger of Allah, may Allah bless him and grant him peace,  
said, "When you are invited to a wedding feast, you must go to it."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ إِذَا دُعِيَ أَحَدُكُمْ إِلَى وَلِيمَةٍ فَلْيَأْتِهَا ‏"‏ ‏.‏

USC-MSA web (English) reference : Book 28, Hadith 49Arabic reference : Book 28, Hadith 1144Report Error | Share | Copy ▼

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Yahya related to me from Malik from Ibr. Shihab from al-Araj that  
Abu Hurayra said, "The worst food is the food of a wedding feast to  
which the rich are invited and the poor are left out. If anyone  
rejects an invitation, he has rebelled against Allah and His  
Messenger."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّهُ كَانَ يَقُولُ شَرُّ الطَّعَامِ طَعَامُ الْوَلِيمَةِ يُدْعَى لَهَا الأَغْنِيَاءُ وَيُتْرَكُ الْمَسَاكِينُ وَمَنْ لَمْ يَأْتِ الدَّعْوَةَ فَقَدْ عَصَى اللَّهَ وَرَسُولَهُ ‏.‏

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Yahya related to me from Malik that Ishaq ibn Abdullah ibn Abi  
Talha heard Anas ibn Malik say that a certain tailor invited the  
Messenger of Allah, may Allah bless him and grant him peace, to eat  
some food which he had prepared.  
  
  
Anas said, "I went with the  
Messenger of Allah, may Allah bless him and grant him peace, to eat  
the food. He served barley bread and a soup with pumpkin in it. I saw  
the Messenger of Allah, may Allah bless him and grant him peace, going  
after the pumpkin around the dish, so I have always liked pumpkin  
since that day."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ إِسْحَاقَ بْنِ عَبْدِ اللَّهِ بْنِ أَبِي طَلْحَةَ، أَنَّهُ سَمِعَ أَنَسَ بْنَ مَالِكٍ، يَقُولُ إِنَّ خَيَّاطًا دَعَا رَسُولَ اللَّهِ صلى الله عليه وسلم لِطَعَامٍ صَنَعَهُ ‏.‏ قَالَ أَنَسٌ فَذَهَبْتُ مَعَ رَسُولِ اللَّهِ صلى الله عليه وسلم إِلَى ذَلِكَ الطَّعَامِ فَقَرَّبَ إِلَيْهِ خُبْزًا مِنْ شَعِيرٍ وَمَرَقًا فِيهِ دُبَّاءُ ‏.‏ قَالَ أَنَسٌ فَرَأَيْتُ رَسُولَ اللَّهِ صلى الله عليه وسلم يَتَتَبَّعُ الدُّبَّاءَ مِنْ حَوْلِ الْقَصْعَةِ فَلَمْ أَزَلْ أُحِبُّ الدُّبَّاءَ بَعْدَ ذَلِكَ الْيَوْمِ ‏.‏

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Yahya related to me from Malik from Zayd ibn Aslam that the  
Messenger of Allah, may Allah bless him and grant him peace, said,  
"When you marry a woman or buy a slave-girl, take her by the forelock  
and ask for baraka. When you buy a camel, take the top of its hump,  
and seek refuge with Allah from Shaytan."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ زَيْدِ بْنِ أَسْلَمَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ إِذَا تَزَوَّجَ أَحَدُكُمُ الْمَرْأَةَ أَوِ اشْتَرَى الْجَارِيَةَ فَلْيَأْخُذْ بِنَاصِيَتِهَا وَلْيَدْعُ بِالْبَرَكَةِ وَإِذَا اشْتَرَى الْبَعِيرَ فَلْيَأْخُذْ بِذِرْوَةِ سَنَامِهِ وَلْيَسْتَعِذْ بِاللَّهِ مِنَ الشَّيْطَانِ ‏"‏ ‏.‏

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Yahya related to me from Malik from Abu'z-Zubayr al-Makki that  
somebody asked a man for his sister in marriage and the man mentioned  
that she had committed fornication. Umar ibn al-Khattab heard about it  
and he beat the man or almost beat him, and said, "What did you mean  
by giving him such information?"

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ أَبِي الزُّبَيْرِ الْمَكِّيِّ، أَنَّ رَجُلاً، خَطَبَ إِلَى رَجُلٍ أُخْتَهُ فَذَكَرَ أَنَّهَا قَدْ كَانَتْ أَحْدَثَتْ فَبَلَغَ ذَلِكَ عُمَرَ بْنَ الْخَطَّابِ فَضَرَبَهُ - أَوْ كَادَ يَضْرِبُهُ - ثُمَّ قَالَ مَا لَكَ وَلِلْخَبَرِ

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Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman  
that al-Qasim ibn Muhammad and Urwa ibn az-Zubayr said that a man who  
had four wives and then divorced one of them irrevocably, could marry  
straightaway if he wished, and he did not have to wait for the  
completion of her idda.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ رَبِيعَةَ بْنِ أَبِي عَبْدِ الرَّحْمَنِ، أَنَّ الْقَاسِمَ بْنَ مُحَمَّدٍ، وَعُرْوَةَ بْنَ الزُّبَيْرِ، كَانَا يَقُولاَنِ فِي الرَّجُلِ يَكُونُ عِنْدَهُ أَرْبَعُ نِسْوَةٍ فَيُطَلِّقُ إِحْدَاهُنَّ الْبَتَّةَ أَنَّهُ يَتَزَوَّجُ إِنْ شَاءَ وَلاَ يَنْتَظِرُ أَنْ تَنْقَضِيَ عِدَّتُهَا ‏.‏

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Yahya related to me from Malik from Rabia ibn Abd ar-Rahman that  
al-Qasim ibn Muhammad and Urwa ibn az-Zubayr gave the same judgement  
to al-Walid ibn Abd al-Malik in the year of his arrival in Madina  
except that al-Qasim ibn Muhammad said that he divorced his wife on  
various occasions. (i.e. not at one time).

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ رَبِيعَةَ بْنِ أَبِي عَبْدِ الرَّحْمَنِ، أَنَّ الْقَاسِمَ بْنَ مُحَمَّدٍ، وَعُرْوَةَ بْنَ الزُّبَيْرِ، أَفْتَيَا الْوَلِيدَ بْنَ عَبْدِ الْمَلِكِ عَامَ قَدِمَ الْمَدِينَةَ بِذَلِكَ غَيْرَ أَنَّ الْقَاسِمَ بْنَ مُحَمَّدٍ قَالَ طَلَّقَهَا فِي مَجَالِسَ شَتَّى ‏.‏

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Yahya related to me from Malik from Yahya ibn Said that Said ibn  
al-Musayyab said, "There are three things in which there is no jest:marriage, divorce, and setting free."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّهُ قَالَ ثَلاَثٌ لَيْسَ فِيهِنَّ لَعِبٌ النِّكَاحُ وَالطَّلاَقُ وَالْعِتْقُ ‏.‏

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Yahya related to me from Malik from Ibn Shihab that Rafi ibn  
Khadij married the daughter of Muhammad ibn Maslama al-Ansari. She was  
with him until she grew older, and then he married a young girl and  
preferred the young girl to her. She begged him to divorce her, so he  
divorced her and then he gave her time until she had almost finished  
her idda period and then he returned and still preferred the young  
girl. She therefore asked him to divorce her. He divorced her once,  
and then returned to her, and still preferred the young girl, and she  
asked him to divorce her. He said, "What do you want? There is only  
one divorce left. If you like, continue and put up with what you see  
of preference, and if you like, I will separate from you." She said,  
"I will continue in spite of the preference." He kept her in spite of  
that. Rafi did not see that he had done any wrong action when she  
remained with him in spite of preference.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ رَافِعِ بْنِ خَدِيجٍ، أَنَّهُ تَزَوَّجَ بِنْتَ مُحَمَّدِ بْنِ مَسْلَمَةَ الأَنْصَارِيِّ فَكَانَتْ عِنْدَهُ حَتَّى كَبِرَتْ فَتَزَوَّجَ عَلَيْهَا فَتَاةً شَابَّةً فَآثَرَ الشَّابَّةَ عَلَيْهَا فَنَاشَدَتْهُ الطَّلاَقَ فَطَلَّقَهَا وَاحِدَةً ثُمَّ أَمْهَلَهَا حَتَّى إِذَا كَادَتْ تَحِلُّ رَاجَعَهَا ثُمَّ عَادَ فَآثَرَ الشَّابَّةَ فَنَاشَدَتْهُ الطَّلاَقَ فَطَلَّقَهَا وَاحِدَةً ثُمَّ رَاجَعَهَا ثُمَّ عَادَ فَآثَرَ الشَّابَّةَ فَنَاشَدَتْهُ الطَّلاَقَ فَقَالَ مَا شِئْتِ إِنَّمَا بَقِيَتْ وَاحِدَةٌ فَإِنْ شِئْتِ اسْتَقْرَرْتِ عَلَى مَا تَرَيْنَ مِنَ الأُثْرَةِ وَإِنْ شِئْتِ فَارَقْتُكِ ‏.‏ قَالَتْ بَلْ أَسْتَقِرُّ عَلَى الأُثْرَةِ ‏.‏ فَأَمْسَكَهَا عَلَى ذَلِكَ وَلَمْ يَرَ رَافِعٌ عَلَيْهِ إِثْمًا حِينَ قَرَّتْ عِنْدَهُ عَلَى الأُثْرَةِ ‏.‏

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