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

Yahya related to me from Malik from a reliable source from Amr  
ibn Shuayb from his father from his father's father that the Messenger  
of Allah, may Allah bless him and grant him peace, forbade  
transactions in which nonrefundable deposits were paid.  
  
  
Malik  
said, "That is, in our opinion, but Allah knows best, that for  
instance, a man buys a slave or slave-girl or rents an animal and then  
says to the person from whom he bought the slave or leased the animal,  
'I will give you a dinar or a dirham or whatever on the condition that  
if I actually take the goods or ride what I have rented from you, then  
what I have given you already goes towards payment of the goods or  
hire of the animal. If I do not purchase the goods or hire the animal,  
then what I have given you is yours without liability on your part.' "  
  
  
Malik said, "According to the way of doing things with us  
there is nothing wrong in bartering an arabic speaking merchant slave  
for abyssinian slaves or any other type that are not his equal in  
eloquence, trading, shrewdness, and know-how. There is nothing wrong  
in bartering one slave like this for two or more other slaves with a  
stated delay in the terms if he is clearly different. If there is no  
appreciable difference between the slaves, two should not be bartered  
for one with a stated delay in the terms even if their racial type is  
different."  
  
  
Malik said, "There is nothing wrong in selling  
what has been bought in such a transaction before taking possession of  
all of it as long as you receive the price for it from some one other  
than the original owner."  
  
  
Malik said, "An addition to the  
price must not be made for a foetus in the womb of its mother when she  
is sold because that is gharar (an uncertain transaction). It is not  
known whether the child will be male or female, good-looking or ugly,  
normal or handicapped, alive or dead. All these things will affect the  
price."  
  
  
Malik said that in a transaction where a slave or  
slave-girl was bought for one hundred dinars with a stated credit  
period that if the seller regretted the sale there was nothing wrong  
in him asking the buyer to revoke it for ten dinars which he would pay  
him immediately or after a period and he would forgo his right to the  
hundred dinars which he was owed.  
  
  
Malik said, "However, if  
the buyer regrets and asks the seller to revoke the sale of a slave or  
slave-girl in consideration of which he will pay an extra ten dinars  
immediately or on credit terms, extended beyond the original term,  
that should not be done. It is disapproved of because it is as if, for  
instance, the seller is buying the one hundred dinars which is not yet  
due on a year's credit term before the year expires for a slave-girl  
and ten dinars to be paid immediately or on credit term longer than  
the year. This falls into the category of selling gold for gold when  
delayed terms enter into it."  
  
  
Malik said that it was not  
proper for a man to sell a slave-girl to another man for one hundred  
dinars on credit and then to buy her back for more than the original  
price or on a credit term longer than the original term for which he  
sold her. To understand why that was disapproved of in that case, the  
example of a man who sold a slave-girl on credit and then bought her  
back on a credit term longer than the original term was looked at. He  
might have sold her for thirty dinars with a month to pay and then buy  
her back for sixty dinars with a year or half a year to pay. The  
outcome would only be that his goods would have returned to him just  
like they were and the other party would have given him thirty dinars  
on a month's credit against sixty dinars on a year or half a year's  
credit. That was not to be done.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ الثِّقَةِ، عِنْدَهُ عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنْ بَيْعِ الْعُرْبَانِ ‏.‏   
  
قَالَ مَالِكٌ: وَذلِكَ فِيمَا نُرَى - وَاللهُ أَعْلَمُ - أَنْ يَشْتَرِيَ الرَّجُلُ الْعَبْدَ، أَوِ الْوَلِيدَةَ. أَوْ يَتَكَارَى الدَّابَّةَ. ثُمَّ يَقُولُ لِلَّذِي اشْتَرَى مِنْهُ، أَوْ تَكَارَى مِنْهُ: أُعْطِيكَ دِينَاراً، أَوْ دِرْهَماً، أَوْ أَكْثَرَ مِنْ ذلِكَ، أَوْ أَقَلَّ. عَلَى أَنِّي إِنْ أَخَذْتُ السِّلْعَةَ، أَوْ رَكِبْتُ مَا تَكَارَيْتُ مِنْكَ، فَالَّذِي أَعْطَيْتُكَ هُوَ مِنْ ثَمَنِ السِّلْعَةِ. أَوْ مِنْ كِرَاءِ الدَّابَّةِ، وَإِنْ تَرَكْتُ ابْتِيَاعَ السِّلْعَةِ، أَوْ كِرَاءَ الدَّابَّةِ، فَمَا أَعْطَيْتُكَ لَكَ بَاطِلٌ بِغَيْرِ شَيْءٍ.  
  
قَالَ مَالِكٌ: وَالْأَمْرُ عِنْدَنَا، أَنَّهُ لاَ بَأْسَ بِأَنْ يَبْتَاعَ الْعَبْدَ التَّاجِرَ الْفَصِيحَ، بِالْأَعْبُدِ مِنَ الْحَبَشَةِ، أَوْ مِنْ جِنْسٍ مِنَ الْأَجْنَاسِ، لَيْسُوا مِثْلَهُ فِي الْفَصَاحَةِ، وَلاَ فِي التِّجَارَةِ، وَالنَّفَاذِ، وَالْمَعْرِفَةِ. لاَ بَأْسَ بِهذَا، أَنْ يَشْتَرِيَ مِنْهُ الْعَبْدَ بِالْعَبْدَيْنِ، أَوْ بِالْأَعْبُدِ إِلَى أَجَلٍ مَعْلُومٍ. إِذَا اخْتَلَفَ، فَبَانَ اخْتِلاَفُهُ .فَإِنْ أَشْبَهَ بَعْضُ ذلِكَ بَعْضاً، حَتَّى يَتَقَارَبَ، فَلاَ تَأْخُذَنْ مِنْهُ اثْنَيْنِ بِوَاحِدٍ، إِلَى أَجَلٍ. وَإِنِ اخْتَلَفَتْ أَجْنَاسُهُمْ.  
  
قَالَ مَالِكٌ: وَلاَ بَأْسَ بِأَنْ تَبِيعَ مَا اشْتَرَيْتَ مِنْ ذلِكَ، قَبْلَ أَنْ تَسْتَوْفِيَهُ. إِذَا انْتَقَدْتَ ثَمَنَهُ مِنْ غَيْرِ صَاحِبِهِ الَّذِي اشْتَرَيْتَهُ مِنْهُ.  
  
قَالَ مَالِكٌ: لاَ يَنْبَغِي أَنْ يُسْتَثْنَى جَنِينٌ فِي بَطْنِ أُمِّهِ، إِذَا بِيعَتْ. لِأَنَّ ذلِكَ غَرَرٌ. لاَ يُدْرَى أَذَكَرٌ هُوَ أَمْ (1) أُنْثَى أو حَسَنٌ (2) أَوْ قَبِيحٌ، أَوْ نَاقِصٌ، أَوْ تَامٌّ، أَوْ حَيٌّ أَوْ مَيِّتٌ؟. وَذلِكَ يَضَعُ مِنْ ثَمَنِهَا.  
  
قَالَ مَالِكٌ، فِي الرَّجُلِ يَبْتَاعُ الْعَبْدَ، أَوِ الْوَلِيدَةَ، بِمِائَةِ دِينَارٍ إِلَى أَجَلٍ. ثُمَّ يَنْدَمُ الْبَائِعُ. فَيَسْأَلُ الْمُبْتَاعَ أَنْ يُقِيلَهُ بِعَشَرَةِ دَنَانِيرَ، يَدْفَعُهَا إِلَيْهِ نَقْداً. أَوْ إِلَى أَجَلٍ. وَيَمْحُو عَنْهُ الْمِائَةَ دِينَارٍ الَّتِي لَهُ.  
قَالَ مَالِكٌ: لاَ بَأْسَ بِذلِكَ. وَإِنْ نَدِمَ الْمُبْتَاعُ، فَسَأَلَ الْبَائِعَ أَنْ يُقِيلَهُ فِي الْجَارِيَةِ، أَوِ الْعَبْدِ، وَيَزِيدَهُ عَشَرَةَ دَنَانِيرَ نَقْداً، أَوْ إِلَى أَجَلٍ أَبْعَدَ مِنَ الْأَجَلِ الَّذِي اشْتَرَى إِلَيْهِ الْعَبْدَ، أَوِ الْوَلِيدَةَ. فَإِنَّ ذلِكَ لاَ يَنْبَغِي.  
وَإِنَّمَا كَرِهَ ذلِكَ؛ لِأَنَّ الْبَائِعَ كَأَنَّهُ بَاعَ مِنْهُ مِائَةَ دِينَارٍ لَهُ، إِلَى سَنَةٍ قَبْلَ أَنْ تَحِلَّ، بِجَارِيَةٍ، وَبِعَشَرَةِ دَنَانِيرَ نَقْداً. أَوْ إِلَى أَجَلٍ أَبْعَدَ مِنَ السَّنَةِ. فَدَخَلَ فِي ذلِكَ بَيْعُ الذَّهَبِ بِالذَّهَبِ إِلَى أَجَلٍ.  
  
قَالَ مَالِكٌ، فِي الرَّجُلِ يَبِيعُ مِنَ الرَّجُلِ الْجَارِيَةَ بِمِائَةِ دِينَارٍ إِلَى أَجَلٍ، ثُمَّ يَشْتَرِيهَا بِأَكْثَرَ مِنْ ذلِكَ الثَّمَنِ الَّذِي بَاعَهَا بِهِ إِلَى أَبْعَدَ مِنْ ذلِكَ الْأَجَلِ، الَّذِي بَاعَهَا إِلَيْهِ: إِنَّ ذلِكَ لاَ يَصْلُحُ. وَتَفْسِيرُ مَا كَرِهَ مِنْ ذلِكَ، أَنْ يَبِيعَ الرَّجُلُ الْجَارِيَةَ إِلَى أَجَلٍ. ثُمَّ يَبْتَاعُهَا إِلَى أَجَلٍ أَبْعَدَ مِنْهُ. يَبِيعُهَا بِثَلاَثِينَ دِينَاراً إِلَى شَهْرٍ، ثُمَّ يَبْتَاعُهَا بِسِتِّينَ دِينَاراً، إِلَى سَنَةٍ، أَوْ إِلَى نِصْفِ سَنَةٍ. فَصَارَ، إِنْ رَجَعَتْ إِلَيْهِ سِلْعَتُهُ بِعَيْنِهَا، وَأَعْطَاهُ صَاحِبُهُ ثَلاَثِينَ دِينَاراً، إِلَى شَهْرٍ؛ بِسِتِّينَ دِينَاراً، إِلَى سَنَةٍ، أَوْ إِلَى نِصْفِ سَنَةٍ. فَهذَا لاَ يَنْبَغِي.

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Yahya related to me from Malik from Nafi from Abdullah ibn Umar  
that Umar ibn al-Khattab said, "If a slave who has wealth is sold,  
that wealth belongs to the seller unless the buyer stipulates its  
inclusion."  
  
  
Malik said, "The generally agreed upon way of  
doing things among us is that if the buyer stipulates the inclusion of  
the slave's property whether it be cash, debts, or goods of known or  
unknown value, then they belong to the buyer, even if the slave  
possesses more than that for which he was purchased, whether he was  
bought for cash, as payment for a debt, or in exchange for goods. This  
is possible because a master is not asked to pay zakat on his slave's  
property. If a slave has a slave-girl, it is halal for him to have  
intercourse with her by his right of possession. If a slave is freed  
or put under contract (kitaba) to purchase his freedom, then his  
property goes with him. If he becomes bankrupt, his creditors take his  
property and his master is not liable for any of his debts."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ، قَالَ مَنْ بَاعَ عَبْدًا وَلَهُ مَالٌ فَمَالُهُ لِلْبَائِعِ إِلاَّ أَنْ يَشْتَرِطَهُ الْمُبْتَاعُ ‏.‏

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Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn  
Muhammad ibn Amr ibn Hazm that Aban ibn Uthman and Hisham ibn Ismail  
used to mention in their khutbas built-in liability agreements in the  
sale of slaves, to cover both a three day period and a similar clause  
covering a year. Malik explained, "The defects a lave or slave-girl  
are found to have from the time they are bought until the end of the  
three days are the responsibility of the seller. The year agreement is  
to cover insanity, leprosy, and loss of limbs due to disease. After a  
year, the seller is free from any liability."  
  
  
Malik said,"An  
inheritor or someone else who sells a slave or slave-girl without any  
such built-in guarantee is not responsible for any fault in the slave  
and there is no liability agreement held against him unless he was  
aware of a fault and concealed it. If he was aware of a fault, the  
lack of guarantee does not protect him. The purchase is returned. In  
our view, built-in liability agreements only apply to the purchase of  
slaves."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ عَبْدِ اللَّهِ بْنِ أَبِي بَكْرِ بْنِ مُحَمَّدِ بْنِ عَمْرِو بْنِ حَزْمٍ، أَنَّ أَبَانَ بْنَ عُثْمَانَ، وَهِشَامَ بْنَ إِسْمَاعِيلَ، كَانَا يَذْكُرَانِ فِي خُطْبَتِهِمَا عُهْدَةَ الرَّقِيقِ فِي الأَيَّامِ الثَّلاَثَةِ مِنْ حِينِ يُشْتَرَى الْعَبْدُ أَوِ الْوَلِيدَةُ وَعُهْدَةَ السَّنَةِ ‏.‏ قَالَ مَالِكٌ مَا أَصَابَ الْعَبْدُ أَوِ الْوَلِيدَةُ فِي الأَيَّامِ الثَّلاَثَةِ مِنْ حِينِ يُشْتَرَيَانِ حَتَّى تَنْقَضِيَ الأَيَّامُ الثَّلاَثَةُ فَهُوَ مِنَ الْبَائِعِ وَإِنَّ عُهْدَةَ السَّنَةِ مِنَ الْجُنُونِ وَالْجُذَامِ وَالْبَرَصِ فَإِذَا مَضَتِ السَّنَةُ فَقَدْ بَرِئَ الْبَائِعُ مِنَ الْعُهْدَةِ كُلِّهَا ‏.‏ قَالَ مَالِكٌ وَمَنْ بَاعَ عَبْدًا أَوْ وَلِيدَةً مِنْ أَهْلِ الْمِيرَاثِ أَوْ غَيْرِهِمْ بِالْبَرَاءَةِ فَقَدْ بَرِئَ مِنْ كُلِّ عَيْبٍ وَلاَ عُهْدَةَ عَلَيْهِ إِلاَّ أَنْ يَكُونَ عَلِمَ عَيْبًا فَكَتَمَهُ فَإِنْ كَانَ عَلِمَ عَيْبًا فَكَتَمَهُ لَمْ تَنْفَعْهُ الْبَرَاءَةُ وَكَانَ ذَلِكَ الْبَيْعُ مَرْدُودًا وَلاَ عُهْدَةَ عِنْدَنَا إِلاَّ فِي الرَّقِيقِ ‏.‏

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Yahya related to me from Malik from Yahya ibn Said from Salim ibn  
Abdullah that Abdullah ibn Umar sold one of his slaves for eight  
hundred dirhams with the stipulation that he was not responsible for  
defects. The person who bought the slave complained to Abdullah ibn  
Umar that the slave had a disease which he had not told him about.  
They argued and went to Uthman ibn Affan for a decision . The man  
said, "He sold me a slave with a disease which he did not tell me  
about." Abdullah said, "I sold to him with the stipulation that I was  
not responsible." Uthman ibn Affan decided that Abdullah ibn Umar  
should take an oath that he had sold the slave without knowing that he  
had any disease. Abdullah ibn Umar refused to take the oath, so the  
slave was returned to him and recovered his health in his possession.  
Abdullah sold him afterwards for 1500 dirhams.  
  
  
Malik said,  
"The generally agreed upon way of doing things among us about a man  
who buys a female slave and she becomes pregnant, or who buys a slave  
and then frees him, or if there is any other such matter which has  
already happened so that he cannot return his purchase, and a clear  
proof is established that there was a fault in that purchase when it  
was in the hands of the seller or the fault is admitted by the seller  
or someone else, is that the slave or slave-girl is assessed for its  
value with the fault it is found to have had on the day of purchase  
and the buyer is refunded,from what he paid,the difference between the  
price of a slave who is sound and a slave with such a defect.  
  
  
Malik said, "The generally agreed upon way of doing things among us  
regarding a man who buys a slave and then finds out that the slave has  
a defect for which he can be returned and meanwhile another defect has  
happened to the slave whilst in his possession, is that if the defect  
which occurred to the slave in his possession has harmed him, like  
loss of a limb, loss of an eye, or something similar, then he has a  
choice. If he wants, he can have the price of the slave reduced  
commensurate with the defect (he bought him with ) according to the  
prices on the day he bought him, or if he likes, he can pay  
compensation for the defect which the slave has suffered in his  
possession and return him. The choice is up to him. If the slave dies  
in his possession, the slave is valued with the defect which he had on  
the day of his purchase. It is seen what his price would really have  
been. If the price of the slave on the day of purchase without fault  
was 100 dinars, and his price on the day of purchase with fault would  
have been 80 dinars, the price is reduced by the difference. These  
prices are assessed according to the market value on the day the slave  
was purchased . "  
  
  
Malik said, "The generally agreed upon way  
of doing things among us is that if a man returns a slave girl in whom  
he has found a defect and he has already had intercourse with her, he  
must pay what he has reduced of her price if she was a virgin. If she  
was not a virgin, there is nothing against his having had intercourse  
with her because he had charge of her."  
  
  
Malik said, "The  
generally agreed upon way of doing things among us regarding a person,  
whether he is an inheritor or not, who sells a slave, slave-girl, or  
animal without a liability agreement is that he is not responsible for  
any defect in what he sold unless he knew about the fault and  
concealed it. If he knew that there was a fault and concealed it, his  
declaration that he was free of responsibility does not absolve him,  
and what he sold is returned to him."  
  
  
Malik spoke about a  
situation where a slave-girl was bartered for two other slave-girls  
and then one of the slave-girls was found to have a defect for which  
she could be returned. He said, "The slave-girl worth two other slave-  
girls is valued for her price. Then the other two slave-girls are  
valued, ignoring the defect which the one of them has. Then the price  
of the slave-girl sold for two slave-girls is divided between them  
according to their prices so that the proportion of each of them in  
her price is arrived at - to the higher priced one according to her  
higher price, and to the other according to her value. Then one looks  
at the one with the defect, and the buyer is refunded according to the  
amount her share is affected by the defect, be it little or great. The  
price of the two slave-girls is based on their market value on the day  
that they were bought."  
  
  
Malik spoke about a man who bought a  
slave and hired him out on a long-term or short-term basis and then  
found out that the slave had a defect which necessitated his return.  
He said that if the man returned the slave because of the defect, he  
kept the hire and revenue. "This is the way in which things are done  
in our city. That is because, had the man bought a slave who then  
built a house for him, and the value of the house was many times the  
price of the slave, and he then found that the slave had a defect for  
which he could be returned, and he was returned, he would not have to  
make payment for the work the slave had done for him. Similarly, he  
would keep any revenue from hiring him out, because he had charge of  
him. This is the way of doing things among us."  
  
  
Malik said,  
"The way of doing things among us when someone buys several slaves in  
one lot and then finds that one of them has been stolen, or has a  
defect, is that he looks at the one he finds has been stolen or the  
one in which he finds a defect. If he is the pick of those slaves, or  
the most expensive, or it was for his sake that he bought them, or he  
is the one in whom people see the most excellence, then the whole sale  
is returned. If the one who is found to be stolen or to have a defect  
is not the pick of the slaves, and he did not buy them for his sake,  
and there is no special virtue which people see in him, the one who is  
found to have a defect or to have been stolen is returned as he is,  
and the buyer is refunded his portion of the total price."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ، أَنَّ عَبْدَ اللَّهِ بْنَ عُمَرَ، بَاعَ غُلاَمًا لَهُ بِثَمَانِمِائَةِ دِرْهَمٍ وَبَاعَهُ بِالْبَرَاءَةِ فَقَالَ الَّذِي ابْتَاعَهُ لِعَبْدِ اللَّهِ بْنِ عُمَرَ بِالْغُلاَمِ دَاءٌ لَمْ تُسَمِّهِ لِي ‏.‏ فَاخْتَصَمَا إِلَى عُثْمَانَ بْنِ عَفَّانَ ‏.‏ فَقَالَ الرَّجُلُ بَاعَنِي عَبْدًا وَبِهِ دَاءٌ لَمْ يُسَمِّهِ ‏.‏ وَقَالَ عَبْدُ اللَّهِ بِعْتُهُ بِالْبَرَاءَةِ ‏.‏ فَقَضَى عُثْمَانُ بْنُ عَفَّانَ عَلَى عَبْدِ اللَّهِ بْنِ عُمَرَ أَنْ يَحْلِفَ لَهُ لَقَدْ بَاعَهُ الْعَبْدَ وَمَا بِهِ دَاءٌ يَعْلَمُهُ فَأَبَى عَبْدُ اللَّهِ أَنْ يَحْلِفَ وَارْتَجَعَ الْعَبْدَ فَصَحَّ عِنْدَهُ فَبَاعَهُ عَبْدُ اللَّهِ بَعْدَ ذَلِكَ بِأَلْفٍ وَخَمْسِمِائَةِ دِرْهَمٍ ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا أَنَّ كُلَّ مَنِ ابْتَاعَ وَلِيدَةً فَحَمَلَتْ أَوْ عَبْدًا فَأَعْتَقَهُ وَكُلَّ أَمْرٍ دَخَلَهُ الْفَوْتُ حَتَّى لاَ يُسْتَطَاعَ رَدُّهُ فَقَامَتِ الْبَيِّنَةُ إِنَّهُ قَدْ كَانَ بِهِ عَيْبٌ عِنْدَ الَّذِي بَاعَهُ أَوْ عُلِمَ ذَلِكَ بِاعْتِرَافٍ مِنَ الْبَائِعِ أَوْ غَيْرِهِ فَإِنَّ الْعَبْدَ أَوِ الْوَلِيدَةَ يُقَوَّمُ وَبِهِ الْعَيْبُ الَّذِي كَانَ بِهِ يَوْمَ اشْتَرَاهُ فَيُرَدُّ مِنَ الثَّمَنِ قَدْرُ مَا بَيْنَ قِيمَتِهِ صَحِيحًا وَقِيمَتِهِ وَبِهِ ذَلِكَ الْعَيْبُ ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا فِي الرَّجُلِ يَشْتَرِي الْعَبْدَ ثُمَّ يَظْهَرُ مِنْهُ عَلَى عَيْبٍ يَرُدُّهُ مِنْهُ وَقَدْ حَدَثَ بِهِ عِنْدَ الْمُشْتَرِي عَيْبٌ آخَرُ إِنَّهُ إِذَا كَانَ الْعَيْبُ الَّذِي حَدَثَ بِهِ مُفْسِدًا مِثْلُ الْقَطْعِ أَوِ الْعَوَرِ أَوْ مَا أَشْبَهَ ذَلِكَ مِنَ الْعُيُوبِ الْمُفْسِدَةِ فَإِنَّ الَّذِي اشْتَرَى الْعَبْدَ بِخَيْرِ النَّظَرَيْنِ إِنْ أَحَبَّ أَنْ يُوضَعَ عَنْهُ مِنْ ثَمَنِ الْعَبْدِ بِقَدْرِ الْعَيْبِ الَّذِي كَانَ بِالْعَبْدِ يَوْمَ اشْتَرَاهُ وُضِعَ عَنْهُ وَإِنْ أَحَبَّ أَنْ يَغْرَمَ قَدْرَ مَا أَصَابَ الْعَبْدَ مِنَ الْعَيْبِ عِنْدَهُ ثُمَّ يَرُدُّ الْعَبْدَ فَذَلِكَ لَهُ وَإِنْ مَاتَ الْعَبْدُ عِنْدَ الَّذِي اشْتَرَاهُ أُقِيمَ الْعَبْدُ وَبِهِ الْعَيْبُ الَّذِي كَانَ بِهِ يَوْمَ اشْتَرَاهُ فَيُنْظَرُ كَمْ ثَمَنُهُ فَإِنْ كَانَتْ قِيمَةُ الْعَبْدِ يَوْمَ اشْتَرَاهُ بِغَيْرِ عَيْبٍ مِائَةَ دِينَارٍ وَقِيمَتُهُ يَوْمَ اشْتَرَاهُ وَبِهِ الْعَيْبُ ثَمَانُونَ دِينَارًا وُضِعَ عَنِ الْمُشْتَرِي مَا بَيْنَ الْقِيمَتَيْنِ وَإِنَّمَا تَكُونُ الْقِيمَةُ يَوْمَ اشْتُرِيَ الْعَبْدُ ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا أَنَّ مَنْ رَدَّ وَلِيدَةً مِنْ عَيْبٍ وَجَدَهُ بِهَا وَكَانَ قَدْ أَصَابَهَا أَنَّهَا إِنْ كَانَتْ بِكْرًا فَعَلَيْهِ مَا نَقَصَ مِنْ ثَمَنِهَا وَإِنْ كَانَتْ ثَيِّبًا فَلَيْسَ عَلَيْهِ فِي إِصَابَتِهِ إِيَّاهَا شَىْءٌ لأَنَّهُ كَانَ ضَامِنًا لَهَا ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا فِيمَنْ بَاعَ عَبْدًا أَوْ وَلِيدَةً أَوْ حَيَوَانًا بِالْبَرَاءَةِ مِنْ أَهْلِ الْمِيرَاثِ أَوْ غَيْرِهِمْ فَقَدْ بَرِئَ مِنْ كُلِّ عَيْبٍ فِيمَا بَاعَ إِلاَّ أَنْ يَكُونَ عَلِمَ فِي ذَلِكَ عَيْبًا فَكَتَمَهُ فَإِنْ كَانَ عَلِمَ عَيْبًا فَكَتَمَهُ لَمْ تَنْفَعْهُ تَبْرِئَتُهُ وَكَانَ مَا بَاعَ مَرْدُودًا عَلَيْهِ ‏.‏ قَالَ مَالِكٌ فِي الْجَارِيَةِ تُبَاعُ بِالْجَارِيَتَيْنِ ثُمَّ يُوجَدُ بِإِحْدَى الْجَارِيَتَيْنِ عَيْبٌ تُرَدُّ مِنْهُ قَالَ تُقَامُ الْجَارِيَةُ الَّتِي كَانَتْ قِيمَةَ الْجَارِيَتَيْنِ فَيُنْظَرُ كَمْ ثَمَنُهَا ثُمَّ تُقَامُ الْجَارِيَتَانِ بِغَيْرِ الْعَيْبِ الَّذِي وُجِدَ بِإِحْدَاهُمَا تُقَامَانِ صَحِيحَتَيْنِ سَالِمَتَيْنِ ثُمَّ يُقْسَمُ ثَمَنُ الْجَارِيَةِ الَّتِي بِيعَتْ بِالْجَارِيَتَيْنِ عَلَيْهِمَا بِقَدْرِ ثَمَنِهِمَا حَتَّى يَقَعَ عَلَى كُلِّ وَاحِدَةٍ مِنْهُمَا حِصَّتُهَا مِنْ ذَلِكَ عَلَى الْمُرْتَفِعَةِ بِقَدْرِ ارْتِفَاعِهَا وَعَلَى الأُخْرَى بِقَدْرِهَا ثُمَّ يُنْظَرُ إِلَى الَّتِي بِهَا الْعَيْبُ فَيُرَدُّ بِقَدْرِ الَّذِي وَقَعَ عَلَيْهَا مِنْ تِلْكَ الْحِصَّةِ إِنْ كَانَتْ كَثِيرَةً أَوْ قَلِيلَةً وَإِنَّمَا تَكُونُ قِيمَةُ الْجَارِيَتَيْنِ عَلَيْهِ يَوْمَ قَبْضِهِمَا ‏.‏ قَالَ مَالِكٌ فِي الرَّجُلِ يَشْتَرِي الْعَبْدَ فَيُؤَاجِرُهُ بِالإِجَارَةِ الْعَظِيمَةِ أَوِ الْغَلَّةِ الْقَلِيلَةِ ثُمَّ يَجِدُ بِهِ عَيْبًا يُرَدُّ مِنْهُ إِنَّهُ يَرُدُّهُ بِذَلِكَ الْعَيْبِ وَتَكُونُ لَهُ إِجَارَتُهُ وَغَلَّتُهُ وَهَذَا الأَمْرُ الَّذِي كَانَتْ عَلَيْهِ الْجَمَاعَةُ بِبَلَدِنَا وَذَلِكَ لَوْ أَنَّ رَجُلاً ابْتَاعَ عَبْدًا فَبَنَى لَهُ دَارًا قِيمَةُ بِنَائِهَا ثَمَنُ الْعَبْدِ أَضْعَافًا ثُمَّ وَجَدَ بِهِ عَيْبًا يُرَدُّ مِنْهُ رَدَّهُ وَلاَ يُحْسَبُ لِلْعَبْدِ عَلَيْهِ إِجَارَةٌ فِيمَا عَمِلَ لَهُ فَكَذَلِكَ تَكُونُ لَهُ إِجَارَتُهُ إِذَا آجَرَهُ مِنْ غَيْرِهِ لأَنَّهُ ضَامِنٌ لَهُ وَهَذَا الأَمْرُ عِنْدَنَا ‏.‏ قَالَ مَالِكٌ الأَمْرُ عِنْدَنَا فِيمَنِ ابْتَاعَ رَقِيقًا فِي صَفْقَةٍ وَاحِدَةٍ فَوَجَدَ فِي ذَلِكَ الرَّقِيقِ عَبْدًا مَسْرُوقًا أَوْ وَجَدَ بِعَبْدٍ مِنْهُمْ عَيْبًا أَنَّهُ يُنْظَرُ فِيمَا وُجِدَ مَسْرُوقًا أَوْ وَجَدَ بِهِ عَيْبًا فَإِنْ كَانَ هُوَ وَجْهَ ذَلِكَ الرَّقِيقِ أَوْ أَكْثَرَهُ ثَمَنًا أَوْ مِنْ أَجْلِهِ اشْتَرَى وَهُوَ الَّذِي فِيهِ الْفَضْلُ فِيمَا يَرَى النَّاسُ كَانَ ذَلِكَ الْبَيْعُ مَرْدُودًا كُلُّهُ وَإِنْ كَانَ الَّذِي وُجِدَ مَسْرُوقًا أَوْ وُجِدَ بِهِ الْعَيْبُ مِنْ ذَلِكَ الرَّقِيقِ فِي الشَّىْءِ الْيَسِيرِ مِنْهُ لَيْسَ هُوَ وَجْهَ ذَلِكَ الرَّقِيقِ وَلاَ مِنْ أَجْلِهِ اشْتُرِيَ وَلاَ فِيهِ الْفَضْلُ فِيمَا يَرَى النَّاسُ رُدَّ ذَلِكَ الَّذِي وُجِدَ بِهِ الْعَيْبُ أَوْ وُجِدَ مَسْرُوقًا بِعَيْنِهِ بِقَدْرِ قِيمَتِهِ مِنَ الثَّمَنِ الَّذِي اشْتَرَى بِهِ أُولَئِكَ الرَّقِيقَ ‏.‏

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Yahya related to me from Malik from Ibn Shihab that Ubaydullah  
ibn Abdullah ibn Utba ibn Masud told him that Abdullah ibn Masud  
bought a slave-girl from his wife, Zaynab Ath Thaqafiyya. She made a  
condition to him, that if he bought her, she could always buy her back  
for the price that he paid. Abdullah ibn Masud asked Umar ibn al-  
Khattab about that and Umar ibn al-Khattab said, "Do not go near her  
while anyone has a condition concerning her over you."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، أَنَّ عُبَيْدَ اللَّهِ بْنَ عَبْدِ اللَّهِ بْنِ عُتْبَةَ بْنِ مَسْعُودٍ، أَخْبَرَهُ أَنَّ عَبْدَ اللَّهِ بْنَ مَسْعُودٍ ابْتَاعَ جَارِيَةً مِنِ امْرَأَتِهِ زَيْنَبَ الثَّقَفِيَّةِ وَاشْتَرَطَتْ عَلَيْهِ أَنَّكَ إِنْ بِعْتَهَا فَهِيَ لِي بِالثَّمَنِ الَّذِي تَبِيعُهَا بِهِ فَسَأَلَ عَبْدُ اللَّهِ بْنُ مَسْعُودٍ عَنْ ذَلِكَ عُمَرَ بْنَ الْخَطَّابِ فَقَالَ عُمَرُ بْنُ الْخَطَّابِ لاَ تَقْرَبْهَا وَفِيهَا شَرْطٌ لأَحَدٍ ‏.‏

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Yahya related to me from Malik from Nafi that Abdullah ibn Umar  
would say, "A man should not have intercourse with a slave girl except  
one whom, if he wished, he could sell, if he wished, he could give  
away, if he wished, he could keep, if he wished, he could do with her  
what he wanted ."  
  
  
Malik said that a man who bought a slave-  
girl on condition that he did not sell her, give her away, or do  
something of that nature, was not to have intercourse with her. That  
was because he was not permitted to sell her or to give her away, so  
if he did not own that from her, he did not have complete ownership of  
her because an exception had been made concerning her by the hand of  
someone else. If that sort of condition entered into it, it was a  
messy situation, and the sale was not recommended.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّهُ كَانَ يَقُولُ لاَ يَطَأُ الرَّجُلُ وَلِيدَةً إِلاَّ وَلِيدَةً إِنْ شَاءَ بَاعَهَا وَإِنْ شَاءَ وَهَبَهَا وَإِنْ شَاءَ أَمْسَكَهَا وَإِنْ شَاءَ صَنَعَ بِهَا مَا شَاءَ ‏.‏ قَالَ مَالِكٌ فِيمَنِ اشْتَرَى جَارِيَةً عَلَى شَرْطِ أَنْ لاَ يَبِيعَهَا أَوْ لاَ يَهَبَهَا أَوْ مَا أَشْبَهَ ذَلِكَ مِنَ الشُّرُوطِ فَإِنَّهُ لاَ يَنْبَغِي لِلْمُشْتَرِي أَنْ يَطَأَهَا وَذَلِكَ أَنَّهُ لاَ يَجُوزُ لَهُ أَنْ يَبِيعَهَا وَلاَ يَهَبَهَا فَإِذَا كَانَ لاَ يَمْلِكُ ذَلِكَ مِنْهَا فَلَمْ يَمْلِكْهَا مِلْكًا تَامًّا لأَنَّهُ قَدِ اسْتُثْنِيَ عَلَيْهِ فِيهَا مَا مَلَكَهُ بِيَدِ غَيْرِهِ فَإِذَا دَخَلَ هَذَا الشَّرْطُ لَمْ يَصْلُحْ وَكَانَ بَيْعًا مَكْرُوهًا ‏.‏

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Yahya related to me from Malik from Ibn Shihab that Abdullah ibn  
Amir gave Uthman ibn Affan a slave-girl who had a husband whom he had  
purchased at Basra. Uthman said, "I will not go near her until her  
husband separates from her." Ibn Amir compensated the husband and he  
separated from her.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، أَنَّ عَبْدَ اللَّهِ بْنَ عَامِرٍ، أَهْدَى لِعُثْمَانَ بْنِ عَفَّانَ جَارِيَةً وَلَهَا زَوْجٌ ابْتَاعَهَا بِالْبَصْرَةِ فَقَالَ عُثْمَانُ لاَ أَقْرَبُهَا حَتَّى يُفَارِقَهَا زَوْجُهَا ‏.‏ فَأَرْضَى ابْنُ عَامِرٍ زَوْجَهَا فَفَارَقَهَا ‏.‏

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Yahya related to me from Malik from Ibn Shihab from Abu Salama  
ibn Abd ar-Rahman ibn Awf that Abd ar-Rahman ibn Awf bought a slave-  
girl and found that she had a husband, so he returned her.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ، أَنَّ عَبْدَ الرَّحْمَنِ بْنَ عَوْفٍ، ابْتَاعَ وَلِيدَةً فَوَجَدَهَا ذَاتَ زَوْجٍ فَرَدَّهَا ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 8Arabic reference : Book 31, Hadith 1300Report 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, "If palm trees are sold after they have been pollinated, the  
fruit belongs to the seller unless the buyer makes a stipulation about  
its inclusion."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ مَنْ بَاعَ نَخْلاً قَدْ أُبِّرَتْ فَثَمَرُهَا لِلْبَائِعِ إِلاَّ أَنْ يَشْتَرِطَ الْمُبْتَاعُ ‏"‏ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 9Arabic reference : Book 31, Hadith 1301Report Error | Share | Copy ▼

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Yahya related to me from Malik from Nafi from Ibn Umar that the  
Messenger of Allah, may Allah bless him and grant him peace, forbade  
selling fruit until it had started to ripen. He forbade the  
transaction to both buyer and seller.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنْ بَيْعِ الثِّمَارِ حَتَّى يَبْدُوَ صَلاَحُهَا نَهَى الْبَائِعَ وَالْمُشْتَرِيَ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 10Arabic reference : Book 31, Hadith 1302Report Error | Share | Copy ▼

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Yahya related to me from Malik from Humayd at-Tawil from Anas ibn  
Malik that the Messenger of Allah, may Allah bless him and grant him  
peace, forbade selling fruit until it had become mellow. He was asked,  
"Messenger ofAllah! What do you mean by become mellow?" He said, "When  
it becomes rosy."  
  
  
The Messenger of Allah, may Allah bless him  
and grant him peace, added, "Allah may prevent the fruit from  
maturing, so how can you take payment from your brother for it."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ حُمَيْدٍ الطَّوِيلِ، عَنْ أَنَسِ بْنِ مَالِكٍ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنْ بَيْعِ الثِّمَارِ حَتَّى تُزْهِيَ ‏.‏ فَقِيلَ لَهُ يَا رَسُولَ اللَّهِ وَمَا تُزْهِي فَقَالَ ‏"‏ حِينَ تَحْمَرُّ ‏"‏ ‏.‏ وَقَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ أَرَأَيْتَ إِذَا مَنَعَ اللَّهُ الثَّمَرَةَ فَبِمَ يَأْخُذُ أَحَدُكُمْ مَالَ أَخِيهِ ‏"‏ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 11Arabic reference : Book 31, Hadith 1303Report Error | Share | Copy ▼

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Yahya related to me from Malik from Abu'r-Rijal Muhammad ibn Abd  
ar-Rahman ibn Haritha from his mother, Amra bint Abd ar-Rahman that  
the Messenger of Allah, may Allah bless him and grant him peace,  
forbade selling fruit until it was clear of blight. Malik said,  
"Selling fruit before it has begun to ripen is an uncertain  
transaction (gharar) ."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ أَبِي الرِّجَالِ، مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ حَارِثَةَ عَنْ أُمِّهِ، عَمْرَةَ بِنْتِ عَبْدِ الرَّحْمَنِ أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنْ بَيْعِ الثِّمَارِ حَتَّى تَنْجُوَ مِنَ الْعَاهَةِ ‏.‏ قَالَ مَالِكٌ وَبَيْعُ الثِّمَارِ قَبْلَ أَنْ يَبْدُوَ صَلاَحُهَا مِنْ بَيْعِ الْغَرَرِ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 12Arabic reference : Book 31, Hadith 1304Report Error | Share | Copy ▼

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Yahya related to me from Malik from Abu'z-Zinad from Kharija ibn  
Zayd ibn Thabit that Zayd ibn Thabit did not sell fruit until the  
Pleiades were visible, at the end of May.  
  
  
Malik said, "The  
way of doing things among us about selling melons, cucumbers, water-  
melons, and carrots is that it is halal to sell them when it is clear  
that they have begun to ripen. Then the buyer has what grows until the  
season is over. There is no specific timing laid down for that because  
the time is well known with people, and it may happen that the crop  
will be affected by blight and put a premature end to the season. If  
blight strikes and a third or more of the crop is damaged, an  
allowance for that is deducted from the price of purchase."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ أَبِي الزِّنَادِ، عَنْ خَارِجَةَ بْنِ زَيْدِ بْنِ ثَابِتٍ، عَنْ زَيْدِ بْنِ ثَابِتٍ، أَنَّهُ كَانَ لاَ يَبِيعُ ثِمَارَهُ حَتَّى تَطْلُعَ الثُّرَيَّا ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 13Arabic reference : Book 31, Hadith 1305Report Error | Share | Copy ▼

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Yahya related to me from Malik from Nafi from Abdullah ibn Umar  
from Zayd ibn Thabit that the Messenger of Allah, may Allah bless him  
and grant him peace, allowed the holder of an ariya to barter the  
dates on the palm for the amount of dried dates it was estimated that  
the palms would produce.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، عَنْ زَيْدِ بْنِ ثَابِتٍ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم أَرْخَصَ لِصَاحِبِ الْعَرِيَّةِ أَنْ يَبِيعَهَا بِخَرْصِهَا ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 14Arabic reference : Book 31, Hadith 1306Report Error | Share | Copy ▼

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Yahya related to me from Malik from  
Da'ud ibn al-Husayn from Abu Sufyan, the mawla of Ibn Abi Ahmad, from  
Abu Hurayra that the Messenger of Allah, may Allah bless him and grant  
him peace, allowed the produce of an ariya to be bartered for an  
estimation of what the produce would be when the crop was less than  
five awsuq or equal to five awsuq. Da'ud wasn't sure whether he said  
five awsuq or less than five.  
  
  
Malik said, ''Ariyas can be  
sold for an estimation of what amount of dried dates will be produced.  
The crop is examined and estimated while still on the palm. This is  
allowed because it comes into the category of delegation of  
responsibility, handing over rights, and involving a partner. Had it  
been like a form of sale, no one would have made someone else a  
partner in the produce until it was ready nor would he have renounced  
his right to any of it or put someone in charge of it until the buyer  
had taken possession."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ دَاوُدَ بْنِ الْحُصَيْنِ، عَنْ أَبِي سُفْيَانَ، مَوْلَى ابْنِ أَبِي أَحْمَدَ عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم أَرْخَصَ فِي بَيْعِ الْعَرَايَا بِخَرْصِهَا فِيمَا دُونَ خَمْسَةِ أَوْسُقٍ أَوْ فِي خَمْسَةِ أَوْسُقٍ ‏.‏ يَشُكُّ دَاوُدُ قَالَ خَمْسَةِ أَوْسُقٍ أَوْ دُونَ خَمْسَةِ أَوْسُقٍ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 14Arabic reference : Book 31, Hadith 1307Report Error | Share | Copy ▼

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Yahya related to me from Malik that Abu'r-Rijal Muhammad ibn Abd  
ar-Rahman heard his mother, Amra bint Abd ar-Rahman say, "A man bought  
the fruit of an enclosed orchard in the time of the Messenger of  
Allah, may Allah bless him and grant him peace, and he tended it while  
staying on the land. It became clear to him that there was going to be  
some loss. He asked the owner of the orchard to reduce the price for  
him or to revoke the sale, but the owner made an oath not to do so.  
The mother of the buyer went to the Messenger of Allah, may Allah  
bless him and grant him peace, and told him about it. The Messengerof  
Allah, may Allah bless him and grant him peace, said, 'By this oath,  
he has sworn not to do good.' The owner of the orchard heard about it  
and went to the Messenger of Allah, may Allah bless him and grant him  
peace, and said, 'Messenger of Allah, the choice is his.' "

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ أَبِي الرِّجَالِ، مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أُمِّهِ، عَمْرَةَ بِنْتِ عَبْدِ الرَّحْمَنِ أَنَّهُ سَمِعَهَا تَقُولُ، ابْتَاعَ رَجُلٌ ثَمَرَ حَائِطٍ فِي زَمَانِ رَسُولِ اللَّهِ صلى الله عليه وسلم فَعَالَجَهُ وَقَامَ فِيهِ حَتَّى تَبَيَّنَ لَهُ النُّقْصَانُ فَسَأَلَ رَبَّ الْحَائِطِ أَنْ يَضَعَ لَهُ أَوْ أَنْ يُقِيلَهُ فَحَلَفَ أَنْ لاَ يَفْعَلَ فَذَهَبَتْ أُمُّ الْمُشْتَرِي إِلَى رَسُولِ اللَّهِ صلى الله عليه وسلم فَذَكَرَتْ ذَلِكَ لَهُ فَقَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏  
"‏ تَأَلَّى أَنْ لاَ يَفْعَلَ خَيْرًا ‏"‏ ‏.‏ فَسَمِعَ بِذَلِكَ رَبُّ الْحَائِطِ فَأَتَى رَسُولَ اللَّهِ صلى الله عليه وسلم فَقَالَ يَا رَسُولَ اللَّهِ هُوَ لَهُ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 15Arabic reference : Book 31, Hadith 1308Report Error | Share | Copy ▼

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Yahya related to me from Malik that he had heard that Umar ibn  
Abd al-Aziz decided in a case to make a reduction for crop damage.  
  
  
Malik said, "That is what we do in the situation."  
  
  
Malik added, "Crop damage is whatever causes loss of a third or more  
for the purchaser. Anything less is not counted as crop damage."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ عُمَرَ بْنَ عَبْدِ الْعَزِيزِ، قَضَى بِوَضْعِ الْجَائِحَةِ ‏.‏ قَالَ مَالِكٌ وَعَلَى ذَلِكَ الأَمْرُ عِنْدَنَا ‏.‏ قَالَ مَالِكٌ وَالْجَائِحَةُ الَّتِي تُوضَعُ عَنِ الْمُشْتَرِي الثُّلُثُ فَصَاعِدًا وَلاَ يَكُونُ مَا دُونَ ذَلِكَ جَائِحَةً ‏.‏

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Yahya related to me from Malik from Rabia ibn Abd ar-Rahman that  
al-Qasim ibn Muhammad would sell produce from his orchard and keep  
some of it aside.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ رَبِيعَةَ بْنِ أَبِي عَبْدِ الرَّحْمَنِ، أَنَّ الْقَاسِمَ بْنَ مُحَمَّدٍ، كَانَ يَبِيعُ ثَمَرَ حَائِطِهِ وَيَسْتَثْنِي مِنْهُ ‏.‏

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Yahya related to me from Malik from Abdullah ibn Abi Bakr that  
his grandfather, Muhammad ibn Amr ibn Hazm sold the fruit of an  
orchard of his called al-Afraq, for 4,000 dirhams, and he kept aside  
800 dirhams' worth of dry dates.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ عَبْدِ اللَّهِ بْنِ أَبِي بَكْرٍ، أَنَّ جَدَّهُ، مُحَمَّدَ بْنَ عَمْرِو بْنِ حَزْمٍ بَاعَ ثَمَرَ حَائِطٍ لَهُ يُقَالُ لَهُ الأَفْرَاقُ بِأَرْبَعَةِ آلاَفِ دِرْهَمٍ وَاسْتَثْنَى مِنْهُ بِثَمَانِمِائَةِ دِرْهَمٍ تَمْرًا ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 18Arabic reference : Book 31, Hadith 1311Report Error | Share | Copy ▼

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Yahya related to me from Malik from Abu'r-Rijal, Muhammad ibn  
Abdar-Rahman ibn Haritha that his mother, Amra bint Abd ar-Rahman used  
to sell her fruit and keep some of it aside.  
  
  
Malik said, "The  
generally agreed upon way of doing things among us is that when a man  
sells the fruit of his orchard, he can keep aside up to a third of the  
fruit, but that is not to be exceeded. There is no harm in what is  
less than a third."  
  
  
Malik added that he thought there was no  
harm for a man to sell the fruit of his orchard and keep aside only  
the fruit of a certain palm-tree or palm-trees which he had chosen and  
whose number he had specified, because the owner was only keeping  
aside certain fruit of his own orchard and everything else he sold.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ أَبِي الرِّجَالِ، مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ حَارِثَةَ أَنَّ أُمَّهُ، عَمْرَةَ بِنْتَ عَبْدِ الرَّحْمَنِ كَانَتْ تَبِيعُ ثِمَارَهَا وَتَسْتَثْنِي مِنْهَا ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا أَنَّ الرَّجُلَ إِذَا بَاعَ ثَمَرَ حَائِطِهِ أَنَّ لَهُ أَنْ يَسْتَثْنِيَ مِنْ ثَمَرِ حَائِطِهِ مَا بَيْنَهُ وَبَيْنَ ثُلُثِ الثَّمَرِ لاَ يُجَاوِزُ ذَلِكَ وَمَا كَانَ دُونَ الثُّلُثِ فَلاَ بَأْسَ بِذَلِكَ ‏.‏ قَالَ مَالِكٌ فَأَمَّا الرَّجُلُ يَبِيعُ ثَمَرَ حَائِطِهِ وَيَسْتَثْنِي مِنْ ثَمَرِ حَائِطِهِ ثَمَرَ نَخْلَةٍ أَوْ نَخَلاَتٍ يَخْتَارُهَا وَيُسَمِّي عَدَدَهَا فَلاَ أَرَى بِذَلِكَ بَأْسًا لأَنَّ رَبَّ الْحَائِطِ إِنَّمَا اسْتَثْنَى شَيْئًا مِنْ ثَمَرِ حَائِطِ نَفْسِهِ وَإِنَّمَا ذَلِكَ شَىْءٌ احْتَبَسَهُ مِنْ حَائِطِهِ وَأَمْسَكَهُ لَمْ يَبِعْهُ وَبَاعَ مِنْ حَائِطِهِ مَا سِوَى ذَلِكَ ‏.‏

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Yahya related to me from Malik from Zayd ibn Aslam that Ata ibn  
Yasar said, "The Messenger of Allah, may Allah bless him and grant him  
peace, said, 'Dried dates for dried dates is like for like.' It was  
said to him, 'Your agent in Khaybar takes one sa for two.' The  
Messenger of Allah, may Allah bless him and grant him peace, said,  
'all him to me.' So he was called for. The Messenger of Allah, may  
Allah bless him and grant him peace, asked, 'Do you take one sa for  
two?' He replied, 'Messengerof Allah! Why should they sell me good  
dates for assorted low quality dates, sa for sa!' The Messenger of  
Allah, may Allah bless him and grant him peace, said, 'Sell the  
assorted ones for dirhams, and then buy the good ones with those  
dirhams.' "

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ زَيْدِ بْنِ أَسْلَمَ، عَنْ عَطَاءِ بْنِ يَسَارٍ، أَنَّهُ قَالَ قَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ التَّمْرُ بِالتَّمْرِ مِثْلاً بِمِثْلٍ ‏"‏ ‏.‏ فَقِيلَ لَهُ إِنَّ عَامِلَكَ عَلَى خَيْبَرَ يَأْخُذُ الصَّاعَ بِالصَّاعَيْنِ ‏.‏ فَقَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ ادْعُوهُ لِي ‏"‏ ‏.‏ فَدُعِيَ لَهُ فَقَالَ لَهُ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ أَتَأْخُذُ الصَّاعَ بِالصَّاعَيْنِ ‏"‏ ‏.‏ فَقَالَ يَا رَسُولَ اللَّهِ لاَ يَبِيعُونَنِي الْجَنِيبَ بِالْجَمْعِ صَاعًا بِصَاعٍ ‏.‏ فَقَالَ لَهُ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ بِعِ الْجَمْعَ بِالدَّرَاهِمِ ثُمَّ ابْتَعْ بِالدَّرَاهِمِ جَنِيبًا ‏"‏ ‏.‏

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Yahya related to me from Malik from Abd al-Hamid ibn Suhayl ibn  
Abd ar-Rahman ibn Awf from Said ibn al-Musayyab from Abu Said al-  
Khudri and from Abu Hurayra that the Messenger of Allah, may Allah  
bless him and grant him peace, appointed a man as an agent in Khaybar,  
and he brought him some excellent dates. The Messenger of Allah, may  
Allah bless him and grant him peace, said to him, "Are all the dates  
of Khaybar like this?" He said,"No. By Allah, Messenger of Allah! We  
take a sa of this kind for two sa or two sa for three." The Messenger  
of Allah, may Allah bless him and grant him peace, said, "Do not do  
that. Sell the assorted ones for dirhams and then buy the good ones  
with the dirhams."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ عَبْدِ الْحَمِيدِ بْنِ سُهَيْلِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، وَعَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم اسْتَعْمَلَ رَجُلاً عَلَى خَيْبَرَ فَجَاءَهُ بِتَمْرٍ جَنِيبٍ فَقَالَ لَهُ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ أَكُلُّ تَمْرِ خَيْبَرَ هَكَذَا ‏"‏ ‏.‏ فَقَالَ لاَ وَاللَّهِ يَا رَسُولَ اللَّهِ إِنَّا لَنَأْخُذُ الصَّاعَ مِنْ هَذَا بِالصَّاعَيْنِ وَالصَّاعَيْنِ بِالثَّلاَثَةِ ‏.‏ فَقَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ لاَ تَفْعَلْ بِعِ الْجَمْعَ بِالدَّرَاهِمِ ثُمَّ ابْتَعْ بِالدَّرَاهِمِ جَنِيبًا ‏"‏ ‏.‏

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Yahya related to me from Malik from Abdullah ibn Yazid that Zayd  
ibn Ayyash told him that he had once asked Sad ibn Abi Waqqas about  
selling white wheat for a type of good barley. Sad asked him which was  
the better and when he told him the white wheat, he forbade the  
transaction. Sad said, "I heard the Messenger of Allah, may Allah  
bless him and grant him peace, being asked about selling dried dates  
for fresh dates, and the Messenger of Allah, may Allah bless him and  
grant him peace, said, 'Do the dates diminish in size when they become  
dry?' When he was told that they did, he forbade that."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ عَبْدِ اللَّهِ بْنِ يَزِيدَ، أَنَّ زَيْدًا أَبَا عَيَّاشٍ، أَخْبَرَهُ أَنَّهُ، سَأَلَ سَعْدَ بْنَ أَبِي وَقَّاصٍ عَنِ الْبَيْضَاءِ، بِالسُّلْتِ فَقَالَ لَهُ سَعْدٌ أَيَّتُهُمَا أَفْضَلُ قَالَ الْبَيْضَاءُ ‏.‏ فَنَهَاهُ عَنْ ذَلِكَ ‏.‏ وَقَالَ سَعْدٌ سَمِعْتُ رَسُولَ اللَّهِ صلى الله عليه وسلم يُسْأَلُ عَنِ اشْتِرَاءِ التَّمْرِ بِالرُّطَبِ فَقَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏  
"‏ أَيَنْقُصُ الرُّطَبُ إِذَا يَبِسَ ‏"‏ ‏.‏ فَقَالُوا نَعَمْ ‏.‏ فَنَهَى عَنْ ذَلِكَ ‏.‏

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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 muzabana. Muzabana was selling fresh dates for dried dates by  
measure, and selling grapes for raisins by measure.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنِ الْمُزَابَنَةِ وَالْمُزَابَنَةُ بَيْعُ الثَّمَرِ بِالتَّمْرِ كَيْلاً وَبَيْعُ الْكَرْمِ بِالزَّبِيبِ كَيْلاً ‏.‏

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Yahya related to me from Malik from Da'ud ibn al-Husayn from Abu  
Sufyan, the mawla of Ibn Abi Ahmad, from Abu Said al-Khudri that the  
Messenger of Allah, may Allah bless him and grant him peace, forbade  
muzabana and muhaqala. Muzabana was selling fresh dates for dried  
dates while they were still on the trees. Muhaqala was renting land in  
exchange for wheat.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ دَاوُدَ بْنِ الْحُصَيْنِ، عَنْ أَبِي سُفْيَانَ، مَوْلَى ابْنِ أَبِي أَحْمَدَ عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنِ الْمُزَابَنَةِ وَالْمُحَاقَلَةِ وَالْمُزَابَنَةُ اشْتِرَاءُ الثَّمَرِ بِالتَّمْرِ فِي رُءُوسِ النَّخْلِ وَالْمُحَاقَلَةُ كِرَاءُ الأَرْضِ بِالْحِنْطَةِ ‏.‏

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Yahya related to me from Malik from Ibn Shihab from Said ibn al-  
Musayyab that the Messenger of Allah, may Allah bless him and grant  
him peace, forbade muzabana and muhaqala. Muzabana was selling fresh  
dates for dried dates. Muhaqala was buying unharvested wheat in  
exchange for threshed wheat and renting land in exchange for wheat.  
  
  
Ibn Shihab added that he had asked Said ibn al-Musayyab about  
renting land for gold and silver. He said, "There is no harm in it."  
  
  
Malik said, "The Messenger of Allah, may Allah bless him and  
grant him peace, forbade muzabana. The explanation of muzabana is that  
it is buying something whose number, weight and measure is not known  
with something whose number, weight or measure is known, for instance,  
if a man has a stack of food whose measure is not known, either of  
wheat, dates, or whatever food, or the man has goods of wheat, date  
kernels, herbs, safflower, cotton, flax, silk, and does not know its  
measure or weight or number and then a buyer approaches him and  
proposes that he weigh or measure or count the goods, but, before he  
does, he specifies a certain weight, or measure, or number and  
guarantees to pay the price for that amount, agreeing that whatever  
falls short of that amount is a loss against him and whatever is in  
excess of that amount is a gain for him. That is not a sale. It is  
taking risks and it is an uncertain transaction. It falls into the  
category of gambling because he is not buying something from him for  
something definite which he pays. Everything which resembles this is  
also forbidden."  
  
  
Malik said that another example of that was,  
for instance, a man proposing to another man, "You have cloth. I will  
guarantee you from this cloth of yours so many hooded cloaks, the  
measureof each cloak to be such-and-such, (naming a measurement).  
Whatever loss there is, is against me and I will fulfill you the  
specified amount and whatever excess there is, is mine." Or perhaps  
the man proposed, "I will guarantee you from this cloth of yours so  
many shirts, the measurement of each shirt to be such-and-such, and  
whatever loss there is, is against me and I will fulfill the specified  
amount and whatever excess there is, is mine." Or perhaps a man  
proposed to a man who had cattle or camel hides, "I will cut up these  
hides of yours into sandals on a pattern I will show you. Whatever  
falls short of a hundred pairs, I will make up its loss and whatever  
is over is mine because I guaranteed you." Another example was that a  
man say to a man who had ben-nuts, "I will press these nuts of yours.  
Whatever falls short of such-and-such a weight by the pound, I will  
make it up, and whatever is more than that is mine."  
  
  
Malik  
said that all this and whatever else was like it or resembled it was  
in the category of muzabana, which was neither good nor permitted. It  
was also the same case for a man to say to a man, who had fodder  
leaves, date kernels, cotton, flax, herbs or safflower, "I will buy  
these leaves from you in exchange for such-and-such a sa, (indicating  
leaves which are pounded like his leaves) . . or these date kernels  
for such-and-such a sa of kernels like them, and the like of that in  
the case of safflower, cotton, flax and herbs."  
  
  
Malik said,  
"All this is what we have described of muzabana."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنِ الْمُزَابَنَةِ وَالْمُحَاقَلَةِ وَالْمُزَابَنَةُ اشْتِرَاءُ الثَّمَرِ بِالتَّمْرِ وَالْمُحَاقَلَةُ اشْتِرَاءُ الزَّرْعِ بِالْحِنْطَةِ وَاسْتِكْرَاءُ الأَرْضِ بِالْحِنْطَةِ ‏.‏ قَالَ ابْنُ شِهَابٍ فَسَأَلْتُ سَعِيدَ بْنَ الْمُسَيَّبِ عَنِ اسْتِكْرَاءِ الأَرْضِ بِالذَّهَبِ وَالْوَرِقِ فَقَالَ لاَ بَأْسَ بِذَلِكَ ‏.‏ قَالَ مَالِكٌ نَهَى رَسُولُ اللَّهِ صلى الله عليه وسلم عَنِ الْمُزَابَنَةِ وَتَفْسِيرُ الْمُزَابَنَةِ أَنَّ كُلَّ شَىْءٍ مِنَ الْجِزَافِ الَّذِي لاَ يُعْلَمُ كَيْلُهُ وَلاَ وَزْنُهُ وَلاَ عَدَدُهُ ابْتِيعَ بِشَىْءٍ مُسَمًّى مِنَ الْكَيْلِ أَوِ الْوَزْنِ أَوِ الْعَدَدِ وَذَلِكَ أَنْ يَقُولَ الرَّجُلُ لِلرَّجُلِ يَكُونُ لَهُ الطَّعَامُ الْمُصَبَّرُ الَّذِي لاَ يُعْلَمُ كَيْلُهُ مِنَ الْحِنْطَةِ أَوِ التَّمْرِ أَوْ مَا أَشْبَهَ ذَلِكَ مِنَ الأَطْعِمَةِ أَوْ يَكُونُ لِلرَّجُلِ السِّلْعَةُ مِنَ الْحِنْطَةِ أَوِ النَّوَى أَوِ الْقَضْبِ أَوِ الْعُصْفُرِ أَوِ الْكُرْسُفِ أَوِ الْكَتَّانِ أَوِ الْقَزِّ أَوْ مَا أَشْبَهَ ذَلِكَ مِنَ السِّلَعِ لاَ يُعْلَمُ كَيْلُ شَىْءٍ مِنْ ذَلِكَ وَلاَ وَزْنُهُ وَلاَ عَدَدُهُ فَيَقُولُ الرَّجُلُ لِرَبِّ تِلْكَ السِّلْعَةِ كِلْ سِلْعَتَكَ هَذِهِ أَوْ مُرْ مَنْ يَكِيلُهَا أَوْ زِنْ مِنْ ذَلِكَ مَا يُوزَنُ أَوْ عُدَّ مِنْ ذَلِكَ مَا كَانَ يُعَدُّ فَمَا نَقَصَ عَنْ كَيْلِ كَذَا وَكَذَا صَاعًا - لِتَسْمِيَةٍ يُسَمِّيهَا - أَوْ وَزْنِ كَذَا وَكَذَا رِطْلاً أَوْ عَدَدِ كَذَا وَكَذَا فَمَا نَقَصَ مِنْ ذَلِكَ فَعَلَىَّ غُرْمُهُ لَكَ حَتَّى أُوفِيَكَ تِلْكَ التَّسْمِيَةَ فَمَا زَادَ عَلَى تِلْكَ التَّسْمِيَةِ فَهُوَ لِي أَضْمَنُ مَا نَقَصَ مِنْ ذَلِكَ عَلَى أَنْ يَكُونَ لِي مَا زَادَ ‏.‏ فَلَيْسَ ذَلِكَ بَيْعًا وَلَكِنَّهُ الْمُخَاطَرَةُ وَالْغَرَرُ وَالْقِمَارُ يَدْخُلُ هَذَا لأَنَّهُ لَمْ يَشْتَرِ مِنْهُ شَيْئًا بِشَىْءٍ أَخْرَجَهُ وَلَكِنَّهُ ضَمِنَ لَهُ مَا سُمِّيَ مِنْ ذَلِكَ الْكَيْلِ أَوِ الْوَزْنِ أَوِ الْعَدَدِ عَلَى أَنْ يَكُونَ لَهُ مَا زَادَ عَلَى ذَلِكَ فَإِنْ نَقَصَتْ تِلْكَ السِّلْعَةُ عَنْ تِلْكَ التَّسْمِيَةِ أَخَذَ مِنْ مَالِ صَاحِبِهِ مَا نَقَصَ بِغَيْرِ ثَمَنٍ وَلاَ هِبَةٍ طَيِّبَةٍ بِهَا نَفْسُهُ فَهَذَا يُشْبِهُ الْقِمَارَ وَمَا كَانَ مِثْلَ هَذَا مِنَ الأَشْيَاءِ فَذَلِكَ يَدْخُلُهُ ‏.‏ قَالَ مَالِكٌ وَمِنْ ذَلِكَ أَيْضًا أَنْ يَقُولَ الرَّجُلُ لِلرَّجُلِ لَهُ الثَّوْبُ أَضْمَنُ لَكَ مِنْ ثَوْبِكَ هَذَا كَذَا وَكَذَا ظِهَارَةَ قَلَنْسُوَةٍ قَدْرُ كُلِّ ظِهَارَةٍ كَذَا وَكَذَا - لِشَىْءٍ يُسَمِّيهِ - فَمَا نَقَصَ مِنْ ذَلِكَ فَعَلَىَّ غُرْمُهُ حَتَّى أُوفِيَكَ وَمَا زَادَ فَلِي ‏.‏ أَوْ أَنْ يَقُولَ الرَّجُلُ لِلرَّجُلِ أَضْمَنُ لَكَ مِنْ ثِيَابِكَ هَذِي كَذَا وَكَذَا قَمِيصًا ذَرْعُ كُلِّ قَمِيصٍ كَذَا وَكَذَا فَمَا نَقَصَ مِنْ ذَلِكَ فَعَلَىَّ غُرْمُهُ وَمَا زَادَ عَلَى ذَلِكَ فَلِي ‏.‏ أَوْ أَنْ يَقُولُ الرَّجُلُ لِلرَّجُلِ لَهُ الْجُلُودُ مِنْ جُلُودِ الْبَقَرِ أَوِ الإِبِلِ أُقَطِّعُ جُلُودَكَ هَذِهِ نِعَالاً عَلَى إِمَامٍ يُرِيهِ إِيَّاهُ ‏.‏ فَمَا نَقَصَ مِنْ مِائَةِ زَوْجٍ فَعَلَىَّ غُرْمُهُ وَمَا زَادَ فَهُوَ لِي بِمَا ضَمِنْتُ لَكَ ‏.‏ وَمِمَّا يُشْبِهُ ذَلِكَ أَنْ يَقُولَ الرَّجُلُ لِلرَّجُلِ عِنْدَهُ حَبُّ الْبَانِ اعْصُرْ حَبَّكَ هَذَا فَمَا نَقَصَ مِنْ كَذَا وَكَذَا رِطْلاً فَعَلَىَّ أَنْ أُعْطِيَكَهُ وَمَا زَادَ فَهُوَ لِي ‏.‏ فَهَذَا كُلُّهُ وَمَا أَشْبَهَهُ مِنَ الأَشْيَاءِ أَوْ ضَارَعَهُ مِنَ الْمُزَابَنَةِ الَّتِي لاَ تَصْلُحُ وَلاَ تَجُوزُ ‏.‏ وَكَذَلِكَ - أَيْضًا - إِذَا قَالَ الرَّجُلُ لِلرَّجُلِ لَهُ الْخَبَطُ أَوِ النَّوَى أَوِ الْكُرْسُفُ أَوِ الْكَتَّانُ أَوِ الْقَضْبُ أَوِ الْعُصْفُرُ أَبْتَاعُ مِنْكَ هَذَا الْخَبَطَ بِكَذَا وَكَذَا صَاعًا مِنْ خَبَطٍ يُخْبَطُ مِثْلَ خَبَطِهِ أَوْ هَذَا النَّوَى بِكَذَا وَكَذَا صَاعًا مِنْ نَوًى مِثْلِهِ وَفِي الْعُصْفُرِ وَالْكُرْسُفِ وَالْكَتَّانِ وَالْقَضْبِ مِثْلَ ذَلِكَ ‏.‏ فَهَذَا كُلُّهُ يَرْجِعُ إِلَى مَا وَصَفْنَا مِنَ الْمُزَابَنَةِ ‏.‏

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Malik said, "There is no harm in buying dates from specified  
trees or a specified orchard or buying milk from specified sheep when  
the buyer starts to take them as soon as he has payed the price. That  
is like buying oil from a container. A man buys some of it for a dinar  
or two and gives his gold and stipulates that it be measured out for  
him. There is no harm in that. If the container breaks and the oil is  
wasted, the buyer has his gold back and there is no transaction  
between them."  
  
  
Malik said, "There is no harm in everything  
which is taken right away as it is, like fresh milk and fresh picked  
dates which the buyer can take on a day-to-day basis. If the supply  
runs out before the buyer has what he has paid for in full, the seller  
gives him back the portion of the gold that is owed to him, or else  
the buyer takes other goods from him to the value of what he is owed  
and which they mutually agree about. The buyer should stay with the  
seller until he has taken it. It is disapproved of for the seller to  
leave because the transaction would then come into the forbidden  
category of a debt for a debt. If a stated time period for payment or  
delivery enters into the transaction, it is also disapproved. Delay  
and deferment are not permitted in it, and are only acceptable when it  
is standard practice on definite terms by which the seller guarantees  
it to the buyer, but this is not to be from one specific orchard or  
from any specific ewes."  
  
  
Malik was asked about a man who  
bought an orchard from another man in which there were various types  
of palm-trees - excellent ajwa palms, good kabis palms, adhq palms and  
othertypes. The seller kept aside from the sale the produce of a  
certain palm of his choice. Malik said, "That is not good because if  
he does that, and keeps aside, for instance, dates of the ajwa variety  
whose yield would be 15 sa, and he picks the dates of the kabis in  
their place, and the yield of their dates is 10 sa or he picks the  
ajwa which yield 15 sa and leaves the kabis which yield 10 sa, it is  
as if he bought the ajwa for the kabis making allowances for their  
difference of quality. This is the same as if a man dealing with a man  
who has heaps of dates before him - a heap of 15 sa of ajwa, a heap of  
10 sa of kabis, and a heap of 12 sa of cadhq, gives the owner of the  
dates a dinar to let him choose and take whichever of the heaps he  
likes." Malik said, "That is not good."  
  
  
Malik was asked what  
a man who bought fresh dates from the owner of an orchard and advanced  
him a dinar was entitled to if the crop was spoilt. Malik said, "The  
buyer makes a reckoning with the owner of the orchard and takes what  
is due to him of the dinar. If the buyer has taken two-thirds of a  
dinar's worth of dates, he gets back the third of a dinar which is  
owed him. If the buyer has taken three-quarters of a dinar's worth of  
dates, then he gets back the quarter which is owed to him, or they  
come to a mutual agreement, and the buyer takes what is owed him from  
his dinar from the owner of the orchard in something else of his  
choosing. If, for instance, he prefers to take dry dates or some other  
goods, he takes them according to what is due. If he takes dry dates  
or some other goods, he should stay with him until he has been paid in  
full."  
  
  
Malik said, "This is the same situation as hiring out  
a specified riding-camel or hiring out a slave tailor, carpenter or  
some other kind of worker or letting a house and taking payment in  
advance for the hire of the slave or the rent of the house or camel.  
Then an accident happens to what has been hired resulting in death or  
something else. The owner of the camel, slave or house returns what  
remains of the rent of the camel, the hire of the slave or the rent of  
the house to the one who advanced him the money, and the owner reckons  
what will settle that up in full. If, for instance, he has provided  
half of what the man paid for, he returns the remaining half of what  
he advanced, or according to whatever amount is due." Malik said,  
"Paying in advance for something which is on hand is only good when  
the buyer takes possession of what he has paid for as soon as he hands  
over the gold, whether it be slave, camel, or house, or in the case of  
dates, he starts to pick them as soon as he has paid the money."  
  
  
It is not good that there be any deferment or credit in such a  
transaction.  
  
  
Malik said, "An example illustrating what is  
disapproved of in this situation is that, for instance, a man may say  
that he will pay someone in advance for the use of his camel to ride  
in the hajj, and the hajj is still some time off, or he may say  
something similar to that about a slave or a house. When he does that,  
he only pays the money in advance on the understanding that if he  
finds the camel to be sound at the time the hire is due to begin, he  
will take it by virtue of what he has already paid. If an accident, or  
death, or something happens to the camel, then he will get his money  
back and the money he paid in advance will be considered as a loan."  
  
  
Malik said, "This is distinct from someone who takes  
immediate possession of what he rents or hires, so that it does not  
fall into the category of 'uncertainty,' or disapproved payment in  
advance. That is following a common practice. An example of that is  
that a man buys a slave, or slave-girl, and takes possession of them  
and pays their price. If something happens to them within the period  
of the year indemnification contract, he takes his gold back from the  
one from whom he bought it. There is no harm in that. This is the  
precedent of the sunna in the matter of selling slaves."  
  
  
Malik said, "Someone who rents a specified slave, or hires a specified  
camel, for a future date, at which time he will take possession of the  
camel or slave, has not acted properly because he did not take  
possession of what he rented or hired, nor is he advancing a loan  
which the person is responsible to pay back."

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Malik said, "The generally agreed on way of doing things among us  
is that some one who buys some fruit, fresh or dry, should not resell  
it until he gets full possession of it. He should not barter things of  
the same type, except hand to hand. Whatever can be made into dry  
fruit to be stored and eaten, should not be bartered for its own kind,  
except hand to hand, like for like, when it is the same kind of fruit.  
In the case of two different kinds of fruit, there is no harm in  
bartering two of one kind for one of another, hand to hand on the  
spot. It is not good to set delayed terms. As for produce which is not  
dried and stored but is eaten fresh like water melon, cucumber, melon,  
carrots, citron, medlars, pomegranates, and soon, which when dried no  
longer counts as fruit, and is not a thing which is stored up as is  
fruit, I think that it is quite proper to barter such things two for  
one of the same variety hand to hand. If no term enters into it, there  
is no harm in it."

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Yahya related to me from Malik that Yahya ibn Said said, "The  
Messenger of Allah, mayAllah bless him and grant him peace, ordered  
the two Sads to sell a vessel made of either gold or silver from the  
booty. They either sold each three units of weight for four units of  
weight of coins or each four units of weight for three units of weight  
or coins. The Messenger of Allah, may Allah bless him and grant him  
peace, said to them, 'You have taken usury, so return it.' "

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّهُ قَالَ أَمَرَ رَسُولُ اللَّهِ صلى الله عليه وسلم السَّعْدَيْنِ أَنْ يَبِيعَا آنِيَةً مِنَ الْمَغَانِمِ مِنْ ذَهَبٍ أَوْ فِضَّةٍ فَبَاعَا كُلَّ ثَلاَثَةٍ بِأَرْبَعَةٍ عَيْنًا أَوْ كُلَّ أَرْبَعَةٍ بِثَلاَثَةٍ عَيْنًا فَقَالَ لَهُمَا رَسُولُ اللَّهِ صلى الله عليه وسلم ‏"‏ أَرْبَيْتُمَا فَرُدَّا

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Yahya related to me from Malik from Musa ibn Abi Tamim from Abu'l  
Hubab Said ibn Yasar from Abu Hurayra that the Messenger of Allah, may  
Allah bless him and grant him peace, said, "A dinar for a dinar, a  
dirham for a dirham, no excess between the two."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ مُوسَى بْنِ أَبِي تَمِيمٍ، عَنْ أَبِي الْحُبَابِ، سَعِيدِ بْنِ يَسَارٍ عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ الدِّينَارُ بِالدِّينَارِ وَالدِّرْهَمُ بِالدِّرْهَمِ لاَ فَضْلَ بَيْنَهُمَا ‏"‏ ‏.‏

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Yahya related to me from Malik from Nafi from Abu Said al-Khudri  
that the Messenger of Allah, may Allah bless him and grant him peace,  
said, "Do not sell gold for gold except like for like and do not  
increase one part over another part. Do not sell silver for silver,  
except like for like and do not increase one part over another part.  
Do not sell some of it which is not there for some of it which is."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ لاَ تَبِيعُوا الذَّهَبَ بِالذَّهَبِ إِلاَّ مِثْلاً بِمِثْلٍ وَلاَ تُشِفُّوا بَعْضَهَا عَلَى بَعْضٍ وَلاَ تَبِيعُوا الْوَرِقَ بِالْوَرِقِ إِلاَّ مِثْلاً بِمِثْلٍ وَلاَ تُشِفُّوا بَعْضَهَا عَلَى بَعْضٍ وَلاَ تَبِيعُوا مِنْهَا شَيْئًا غَائِبًا بِنَاجِزٍ ‏"‏ ‏.‏

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Yahya related to me from Malik from Humayd ibn Qays al-Makki that  
Mujahid said, "I was with Abdullah ibn Umar and an artisan came to him  
and said, 'Abu Abd ar-Rahman - I fashion gold and then sell what I  
have made for more than its weight. I take an amount equivalent to the  
work of my hand.' Abdullah forbade him to do that, so the artisan  
repeated the question to him, and Abdullah continued to forbid him  
until he came to the door of the mosque or to an animal that he  
intended to mount. Then Abdullah ibn Umar said, 'A dinar for a dinar,  
and a dirham for a dirham. There is no increase between them. This is  
the command of ourProphet to us and our advice to you.' "

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ حُمَيْدِ بْنِ قَيْسٍ الْمَكِّيِّ، عَنْ مُجَاهِدٍ، أَنَّهُ قَالَ كُنْتُ مَعَ عَبْدِ اللَّهِ بْنِ عُمَرَ فَجَاءَهُ صَائِغٌ فَقَالَ لَهُ يَا أَبَا عَبْدِ الرَّحْمَنِ إِنِّي أَصُوغُ الذَّهَبَ ثُمَّ أَبِيعُ الشَّىْءَ مِنْ ذَلِكَ بِأَكْثَرَ مِنْ وَزْنِهِ فَأَسْتَفْضِلُ مِنْ ذَلِكَ قَدْرَ عَمَلِ يَدِي ‏.‏ فَنَهَاهُ عَبْدُ اللَّهِ عَنْ ذَلِكَ فَجَعَلَ الصَّائِغُ يُرَدِّدُ عَلَيْهِ الْمَسْأَلَةَ وَعَبْدُ اللَّهِ يَنْهَاهُ حَتَّى انْتَهَى إِلَى بَابِ الْمَسْجِدِ أَوْ إِلَى دَابَّةٍ يُرِيدُ أَنْ يَرْكَبَهَا ثُمَّ قَالَ عَبْدُ اللَّهِ بْنُ عُمَرَ الدِّينَارُ بِالدِّينَارِ وَالدِّرْهَمُ بِالدِّرْهَمِ لاَ فَضْلَ بَيْنَهُمَا هَذَا عَهْدُ نَبِيِّنَا إِلَيْنَا وَعَهْدُنَا إِلَيْكُمْ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 31Arabic reference : Book 31, Hadith 1322Report Error | Share | Copy ▼

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Yahya related to me from Malik that he had heard from his  
grandfather, Malik ibn Abi Amir that Uthman ibn Affan said, "The  
Messenger of Allah, may Allah bless him and grant him peace, said to  
me, 'Do not sell a dinar for two dinars nor a dirham for two dirhams.'  
"

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ عَنْ جَدِّهِ، مَالِكِ بْنِ أَبِي عَامِرٍ أَنَّ عُثْمَانَ بْنَ عَفَّانَ،   
قَالَ قَالَ لِي رَسُولُ اللَّهِ صلى الله عليه وسلم ‏  
"‏ لاَ تَبِيعُوا الدِّينَارَ بِالدِّينَارَيْنِ وَلاَ الدِّرْهَمَ بِالدِّرْهَمَيْنِ ‏"‏ ‏.‏

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Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn  
Yasar that Muawiya ibn Abi Sufyan sold a gold or silver drinking-  
vessel for more than its weight. Abu'dDarda said, "I heard the  
Messenger of Allah, may Allah bless him and grant him peace,  
forbidding such sales except like for like." Muawiya said to him, "I  
don't see any harm in it." Abu'd-Darda said to him, "Who will excuse  
me from Muawiya? I tell him something from the Messenger of Allah, may  
Allah bless him and grant him peace, and he gives me his own opinion!  
I will not live in the same land as you!" Then Abu'd-Darda went to  
Umar ibn al-Khattab and mentioned that to him. Umar ibn al-Khattab  
therefore wrote to Muawiya, "Do not sell it except like for like,  
weight for weight."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ زَيْدِ بْنِ أَسْلَمَ، عَنْ عَطَاءِ بْنِ يَسَارٍ، أَنَّ مُعَاوِيَةَ بْنَ أَبِي سُفْيَانَ، بَاعَ سِقَايَةً مِنْ ذَهَبٍ أَوْ وَرِقٍ بِأَكْثَرَ مِنْ وَزْنِهَا فَقَالَ أَبُو الدَّرْدَاءِ سَمِعْتُ رَسُولَ اللَّهِ صلى الله عليه وسلم يَنْهَى عَنْ مِثْلِ هَذَا إِلاَّ مِثْلاً بِمِثْلٍ ‏.‏ فَقَالَ لَهُ مُعَاوِيَةُ مَا أَرَى بِمِثْلِ هَذَا بَأْسًا ‏.‏ فَقَالَ أَبُو الدَّرْدَاءِ مَنْ يَعْذِرُنِي مِنْ مُعَاوِيَةَ أَنَا أُخْبِرُهُ عَنْ رَسُولِ اللَّهِ صلى الله عليه وسلم وَيُخْبِرُنِي عَنْ رَأْيِهِ لاَ أُسَاكِنُكَ بِأَرْضٍ أَنْتَ بِهَا ‏.‏ ثُمَّ قَدِمَ أَبُو الدَّرْدَاءِ عَلَى عُمَرَ بْنِ الْخَطَّابِ فَذَكَرَ ذَلِكَ لَهُ فَكَتَبَ عُمَرُ بْنُ الْخَطَّابِ إِلَى مُعَاوِيَةَ أَنْ لاَ تَبِيعَ ذَلِكَ إِلاَّ مِثْلاً بِمِثْلٍ وَزْنًا بِوَزْنٍ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 33Arabic reference : Book 31, Hadith 1324Report Error | Share | Copy ▼

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Yahya related to me from Malik from Nafi from Abdullah ibn Umar  
that Umar ibn al-Khattab said, "Do not sell gold for gold except like  
for like, and do not increase one part over another part. Do not sell  
silver for silver except like for like, and do not increase one part  
over another part. Do not sell silver for gold, one of them at hand  
and the other to be given later. If someone seeks to delay paying you  
until he has been to his house, do not leave him. I fear rama for  
you." Rama is usury.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ، قَالَ لاَ تَبِيعُوا الذَّهَبَ بِالذَّهَبِ إِلاَّ مِثْلاً بِمِثْلٍ وَلاَ تُشِفُّوا بَعْضَهَا عَلَى بَعْضٍ وَلاَ تَبِيعُوا الْوَرِقَ بِالْوَرِقِ إِلاَّ مِثْلاً بِمِثْلٍ وَلاَ تُشِفُّوا بَعْضَهَا عَلَى بَعْضٍ وَلاَ تَبِيعُوا الْوَرِقَ بِالذَّهَبِ أَحَدُهُمَا غَائِبٌ وَالآخَرُ نَاجِزٌ وَإِنِ اسْتَنْظَرَكَ إِلَى أَنْ يَلِجَ بَيْتَهُ فَلاَ تُنْظِرْهُ إِنِّي أَخَافُ عَلَيْكُمُ الرَّمَاءَ وَالرَّمَاءُ هُوَ الرِّبَا ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 34Arabic reference : Book 31, Hadith 1325Report Error | Share | Copy ▼

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Yahya related to me from Malik from Abdullah ibn Dinar from  
Abdullah ibn Umar that Umar ibn al-Khattab said, "Do not sell gold for  
gold except like for like. Do not increase part of it over another  
part. Do not sell silver for silver except like for like, and do not  
increase part of it over another part. Do not sell some of it which is  
there for some of it which is not. If someone asks you to wait for  
payment until he has been to his house, do not leave him. I fear rama  
for you." Rama is usury.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ عَبْدِ اللَّهِ بْنِ دِينَارٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ، قَالَ لاَ تَبِيعُوا الذَّهَبَ بِالذَّهَبِ إِلاَّ مِثْلاً بِمِثْلٍ وَلاَ تُشِفُّوا بَعْضَهَا عَلَى بَعْضٍ وَلاَ تَبِيعُوا الْوَرِقَ بِالْوَرِقِ إِلاَّ مِثْلاً بِمِثْلٍ وَلاَ تُشِفُّوا بَعْضَهَا عَلَى بَعْضٍ وَلاَ تَبِيعُوا شَيْئًا مِنْهَا غَائِبًا بِنَاجِزٍ ‏.‏ وَإِنِ اسْتَنْظَرَكَ إِلَى أَنْ يَلِجَ بَيْتَهُ فَلاَ تُنْظِرْهُ إِنِّي أَخَافُ عَلَيْكُمُ الرَّمَاءَ وَالرَّمَاءُ هُوَ الرِّبَا ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 35Arabic reference : Book 31, Hadith 1326Report Error | Share | Copy ▼

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Yahya related to me from Malik that he had heard that al-Oasim  
ibn Muhammad said, ''Umar ibn al-Khattab said, 'A dinar for a dinar,  
and a dirham for adirham, and a sa for a sa. Something to be collected  
later is not to be sold for something at hand. ' "

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، أَنَّهُ قَالَ قَالَ عُمَرُ بْنُ الْخَطَّابِ الدِّينَارُ بِالدِّينَارِ وَالدِّرْهَمُ بِالدِّرْهَمِ وَالصَّاعُ بِالصَّاعِ وَلاَ يُبَاعُ كَالِئٌ بِنَاجِزٍ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 36Arabic reference : Book 31, Hadith 1327Report Error | Share | Copy ▼

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Yahya related to me from Malik that Abu'z-Zinad heard Said ibn  
al-Musayyab say, "There is usury only in gold or silver or what is  
weighed or measured of what is eaten or drunk."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ أَبِي الزِّنَادِ، أَنَّهُ سَمِعَ سَعِيدَ بْنَ الْمُسَيَّبِ، يَقُولُ لاَ رِبًا إِلاَّ فِي ذَهَبٍ أَوْ فِضَّةٍ أَوْ مَا يُكَالُ أَوْ يُوزَنُ بِمَا يُؤْكَلُ أَوْ يُشْرَبُ ‏.‏

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Yahya related to me from Malik that Yahya ibn Said heard Said ibn  
al-Musayyab say, "Keeping gold and silver out of circulation is part  
of working corruption in the land."  
  
  
Malik said, "There is no  
harm in buying gold with silver or silver with gold without measuring  
if it is unminted or a piece of jewellery which has been made. Counted  
dirhams and counted dinars should not be bought without reckoning  
until they are known and counted. To abandon number and buy them at  
random would only be to speculate. That is not part of the business  
transactions of Muslims. As for what is weighed of unminted objects  
and jewellery, there is no harm in buying such things without  
measuring. To buy them without measuring is like buying wheat, dried  
dates, and such food-stuffs, which are sold without measuring, even  
though things like them are measured "  
  
  
Malik spoke about  
buying a Qur'an, a sword or a signet ring which had some gold or  
silver work on it with dinars or dirhams. He said, "The value of the  
object bought with dinars, which has gold in it is looked at. If the  
value of the gold is up to one-third of the price, it is permitted and  
there is no harm in it if the sale is hand to hand and there is no  
deferment in it. When something is bought with silver which has silver  
in it, the value is looked at. If the value of the silver is one-  
third, it is permitted and there is no harm in it if the sale is hand  
to hand. That is still the way of doing things among us."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّهُ سَمِعَ سَعِيدَ بْنَ الْمُسَيَّبِ، يَقُولُ قَطْعُ الذَّهَبِ وَالْوَرِقِ مِنَ الْفَسَادِ فِي الأَرْضِ ‏.‏ قَالَ مَالِكٌ وَلاَ بَأْسَ أَنْ يَشْتَرِيَ الرَّجُلُ الذَّهَبَ بِالْفِضَّةِ وَالْفِضَّةَ بِالذَّهَبِ جِزَافًا إِذَا كَانَ تِبْرًا أَوْ حَلْيًا قَدْ صِيغَ فَأَمَّا الدَّرَاهِمُ الْمَعْدُودَةُ وَالدَّنَانِيرُ الْمَعْدُودَةُ فَلاَ يَنْبَغِي لأَحَدٍ أَنْ يَشْتَرِيَ ذَلِكَ جِزَافًا حَتَّى يُعْلَمَ وَيُعَدَّ فَإِنِ اشْتُرِيَ ذَلِكَ جِزَافًا فَإِنَّمَا يُرَادُ بِهِ الْغَرَرُ حِينَ يُتْرَكُ عَدُّهُ وَيُشْتَرَى جِزَافًا وَلَيْسَ هَذَا مِنْ بُيُوعِ الْمُسْلِمِينَ فَأَمَّا مَا كَانَ يُوزَنُ مِنَ التِّبْرِ وَالْحَلْىِ فَلاَ بَأْسَ أَنْ يُبَاعَ ذَلِكَ جِزَافًا وَإِنَّمَا ابْتِيَاعُ ذَلِكَ جِزَافًا كَهَيْئَةِ الْحِنْطَةِ وَالتَّمْرِ وَنَحْوِهِمَا مِنَ الأَطْعِمَةِ الَّتِي تُبَاعُ جِزَافًا وَمِثْلُهَا يُكَالُ فَلَيْسَ بِابْتِيَاعِ ذَلِكَ جِزَافًا بَأْسٌ ‏.‏ قَالَ مَالِكٌ مَنِ اشْتَرَى مُصْحَفًا أَوْ سَيْفًا أَوْ خَاتَمًا وَفِي شَىْءٍ مِنْ ذَلِكَ ذَهَبٌ أَوْ فِضَّةٌ بِدَنَانِيرَ أَوْ دَرَاهِمَ فَإِنَّ مَا اشْتُرِيَ مِنْ ذَلِكَ وَفِيهِ الذَّهَبُ بِدَنَانِيرَ فَإِنَّهُ يُنْظَرُ إِلَى قِيمَتِهِ فَإِنْ كَانَتْ قِيمَةُ ذَلِكَ الثُّلُثَيْنِ وَقِيمَةُ مَا فِيهِ مِنَ الذَّهَبِ الثُّلُثَ فَذَلِكَ جَائِزٌ لاَ بَأْسَ بِهِ إِذَا كَانَ ذَلِكَ يَدًا بِيَدٍ وَلاَ يَكُونُ فِيهِ تَأْخِيرٌ وَمَا اشْتُرِيَ مِنْ ذَلِكَ بِالْوَرِقِ مِمَّا فِيهِ الْوَرِقُ نُظِرَ إِلَى قِيمَتِهِ فَإِنْ كَانَ قِيمَةُ ذَلِكَ الثُّلُثَيْنِ وَقِيمَةُ مَا فِيهِ مِنَ الْوَرِقِ الثُّلُثَ فَذَلِكَ جَائِزٌ لاَ بَأْسَ بِهِ إِذَا كَانَ ذَلِكَ يَدًا بِيَدٍ وَلَمْ يَزَلْ ذَلِكَ مِنْ أَمْرِ النَّاسِ عِنْدَنَا ‏.‏

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Yahya related to me from Malik from Ibn Shihab from Malik ibn Aus  
ibn al-Hadathan an-Nasri that one time he asked to exchange 100  
dinars. He said, "Talha ibn Ubaydullah called me over and we made a  
mutual agreement that he would make an exchange for me. He took the  
gold and turned it about in his hand, and then said, 'I can't do it  
until my treasurer brings the money to me from al-Ghaba.' Umar ibn al-  
Khattab was listening and Umar said, 'By Allah! Do not leave him until  
you have taken it from him!' Then he said, 'The Messenger of Allah,  
may Allah bless him and grant him peace, said, "Gold for silver is  
usury except hand to hand. Wheat for wheat is usury except hand to  
hand. Dates for dates is usury except hand to hand. Barley for barley  
is usury except hand to hand." "'  
  
  
Malik said, "When a man  
buys dirhams with dinars and then finds a bad dirham among them and  
wants to return it, the exchange of the dinars breaks down, and he  
returns the silver and takes back his dinars. The explanation of what  
is disapproved of in that is that the Messenger of Allah, may Allah  
bless him and grant him peace, said, 'Gold for silver is usury except  
hand to hand.' and Umar ibn al-Khattab said, 'If someone asks you to  
wait to be paid until he has gone back to his house, do not leave  
him.' When he returns a dirham to him from the exchange after he has  
left him, it is like a debt or something deferred. For that reason, it  
is disapproved of, and the exchange collapses. Umar ibn al-Khattab  
wanted that all gold, silver and food should not be sold for goods to  
be paid later. He did not want there to be any delay or deferment in  
any such sale, whether it involved one commodity or different sorts of  
commodities."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ مَالِكِ بْنِ أَوْسِ بْنِ الْحَدَثَانِ النَّصْرِيِّ، أَنَّهُ الْتَمَسَ صَرْفًا بِمِائَةِ دِينَارٍ قَالَ فَدَعَانِي طَلْحَةُ بْنُ عُبَيْدِ اللَّهِ فَتَرَاوَضْنَا حَتَّى اصْطَرَفَ مِنِّي وَأَخَذَ الذَّهَبَ يُقَلِّبُهَا فِي يَدِهِ ثُمَّ قَالَ حَتَّى يَأْتِيَنِي خَازِنِي مِنَ الْغَابَةِ ‏.‏ وَعُمَرُ بْنُ الْخَطَّابِ يَسْمَعُ ‏.‏ فَقَالَ عُمَرُ وَاللَّهِ لاَ تُفَارِقْهُ حَتَّى تَأْخُذَ مِنْهُ - ثُمَّ قَالَ - قَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏  
"‏ الذَّهَبُ بِالْوَرِقِ رِبًا إِلاَّ هَاءَ وَهَاءَ وَالْبُرُّ بِالْبُرِّ رِبًا إِلاَّ هَاءَ وَهَاءَ وَالتَّمْرُ بِالتَّمْرِ رِبًا إِلاَّ هَاءَ وَهَاءَ وَالشَّعِيرُ بِالشَّعِيرِ رِبًا إِلاَّ هَاءَ وَهَاءَ ‏"‏ ‏.‏

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Yahya related to me from Malik that Yazid ibn Abdullah ibn Qusayt  
saw Said ibn al-Musayyab sell gold counterpoising for gold. He poured  
his gold into one pan of the scales, and the man with whom he was  
counterpoising put his gold in the other pan of the scale and when the  
tongue of the scales was balanced, they took and gave.  
  
  
Malik  
said, "According to the way things are done among us there is no harm  
in selling gold for gold, and silver for silver by counterpoising  
weight, even if 11 dinars are taken for 10 dinars hand to hand, when  
the weight of gold is equal, coin for coin, even if the number is  
different. Dirhams in such a situation are treated the same way as  
dinars."  
  
  
Malik said, "If, when counterpoising gold for gold  
or silver for silver, there is a difference of weight, one party  
should not give the other the value of the difference in silver or  
something else. Such a transaction is ugly and a means to usury  
because if one of the parties were permitted to take the difference  
for a separate price, it could be as if he had bought it separately,  
so he would be permitted. Then it would be possible for him to ask for  
many times the value of the difference in order to permit the  
completion of the transaction between the two parties.  
  
  
Malik  
said, "If he had really been sold the difference without anything else  
with it, he would not have taken it for a tenth of the price for which  
he took it in order to put a 'legal front' on the transaction. This  
leads to allowing what is forbidden . The matter is forbidden."  
  
  
Malik said that it was not good when counterpoising to give good  
old gold coins and put along with them unminted gold in exchange for  
worn kufic gold, which was unpopular and to then treat the exchange as  
like for like.  
  
  
Malik said, "The commentary on why that is  
disapproved is that the owner of the good gold uses the excellence of  
his old gold coins as an excuse to throw in the unminted gold with it.  
Had it not been for the superiority of his (good) gold over the gold  
of the other party, the other party would not have counterpoised the  
unminted gold for his kufic gold, and the deal would have been  
refused.  
  
  
"It is like a man wanting to buy three sa of ajwa  
dried dates for two sa and a mudd of kabis dates, and on being told  
that it was not good, then offering two sa of kabis and a sa of poor  
dates desiring to make the sale possible. That is not good because the  
owner of the ajwa should not give him a sa of ajwa for a sa of poor  
dates. He would only give him that because of the excellence of kabis  
dates.  
  
  
"Or it is like a man asking some one to sell him three  
sa of white wheat for two and a half sa of Syrian wheat, and being  
told that it was not good except like for like, and so offering two sa  
of wheat and one sa of barley intending to make the sale possible  
between them. That is not good because no one would have given a sa of  
barley for a sa of white wheat had that sa been by itself. It was only  
given because of the excellence of Syrian wheat over the white wheat.  
This is not good. It is the same as the case of the unminted gold."  
  
  
Malik said, "Where gold, silver and food, things which should  
only be sold like for like, are concerned, something disliked and of  
poor quality should not be put with something good and desirable in  
order to make the sale possible and to make a bad situation halal.  
When something of desirable quality is put with something of poor  
quality and it is only included so that its excellence in quality is  
noticed, something is being sold which if it had been sold on its own,  
would not have been accepted and to which the buyer would not have  
paid any attention. It is only accepted by the buyer because of the  
superiority of what comes with it over his own goods. Transactions  
involving gold, silver, or food, must not have anything of this  
description enter into them. If the owner of the poor quality goods  
wants to sell them, he sells them on their own, and does not put  
anything with them. There is no harm if it is like that."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَزِيدَ بْنِ عَبْدِ اللَّهِ بْنِ قُسَيْطٍ، أَنَّهُ رَأَى سَعِيدَ بْنَ الْمُسَيَّبِ يُرَاطِلُ الذَّهَبَ بِالذَّهَبِ فَيُفْرِغُ ذَهَبَهُ فِي كِفَّةِ الْمِيزَانِ وَيُفْرِغُ صَاحِبُهُ الَّذِي يُرَاطِلُهُ ذَهَبَهُ فِي كِفَّةِ الْمِيزَانِ الأُخْرَى فَإِذَا اعْتَدَلَ لِسَانُ الْمِيزَانِ أَخَذَ وَأَعْطَى ‏.‏ قَالَ مَالِكٌ الأَمْرُ عِنْدَنَا فِي بَيْعِ الذَّهَبِ بِالذَّهَبِ وَالْوَرِقِ بِالْوَرِقِ مُرَاطَلَةً أَنَّهُ لاَ بَأْسَ بِذَلِكَ أَنْ يَأْخُذَ أَحَدَ عَشَرَ دِينَارًا بِعَشَرَةِ دَنَانِيرَ يَدًا بِيَدٍ إِذَا كَانَ وَزْنُ الذَّهَبَيْنِ سَوَاءً عَيْنًا بِعَيْنٍ وَإِنْ تَفَاضَلَ الْعَدَدُ وَالدَّرَاهِمُ أَيْضًا فِي ذَلِكَ بِمَنْزِلَةِ الدَّنَانِيرِ ‏.‏ قَالَ مَالِكٌ مَنْ رَاطَلَ ذَهَبًا بِذَهَبٍ أَوْ وَرِقًا بِوَرِقٍ فَكَانَ بَيْنَ الذَّهَبَيْنِ فَضْلُ مِثْقَالٍ فَأَعْطَى صَاحِبَهُ قِيمَتَهُ مِنَ الْوَرِقِ أَوْ مِنْ غَيْرِهَا فَلاَ يَأْخُذُهُ فَإِنَّ ذَلِكَ قَبِيحٌ وَذَرِيعَةٌ إِلَى الرِّبَا لأَنَّهُ إِذَا جَازَ لَهُ أَنْ يَأْخُذَ الْمِثْقَالَ بِقِيمَتِهِ حَتَّى كَأَنَّهُ اشْتَرَاهُ عَلَى حِدَتِهِ جَازَ لَهُ أَنْ يَأْخُذَ الْمِثْقَالَ بِقِيمَتِهِ مِرَارًا لأَنْ يُجِيزَ ذَلِكَ الْبَيْعَ بَيْنَهُ وَبَيْنَ صَاحِبِهِ ‏.‏ قَالَ مَالِكٌ وَلَوْ أَنَّهُ بَاعَهُ ذَلِكَ الْمِثْقَالَ مُفْرَدًا لَيْسَ مَعَهُ غَيْرُهُ لَمْ يَأْخُذْهُ بِعُشْرِ الثَّمَنِ الَّذِي أَخَذَهُ بِهِ لأَنْ يُجَوِّزَ لَهُ الْبَيْعَ فَذَلِكَ الذَّرِيعَةُ إِلَى إِحْلاَلِ الْحَرَامِ وَالأَمْرُ الْمَنْهِيُّ عَنْهُ ‏.‏ قَالَ مَالِكٌ فِي الرَّجُلِ يُرَاطِلُ الرَّجُلَ وَيُعْطِيهِ الذَّهَبَ الْعُتُقَ الْجِيَادَ وَيَجْعَلُ مَعَهَا تِبْرًا ذَهَبًا غَيْرَ جَيِّدَةٍ وَيَأْخُذُ مِنْ صَاحِبِهِ ذَهَبًا كُوفِيَّةً مُقَطَّعَةً وَتِلْكَ الْكُوفِيَّةُ مَكْرُوهَةٌ عِنْدَ النَّاسِ فَيَتَبَايَعَانِ ذَلِكَ مِثْلاً بِمِثْلٍ إِنَّ ذَلِكَ لاَ يَصْلُحُ ‏.‏ قَالَ مَالِكٌ وَتَفْسِيرُ مَا كُرِهَ مِنْ ذَلِكَ أَنَّ صَاحِبَ الذَّهَبِ الْجِيَادِ أَخَذَ فَضْلَ عُيُونِ ذَهَبِهِ فِي التِّبْرِ الَّذِي طَرَحَ مَعَ ذَهَبِهِ وَلَوْلاَ فَضْلُ ذَهَبِهِ عَلَى ذَهَبِ صَاحِبِهِ لَمْ يُرَاطِلْهُ صَاحِبُهُ بِتِبْرِهِ ذَلِكَ إِلَى ذَهَبِهِ الْكُوفِيَّةِ فَامْتَنَعَ وَإِنَّمَا مَثَلُ ذَلِكَ كَمَثَلِ رَجُلٍ أَرَادَ أَنْ يَبْتَاعَ ثَلاَثَةَ أَصْوُعٍ مِنْ تَمْرٍ عَجْوَةٍ بِصَاعَيْنِ وَمُدٍّ مِنْ تَمْرٍ كَبِيسٍ فَقِيلَ لَهُ هَذَا لاَ يَصْلُحُ ‏.‏ فَجَعَلَ صَاعَيْنِ مِنْ كَبِيسٍ وَصَاعًا مِنْ حَشَفٍ يُرِيدُ أَنْ يُجِيزَ بِذَلِكَ بَيْعَهُ فَذَلِكَ لاَ يَصْلُحُ لأَنَّهُ لَمْ يَكُنْ صَاحِبُ الْعَجْوَةِ لِيُعْطِيَهُ صَاعًا مِنَ الْعَجْوَةِ بِصَاعٍ مِنْ حَشَفٍ وَلَكِنَّهُ إِنَّمَا أَعْطَاهُ ذَلِكَ لِفَضْلِ الْكَبِيسِ أَوْ أَنْ يَقُولَ الرَّجُلُ لِلرَّجُلِ بِعْنِي ثَلاَثَةَ أَصْوُعٍ مِنَ الْبَيْضَاءِ بِصَاعَيْنِ وَنِصْفٍ مِنْ حِنْطَةٍ شَامِيَّةٍ فَيَقُولُ هَذَا لاَ يَصْلُحُ إِلاَّ مِثْلاً بِمِثْلٍ ‏.‏ فَيَجْعَلُ صَاعَيْنِ مِنْ حِنْطَةٍ شَامِيَّةٍ وَصَاعًا مِنْ شَعِيرٍ يُرِيدُ أَنْ يُجِيزَ بِذَلِكَ الْبَيْعَ فِيمَا بَيْنَهُمَا فَهَذَا لاَ يَصْلُحُ لأَنَّهُ لَمْ يَكُنْ لِيُعْطِيَهُ بِصَاعٍ مِنْ شَعِيرٍ صَاعًا مِنْ حِنْطَةٍ بَيْضَاءَ لَوْ كَانَ ذَلِكَ الصَّاعُ مُفْرَدًا وَإِنَّمَا أَعْطَاهُ إِيَّاهُ لِفَضْلِ الشَّامِيَّةِ عَلَى الْبَيْضَاءِ فَهَذَا لاَ يَصْلُحُ وَهُوَ مِثْلُ مَا وَصَفْنَا مِنَ التِّبْرِ ‏.‏ قَالَ مَالِكٌ فَكُلُّ شَىْءٍ مِنَ الذَّهَبِ وَالْوَرِقِ وَالطَّعَامِ كُلِّهِ الَّذِي لاَ يَنْبَغِي أَنْ يُبَاعَ إِلاَّ مِثْلاً بِمِثْلٍ فَلاَ يَنْبَغِي أَنْ يُجْعَلَ مَعَ الصِّنْفِ الْجَيِّدِ مِنَ الْمَرْغُوبِ فِيهِ الشَّىْءُ الرَّدِيءُ الْمَسْخُوطُ لِيُجَازَ الْبَيْعُ وَلِيُسْتَحَلَّ بِذَلِكَ مَا نُهِيَ عَنْهُ مِنَ الأَمْرِ الَّذِي لاَ يَصْلُحُ إِذَا جُعِلَ ذَلِكَ مَعَ الصِّنْفِ الْمَرْغُوبِ فِيهِ وَإِنَّمَا يُرِيدُ صَاحِبُ ذَلِكَ أَنْ يُدْرِكَ بِذَلِكَ فَضْلَ جَوْدَةِ مَا يَبِيعُ فَيُعْطِيَ الشَّىْءَ الَّذِي لَوْ أَعْطَاهُ وَحْدَهُ لَمْ يَقْبَلْهُ صَاحِبُهُ وَلَمْ يَهْمُمْ بِذَلِكَ وَإِنَّمَا يَقْبَلُهُ مِنْ أَجْلِ الَّذِي يَأْخُذُ مَعَهُ لِفَضْلِ سِلْعَةِ صَاحِبِهِ عَلَى سِلْعَتِهِ فَلاَ يَنْبَغِي لِشَىْءٍ مِنَ الذَّهَبِ وَالْوَرِقِ وَالطَّعَامِ أَنْ يَدْخُلَهُ شَىْءٌ مِنْ هَذِهِ الصِّفَةِ فَإِنْ أَرَادَ صَاحِبُ الطَّعَامِ الرَّدِيءِ أَنْ يَبِيعَهُ بِغَيْرِهِ فَلْيَبِعْهُ عَلَى حِدَتِهِ وَلاَ يَجْعَلْ مَعَ ذَلِكَ شَيْئًا فَلاَ بَأْسَ بِهِ إِذَا كَانَ كَذَلِكَ ‏.‏

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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, "Someone who buys food, must not resell it until he takes  
delivery of it all."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ مَنِ ابْتَاعَ طَعَامًا فَلاَ يَبِعْهُ حَتَّى يَسْتَوْفِيَهُ ‏"‏ ‏.‏

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Yahya related to me from Malik from Abdullah ibn Dinar from  
Abdullah ibn Umar that the Messenger of Allah, may Allah bless him and  
grant him peace, said, "Someone who buys food, must not sell it until  
he takes possession of it."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ عَبْدِ اللَّهِ بْنِ دِينَارٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ مَنِ ابْتَاعَ طَعَامًا فَلاَ يَبِعْهُ حَتَّى يَقْبِضَهُ ‏"‏ ‏.‏

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Yahya related to me from Malik from Nafi that Abdullah ibn Umar  
said, "In the time of the Messenger of Allah, may Allah bless him and  
grant him peace, we used to buy food. He sent orders for us to move  
our purchases from the place in which we purchased them to another  
place before we re-sold them."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّهُ قَالَ كُنَّا فِي زَمَانِ رَسُولِ اللَّهِ صلى الله عليه وسلم نَبْتَاعُ الطَّعَامَ فَيَبْعَثُ عَلَيْنَا مَنْ يَأْمُرُنَا بِانْتِقَالِهِ مِنَ الْمَكَانِ الَّذِي ابْتَعْنَاهُ فِيهِ إِلَى مَكَانٍ سِوَاهُ قَبْلَ أَنْ نَبِيعَهُ ‏.‏

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Yahya related to me from Malik from Nafi that Hakim ibn Hizam  
traded in food for people as Umar ibn al-Khattab had ordered him to  
do. Hakim re-sold the food before he had taken delivery of it. That  
reached Umar ibn al-Khattab and he revoked the sale and said, "Do not  
sell food which you have purchased until you take delivery of it."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ نَافِعٍ، ‏.‏ أَنَّ حَكِيمَ بْنَ حِزَامٍ، ابْتَاعَ طَعَامًا أَمَرَ بِهِ عُمَرُ بْنُ الْخَطَّابِ لِلنَّاسِ فَبَاعَ حَكِيمٌ الطَّعَامَ قَبْلَ أَنْ يَسْتَوْفِيَهُ فَبَلَغَ ذَلِكَ عُمَرَ بْنَ الْخَطَّابِ فَرَدَّهُ عَلَيْهِ وَقَالَ لاَ تَبِعْ طَعَامًا ابْتَعْتَهُ حَتَّى تَسْتَوْفِيَهُ ‏.‏

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Yahya related to me from Malik that he had heard that receipts  
were given to people in the time of Marwan ibn al-Hakam for the  
produce of the market at al-Jar. People bought and sold the receipts  
among themselves before they took delivery of the goods. Zayd Thabit  
and one of the Companions of the Messenger of Allah, may Allah bless  
him and grant him peace, went to Marwan ibn al-Hakam and said,  
"Marwan! Do you make usury halal?" He said, "I seek refuge with Allah!  
What is that?" He said, "These receipts which people buy and sell  
before they take delivery of the goods." Marwan therefore sent a guard  
to follow them and to take them from people's hands and return them to  
their owners.

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ ‏.‏ أَنَّ صُكُوكًا، خَرَجَتْ لِلنَّاسِ فِي زَمَانِ مَرْوَانَ بْنِ الْحَكَمِ مِنْ طَعَامِ الْجَارِ فَتَبَايَعَ النَّاسُ تِلْكَ الصُّكُوكَ بَيْنَهُمْ قَبْلَ أَنْ يَسْتَوْفُوهَا فَدَخَلَ زَيْدُ بْنُ ثَابِتٍ وَرَجُلٌ مِنْ أَصْحَابِ رَسُولِ اللَّهِ صلى الله عليه وسلم عَلَى مَرْوَانَ بْنِ الْحَكَمِ فَقَالاَ أَتُحِلُّ بَيْعَ الرِّبَا يَا مَرْوَانُ ‏.‏ فَقَالَ أَعُوذُ بِاللَّهِ وَمَا ذَاكَ فَقَالاَ هَذِهِ الصُّكُوكُ تَبَايَعَهَا النَّاسُ ثُمَّ بَاعُوهَا قَبْلَ أَنْ يَسْتَوْفُوهَا فَبَعَثَ مَرْوَانُ الْحَرَسَ يَتْبَعُونَهَا يَنْزِعُونَهَا مِنْ أَيْدِي النَّاسِ وَيَرُدُّونَهَا إِلَى أَهْلِهَا ‏.‏

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Yahya related to me from Malik that he had heard that a man  
wanted to buy food from a man in advance. The man who wanted to sell  
the food to him went with him to the market, and he began to show him  
heaps, saying, "Which one would you like me to buy for you." The buyer  
said to him, "Are you selling me what you do not have?" So they came  
to Abdullah ibn Umarand mentioned that to him. Abdallah ibn Umar said  
to the buyer, "Do not buy from him what he does not have." He said to  
the seller, "Do not sell what you do not have."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ رَجُلاً، أَرَادَ أَنْ يَبْتَاعَ طَعَامًا مِنْ رَجُلٍ إِلَى أَجَلٍ فَذَهَبَ بِهِ الرَّجُلُ الَّذِي يُرِيدُ أَنْ يَبِيعَهُ الطَّعَامَ إِلَى السُّوقِ فَجَعَلَ يُرِيهِ الصُّبَرَ وَيَقُولُ لَهُ مِنْ أَيِّهَا تُحِبُّ أَنْ أَبْتَاعَ لَكَ فَقَالَ الْمُبْتَاعُ أَتَبِيعُنِي مَا لَيْسَ عِنْدَكَ فَأَتَيَا عَبْدَ اللَّهِ بْنَ عُمَرَ فَذَكَرَا ذَلِكَ لَهُ فَقَالَ عَبْدُ اللَّهِ بْنُ عُمَرَ لِلْمُبْتَاعِ لاَ تَبْتَعْ مِنْهُ مَا لَيْسَ عِنْدَهُ ‏.‏ وَقَالَ لِلْبَائِعِ لاَ تَبِعْ مَا لَيْسَ عِنْدَكَ ‏.‏

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Yahya related to me from Malik that Yahya ibn Said heard Jamil  
ibn Abd ar-Rahman the Muadhdhin say to Said ibn al-Musayyab, "I am a  
man who buys whatever Allah wills of the receipts for the provisions  
which people are offered at al-Jar. I want to take payment for goods  
that I guarantee to deliver at a future date." Said said to him, "Do  
you intend to settle these things with receipts for provisions you  
have bought?" He said, "Yes." So he forbade that.  
  
  
Malik said,  
"The generally agreed on way of doing things among us in which there  
is no dispute, about buying food - wheat, barley, durra-sorghum, pearl  
millet, or any pulse or anything resembling pulses on which zakat is  
obliged, or condiments of any sort - oil, ghee, honey, vinegar,  
cheese, sesame oil, milk and so on, is that the buyer should not re-  
sell any of that until he has taken possession and complete delivery  
of it.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّهُ سَمِعَ جَمِيلَ بْنَ عَبْدِ الرَّحْمَنِ الْمُؤَذِّنَ، يَقُولُ لِسَعِيدِ بْنِ الْمُسَيَّبِ إِنِّي رَجُلٌ أَبْتَاعُ مِنَ الأَرْزَاقِ الَّتِي تُعْطَى النَّاسُ بِالْجَارِ مَا شَاءَ اللَّهُ ثُمَّ أُرِيدُ أَنْ أَبِيعَ الطَّعَامَ الْمَضْمُونَ عَلَىَّ إِلَى أَجَلٍ ‏.‏ فَقَالَ لَهُ سَعِيدٌ أَتُرِيدُ أَنْ تُوَفِّيَهُمْ مِنْ تِلْكَ الأَرْزَاقِ الَّتِي ابْتَعْتَ فَقَالَ نَعَمْ ‏.‏ فَنَهَاهُ عَنْ ذَلِكَ ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا الَّذِي لاَ اخْتِلاَفَ فِيهِ أَنَّهُ مَنِ اشْتَرَى طَعَامًا بُرًّا أَوْ شَعِيرًا أَوْ سُلْتًا أَوْ ذُرَةً أَوْ دُخْنًا أَوْ شَيْئًا مِنَ الْحُبُوبِ الْقِطْنِيَّةِ أَوْ شَيْئًا مِمَّا يُشْبِهُ الْقِطْنِيَّةَ مِمَّا تَجِبُ فِيهِ الزَّكَاةُ أَوْ شَيْئًا مِنَ الأُدْمِ كُلِّهَا الزَّيْتِ وَالسَّمْنِ وَالْعَسَلِ وَالْخَلِّ وَالْجُبْنِ وَالشَّبْرَقِ وَاللَّبَنِ وَمَا أَشْبَهَ ذَلِكَ مِنَ الأُدْمِ فَإِنَّ الْمُبْتَاعَ لاَ يَبِيعُ شَيْئًا مِنْ ذَلِكَ حَتَّى يَقْبِضَهُ وَيَسْتَوْفِيَهُ ‏.‏

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Yahya related to me from Malik that Abu'z-Zinad heard Sa'id ibn  
al-Musayyab andSulayman ibn Yasar forbid a man to sell wheat for gold  
on delayed terms and then to buy dried dates with the gold before he  
had taken delivery of the gold.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ أَبِي الزِّنَادِ، أَنَّهُ سَمِعَ سَعِيدَ بْنَ الْمُسَيَّبِ، وَسُلَيْمَانَ بْنَ يَسَارٍ، يَنْهَيَانِ أَنْ يَبِيعَ الرَّجُلُ، حِنْطَةً بِذَهَبٍ إِلَى أَجَلٍ ثُمَّ يَشْتَرِيَ بِالذَّهَبِ تَمْرًا قَبْلَ أَنْ يَقْبِضَ الذَّهَبَ

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Yahya related to me from Malik that Kathir ibn Farqad asked Abu  
Bakr ibn Muhammad ibn Amr ibn Hazm about a man who sold food to be  
delivered at a future date to a man for gold and then with the gold,  
he bought dates before he had taken delivery of the gold. He  
disapproved of that and forbade it.  
  
  
Yahya related to me from  
Malik from Ibn Shihab the like of that.  
  
  
Malik said, ''Said  
ibn al-Musayyab, Sulayman ibn Yasar, Abu Bakr ibn Muhammad ibn Amr ibn  
Hazm, and Ibn Shihab forbade that a man sell wheat for gold and then  
buy dates with that gold before he had received the gold from the  
transaction in which he sold the wheat. There is no harm for someone  
to buy dates on delayed terms, on the strength of the gold for which  
he sold the wheat, from someone other than the person to whom he sold  
the wheat before taking possession of the gold, and to refer the one  
from whom he bought the dates to his debtor who bought the wheat, for  
the gold he is owed for the dates."  
  
  
Malik said, "I asked more  
than one of the people of knowledge about that and they did not see  
any harm in it."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ كَثِيرِ بْنِ فَرْقَدٍ، ‏.‏ أَنَّهُ سَأَلَ أَبَا بَكْرِ بْنَ مُحَمَّدِ بْنِ عَمْرِو بْنِ حَزْمٍ عَنِ الرَّجُلِ، يَبِيعُ الطَّعَامَ مِنَ الرَّجُلِ بِذَهَبٍ إِلَى أَجَلٍ ثُمَّ يَشْتَرِي بِالذَّهَبِ تَمْرًا قَبْلَ أَنْ يَقْبِضَ الذَّهَبَ فَكَرِهَ ذَلِكَ وَنَهَى عَنْهُ ‏.‏   
 وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، بِمِثْلِ ذَلِكَ ‏.‏ قَالَ مَالِكٌ وَإِنَّمَا نَهَى سَعِيدُ بْنُ الْمُسَيَّبِ وَسُلَيْمَانُ بْنُ يَسَارٍ وَأَبُو بَكْرِ بْنُ مُحَمَّدِ بْنِ عَمْرِو بْنِ حَزْمٍ وَابْنُ شِهَابٍ عَنْ أَنْ لاَ يَبِيعَ الرَّجُلُ حِنْطَةً بِذَهَبٍ ثُمَّ يَشْتَرِيَ الرَّجُلُ بِالذَّهَبِ تَمْرًا قَبْلَ أَنْ يَقْبِضَ الذَّهَبَ مِنْ بَيْعِهِ الَّذِي اشْتَرَى مِنْهُ الْحِنْطَةَ فَأَمَّا أَنْ يَشْتَرِيَ بِالذَّهَبِ الَّتِي بَاعَ بِهَا الْحِنْطَةَ إِلَى أَجَلٍ تَمْرًا مِنْ غَيْرِ بَائِعِهِ الَّذِي بَاعَ مِنْهُ الْحِنْطَةَ قَبْلَ أَنْ يَقْبِضَ الذَّهَبَ وَيُحِيلَ الَّذِي اشْتَرَى مِنْهُ التَّمْرَ عَلَى غَرِيمِهِ الَّذِي بَاعَ مِنْهُ الْحِنْطَةَ بِالذَّهَبِ الَّتِي لَهُ عَلَيْهِ فِي ثَمَنِ التَّمْرِ فَلاَ بَأْسَ بِذَلِكَ ‏.‏ قَالَ مَالِكٌ وَقَدْ سَأَلْتُ عَنْ ذَلِكَ غَيْرَ وَاحِدٍ مِنْ أَهْلِ الْعِلْمِ فَلَمْ يَرَوْا بِهِ بَأْسًا ‏.

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Yahya related to me from Malik from Nafi that Abdullah ibn Umar  
said that there was no harm in a man making an advance to another man  
for food, with a set description and price until a set date, as long  
as it was not in crops, or dates which had not begun to ripen.  
  
  
Malik said, "The way of doing things among us concerning someone  
who makes an advance for foodstuffs at a known rate until a stated  
date, and the date arrives and he finds that there is not enough of  
what he was sold with the seller to fulfill his order, and so he  
revokes the sale, is that he must only take back the silver, gold, or  
price which he paid exactly. He does not buy anything else from the  
man for the same price until he has got back what he paid. That is  
because if he took something else besides the price which he paid him  
or exchanged it for goods other than the goods which he bought from  
him, it would be selling food before getting delivery of it."  
  
  
Malik said, "The Messenger of Allah, may Allah bless him and grant him  
peace, forbade selling food before getting delivery of it."  
  
  
Malik said that it was not good if the buyer regretted his purchase  
and asked the seller to revoke the sale for him and he would not press  
him immediately for what he had paid. The people of knowledge forbade  
that. That was because when the food was made ready for the buyer by  
the seller, the buyer deferred his due from the seller in order that  
he might revoke the sale for him. That was the sale of food with  
delayed terms before taking delivery of the food.  
  
  
Malik said,  
"The explanation of that is that when the date of delivery comes and  
the buyer dislikes the food, the seller takes by it money to be paid  
later and so it is not revocation. Revocation is that in which neither  
the buyer nor the seller is increased. When increase occurs by  
deferment of payment for a time period, or by anything which increases  
one of them over the other or anything which gives one of them profit,  
it is not revocation. When either of them do that, revocation becomes  
a sale. There is an indulgence for revocation, partnership, and  
transfer, as long as i ncrease, decrease, or deferment does not come  
into them. If increase, decrease, or deferment comes into it, it  
becomes a sale. Whatever makes a sale halal makes it halal and  
whatever makes a sale haram makes it haram."  
  
  
Malik said, "If  
someone pays in advance for Syrian wheat, there is no harm if he takes  
a load after the term falls due."  
  
  
Malik said, "It is the same  
with whoever advances for any kind of thing. There is no harm in him  
taking better than whatever he has made an advance for or worse than  
it after the agreed delivery date. The explanation of that is that if,  
for instance, a man advances for a certain weight of wheat. There is  
no harm if he decides to take some barley or Syrian wheat. If he has  
made an advance for good dates, there is no harm if he decides to take  
poor quality dates. If he paid in advance for red raisins, there is no  
harm if he takes black ones, when it happens after the agreed delivery  
date, and when the measure of what he takes is like the measure of  
what he paid for in advance."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّهُ قَالَ لاَ بَأْسَ بِأَنْ يُسَلِّفَ الرَّجُلُ الرَّجُلَ فِي الطَّعَامِ الْمَوْصُوفِ بِسِعْرٍ مَعْلُومٍ إِلَى أَجَلٍ مُسَمًّى مَا لَمْ يَكُنْ فِي زَرْعٍ لَمْ يَبْدُ صَلاَحُهُ أَوْ تَمْرٍ لَمْ يَبْدُ صَلاَحُهُ ‏.‏ قَالَ مَالِكٌ الأَمْرُ عِنْدَنَا فِيمَنْ سَلَّفَ فِي طَعَامٍ بِسِعْرٍ مَعْلُومٍ إِلَى أَجَلٍ مُسَمًّى فَحَلَّ الأَجَلُ فَلَمْ يَجِدِ الْمُبْتَاعُ عِنْدَ الْبَائِعِ وَفَاءً مِمَّا ابْتَاعَ مِنْهُ فَأَقَالَهُ فَإِنَّهُ لاَ يَنْبَغِي لَهُ أَنْ يَأْخُذَ مِنْهُ إِلاَّ وَرِقَهُ أَوْ ذَهَبَهُ أَوِ الثَّمَنَ الَّذِي دَفَعَ إِلَيْهِ بِعَيْنِهِ وَإِنَّهُ لاَ يَشْتَرِي مِنْهُ بِذَلِكَ الثَّمَنِ شَيْئًا حَتَّى يَقْبِضَهُ مِنْهُ وَذَلِكَ أَنَّهُ إِذَا أَخَذَ غَيْرَ الثَّمَنِ الَّذِي دَفَعَ إِلَيْهِ أَوْ صَرَفَهُ فِي سِلْعَةٍ غَيْرِ الطَّعَامِ الَّذِي ابْتَاعَ مِنْهُ فَهُوَ بَيْعُ الطَّعَامِ قَبْلَ أَنْ يُسْتَوْفَى ‏.‏ قَالَ مَالِكٌ وَقَدْ نَهَى رَسُولُ اللَّهِ صلى الله عليه وسلم عَنْ بَيْعِ الطَّعَامِ قَبْلَ أَنْ يُسْتَوْفَى ‏.‏ قَالَ مَالِكٌ فَإِنْ نَدِمَ الْمُشْتَرِي فَقَالَ لِلْبَائِعِ أَقِلْنِي وَأُنْظِرُكَ بِالثَّمَنِ الَّذِي دَفَعْتُ إِلَيْكَ ‏.‏ فَإِنَّ ذَلِكَ لاَ يَصْلُحُ وَأَهْلُ الْعِلْمِ يَنْهَوْنَ عَنْهُ وَذَلِكَ أَنَّهُ لَمَّا حَلَّ الطَّعَامُ لِلْمُشْتَرِي عَلَى الْبَائِعِ أَخَّرَ عَنْهُ حَقَّهُ عَلَى أَنْ يُقِيلَهُ فَكَانَ ذَلِكَ بَيْعَ الطَّعَامِ إِلَى أَجَلٍ قَبْلَ أَنْ يُسْتَوْفَى ‏.‏ قَالَ مَالِكٌ وَتَفْسِيرُ ذَلِكَ أَنَّ الْمُشْتَرِيَ حِينَ حَلَّ الأَجَلُ وَكَرِهَ الطَّعَامَ أَخَذَ بِهِ دِينَارًا إِلَى أَجَلٍ وَلَيْسَ ذَلِكَ بِالإِقَالَةِ وَإِنَّمَا الإِقَالَةُ مَا لَمْ يَزْدَدْ فِيهِ الْبَائِعُ وَلاَ الْمُشْتَرِي فَإِذَا وَقَعَتْ فِيهِ الزِّيَادَةُ بِنَسِيئَةٍ إِلَى أَجَلٍ أَوْ بِشَىْءٍ يَزْدَادُهُ أَحَدُهُمَا عَلَى صَاحِبِهِ أَوْ بِشَىْءٍ يَنْتَفِعُ بِهِ أَحَدُهُمَا فَإِنَّ ذَلِكَ لَيْسَ بِالإِقَالَةِ وَإِنَّمَا تَصِيرُ الإِقَالَةُ إِذَا فَعَلاَ ذَلِكَ بَيْعًا وَإِنَّمَا أُرْخِصَ فِي الإِقَالَةِ وَالشِّرْكِ وَالتَّوْلِيَةِ مَا لَمْ يَدْخُلْ شَيْئًا مِنْ ذَلِكَ زِيَادَةٌ أَوْ نُقْصَانٌ أَوْ نَظِرَةٌ فَإِنْ دَخَلَ ذَلِكَ زِيَادَةٌ أَوْ نُقْصَانٌ أَوْ نَظِرَةٌ صَارَ بَيْعًا يُحِلُّهُ مَا يُحِلُّ الْبَيْعَ وَيُحَرِّمُهُ مَا يُحَرِّمُ الْبَيْعَ ‏.‏ قَالَ مَالِكٌ مَنْ سَلَّفَ فِي حِنْطَةٍ شَامِيَّةٍ فَلاَ بَأْسَ أَنْ يَأْخُذَ مَحْمُولَةً بَعْدَ مَحِلِّ الأَجَلِ ‏.‏ قَالَ مَالِكٌ وَكَذَلِكَ مَنْ سَلَّفَ فِي صِنْفٍ مِنَ الأَصْنَافِ فَلاَ بَأْسَ أَنْ يَأْخُذَ خَيْرًا مِمَّا سَلَّفَ فِيهِ أَوْ أَدْنَى بَعْدَ مَحِلِّ الأَجَلِ وَتَفْسِيرُ ذَلِكَ أَنْ يُسَلِّفَ الرَّجُلُ فِي حِنْطَةٍ مَحْمُولَةٍ فَلاَ بَأْسَ أَنْ يَأْخُذَ شَعِيرًا أَوْ شَامِيَّةً وَإِنْ سَلَّفَ فِي تَمْرٍ عَجْوَةٍ فَلاَ بَأْسَ أَنْ يَأْخُذَ صَيْحَانِيًّا أَوْ جَمْعًا وَإِنْ سَلَّفَ فِي زَبِيبٍ أَحْمَرَ فَلاَ بَأْسَ أَنْ يَأْخُذَ أَسْوَدَ إِذَا كَانَ ذَلِكَ كُلُّهُ بَعْدَ مَحِلِّ الأَجَلِ إِذَا كَانَتْ مَكِيلَةُ ذَلِكَ سَوَاءً بِمِثْلِ كَيْلِ مَا سَلَّفَ فِيهِ ‏.‏

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Yahya related to me from Malik that he had heard that Sulayman  
ibn Yasar said, "The fodder of the donkeys of Saad ibn Abi Waqqas ran  
out and so he told his slave to take some of the family's wheat and  
buy barley with it, and to only take a like quantity."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ سُلَيْمَانَ بْنَ يَسَارٍ، قَالَ فَنِيَ عَلَفُ حِمَارِ سَعْدِ بْنِ أَبِي وَقَّاصٍ فَقَالَ لِغُلاَمِهِ خُذْ مِنْ حِنْطَةِ أَهْلِكَ فَابْتَعْ بِهَا شَعِيرًا وَلاَ تَأْخُذْ إِلاَّ مِثْلَهُ ‏.‏

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Yahya related to me from Malik from Nafi that Sulayman ibn Yasar  
told him that one time the fodder of the animals of Abd ar-Rahman ibn  
al-Aswad ibn Abd Yaghuth was finished so he said to his slave, "Take  
some of your family's wheat as food and buy with it barley, and take  
only a like quantity.' "

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ سُلَيْمَانَ بْنِ يَسَارٍ، أَنَّهُ أَخْبَرَهُ أَنَّ عَبْدَ الرَّحْمَنِ بْنَ الأَسْوَدِ بْنِ عَبْدِ يَغُوثَ فَنِيَ عَلَفُ دَابَّتِهِ فَقَالَ لِغُلاَمِهِ خُذْ مِنْ حِنْطَةِ أَهْلِكَ طَعَامًا فَابْتَعْ بِهَا شَعِيرًا وَلاَ تَأْخُذْ إِلاَّ مِثْلَهُ ‏.‏

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Yahya related to me from Malik that he had heard the same as that  
from al-Qasim ibn Muhammad from Ibn Muayqib ad-Dawsi.  
  
  
Malik  
said, "This is the way of doing things among us . "  
  
  
Malik  
said, "The generally agreed on way of doing things among us is that  
wheat is not sold for wheat, dates for dates, wheat for dates, dates  
for raisins, wheat for raisins, nor any kind of food sold for food at  
all, except from hand to hand. If there is any sort of delayed terms  
in the transaction, it is not good. It is haram. Condiments are not  
bartered except from hand to hand."  
  
  
Malik said, "Food and  
condiments are not bartered when they are the same type, two of one  
kind for one of the other. A mudd of wheat is not sold for two mudds  
of wheat, nor a mudd of dates for two mudds of dates, nor a mudd of  
raisins for two mudds of raisins, nor is anything of that sort done  
with grains and condiments when they are of one kind, even if it is  
hand to hand.  
  
  
"This is the same position as silver for silver  
and gold for gold. No increase is halal in the transaction, and only  
like for like, from hand to hand is halal."  
  
  
Malik said, "If  
there is a clear difference in foodstuffs which are measured and  
weighed, there is no harm in taking two of one kind for one of  
another, hand to hand. There is no harm in taking a sa of dates for  
two sa of wheat, and a sa of dates for two sa of raisins, and a sa of  
wheat for two sa of ghee. If the two sorts in the transaction are  
different, there is no harm in two for one or more than that from hand  
to hand. If delayed terms enter into the sale, it is not halal ."  
  
  
Malik said, "It is not halal to trade a heap of wheat for a heap  
of wheat. There is no harm in a heap of wheat for a heap of dates,  
from hand to hand. That is because there is no harm in buying wheat  
with dates without precise measurement."  
  
  
Malik said, "With  
kinds of foods and condiments that differ from each other, and the  
difference is clear, there is no harm in bartering one kind for  
another, without precise measurement from hand to hand. If delayed  
terms enter into the sale, there is no good in it. Bartering such  
things without precise measurement is like buying it with gold and  
silver without measuring precisely."  
  
  
Malik said, "That is  
because you buy wheat with silver without measuring precisely, and  
dates with gold without measuring precisely, and it is halal. There is  
no harm in it."  
  
  
Malik said, "It is not good for someone to  
make a heap of food, knowing its measure and then to sell it as if it  
had not been measured precisely, concealing its measure from the  
buyer. If the buyer wants to return that food to the seller, he can,  
because he concealed its measure and so it is an uncertain  
transaction. This is done with any kind of food or other goods whose  
measure and number the seller knows, and which he then sells without  
measurement and the buyer does not know that. If the buyer wants to  
return that to the seller, he can return t. The people of knowledge  
still forbid such a transaction."  
  
  
Malik said, "There is no  
good in selling one round loaf of bread for two round loaves, nor  
large for small when some of them are bigger than others. When care is  
taken that they are like for like, there is no harm in the sale, even  
if they are not weighed."  
  
  
Malik said, "It is not good to sell  
a mudd of butter and a mudd of milk for two mudds of butter. This is  
like what we described of selling dates when two sa of kabis and a sa  
of poor quality dates were sold for three sa of ajwa dates after the  
buyer had said to the seller, 'Two sa of kabis dates for three sa of  
ajwa dates is not good,' and then he did that to make the transaction  
possible. The owner of the milk puts the milk with his butter so that  
he can use the superiority of his butter over the butter of the other  
party to put his milk in with it."  
  
  
Malik said, "Flour for  
wheat is like for like, and there is no harm in that. That is if he  
does not mix up anything with the flour and sell it for wheat, like  
for like. Had he put half a mudd of flour and half of wheat, and then  
sold that for a mudd of wheat, it would be like what we described, and  
it would not be good because he would want to use the superiority of  
his good wheat to put flour along with it. Such a transaction is not  
good."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنِ ابْنِ مُعَيْقِيبٍ الدَّوْسِيِّ، مِثْلُ ذَلِكَ ‏.‏ قَالَ مَالِكٌ وَهُوَ الأَمْرُ عِنْدَنَا ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا أَنْ لاَ تُبَاعَ الْحِنْطَةُ بِالْحِنْطَةِ وَلاَ التَّمْرُ بِالتَّمْرِ وَلاَ الْحِنْطَةُ بِالتَّمْرِ وَلاَ التَّمْرُ بِالزَّبِيبِ وَلاَ الْحِنْطَةُ بِالزَّبِيبِ وَلاَ شَىْءٌ مِنَ الطَّعَامِ كُلِّهِ إِلاَّ يَدًا بِيَدٍ فَإِنْ دَخَلَ شَيْئًا مِنْ ذَلِكَ الأَجَلُ لَمْ يَصْلُحْ وَكَانَ حَرَامًا وَلاَ شَىْءَ مِنَ الأُدْمِ كُلِّهَا إِلاَّ يَدًا بِيَدٍ ‏.‏ قَالَ مَالِكٌ وَلاَ يُبَاعُ شَىْءٌ مِنَ الطَّعَامِ وَالأُدْمِ إِذَا كَانَ مِنْ صِنْفٍ وَاحِدٍ اثْنَانِ بِوَاحِدٍ فَلاَ يُبَاعُ مُدُّ حِنْطَةٍ بِمُدَّىْ حِنْطَةٍ وَلاَ مُدُّ تَمْرٍ بِمُدَّىْ تَمْرٍ وَلاَ مُدُّ زَبِيبٍ بِمُدَّىْ زَبِيبٍ وَلاَ مَا أَشْبَهَ ذَلِكَ مِنَ الْحُبُوبِ وَالأُدْمِ كُلِّهَا إِذَا كَانَ مِنْ صِنْفٍ وَاحِدٍ وَإِنْ كَانَ يَدًا بِيَدٍ إِنَّمَا ذَلِكَ بِمَنْزِلَةِ الْوَرِقِ بِالْوَرِقِ وَالذَّهَبِ بِالذَّهَبِ لاَ يَحِلُّ فِي شَىْءٍ مِنْ ذَلِكَ الْفَضْلُ وَلاَ يَحِلُّ إِلاَّ مِثْلاً بِمِثْلٍ يَدًا بِيَدٍ ‏.‏ قَالَ مَالِكٌ وَإِذَا اخْتَلَفَ مَا يُكَالُ أَوْ يُوزَنُ مِمَّا يُؤْكَلُ أَوْ يُشْرَبُ فَبَانَ اخْتِلاَفُهُ فَلاَ بَأْسَ أَنْ يُؤْخَذَ مِنْهُ اثْنَانِ بِوَاحِدٍ يَدًا بِيَدٍ وَلاَ بَأْسَ أَنْ يُؤْخَذَ صَاعٌ مِنْ تَمْرٍ بِصَاعَيْنِ مِنْ حِنْطَةٍ وَصَاعٌ مِنْ تَمْرٍ بِصَاعَيْنِ مِنْ زَبِيبٍ وَصَاعٌ مِنْ حِنْطَةٍ بِصَاعَيْنِ مِنْ سَمْنٍ فَإِذَا كَانَ الصِّنْفَانِ مِنْ هَذَا مُخْتَلِفَيْنِ فَلاَ بَأْسَ بِاثْنَيْنِ مِنْهُ بِوَاحِدٍ أَوْ أَكْثَرَ مِنْ ذَلِكَ يَدًا بِيَدٍ فَإِنْ دَخَلَ ذَلِكَ الأَجَلُ فَلاَ يَحِلُّ ‏.‏ قَالَ مَالِكٌ وَلاَ تَحِلُّ صُبْرَةُ الْحِنْطَةِ بِصُبْرَةِ الْحِنْطَةِ وَلاَ بَأْسَ بِصُبْرَةِ الْحِنْطَةِ بِصُبْرَةِ التَّمْرِ يَدًا بِيَدٍ وَذَلِكَ أَنَّهُ لاَ بَأْسَ أَنْ يُشْتَرَى الْحِنْطَةُ بِالتَّمْرِ جِزَافًا ‏.‏ قَالَ مَالِكٌ وَكُلُّ مَا اخْتَلَفَ مِنَ الطَّعَامِ وَالأُدْمِ فَبَانَ اخْتِلاَفُهُ فَلاَ بَأْسَ أَنْ يُشْتَرَى بَعْضُهُ بِبَعْضٍ جِزَافًا يَدًا بِيَدٍ فَإِنْ دَخَلَهُ الأَجَلُ فَلاَ خَيْرَ فِيهِ وَإِنَّمَا اشْتِرَاءُ ذَلِكَ جِزَافًا كَاشْتِرَاءِ بَعْضِ ذَلِكَ بِالذَّهَبِ وَالْوَرِقِ جِزَافًا ‏.‏ قَالَ مَالِكٌ وَذَلِكَ أَنَّكَ تَشْتَرِي الْحِنْطَةَ بِالْوَرِقِ جِزَافًا وَالتَّمْرَ بِالذَّهَبِ جِزَافًا فَهَذَا حَلاَلٌ لاَ بَأْسَ بِهِ ‏.‏ قَالَ مَالِكٌ وَمَنْ صَبَّرَ صُبْرَةَ طَعَامٍ وَقَدْ عَلِمَ كَيْلَهَا ثُمَّ بَاعَهَا جِزَافًا وَكَتَمَ الْمُشْتَرِي كَيْلَهَا فَإِنَّ ذَلِكَ لاَ يَصْلُحُ فَإِنْ أَحَبَّ الْمُشْتَرِي أَنْ يَرُدَّ ذَلِكَ الطَّعَامَ عَلَى الْبَائِعِ رَدَّهُ بِمَا كَتَمَهُ كَيْلَهُ وَغَرَّهُ وَكَذَلِكَ كُلُّ مَا عَلِمَ الْبَائِعُ كَيْلَهُ وَعَدَدَهُ مِنَ الطَّعَامِ وَغَيْرِهِ ثُمَّ بَاعَهُ جِزَافًا وَلَمْ يَعْلَمِ الْمُشْتَرِي ذَلِكَ فَإِنَّ الْمُشْتَرِيَ إِنْ أَحَبَّ أَنْ يَرُدَّ ذَلِكَ عَلَى الْبَائِعِ رَدَّهُ وَلَمْ يَزَلْ أَهْلُ الْعِلْمِ يَنْهَوْنَ عَنْ ذَلِكَ ‏.‏ قَالَ مَالِكٌ وَلاَ خَيْرَ فِي الْخُبْزِ قُرْصٍ بِقُرْصَيْنِ وَلاَ عَظِيمٍ بِصَغِيرٍ إِذَا كَانَ بَعْضُ ذَلِكَ أَكْبَرَ مِنْ بَعْضٍ فَأَمَّا إِذَا كَانَ يَتَحَرَّى أَنْ يَكُونَ مِثْلاً بِمِثْلٍ فَلاَ بَأْسَ بِهِ وَإِنْ لَمْ يُوزَنْ ‏.‏ قَالَ مَالِكٌ لاَ يَصْلُحُ مُدُّ زُبْدٍ وَمُدُّ لَبَنٍ بِمُدَّىْ زُبْدٍ وَهُوَ مِثْلُ الَّذِي وَصَفْنَا مِنَ التَّمْرِ الَّذِي يُبَاعُ صَاعَيْنِ مِنْ كَبِيسٍ وَصَاعًا مِنْ حَشَفٍ بِثَلاَثَةِ أَصْوُعٍ مِنْ عَجْوَةٍ حِينَ قَالَ لِصَاحِبِهِ إِنَّ صَاعَيْنِ مِنْ كَبِيسٍ بِثَلاَثَةِ أَصْوُعٍ مِنَ الْعَجْوَةِ لاَ يَصْلُحُ ‏.‏ فَفَعَلَ ذَلِكَ لِيُجِيزَ بَيْعَهُ وَإِنَّمَا جَعَلَ صَاحِبُ اللَّبَنِ اللَّبَنَ مَعَ زُبْدِهِ لِيَأْخُذَ فَضْلَ زُبْدِهِ عَلَى زُبْدِ صَاحِبِهِ حِينَ أَدْخَلَ مَعَهُ اللَّبَنَ ‏.‏ قَالَ مَالِكٌ وَالدَّقِيقُ بِالْحِنْطَةِ مِثْلاً بِمِثْلٍ لاَ بَأْسَ بِهِ وَذَلِكَ لأَنَّهُ أَخْلَصَ الدَّقِيقَ فَبَاعَهُ بِالْحِنْطَةِ مِثْلاً بِمِثْلٍ وَلَوْ جَعَلَ نِصْفَ الْمُدِّ مِنْ دَقِيقٍ وَنِصْفَهُ مِنْ حِنْطَةٍ فَبَاعَ ذَلِكَ بِمُدٍّ مِنْ حِنْطَةٍ كَانَ ذَلِكَ مِثْلَ الَّذِي وَصَفْنَا لاَ يَصْلُحُ لأَنَّهُ إِنَّمَا أَرَادَ أَنْ يَأْخُذَ فَضْلَ حِنْطَتِهِ الْجَيِّدَةِ حَتَّى جَعَلَ مَعَهَا الدَّقِيقَ فَهَذَا لاَ يَصْلُحُ ‏.‏

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Yahya related to me from Malik that Muhammad ibn Abdullah ibn Abi  
Maryam asked Said ibn al-Musayyab's advice. "I am a man who buys food  
with receipts from al-Jar. Perhaps I will buy something for a dinar  
and half a dirham, and will be given food for a half." Said said, "No.  
You give a dirham, and take the rest in food." (A half dirham did not  
exist as a coin.)

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ مُحَمَّدِ بْنِ عَبْدِ اللَّهِ بْنِ أَبِي مَرْيَمَ، أَنَّهُ سَأَلَ سَعِيدَ بْنَ الْمُسَيَّبِ فَقَالَ إِنِّي رَجُلٌ أَبْتَاعُ الطَّعَامَ يَكُونُ مِنَ الصُّكُوكِ بِالْجَارِ فَرُبَّمَا ابْتَعْتُ مِنْهُ بِدِينَارٍ وَنِصْفِ دِرْهَمٍ فَأُعْطَى بِالنِّصْفِ طَعَامًا ‏.‏ فَقَالَ سَعِيدٌ لاَ وَلَكِنْ أَعْطِ أَنْتَ دِرْهَمًا وَخُذْ بَقِيَّتَهُ طَعَامًا ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 53Arabic reference : Book 31, Hadith 1346Report Error | Share | Copy ▼

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Yahya related to me from Malik that he had heard that Muhammad  
Sirin used to say, "Do not sell grain on the ears until it is white."  
  
  
Malik said, "If someone buys food for a known price to be  
delivered at a stated date, and when the date comes, the one who owes  
the food says, 'I do not have any food, sell me the food which I owe  
you with delayed terms.' The owner of the food says, 'This is not  
good, because the Messenger of Allah, may Allah bless him and grant  
him peace, forbade selling food until the deal was completed.' The one  
who owes the food says to his creditor, 'Sell me any kind of food on  
delayed terms until I discharge the debt to you.' This is not good  
because he gives him food and then he returns it to him. The gold  
which he gave him becomes the price of that which is his right against  
him and the food which he gave him becomes what clears what is between  
them. If they do that, it becomes the sale of food before the deal is  
complete."  
  
  
Malik spoke about a man who was owed food which he  
had purchased from a man and this man was owed the like of that food  
by another man. The one who owed the food said to his creditor, "I  
will refer you to my debtor who owes me the same amount of food as I  
owe you, so that you may obtain the food which I owe you ."  
  
  
Malik said, "If the man who had to deliver the food, had gone out, and  
bought the food to pay off his creditor, that is not good. That is  
selling food before taking possession of it. If the food is an advance  
which falls due at that particular time, there is no harm in paying  
off his creditor with it because that is nota sale. It is not halal to  
sell food before receiving it in full since the Messenger of Allah,  
may Allah bless him and grant him peace, forbade that. However, the  
people of knowledge agree that there is no harm in partnership,  
transfer of responsibility and revocation in sales of food and other  
goods."  
  
  
Malik said, "That is because the people of knowledge  
consider it as a favour rendered. They do not consider it as a sale.  
It is like a man lending light dirhams. He is then paid back in  
dirhams of full weight, and so gets back more than he lent. That is  
halal for him and permitted. Had a man bought defective dirhams from  
him as being the full weight, that would not be halal. Had it been  
stipulated to him that he lend full weight in dirhams, and then he  
gave faulty ones, that would not be halal for him."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ مُحَمَّدَ بْنَ سِيرِينَ، كَانَ يَقُولُ لاَ تَبِيعُوا الْحَبَّ فِي سُنْبُلِهِ حَتَّى يَبْيَضَّ ‏.‏ قَالَ مَالِكٌ مَنِ اشْتَرَى طَعَامًا بِسِعْرٍ مَعْلُومٍ إِلَى أَجَلٍ مُسَمًّى فَلَمَّا حَلَّ الأَجَلُ قَالَ الَّذِي عَلَيْهِ الطَّعَامُ لِصَاحِبِهِ لَيْسَ عِنْدِي طَعَامٌ فَبِعْنِي الطَّعَامَ الَّذِي لَكَ عَلَىَّ إِلَى أَجَلٍ ‏.‏ فَيَقُولُ صَاحِبُ الطَّعَامِ هَذَا لاَ يَصْلُحُ لأَنَّهُ قَدْ نَهَى رَسُولُ اللَّهِ صلى الله عليه وسلم عَنْ بَيْعِ الطَّعَامِ حَتَّى يُسْتَوْفَى ‏.‏ فَيَقُولُ الَّذِي عَلَيْهِ الطَّعَامُ لِغَرِيمِهِ فَبِعْنِي طَعَامًا إِلَى أَجَلٍ حَتَّى أَقْضِيَكَهُ ‏.‏ فَهَذَا لاَ يَصْلُحُ لأَنَّهُ إِنَّمَا يُعْطِيهِ طَعَامًا ثُمَّ يَرُدُّهُ إِلَيْهِ ‏.‏ فَيَصِيرُ الذَّهَبُ الَّذِي أَعْطَاهُ ثَمَنَ الَّذِي كَانَ لَهُ عَلَيْهِ وَيَصِيرُ الطَّعَامُ الَّذِي أَعْطَاهُ مُحَلَّلاً فِيمَا بَيْنَهُمَا وَيَكُونُ ذَلِكَ إِذَا فَعَلاَهُ بَيْعَ الطَّعَامِ قَبْلَ أَنْ يُسْتَوْفَى ‏.‏ قَالَ مَالِكٌ فِي رَجُلٍ لَهُ عَلَى رَجُلٍ طَعَامٌ ابْتَاعَهُ مِنْهُ وَلِغَرِيمِهِ عَلَى رَجُلٍ طَعَامٌ مِثْلُ ذَلِكَ الطَّعَامِ فَقَالَ الَّذِي عَلَيْهِ الطَّعَامُ لِغَرِيمِهِ أُحِيلُكَ عَلَى غَرِيمٍ لِي عَلَيْهِ مِثْلُ الطَّعَامِ الَّذِي لَكَ عَلَىَّ بِطَعَامِكَ الَّذِي لَكَ عَلَىَّ ‏.‏ قَالَ مَالِكٌ إِنْ كَانَ الَّذِي عَلَيْهِ الطَّعَامُ إِنَّمَا هُوَ طَعَامٌ ابْتَاعَهُ فَأَرَادَ أَنْ يُحِيلَ غَرِيمَهُ بِطَعَامٍ ابْتَاعَهُ فَإِنَّ ذَلِكَ لاَ يَصْلُحُ وَذَلِكَ بَيْعُ الطَّعَامِ قَبْلَ أَنْ يُسْتَوْفَى فَإِنْ كَانَ الطَّعَامُ سَلَفًا حَالاًّ فَلاَ بَأْسَ أَنْ يُحِيلَ بِهِ غَرِيمَهُ لأَنَّ ذَلِكَ لَيْسَ بِبَيْعٍ وَلاَ يَحِلُّ بَيْعُ الطَّعَامِ قَبْلَ أَنْ يُسْتَوْفَى لِنَهْىِ رَسُولِ اللَّهِ صلى الله عليه وسلم عَنْ ذَلِكَ غَيْرَ أَنَّ أَهْلَ الْعِلْمِ قَدِ اجْتَمَعُوا عَلَى أَنَّهُ لاَ بَأْسَ بِالشِّرْكِ وَالتَّوْلِيَةِ وَالإِقَالَةِ فِي الطَّعَامِ وَغَيْرِهِ ‏.‏ قَالَ مَالِكٌ وَذَلِكَ أَنَّ أَهْلَ الْعِلْمِ أَنْزَلُوهُ عَلَى وَجْهِ الْمَعْرُوفِ وَلَمْ يُنْزِلُوهُ عَلَى وَجْهِ الْبَيْعِ وَذَلِكَ مِثْلُ الرَّجُلِ يُسَلِّفُ الدَّرَاهِمَ النُّقَّصَ فَيُقْضَى دَرَاهِمَ وَازِنَةً فِيهَا فَضْلٌ فَيَحِلُّ لَهُ ذَلِكَ وَيَجُوزُ وَلَوِ اشْتَرَى مِنْهُ دَرَاهِمَ نُقَّصًا بِوَازِنَةٍ لَمْ يَحِلَّ ذَلِكَ وَلَوِ اشْتَرَطَ عَلَيْهِ حِينَ أَسْلَفَهُ وَازِنَةً وَإِنَّمَا أَعْطَاهُ نُقَّصًا لَمْ يَحِلَّ لَهُ ذَلِكَ ‏.‏ قَالَ مَالِكٌ وَمِمَّا يُشْبِهُ ذَلِكَ أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنْ بَيْعِ الْمُزَابَنَةِ وَأَرْخَصَ فِي بَيْعِ الْعَرَايَا بِخَرْصِهَا مِنَ التَّمْرِ وَإِنَّمَا فُرِقَ بَيْنَ ذَلِكَ أَنَّ بَيْعَ الْمُزَابَنَةِ بَيْعٌ عَلَى وَجْهِ الْمُكَايَسَةِ وَالتِّجَارَةِ وَأَنَّ بَيْعَ الْعَرَايَا عَلَى وَجْهِ الْمَعْرُوفِ لاَ مُكَايَسَةَ فِيهِ ‏.‏ قَالَ مَالِكٌ وَلاَ يَنْبَغِي أَنْ يَشْتَرِيَ رَجُلٌ طَعَامًا بِرُبُعٍ أَوْ ثُلُثٍ أَوْ كِسْرٍ مِنْ دِرْهَمٍ عَلَى أَنْ يُعْطَى بِذَلِكَ طَعَامًا إِلَى أَجَلٍ وَلاَ بَأْسَ أَنْ يَبْتَاعَ الرَّجُلُ طَعَامًا بِكِسْرٍ مِنْ دِرْهَمٍ إِلَى أَجَلٍ ثُمَّ يُعْطَى دِرْهَمًا وَيَأْخُذُ بِمَا بَقِيَ لَهُ مِنْ دِرْهَمِهِ سِلْعَةً مِنَ السِّلَعِ لأَنَّهُ أَعْطَى الْكِسْرَ الَّذِي عَلَيْهِ فِضَّةً وَأَخَذَ بِبَقِيَّةِ دِرْهَمِهِ سِلْعَةً فَهَذَا لاَ بَأْسَ بِهِ ‏.‏ قَالَ مَالِكٌ وَلاَ بَأْسَ أَنْ يَضَعَ الرَّجُلُ عِنْدَ الرَّجُلِ دِرْهَمًا ثُمَّ يَأْخُذُ مِنْهُ بِرُبُعٍ أَوْ بِثُلُثٍ أَوْ بِكِسْرٍ مَعْلُومٍ سِلْعَةً مَعْلُومَةً فَإِذَا لَمْ يَكُنْ فِي ذَلِكَ سِعْرٌ مَعْلُومٌ وَقَالَ الرَّجُلُ آخُذُ مِنْكَ بِسِعْرِ كُلِّ يَوْمٍ فَهَذَا لاَ يَحِلُّ لأَنَّهُ غَرَرٌ يَقِلُّ مَرَّةً وَيَكْثُرُ مَرَّةً وَلَمْ يَفْتَرِقَا عَلَى بَيْعٍ مَعْلُومٍ ‏.‏ قَالَ مَالِكٌ وَمَنْ بَاعَ طَعَامًا جِزَافًا وَلَمْ يَسْتَثْنِ مِنْهُ شَيْئًا ثُمَّ بَدَا لَهُ أَنْ يَشْتَرِيَ مِنْهُ شَيْئًا فَإِنَّهُ لاَ يَصْلُحُ لَهُ أَنْ يَشْتَرِيَ مِنْهُ شَيْئًا إِلاَّ مَا كَانَ يَجُوزُ لَهُ أَنْ يَسْتَثْنِيَ مِنْهُ وَذَلِكَ الثُّلُثُ فَمَا دُونَهُ فَإِنْ زَادَ عَلَى الثُّلُثِ صَارَ ذَلِكَ إِلَى الْمُزَابَنَةِ وَإِلَى مَا يُكْرَهُ فَلاَ يَنْبَغِي لَهُ أَنْ يَشْتَرِيَ مِنْهُ شَيْئًا إِلاَّ مَا كَانَ يَجُوزُ لَهُ أَنْ يَسْتَثْنِيَ مِنْهُ وَلاَ يَجُوزُ لَهُ أَنْ يَسْتَثْنِيَ مِنْهُ إِلاَّ الثُّلُثَ فَمَا دُونَهُ وَهَذَا الأَمْرُ الَّذِي لاَ اخْتِلاَفَ فِيهِ عِنْدَنَا ‏.‏

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Malik said, "Another example of that is that the Messenger of  
Allah, may Allah bless him and grant him peace, forbade the sale  
called muzabana and granted an indulgence in the ariya for computing  
the equivalent in dates. It was distinguished between them that the  
muzabana-sale was based on shrewdness and trade, and the ariya sale  
was based on a favour rendered, and there was no shrewdness in it."  
  
  
Malik said, "A man must not buy food for a fourth, a third,  
or a fraction of a dirham on the basis that he be given that food on  
credit. There is no harm in a man buying food for a fraction of a  
dirham on credit and then he gives a dirham and takes goods with what  
remains of his dirham because he gave the fraction he owed as silver,  
and took goods to make up the rest of his dirham. There is no harm in  
that transaction."  
  
  
Malik said, "There is no harm in a man  
placing a dirham with another man and then taking from him known goods  
for a fourth, third, or a known fraction. If there was not a known  
price on the goods and the man said, 'I will take them from you for  
the price of each day,' this is not halal because there is  
uncertainty. It might be less one time, and more another time, and  
they would not part with a known sale."  
  
  
Malik said, "If  
someone sells some food without measuring precisely and does not  
exclude any of it from the sale and then it occurs to him to buy some  
of it, it is not good for him to buy any of it except what it would be  
permitted for him to exclude from it. That is a third or less. If it  
is more than a third, it becomes muzabana and is disapproved. He must  
only purchase from what he would be permitted to exclude, and he is  
only permitted to exclude a third or less than that. This is the way  
of doing things in which there is no dispute with us."

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Yahya related to me from Malik that he had heard that Umar ibn  
al-Khattab said, "There is no hoarding in our market, and men who have  
excess gold in their hands should not buy up one of Allah's provisions  
which he has sent to our courtyard and then hoard it up against us.  
Someone who brings imported goods through great fatigue to himself in  
the summer and winter, that person is the guest of Umar. Let him sell  
what Allah wills and keep what Allah wills."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ عُمَرَ بْنَ الْخَطَّابِ، قَالَ لاَ حُكْرَةَ فِي سُوقِنَا لاَ يَعْمِدُ رِجَالٌ بِأَيْدِيهِمْ فُضُولٌ مِنْ أَذْهَابٍ إِلَى رِزْقٍ مِنْ رِزْقِ اللَّهِ نَزَلَ بِسَاحَتِنَا فَيَحْتَكِرُونَهُ عَلَيْنَا وَلَكِنْ أَيُّمَا جَالِبٍ جَلَبَ عَلَى عَمُودِ كَبِدِهِ فِي الشِّتَاءِ وَالصَّيْفِ فَذَلِكَ ضَيْفُ عُمَرَ فَلْيَبِعْ كَيْفَ شَاءَ اللَّهُ وَلْيُمْسِكْ كَيْفَ شَاءَ اللَّهُ ‏.‏

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Yahya related to me from Malik from Yunus ibn Yusuf from Said ibn  
al-Musayyab that Umar ibn al-Khattab passed by Hatab ibn Abi Baltaa  
who was underselling some of his raisins in the market. Umar ibn al-  
Khattab said to him, "Either increase the price or leave our market."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يُونُسَ بْنِ يُوسُفَ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ، مَرَّ بِحَاطِبِ بْنِ أَبِي بَلْتَعَةَ وَهُوَ يَبِيعُ زَبِيبًا لَهُ بِالسُّوقِ فَقَالَ لَهُ عُمَرُ بْنُ الْخَطَّابِ إِمَّا أَنْ تَزِيدَ فِي السِّعْرِ وَإِمَّا أَنْ تُرْفَعَ مِنْ سُوقِنَا ‏.‏

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Yahya related to me from Malik that he had heard that Uthman ibn  
Affan forbade hoarding .

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ عُثْمَانَ بْنَ عَفَّانَ، كَانَ يَنْهَى عَنِ الْحُكْرَةِ، ‏.‏

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Yahya related to me from Malik from Salih ibn Kaysan from Hasan  
ibn Muhammad ibn Ali ibn Abi Talib that Ali ibn Abi Talib sold one of  
his camels called Usayfir for 20 camels to be delivered later.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ صَالِحِ بْنِ كَيْسَانَ، عَنْ حَسَنِ بْنِ مُحَمَّدِ بْنِ عَلِيِّ بْنِ أَبِي طَالِبٍ، أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ، بَاعَ جَمَلاً لَهُ يُدْعَى عُصَيْفِيرًا بِعِشْرِينَ بَعِيرًا إِلَى أَجَلٍ ‏.‏

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Yahya related to me from Malik from Nafi that Abdullah ibn Umar  
bought a female riding-camel for four camels and he guaranteed to give  
them in full to the buyer at ar-Rabadha.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ نَافِعٍ، أَنَّ عَبْدَ اللَّهِ بْنَ عُمَرَ، اشْتَرَى رَاحِلَةً بِأَرْبَعَةِ أَبْعِرَةٍ مَضْمُونَةٍ عَلَيْهِ يُوفِيهَا صَاحِبَهَا بِالرَّبَذَةِ ‏.‏

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Yahya related to me that Malik asked Ibn Shihab about selling  
animals, two for one with delayed terms. He said, "There is no harm in  
it."  
  
  
Malik said, "The generally agreed on way of doing things  
among us is that there is no harm in bartering a camel for a camel  
like it and adding some dirhams to the exchange, from hand to hand.  
There is no harm in bartering a camel for a camel like it with some  
dirhams on top of the exchange, the camels to be exchanged from hand  
to hand, and the dirhams to be paid within a period." He said, "There  
is no good however in bartering a camel for a camel like it with some  
dirhams on top of it, with the dirhams paid in cash and the camel to  
be delivered later. If both the camel and the dirhams are deferred  
there is no good in that either."  
  
  
Malik said, "There is no  
harm in buying a riding camel with two or more pack-camels, if they  
are from inferior stock. There is no harm in bartering two of them for  
one with delayed terms, if they are different and their difference is  
clear. If they resemble each other whether their species are different  
or not, two are not to be taken for one with delayed terms."  
  
  
Malik said, "The explanation of what is disapproved of in that, is  
that a camel should not be bought with two camels when there is no  
distinction between them in speed or hardiness. If this is according  
to what I have described to you, then one does not buy two of them for  
one with delayed terms. There is no harm in selling those of them you  
buy before you complete the deal to somebody other than the one from  
whom you bought them if you get the price in cash."  
  
  
Malik  
said, "It is permitted for someone to advance something on animals for  
a fixed term and describe the amount and pay its price in cash.  
Whatever the buyer and seller have described is obliged for them. That  
is still permitted behaviour between people and what the people of  
knowledge in our land do."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ سَأَلَ ابْنَ شِهَابٍ عَنْ بَيْعٍ الْحَيَوَانِ، اثْنَيْنِ بِوَاحِدٍ إِلَى أَجَلٍ فَقَالَ لاَ بَأْسَ بِذَلِكَ ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا أَنَّهُ لاَ بَأْسَ بِالْجَمَلِ بِالْجَمَلِ مِثْلِهِ وَزِيَادَةِ دَرَاهِمَ يَدًا بِيَدٍ وَلاَ بَأْسَ بِالْجَمَلِ بِالْجَمَلِ مِثْلِهِ وَزِيَادَةِ دَرَاهِمَ الْجَمَلُ بِالْجَمَلِ يَدًا بِيَدٍ وَالدَّرَاهِمُ إِلَى أَجَلٍ ‏.‏ قَالَ وَلاَ خَيْرَ فِي الْجَمَلِ بِالْجَمَلِ مِثْلِهِ وَزِيَادَةِ دَرَاهِمَ الدَّرَاهِمُ نَقْدًا وَالْجَمَلُ إِلَى أَجَلٍ وَإِنْ أَخَّرْتَ الْجَمَلَ وَالدَّرَاهِمَ لاَ خَيْرَ فِي ذَلِكَ أَيْضًا ‏.‏ قَالَ مَالِكٌ وَلاَ بَأْسَ أَنْ يَبْتَاعَ الْبَعِيرَ النَّجِيبَ بِالْبَعِيرَيْنِ أَوْ بِالأَبْعِرَةِ مِنَ الْحَمُولَةِ مِنْ مَاشِيَةِ الإِبِلِ وَإِنْ كَانَتْ مِنْ نَعَمٍ وَاحِدَةٍ فَلاَ بَأْسَ أَنْ يُشْتَرَى مِنْهَا اثْنَانِ بِوَاحِدٍ إِلَى أَجَلٍ إِذَا اخْتَلَفَتْ فَبَانَ اخْتِلاَفُهَا وَإِنْ أَشْبَهَ بَعْضُهَا بَعْضًا وَاخْتَلَفَتْ أَجْنَاسُهَا أَوْ لَمْ تَخْتَلِفْ فَلاَ يُؤْخَذُ مِنْهَا اثْنَانِ بِوَاحِدٍ إِلَى أَجَلٍ ‏.‏ قَالَ مَالِكٌ وَتَفْسِيرُ مَا كُرِهَ مِنْ ذَلِكَ أَنْ يُؤْخَذَ الْبَعِيرُ بِالْبَعِيرَيْنِ لَيْسَ بَيْنَهُمَا تَفَاضُلٌ فِي نَجَابَةٍ وَلاَ رِحْلَةٍ فَإِذَا كَانَ هَذَا عَلَى مَا وَصَفْتُ لَكَ فَلاَ يُشْتَرَى مِنْهُ اثْنَانِ بِوَاحِدٍ إِلَى أَجَلٍ وَلاَ بَأْسَ أَنْ تَبِيعَ مَا اشْتَرَيْتَ مِنْهَا قَبْلَ أَنْ تَسْتَوْفِيَهُ مِنْ غَيْرِ الَّذِي اشْتَرَيْتَهُ مِنْهُ إِذَا انْتَقَدْتَ ثَمَنَهُ ‏.‏ قَالَ مَالِكٌ وَمَنْ سَلَّفَ فِي شَىْءٍ مِنَ الْحَيَوَانِ إِلَى أَجَلٍ مُسَمًّى فَوَصَفَهُ وَحَلاَّهُ وَنَقَدَ ثَمَنَهُ فَذَلِكَ جَائِزٌ وَهُوَ لاَزِمٌ لِلْبَائِعِ وَالْمُبْتَاعِ عَلَى مَا وَصَفَا وَحَلَّيَا وَلَمْ يَزَلْ ذَلِكَ مِنْ عَمَلِ النَّاسِ الْجَائِزِ بَيْنَهُمْ وَالَّذِي لَمْ يَزَلْ عَلَيْهِ أَهْلُ الْعِلْمِ بِبَلَدِنَا ‏.‏

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Yahya related to me from Malih from Nafi from Abdullah ibn Umar  
that the Messenger of Allah, may Allah bless him and grant him peace,  
forbade the transaction called habal alhabala. It was a transaction  
which the people of Jahiliya practised. A man would buy the unborn  
offspring of the unborn offspring of a she-camel.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنْ بَيْعِ حَبَلِ الْحَبَلَةِ ‏.‏ وَكَانَ بَيْعًا يَتَبَايَعُهُ أَهْلُ الْجَاهِلِيَّةِ كَانَ الرَّجُلُ يَبْتَاعُ الْجَزُورَ إِلَى أَنْ تُنْتَجَ النَّاقَةُ ‏.‏ ثُمَّ تُنْتَجَ الَّتِي فِي بَطْنِهَا ‏.‏

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Yahya related to me from Malik from Ibn Shihab that Said ibn al-  
Musayyab said, "There is no usury in animals. There are three things  
forbidden in animals:al-madamin, al-malaqih and habal al-habala. Al-  
madamin is the sale of what is in the wombs of female camels. Al-  
malaqih is the sale of the breeding qualities of camels" (i.e. for  
stud).  
  
  
Malik said, "No one should buy a specified animal when  
it is concealed from him or in another place, even if he has already  
seen it, very recently or not so recently, and was pleased enough with  
it to pay its price in cash."  
  
  
Malik said, "That is  
disapproved of because the seller makes use of the price and it is not  
known whether or not those goods are found to be as the buyer saw them  
or not. For that reason, it is disapproved of. There is no harm in it  
if it is described and guaranteed."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّهُ قَالَ لاَ رِبًا فِي الْحَيَوَانِ وَإِنَّمَا نُهِيَ مِنَ الْحَيَوَانِ عَنْ ثَلاَثَةٍ عَنِ الْمَضَامِينِ وَالْمَلاَقِيحِ وَحَبَلِ الْحَبَلَةِ ‏.‏ وَالْمَضَامِينُ بَيْعُ مَا فِي بُطُونِ إِنَاثِ الإِبِلِ وَالْمَلاَقِيحُ بَيْعُ مَا فِي ظُهُورِ الْجِمَالِ ‏.‏ قَالَ مَالِكٌ لاَ يَنْبَغِي أَنْ يَشْتَرِيَ أَحَدٌ شَيْئًا مِنَ الْحَيَوَانِ بِعَيْنِهِ إِذَا كَانَ غَائِبًا عَنْهُ وَإِنْ كَانَ قَدْ رَآهُ وَرَضِيَهُ عَلَى أَنْ يَنْقُدَ ثَمَنَهُ لاَ قَرِيبًا وَلاَ بَعِيدًا ‏.‏ قَالَ مَالِكٌ وَإِنَّمَا كُرِهَ ذَلِكَ لأَنَّ الْبَائِعَ يَنْتَفِعُ بِالثَّمَنِ وَلاَ يُدْرَى هَلْ تُوجَدُ تِلْكَ السِّلْعَةُ عَلَى مَا رَآهَا الْمُبْتَاعُ أَمْ لاَ فَلِذَلِكَ كُرِهَ ذَلِكَ وَلاَ بَأْسَ بِهِ إِذَا كَانَ مَضْمُونًا مَوْصُوفًا ‏.‏

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Yahya related to me from Malik from Zayd ibn Aslam from Said ibn  
al-Musayyab that the Messenger of Allah, may Allah bless him and grant  
him peace, forbade bartering live animals for meat.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ زَيْدِ بْنِ أَسْلَمَ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّ رَسُولَ اللَّهِ

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Yahya related to me from Malik from Da'ud ibn al-Husayn that he  
heard Said ibn alMusayyab say, "Part of the gambling of the people of  
Jahiliya was bartering live animals for slaughtered meat, for instance  
one live sheep for two slaughtered sheep."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ دَاوُدَ بْنِ الْحُصَيْنِ، أَنَّهُ سَمِعَ سَعِيدَ بْنَ الْمُسَيَّبِ، يَقُولُ مِنْ مَيْسِرِ أَهْلِ الْجَاهِلِيَّةِ بَيْعُ الْحَيَوَانِ بِاللَّحْمِ بِالشَّاةِ وَالشَّاتَيْنِ ‏.‏

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Yahya related to me from Malik from Abu'z-Zinad that Said ibn al-  
Musayyab said, "Bartering live animals for dead meat is forbidden."  
Abu'z-Zinad said, "I said to Said ibn Musayyab, 'What do you think of  
a man buying an old camel for 10 sheep?' " Said said, "If he buys it  
to slaughter it, there is no good in it." Abu'z-Zinad added, "All the  
people (i.e. companions) that I have seen forbade bartering live  
animals for meat."  
  
  
Abu'z-Zinad said, "This used to be written  
in the appointment letters of governors in the time of Aban ibn Uthman  
and Hisham ibn Ismail."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ أَبِي الزِّنَادِ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّهُ كَانَ يَقُولُ نُهِيَ عَنْ بَيْعِ الْحَيَوَانِ، بِاللَّحْمِ ‏.‏ قَالَ أَبُو الزِّنَادِ فَقُلْتُ لِسَعِيدِ بْنِ الْمُسَيَّبِ أَرَأَيْتَ رَجُلاً اشْتَرَى شَارِفًا بِعَشَرَةِ شِيَاهٍ فَقَالَ سَعِيدٌ إِنْ كَانَ اشْتَرَاهَا لِيَنْحَرَهَا فَلاَ خَيْرَ فِي ذَلِكَ ‏.‏ قَالَ أَبُو الزِّنَادِ وَكُلُّ مَنْ أَدْرَكْتُ مِنَ النَّاسِ يَنْهَوْنَ عَنْ بَيْعِ الْحَيَوَانِ بِاللَّحْمِ ‏.‏ قَالَ أَبُو الزِّنَادِ وَكَانَ ذَلِكَ يُكْتَبُ فِي عُهُودِ الْعُمَّالِ فِي زَمَانِ أَبَانَ بْنِ عُثْمَانَ وَهِشَامِ بْنِ إِسْمَاعِيلَ يَنْهَوْنَ عَنْ ذَلِكَ ‏.‏

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Malik said, "It is the generally agreed on way of doing things  
among us that the meat of camels, cattle, sheep and so on is not to be  
bartered one for one, except like for like, weight for weight, from  
hand to hand. There is no harm in that. If it is not weighed, then it  
is estimated to be like for like from hand to hand."  
  
  
Malik  
said, "There is no harm in bartering the meat of fish for the meat of  
camels, cattle, and sheep and so on two or more for one, from hand to  
hand. If delayed terms enter the transaction however, there is no good  
in it."  
  
  
Malik said, "I think that poultry is different from  
the meat of cattle and fish. I see no harm in selling some of it for  
something different, more of one than another, from hand to hand. None  
of that is to be sold on delayed terms."

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Yahya related to me from Malik from Ibn Shihab from Abu Bakr ibn  
Abd ar-Rahman ibn al-Harith ibn Hisham from Abu Masud al-Ansari that  
the Messenger of Allah, may Allah bless him and grant him peace,  
forbade the sale price of a dog, the earnings of a prostitute and the  
earnings of a fortune teller.  
  
  
By the earnings of a prostitute  
he meant what a woman was given for fornication. The earnings of a  
fortune teller were what he was given to tell a fortune.  
  
  
Malik said, "I disapprove of the price of a dog, whether it is a  
hunting dog or otherwise because the Messenger of Allah, may Allah  
bless him and grant him peace, forbade the price of a dog."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ أَبِي بَكْرِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ الْحَارِثِ بْنِ هِشَامٍ، عَنْ أَبِي مَسْعُودٍ الأَنْصَارِيِّ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنْ ثَمَنِ الْكَلْبِ وَمَهْرِ الْبَغِيِّ وَحُلْوَانِ الْكَاهِنِ ‏.‏ يَعْنِي بِمَهْرِ الْبَغِيِّ مَا تُعْطَاهُ الْمَرْأَةُ عَلَى الزِّنَا وَحُلْوَانُ الْكَاهِنِ رَشْوَتُهُ وَمَا يُعْطَى عَلَى أَنْ يَتَكَهَّنَ ‏.‏

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Yahya related to me from Malik that he had heard that the  
Messenger of Allah, may Allah bless him and grant him peace, forbade  
'selling and lending.'  
  
  
Malik said, "The explanation of what  
that meant is that one man says to another, 'I will take your goods  
for such-and-such if you lend me such-and-such.' If they agree to a  
transaction in this manner, it is not permitted. If the one who  
stipulates the loan abandons his stipulation, then the sale is  
permitted."  
  
  
Malik said, "There is no harm in exchanging linen  
from Shata, for garments from Itribi, or Qass, or Ziqa. Or the cloth  
of Herat or Merv for Yemeni cloaks and shawls and such like as one for  
two or three, from hand to hand or with delayed terms. If the goods  
are of the same kind, and deferment enters into the transaction, there  
is no good in it."  
  
  
Malik said, "It is not good unless they  
are different, and the difference between them is clear. When they  
resemble each other, even if the names are different, do not take two  
for one with delayed terms, for instance two garments of Herat for one  
from Merv or Quhy with delayed terms, ortwo garments of Furqub for one  
from Shata. All these sorts are of the same description, so do not buy  
two for one, on delayed terms."  
  
  
Malik said, "There is no harm  
in selling what you buy of things of this nature, before you complete  
the deal, to some one other than the person from whom you purchased  
them if the price was paid in cash."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنْ بَيْعٍ وَسَلَفٍ ‏.‏ قَالَ مَالِكٌ وَتَفْسِيرُ ذَلِكَ أَنْ يَقُولَ الرَّجُلُ لِلرَّجُلِ آخُذُ سِلْعَتَكَ بِكَذَا وَكَذَا عَلَى أَنْ تُسْلِفَنِي كَذَا وَكَذَا ‏.‏ فَإِنْ عَقَدَا بَيْعَهُمَا عَلَى هَذَا فَهُوَ غَيْرُ جَائِزٍ فَإِنْ تَرَكَ الَّذِي اشْتَرَطَ السَّلَفَ مَا اشْتَرَطَ مِنْهُ كَانَ ذَلِكَ الْبَيْعُ جَائِزًا ‏.‏ قَالَ مَالِكٌ وَلاَ بَأْسَ أَنْ يُشْتَرَى الثَّوْبُ مِنَ الْكَتَّانِ أَوِ الشَّطَوِيِّ أَوِ الْقَصَبِيِّ بِالأَثْوَابِ مِنَ الإِتْرِيبِيِّ أَوِ الْقَسِّيِّ أَوِ الزِّيقَةِ أَوِ الثَّوْبِ الْهَرَوِيِّ أَوِ الْمَرْوِيِّ بِالْمَلاَحِفِ الْيَمَانِيَّةِ وَالشَّقَائِقِ وَمَا أَشْبَهَ ذَلِكَ الْوَاحِدُ بِالاِثْنَيْنِ أَوِ الثَّلاَثَةِ يَدًا بِيَدٍ أَوْ إِلَى أَجَلٍ وَإِنْ كَانَ مِنْ صِنْفٍ وَاحِدٍ فَإِنْ دَخَلَ ذَلِكَ نَسِيئَةٌ فَلاَ خَيْرَ فِيهِ ‏.‏ قَالَ مَالِكٌ وَلاَ يَصْلُحُ حَتَّى يَخْتَلِفَ فَيَبِينَ اخْتِلاَفُهُ فَإِذَا أَشْبَهَ بَعْضُ ذَلِكَ بَعْضًا وَإِنِ اخْتَلَفَتْ أَسْمَاؤُهُ فَلاَ يَأْخُذْ مِنْهُ اثْنَيْنِ بِوَاحِدٍ إِلَى أَجَلٍ وَذَلِكَ أَنْ يَأْخُذَ الثَّوْبَيْنِ مِنَ الْهَرَوِيِّ بِالثَّوْبِ مِنَ الْمَرْوِيِّ أَوِ الْقُوهِيِّ إِلَى أَجَلٍ أَوْ يَأْخُذَ الثَّوْبَيْنِ مِنَ الْفُرْقُبِيِّ بِالثَّوْبِ مِنَ الشَّطَوِيِّ فَإِذَا كَانَتْ هَذِهِ الأَجْنَاسُ عَلَى هَذِهِ الصِّفَةِ فَلاَ يُشْتَرَى مِنْهَا اثْنَانِ بِوَاحِدٍ إِلَى أَجَلٍ ‏.‏ قَالَ مَالِكٌ وَلاَ بَأْسَ أَنْ تَبِيعَ مَا اشْتَرَيْتَ مِنْهَا قَبْلَ أَنْ تَسْتَوْفِيَهُ مِنْ غَيْرِ صَاحِبِهِ الَّذِي اشْتَرَيْتَهُ مِنْهُ إِذَا انْتَقَدْتَ ثَمَنَهُ ‏.‏

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Yahya related to me from Malik from Yahya ibn Said that al-Qasim  
ibn Muhammad said, ''I heard Abdullah ibn Abbas say, when a man asked  
him about a man making an advance on some garments and then wanting to  
sell them back before taking possession of them, 'That is silver for  
silver,' and he disapproved of it."  
  
  
Malik said, "Our opinion  
is - and Allah knows best that was because he wanted to sell them to  
the person from whom he had bought them for more than the price for  
which he bought them. Had he sold them to some one other than the  
person from whom he had purchased them, there would not have been any  
harm in it."  
  
  
Malik said, "The generally agreed on way of  
doing things among us concerning making an advance for slaves, cattle  
or goods is that when all of what is to be sold is described and an  
advance is made for them for a date, and the date falls due, the buyer  
does not sell any of that to the person from whom he has purchased it  
for more than the price which he advanced for it before he has taken  
full possession of what he has advanced for. It is usury if he does.  
If the buyer gives the seller dinars or dirhams and he profits with  
them, then, when the goods come to the buyer and he does not take them  
into his possession but sells them back to their owner for more than  
what he advanced for them, the outcome is that what he has advanced  
has returned to him and has been increased for him."  
  
  
Malik  
said, "If someone advances gold or silver for described animals or  
goods which are to be delivered before a named date, and the date  
arrives, or it is before or after the date, there is no harm in the  
buyer selling those goods to the seller, for other goods, to be taken  
immediately and not delayed, no matter how extensive the amount of  
those goods is, except in the case of food because it is not halal to  
sell it before he has full possession of it. The buyer can sell those  
goods to some one other than the person from whom he purchased them  
for gold or silver or any goods. He takes possession of it and does  
not defer it because if he defers it, that is ugly and there enters  
into the transaction what is disapproved of:delay for delay. Delay  
for delay is to sell a debt against one man for a debt against another  
man."  
  
  
Malik said, "If someone advances for goods to be  
delivered after a time, and those goods are neither something to be  
eaten nor drunk, he can sell them to whomever he likes for cash or  
goods, before he takes delivery of them, to some one other than the  
person from whom he purchased them. He must not sell them to the  
person from whom he bought them except in exchange for goods which he  
takes possession of immediately and does not defer."  
  
  
Malik  
said, "If the delivery date for the goods has not arrived, there is no  
harm in selling them to the original owner for goods which are clearly  
different and which he takes immediate possession of and does not  
defer."  
  
  
Malik spoke about the case of a man who advanced  
dinars or dirhams for four specified pieces of cloth to be delivered  
before a specified time and when the term fell due, he demanded  
delivery from the seller and the seller did not have them. He found  
that the seller had cloth but inferior quality, and the seller said  
that he would give him eight of those cloths. Malik said, "There is no  
harm in that if he takes the cloths which he offers him before they  
separate. It is not good if delayed terms enter into the transaction.  
It is also not good if that is before the end of the term, unless he  
sells him cloth which is notthetypeof cloth for which he made an  
advance.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، أَنَّهُ قَالَ سَمِعْتُ عَبْدَ اللَّهِ بْنَ عَبَّاسٍ، وَرَجُلٌ، يَسْأَلُهُ عَنْ رَجُلٍ، سَلَّفَ فِي سَبَائِبَ فَأَرَادَ بَيْعَهَا قَبْلَ أَنْ يَقْبِضَهَا فَقَالَ ابْنُ عَبَّاسٍ تِلْكَ الْوَرِقُ بِالْوَرِقِ ‏.‏ وَكَرِهَ ذَلِكَ ‏.‏ قَالَ مَالِكٌ وَذَلِكَ فِيمَا نُرَى وَاللَّهُ أَعْلَمُ أَنَّهُ أَرَادَ أَنْ يَبِيعَهَا مِنْ صَاحِبِهَا الَّذِي اشْتَرَاهَا مِنْهُ بِأَكْثَرَ مِنَ الثَّمَنِ الَّذِي ابْتَاعَهَا بِهِ وَلَوْ أَنَّهُ بَاعَهَا مِنْ غَيْرِ الَّذِي اشْتَرَاهَا مِنْهُ لَمْ يَكُنْ بِذَلِكَ بَأْسٌ ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا فِيمَنْ سَلَّفَ فِي رَقِيقٍ أَوْ مَاشِيَةٍ أَوْ عُرُوضٍ فَإِذَا كَانَ كُلُّ شَىْءٍ مِنْ ذَلِكَ مَوْصُوفًا فَسَلَّفَ فِيهِ إِلَى أَجَلٍ فَحَلَّ الأَجَلُ فَإِنَّ الْمُشْتَرِيَ لاَ يَبِيعُ شَيْئًا مِنْ ذَلِكَ مِنَ الَّذِي اشْتَرَاهُ مِنْهُ بِأَكْثَرَ مِنَ الثَّمَنِ الَّذِي سَلَّفَهُ فِيهِ قَبْلَ أَنْ يَقْبِضَ مَا سَلَّفَهُ فِيهِ وَذَلِكَ أَنَّهُ إِذَا فَعَلَهُ فَهُوَ الرِّبَا صَارَ الْمُشْتَرِي إِنْ أَعْطَى الَّذِي بَاعَهُ دَنَانِيرَ أَوْ دَرَاهِمَ فَانْتَفَعَ بِهَا فَلَمَّا حَلَّتْ عَلَيْهِ السِّلْعَةُ وَلَمْ يَقْبِضْهَا الْمُشْتَرِي بَاعَهَا مِنْ صَاحِبِهَا بِأَكْثَرَ مِمَّا سَلَّفَهُ فِيهَا فَصَارَ أَنْ رَدَّ إِلَيْهِ مَا سَلَّفَهُ وَزَادَهُ مِنْ عِنْدِهِ ‏.‏ قَالَ مَالِكٌ مَنْ سَلَّفَ ذَهَبًا أَوْ وَرِقًا فِي حَيَوَانٍ أَوْ عُرُوضٍ إِذَا كَانَ مَوْصُوفًا إِلَى أَجَلٍ مُسَمًّى ثُمَّ حَلَّ الأَجَلُ فَإِنَّهُ لاَ بَأْسَ أَنْ يَبِيعَ الْمُشْتَرِي تِلْكَ السِّلْعَةَ مِنَ الْبَائِعِ قَبْلَ أَنْ يَحِلَّ الأَجَلُ أَوْ بَعْدَ مَا يَحِلُّ بِعَرْضٍ مِنَ الْعُرُوضِ يُعَجِّلُهُ وَلاَ يُؤَخِّرُهُ بَالِغًا مَا بَلَغَ ذَلِكَ الْعَرْضُ إِلاَّ الطَّعَامَ فَإِنَّهُ لاَ يَحِلُّ أَنْ يَبِيعَهُ حَتَّى يَقْبِضَهُ وَلِلْمُشْتَرِي أَنْ يَبِيعَ تِلْكَ السِّلْعَةَ مِنْ غَيْرِ صَاحِبِهِ الَّذِي ابْتَاعَهَا مِنْهُ بِذَهَبٍ أَوْ وَرِقٍ أَوْ عَرْضٍ مِنَ الْعُرُوضِ يَقْبِضُ ذَلِكَ وَلاَ يُؤَخِّرُهُ لأَنَّهُ إِذَا أَخَّرَ ذَلِكَ قَبُحَ وَدَخَلَهُ مَا يُكْرَهُ مِنَ الْكَالِئِ بِالْكَالِئِ وَالْكَالِئُ بِالْكَالِئِ أَنْ يَبِيعَ الرَّجُلُ دَيْنًا لَهُ عَلَى رَجُلٍ بِدَيْنٍ عَلَى رَجُلٍ آخَرَ ‏.‏ قَالَ مَالِكٌ وَمَنْ سَلَّفَ فِي سِلْعَةٍ إِلَى أَجَلٍ وَتِلْكَ السِّلْعَةُ مِمَّا لاَ يُؤْكَلُ وَلاَ يُشْرَبُ فَإِنَّ الْمُشْتَرِيَ يَبِيعُهَا مِمَّنْ شَاءَ بِنَقْدٍ أَوْ عَرْضٍ قَبْلَ أَنْ يَسْتَوْفِيَهَا مِنْ غَيْرِ صَاحِبِهَا الَّذِي اشْتَرَاهَا مِنْهُ وَلاَ يَنْبَغِي لَهُ أَنْ يَبِيعَهَا مِنَ الَّذِي ابْتَاعَهَا مِنْهُ إِلاَّ بِعَرْضٍ يَقْبِضُهُ وَلاَ يُؤَخِّرُهُ ‏.‏ قَالَ مَالِكٌ وَإِنْ كَانَتِ السِّلْعَةُ لَمْ تَحِلَّ فَلاَ بَأْسَ بِأَنْ يَبِيعَهَا مِنْ صَاحِبِهَا بِعَرْضٍ مُخَالِفٍ لَهَا بَيِّنٍ خِلاَفُهُ يَقْبِضُهُ وَلاَ يُؤَخِّرُهُ ‏.‏ قَالَ مَالِكٌ فِيمَنْ سَلَّفَ دَنَانِيرَ أَوْ دَرَاهِمَ فِي أَرْبَعَةِ أَثْوَابٍ مَوْصُوفَةٍ إِلَى أَجَلٍ فَلَمَّا حَلَّ الأَجَلُ تَقَاضَى صَاحِبَهَا فَلَمْ يَجِدْهَا عِنْدَهُ وَوَجَدَ عِنْدَهُ ثِيَابًا دُونَهَا مِنْ صِنْفِهَا فَقَالَ لَهُ الَّذِي عَلَيْهِ الأَثْوَابُ أُعْطِيكَ بِهَا ثَمَانِيَةَ أَثْوَابٍ مِنْ ثِيَابِي هَذِهِ ‏.‏ إِنَّهُ لاَ بَأْسَ بِذَلِكَ إِذَا أَخَذَ تِلْكَ الأَثْوَابَ الَّتِي يُعْطِيهِ قَبْلَ أَنْ يَفْتَرِقَا فَإِنْ دَخَلَ ذَلِكَ الأَجَلُ فَإِنَّهُ لاَ يَصْلُحُ وَإِنْ كَانَ ذَلِكَ قَبْلَ مَحِلِّ الأَجَلِ فَإِنَّهُ لاَ يَصْلُحُ أَيْضًا إِلاَّ أَنْ يَبِيعَهُ ثِيَابًا لَيْسَتْ مِنْ صِنْفِ الثِّيَابِ الَّتِي سَلَّفَهُ فِيهَا ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 70Arabic reference : Book 31, Hadith 1361Report Error | Share | Copy ▼

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Malik said, "The generally agreed on way of doing things among us  
about whatever is weighed but is not gold or silver, i.e. copper,  
brass, lead, black lead, iron, herbs, figs, cotton, and any such  
things that are weighed, is that there is no harm in bartering all  
those sorts of things two for one, hand to hand. There is no harm in  
taking a ritl of iron for two ritls of iron, and a ritl of brass for  
two ritls of brass."  
  
  
Malik said, "There is no good in two for  
one of one sort with delayed terms. There is no harm in taking two of  
one sort for one of another on delayed terms, if the two sorts are  
clearly different. If both sorts resemble each other but their names  
are different, like lead and black lead, brass and yellow brass, I  
disapprove of taking two of one sort for one of the other on delayed  
terms."  
  
  
Malik said, "When buying something of this nature,  
there is no harm in selling It beforetaking possession of it to some  
one other than the person from whom it was purchased, if the price is  
taken immediately and if it was bought originally by measure or  
weight. If it was bought without measuring, it should be sold to  
someone other than the person from whom it was bought, for cash or  
with delayed terms. That is because goods have to be guaranteed when  
they are bought without measuring, and they cannot be guaranteed when  
bought by weight until they are weighed and the deal is completed.  
This is the best of what I have heard about all these things. It is  
what people continue to do among us."  
  
  
Malik said, "The way of  
doing things among us with what is measured or weighed of things which  
are not eaten or drunk, like safflower, date-stones, fodder leaves,  
indigo dye and the like of that is that there is no harm in bartering  
all those sort of things two for one, hand to hand. Do not take two  
for one from the same variety with delayed terms. If the types are  
clearly different, there is no harm in taking two of one for one of  
the other with delayed terms. There is no harm in selling whatever is  
purchased of all these sorts, before taking delivery of them if the  
price is taken from someone other than the person from whom they were  
purchased."  
  
  
Malik said, "Anything of any variety that profits  
people, like gravel and gypsum, one quantity of them for two of its  
like with delayed terms is usury. One quantity of both of them for its  
equal plus any increase with delayed terms, is usury."

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Yahya related to me from Malik that he had heard that the  
Messenger of Allah, may Allah bless him and grant him peace, forbade  
two sales in one sale.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ ‏.‏ أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنْ بَيْعَتَيْنِ فِي بَيْعَةٍ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 72Arabic reference : Book 31, Hadith 1362Report Error | Share | Copy ▼

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Yahya related to me from Malik that he had heard that a man said  
to another, "Buy this camel for me immediately so that I can buy him  
from you on credit." Abdullah ibn Umar was asked about that and he  
disapproved of it and forbade it.

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ رَجُلاً، قَالَ لِرَجُلٍ ابْتَعْ لِي هَذَا الْبَعِيرَ بِنَقْدٍ حَتَّى أَبْتَاعَهُ مِنْكَ إِلَى أَجَلٍ فَسُئِلَ عَنْ ذَلِكَ عَبْدُ اللَّهِ بْنُ عُمَرَ فَكَرِهَهُ وَنَهَى عَنْهُ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 73Arabic reference : Book 31, Hadith 1363Report Error | Share | Copy ▼

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Yahya related to me from Malik that he had heard that al-Qasim  
ibn Muhammad was asked about a man who bought goods for 10 dinars cash  
or fifteen dinars on credit. He disapproved of that and forbade it.  
  
  
Malik said that if a man bought goods from a man for either  
10 dinars or 15 dinars on credit, that one of the two prices was  
obliged on the buyer. It was not to be done because if he postponed  
paying the ten, it would be 15 on credit, and if he paid the ten, he  
would buy with it what was worth fifteen dinars on credit.  
  
  
Malik said that it was disapproved of for a man to buy goods from  
someone for either a dinar cash or for a described sheep on credit and  
that one of the two prices was obliged on him. It was not to be done  
because the Messenger of Allah, may Allah bless him and grant him  
peace, forbade two sales in one sale. This was part of two sales in  
the one sale.  
  
  
Malik spoke about a man saying to another, "'I  
will either buy these fifteen sa of ajwa dates from you, or these ten  
sa of sayhani dates or I will buy these fifteen sa of inferior wheat  
or these ten sa of Syrian wheat for a dinar, and one of them is  
obliged to me.' Malik said that it was disapproved of and was not  
halal. That was because he obliged him ten sa of sayhani, and left  
them and took fifteen sa of ajwa, or he was obliged fifteen sa of  
inferior wheat and left them and took ten sa of Syrian wheat. This was  
also disapproved of, and was not halal. It resembled what was  
prohibited in the way of two sales in one sale. It was also included  
under the prohibition against buying two for one of the same sort of  
food."

وَحَدَّثَنِي مَالِكٌ، أَنَّهُ بَلَغَهُ أَنَّ الْقَاسِمَ بْنَ مُحَمَّدٍ، سُئِلَ عَنْ رَجُلٍ، اشْتَرَى سِلْعَةً بِعَشَرَةِ دَنَانِيرَ نَقْدًا أَوْ بِخَمْسَةَ عَشَرَ دِينَارًا إِلَى أَجَلٍ فَكَرِهَ ذَلِكَ وَنَهَى عَنْهُ ‏.‏ قَالَ مَالِكٌ فِي رَجُلٍ ابْتَاعَ سِلْعَةً مِنْ رَجُلٍ بِعَشَرَةِ دَنَانِيرَ نَقْدًا أَوْ بِخَمْسَةَ عَشَرَ دِينَارًا إِلَى أَجَلٍ قَدْ وَجَبَتْ لِلْمُشْتَرِي بِأَحَدِ الثَّمَنَيْنِ إِنَّهُ لاَ يَنْبَغِي ذَلِكَ لأَنَّهُ إِنْ أَخَّرَ الْعَشَرَةَ كَانَتْ خَمْسَةَ عَشَرَ إِلَى أَجَلٍ وَإِنْ نَقَدَ الْعَشَرَةَ كَانَ إِنَّمَا اشْتَرَى بِهَا الْخَمْسَةَ عَشَرَ الَّتِي إِلَى أَجَلٍ ‏.‏ قَالَ مَالِكٌ فِي رَجُلٍ اشْتَرَى مِنْ رَجُلٍ سِلْعَةً بِدِينَارٍ نَقْدًا أَوْ بِشَاةٍ مَوْصُوفَةٍ إِلَى أَجَلٍ قَدْ وَجَبَ عَلَيْهِ بِأَحَدِ الثَّمَنَيْنِ إِنَّ ذَلِكَ مَكْرُوهٌ لاَ يَنْبَغِي لأَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَدْ نَهَى عَنْ بَيْعَتَيْنِ فِي بَيْعَةٍ وَهَذَا مِنْ بَيْعَتَيْنِ فِي بَيْعَةٍ ‏.‏ قَالَ مَالِكٌ فِي رَجُلٍ قَالَ لِرَجُلٍ أَشْتَرِي مِنْكَ هَذِهِ الْعَجْوَةَ خَمْسَةَ عَشَرَ صَاعًا أَوِ الصَّيْحَانِيَّ عَشَرَةَ أَصْوُعٍ أَوِ الْحِنْطَةَ الْمَحْمُولَةَ خَمْسَةَ عَشَرَ صَاعًا أَوِ الشَّامِيَّةَ عَشَرَةَ أَصْوُعٍ بِدِينَارٍ قَدْ وَجَبَتْ لِي إِحْدَاهُمَا إِنَّ ذَلِكَ مَكْرُوهٌ لاَ يَحِلُّ وَذَلِكَ أَنَّهُ قَدْ أَوْجَبَ لَهُ عَشَرَةَ أَصْوُعٍ صَيْحَانِيًّا فَهُوَ يَدَعُهَا وَيَأْخُذُ خَمْسَةَ عَشَرَ صَاعًا مِنَ الْعَجْوَةِ أَوْ تَجِبُ عَلَيْهِ خَمْسَةَ عَشَرَ صَاعًا مِنَ الْحِنْطَةِ الْمَحْمُولَةِ فَيَدَعُهَا وَيَأْخُذُ عَشَرَةَ أَصْوُعٍ مِنَ الشَّامِيَّةِ فَهَذَا أَيْضًا مَكْرُوهٌ لاَ يَحِلُّ وَهُوَ أَيْضًا يُشْبِهُ مَا نُهِيَ عَنْهُ مِنْ بَيْعَتَيْنِ فِي بَيْعَةٍ وَهُوَ أَيْضًا مِمَّا نُهِيَ عَنْهُ أَنْ يُبَاعَ مِنْ صِنْفٍ وَاحِدٍ مِنَ الطَّعَامِ اثْنَانِ بِوَاحِدٍ ‏.‏

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Yahya related to me from Malik from Abu Hazim ibn Dinar from Said  
ibn al-Musayyab that the Messenger of Allah, may Allah bless him and  
grant him peace, forbade the sale with uncertainty in it.  
  
  
Malik said, "An example of one type of uncertain transaction and risk  
is that a man intends the price of a stray animal or escaped slave to  
be fifty dinars. A man says, 'I will take him from you for twenty  
dinars.' If the buyer finds him, thirty dinars goes from the seller,  
and if he does not find him, the seller takes twenty dinars from the  
buyer."  
  
  
Malik said, "There is another fault in that. If that  
stray is found, it is not known whether it will have increased or  
decreased in value or what defects may have befallen it. This  
transaction is greatly uncertain and risky."  
  
  
Malik said,  
"According to our way of doing things, one kind of uncertain  
transaction and risk is selling what is in the wombs of females -  
women and animals - because it is not known whether or not it will  
come out, and if it does come out, it is not known whether it will be  
beautiful or ugly, normal or disabled, male or female. All that is  
disparate. If it has that, its price is such-and-such, and if it has  
this, its price is such-and-such."  
  
  
Malik said, "Females must  
not be sold with what is in their wombs excluded. That is that, for  
instance, a man says to another, 'The price of my sheep which has much  
milk is three dinars. She is yours for two dinars while I will have  
her future offspring.' This is disapproved because it is an uncertain  
transaction and a risk."  
  
  
Malik said, "It is not halal to sell  
olives for olive oil or sesame for sesame oil, or butter for ghee  
because muzabana comes into that, because the person who buys the raw  
product for something specified which comes from it, does not know  
whether more or less will come out of that, so it is an uncertain  
transaction and a risk."  
  
  
Malik said, "A similar case is the  
selling of ben-nuts for ben-nut oil. This is an uncertain transaction  
because what comes from the ben-nut is ben-oil. There is no harm in  
selling ben-nuts for perfumed ben because perfumed ben has been  
perfumed, mixed and changed from the state of raw ben-nut oil."  
  
  
Malik, speaking about a man who sold goods to a man on the  
provision that there was to be no loss for the buyer, (i.e. if the  
buyer could not re-sell the goods they could go back to the seller),  
said, "This transaction is not permitted and it is part of risk. The  
explanation of why it is so, is that it is as if the seller hired the  
buyer for the profit if the goods make a profit. If he sells the stock  
at a loss, he has nothing, and his efforts are not compensated. This  
is not good. In such a transaction, the buyer should have a wage  
according to the work that he has contributed. Whatever there is of  
loss or profit in those goods is for and against the seller. This is  
only when the goods are gone and sold. If they do not go, the  
transaction between them is null and void."  
  
  
Malik said, "As  
for a man who buys goods from a man and he concludes the sale and then  
the buyer regrets and asks to have the price reduced and the seller  
refuses and says, 'Sell it and I will compensate you for any loss.'  
There is no harm in this because there is no risk. It is something he  
proposes to him, and their transaction was not based on that. That is  
what is done among us."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ أَبِي حَازِمِ بْنِ دِينَارٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنْ بَيْعِ الْغَرَرِ ‏.‏ قَالَ مَالِكٌ وَمِنَ الْغَرَرِ وَالْمُخَاطَرَةِ أَنْ يَعْمِدَ الرَّجُلُ قَدْ ضَلَّتْ دَابَّتُهُ أَوْ أَبَقَ غُلاَمُهُ وَثَمَنُ الشَّىْءِ مِنْ ذَلِكَ خَمْسُونَ دِينَارًا فَيَقُولُ رَجُلٌ أَنَا آخُذُهُ مِنْكَ بِعِشْرِينَ دِينَارًا ‏.‏ فَإِنْ وَجَدَهُ الْمُبْتَاعُ ذَهَبَ مِنَ الْبَائِعِ ثَلاَثُونَ دِينَارًا وَإِنْ لَمْ يَجِدْهُ ذَهَبَ الْبَائِعُ مِنَ الْمُبْتَاعِ بِعِشْرِينَ دِينَارًا ‏.‏ قَالَ مَالِكٌ وَفِي ذَلِكَ عَيْبٌ آخَرُ إِنَّ تِلْكَ الضَّالَّةَ إِنْ وُجِدَتْ لَمْ يُدْرَ أَزَادَتْ أَمْ نَقَصَتْ أَمْ مَا حَدَثَ بِهَا مِنَ الْعُيُوبِ فَهَذَا أَعْظَمُ الْمُخَاطَرَةِ ‏.‏ قَالَ مَالِكٌ وَالأَمْرُ عِنْدَنَا أَنَّ مِنَ الْمُخَاطَرَةِ وَالْغَرَرِ اشْتِرَاءَ مَا فِي بُطُونِ الإِنَاثِ مِنَ النِّسَاءِ وَالدَّوَابِّ لأَنَّهُ لاَ يُدْرَى أَيَخْرُجُ أَمْ لاَ يَخْرُجُ فَإِنْ خَرَجَ لَمْ يُدْرَ أَيَكُونُ حَسَنًا أَمْ قَبِيحًا أَمْ تَامًّا أَمْ نَاقِصًا أَمْ ذَكَرًا أَمْ أُنْثَى وَذَلِكَ كُلُّهُ يَتَفَاضَلُ إِنْ كَانَ عَلَى كَذَا فَقِيمَتُهُ كَذَا وَإِنْ كَانَ عَلَى كَذَا فَقِيمَتُهُ كَذَا ‏.‏ قَالَ مَالِكٌ وَلاَ يَنْبَغِي بَيْعُ الإِنَاثِ وَاسْتِثْنَاءُ مَا فِي بُطُونِهَا وَذَلِكَ أَنْ يَقُولَ الرَّجُلُ لِلرَّجُلِ ثَمَنُ شَاتِي الْغَزِيرَةِ ثَلاَثَةُ دَنَانِيرَ فَهِيَ لَكَ بِدِينَارَيْنِ وَلِي مَا فِي بَطْنِهَا ‏.‏ فَهَذَا مَكْرُوهٌ لأَنَّهُ غَرَرٌ وَمُخَاطَرَةٌ ‏.‏ قَالَ مَالِكٌ وَلاَ يَحِلُّ بَيْعُ الزَّيْتُونِ بِالزَّيْتِ وَلاَ الْجُلْجُلاَنِ بِدُهْنِ الْجُلْجُلاَنِ وَلاَ الزُّبْدِ بِالسَّمْنِ لأَنَّ الْمُزَابَنَةَ تَدْخُلُهُ وَلأَنَّ الَّذِي يَشْتَرِي الْحَبَّ وَمَا أَشْبَهَهُ بِشَىْءٍ مُسَمًّى مِمَّا يَخْرُجُ مِنْهُ لاَ يَدْرِي أَيَخْرُجُ مِنْهُ أَقَلُّ مِنْ ذَلِكَ أَوْ أَكْثَرُ فَهَذَا غَرَرٌ وَمُخَاطَرَةٌ ‏.‏ قَالَ مَالِكٌ وَمِنْ ذَلِكَ أَيْضًا اشْتِرَاءُ حَبِّ الْبَانِ بِالسَّلِيخَةِ فَذَلِكَ غَرَرٌ لأَنَّ الَّذِي يَخْرُجُ مِنْ حَبِّ الْبَانِ هُوَ السَّلِيخَةُ وَلاَ بَأْسَ بِحَبِّ الْبَانِ بِالْبَانِ الْمُطَيَّبِ لأَنَّ الْبَانَ الْمُطَيَّبَ قَدْ طُيِّبَ وَنُشَّ وَتَحَوَّلَ عَنْ حَالِ السَّلِيخَةِ ‏.‏ قَالَ مَالِكٌ فِي رَجُلٍ بَاعَ سِلْعَةً مِنْ رَجُلٍ عَلَى أَنَّهُ لاَ نُقْصَانَ عَلَى الْمُبْتَاعِ إِنَّ ذَلِكَ بَيْعٌ غَيْرُ جَائِزٍ وَهُوَ مِنَ الْمُخَاطَرَةِ وَتَفْسِيرُ ذَلِكَ أَنَّهُ كَأَنَّهُ اسْتَأْجَرَهُ بِرِبْحٍ إِنْ كَانَ فِي تِلْكَ السِّلْعَةِ وَإِنْ بَاعَ بِرَأْسِ الْمَالِ أَوْ بِنُقْصَانٍ فَلاَ شَىْءَ لَهُ وَذَهَبَ عَنَاؤُهُ بَاطِلاً فَهَذَا لاَ يَصْلُحُ وَلِلْمُبْتَاعِ فِي هَذَا أُجْرَةٌ بِمِقْدَارِ مَا عَالَجَ مِنْ ذَلِكَ وَمَا كَانَ فِي تِلْكَ السِّلْعَةِ مِنْ نُقْصَانٍ أَوْ رِبْحٍ فَهُوَ لِلْبَائِعِ وَعَلَيْهِ وَإِنَّمَا يَكُونُ ذَلِكَ إِذَا فَاتَتِ السِّلْعَةُ وَبِيعَتْ ‏.‏ فَإِنْ لَمْ تَفُتْ فُسِخَ الْبَيْعُ بَيْنَهُمَا ‏.‏ قَالَ مَالِكٌ فَأَمَّا أَنْ يَبِيعَ رَجُلٌ مِنْ رَجُلٍ سِلْعَةً يَبُتُّ بَيْعَهَا ثُمَّ يَنْدَمُ الْمُشْتَرِي فَيَقُولُ لِلْبَائِعِ ضَعْ عَنِّي فَيَأْبَى الْبَائِعُ وَيَقُولُ بِعْ فَلاَ نُقْصَانَ عَلَيْكَ ‏.‏ فَهَذَا لاَ بَأْسَ بِهِ لأَنَّهُ لَيْسَ مِنَ الْمُخَاطَرَةِ وَإِنَّمَا هُوَ شَىْءٌ وَضَعَهُ لَهُ وَلَيْسَ عَلَى ذَلِكَ عَقَدَا بَيْعَهُمَا وَذَلِكَ الَّذِي عَلَيْهِ الأَمْرُ عِنْدَنَا ‏.‏

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Yahya related to me from Malik from Muhammad ibn Yahya ibn Habban  
and from Abu'z-Zinad from al-Araj from Abu Hurayra that the Messenger  
of Allah, may Allah bless him and grant him peace, forbade mulamasa  
and munabadha.  
  
  
Malik said, "Mulamasa is when a man can feel a  
garment but is not allowed to unfold it or examine what is in it, or  
he buys by night and does not know what is in it. Munabadha is that a  
man throws his garment to another, and the other throws his garment  
without either of them making any inspection. Each of them says, 'this  
is for this. 'This is what is forbidden of mulamasa and munabadha."  
  
  
Malik said that selling bundles with a list of their contents  
was different from the sale of the cloak concealed in a bag or the  
cloth folded up and such things. What made it different was that it  
was a common practice and it was what people were familiar with, and  
what people had done in the past, and it was still among the permitted  
transactions and trading of people in which they saw no harm because  
in the sale of bundles with a list of contents without undoing them,  
an uncertain transaction was not intended and it did not resemble  
mulamasa.

حَدَّثَنَا يَحْيَى، عَنْ مَالِكٍ، عَنْ مُحَمَّدِ بْنِ يَحْيَى بْنِ حَبَّانَ، وَعَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنِ الْمُلاَمَسَةِ وَالْمُنَابَذَةِ ‏.‏

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Yahya related to me, that Malik said, "The generally agreed on  
way of doing things among us about a man buying cloth in one city, and  
then taking it to another city to sell as a murabaha, is that he is  
not reckoned to have the wage of an agent, or any allowance for  
ironing, folding, straightening, expenses, or the rent of a house. As  
for the cost of transporting the drapery, it is included in the basic  
price, and no share of the profit is allocated to it unless the agent  
tells all of that to the investor. If they agree to share the profits  
accordingly after knowledge of it, there is no harm in that."  
  
  
Malik said, "As for bleaching, tailoring, dyeing, and such things,  
they are treated in the same way as drapery. The profit is reckoned in  
them as it is reckoned in drapery goods. So if he sells the drapery  
goods without clarifying the things we named as not getting profit,  
and if the drapery has already gone, the transport is to be reckoned,  
but no profit is given. If the drapery goods have not gone the  
transaction between them is null and void unless they make a new  
mutual agreement on what is to be permitted between them ."  
  
  
Malik spoke about an agent who bought goods for gold or silver, and  
the exchange rate on the day of purchase was ten dirhams to the dinar.  
He took them to a city to sell murabaha, or sold them where he  
purchased them according to the exchange rate of the day on which he  
sold them. If he bought them for dirhams and he sold them for dinars,  
or he bought them for dinars and he sold them for dirhams, and the  
goods had not gone then he had a choice. If he wished, he accepted to  
sell the goods and if he wished, he left them. If the goods had been  
sold, he had the price for which the salesman bought them, and the  
salesman was reckoned to have the profit on what they were bought for,  
over what the investor gained as profit.  
  
  
Malik said, "If a  
man sells goods worth one hundred dinars for one hundred and ten, and  
he hears after that they are worth ninety dinars, and the goods have  
gone, the seller has a choice. If he likes, he has the price of the  
goods on the day they were taken from him unless the price is more  
than the price for which he was obliged to sell them in the first  
place, and he does not have more than that - and it is one hundred and  
ten dinars. If he likes, it is counted as profit against ninety unless  
the price his goods reached was less than the value. He is given the  
choice between what his goods fetch and the capital plus the profit,  
which is ninety-nine dinars."  
  
  
Malik said, "If someone sells  
goods in murabaha and he says, 'It was valued at one hundred dinars to  
me.' Then he hears later on, that it was worth one hundred and twenty  
dinars, the customer is given the choice. If he wishes, he gives the  
salesman the value of the goods on the day he took them, and if he  
wishes, he gives the price for which he bought them according to the  
reckoning of what profit he gives him, as far as it goes, unless that  
is less than the price for which he bought them, for he should not  
give the owner of the goods a loss from the price for which he bought  
them because he was satisfied with that. The owner of the goods came  
to seek extra, so the buyer has no argument against the salesman in  
that to make a reduction from the first price for which he bought it  
according to the list of contents."

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Malik spoke about what was done among them in the case of a group  
of people who bought goods, drapery or slaves, and a man heard about  
it and said to one of the group, "I have heard the description and  
situation of the drapery goods you bought from so-and-so. Shall I give  
you such-and-such profit to take over your portion?" This person  
agreed, and the man gave him the profit and became a partner in his  
place. When he looked at the purchase, he saw that it was ugly and  
found it too expensive.  
  
  
Malik said, "It is obliged on him and  
there is no choice in it for him if he bought it according to a list  
of contents and the description was well-known."  
  
  
Malik spoke  
about a man who had drapery goods sent to him, and salesmen came to  
him and he read to them his list of contents and said, "In each bag is  
such-and-such a wrap from Basra and such-and-such a light wrap from  
Sabir. Their size is such-and-such," and he named to them types of  
drapery goods by their sort, and he said, "Buy them from me according  
to this description." They bought the bags according to what he  
described to them, and then they bought them and found them too  
expensive and regretted it. Malik said, "The sale is binding on them,  
if the goods agree with the list of contents on which he sold them."  
  
  
Malik said, "This is the way of doing things which people  
still use today. They permit the sale among them when the goods agree  
with the list of contents and are not different from it. "

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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, "Both parties in a business transaction have the right of  
withdrawal as long as they have not separated, except in the  
transaction called khiyar."  
  
  
Malik said, "There is no  
specified limit nor any matter which is applied in this case according  
to us."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ الْمُتَبَايِعَانِ كُلُّ وَاحِدٍ مِنْهُمَا بِالْخِيَارِ عَلَى صَاحِبِهِ مَا لَمْ يَتَفَرَّقَا إِلاَّ بَيْعَ الْخِيَارِ ‏"‏ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 80Arabic reference : Book 31, Hadith 1367Report Error | Share | Copy ▼

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Malik related to me that he had heard that Abdullah ibn Masud  
used to relate that the Messenger of Allah, may Allah bless him and  
grant him peace, said, "When two parties dispute about a business  
transaction, the seller's word is taken, or they make an agreement  
among themselves.  
  
  
Malik spoke about someone who sold goods to  
a man, and said at the contracting of the sale, 'I will sell to you  
provided I consult so-and-so. If he is satisfied, the sale is  
permitted. If he dislikes it, there is no sale between us.' They made  
the transaction on that basis. Then the buyer regretted before the  
seller consulted the person.  
  
  
Malik said, "That sale is  
binding on them according to what they described. The buyer has no  
right of withdrawal, and it is binding on him, if the person whom the  
seller stipulated to him, permits it."  
  
  
Malik said, "The way  
of doing things among us about a man who buys goods from another and  
they differ about the price, and the seller says, 'I sold them to you  
for ten dinars,' and the buyer says, 'I bought them from you for five  
dinars,' is that it is said to the seller, 'If you like, give them to  
the buyer for what he said. If you like, swear by Allah that you only  
sold your goods for what you said.' If he swears it is said to the  
buyer, 'Either you take the goods for what the seller said, or you  
swear by Allah that you bought them only for what you said.' If he  
swears, he is free to return the goods. That is when each of them  
testifies against the other."

وَحَدَّثَنِي مَالِكٌ، أَنَّهُ بَلَغَهُ أَنَّ عَبْدَ اللَّهِ بْنَ مَسْعُودٍ، كَانَ يُحَدِّثُ أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ أَيُّمَا بَيِّعَيْنِ تَبَايَعَا فَالْقَوْلُ مَا قَالَ الْبَائِعُ أَوْ يَتَرَادَّانِ ‏"‏ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 81Arabic reference : Book 31, Hadith 1368Report Error | Share | Copy ▼

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Yahya related to me from Malik from Abu'z-Zinad from Busr ibn  
Said from Ubayd, Abu Salih, the mawla of as-Saffah that he said, "I  
sold drapery to the people of Dar Nakhla on credit. Then I wanted to  
go to Kufa, so they proposed that I reduce the price for them and they  
would pay me immediately . I asked Zayd ibn Thabit about that, and he  
said, 'I order you not to accept increase or to give to anybody.' "

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ أَبِي الزِّنَادِ، عَنْ بُسْرِ بْنِ سَعِيدٍ، عَنْ عُبَيْدٍ أَبِي صَالِحٍ، مَوْلَى السَّفَّاحِ أَنَّهُ قَالَ بِعْتُ بَزًّا لِي مِنْ أَهْلِ دَارِ نَخْلَةَ إِلَى أَجَلٍ ثُمَّ أَرَدْتُ الْخُرُوجَ إِلَى الْكُوفَةِ فَعَرَضُوا عَلَىَّ أَنْ أَضَعَ عَنْهُمْ بَعْضَ الثَّمَنِ وَيَنْقُدُونِي فَسَأَلْتُ عَنْ ذَلِكَ زَيْدَ بْنَ ثَابِتٍ فَقَالَ لاَ آمُرُكَ أَنْ تَأْكُلَ هَذَا وَلاَ تُوكِلَهُ ‏.‏

USC-MSA web (English) reference : Book 31, Hadith 82Arabic reference : Book 31, Hadith 1369Report Error | Share | Copy ▼

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Yahya related to me from Malik from Uthman ibn Hafs ibn Khalda  
from Ibn Shihab from Salim ibn Abdullah that Abdullah ibn Umar was  
asked about a man who took a loan from another man for a set term. The  
creditor reduced the debt, and the man paid it immediately Abdullah  
ibn Umar disliked that, and forbade it.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ عُثْمَانَ بْنِ حَفْصِ بْنِ خَلْدَةَ، عَنِ ابْنِ شِهَابٍ، عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّهُ سُئِلَ عَنِ الرَّجُلِ، يَكُونُ لَهُ الدَّيْنُ عَلَى الرَّجُلِ إِلَى أَجَلٍ فَيَضَعُ عَنْهُ صَاحِبُ الْحَقِّ وَيُعَجِّلُهُ الآخَرُ فَكَرِهَ ذَلِكَ عَبْدُ اللَّهِ بْنُ عُمَرَ وَنَهَى عَنْهُ ‏.‏

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Malik related to me that Zayd ibn Aslam said, "Usury in the  
Jahiliyya was that a man would give a loan to a man for a set term.  
When the term was due, he would say, 'Will you pay it off or increase  
me?' If the man paid, he took it. If not, he increased him in his debt  
and lengthened the term for him ."  
  
  
Malik said, "The  
disapproved of way of doing things about which there is no dispute  
among us, is that a man should give a loan to a man for a term, and  
then the demander reduce it and the one from whom it is demanded pay  
it in advance. To us that is like someone who delays repaying his debt  
after it is due to his creditor and his creditor increases his debt."  
Malik said, "This is nothing else but usury. No doubt about it."  
  
  
Malik spoke about a man who loaned one hundred dinars to a man for  
two terms. When it was due, the person who owed the debt said to him,  
"Sell me some goods, whose price is one hundred dinars in cash for one  
hundred and fifty on credit." Malik said, "This transaction is not  
good, and the people of knowledge still forbid it."  
  
  
Malik  
said, "This is disapproved of because the creditor himself gives the  
debtor the price of what the man sells him, and he defers repayment of  
the hundred of the first transaction for the debtor for the term which  
is mentioned to him in the second transaction, and the debtor  
increases him with fifty dinars for his deferring him. That is  
disapproved of and it is not good. It also resembles the hadith of  
Zayd ibn Aslam about the transactions of the people of the Jahiliyya.  
When their debts were due, they said to the person with the debt,  
'Either you pay in full or you increase it.' If they paid, they took  
it, and if not they increased debtors in their debts, and extended the  
term for them."

وَحَدَّثَنِي مَالِكٌ، عَنْ زَيْدِ بْنِ أَسْلَمَ، أَنَّهُ قَالَ كَانَ الرِّبَا فِي الْجَاهِلِيَّةِ أَنْ يَكُونَ لِلرَّجُلِ عَلَى الرَّجُلِ الْحَقُّ إِلَى أَجَلٍ فَإِذَا حَلَّ الأَجَلُ قَالَ أَتَقْضِي أَمْ تُرْبِي فَإِنْ قَضَى أَخَذَ وَإِلاَّ زَادَهُ فِي حَقِّهِ وَأَخَّرَ عَنْهُ فِي الأَجَلِ ‏.‏ قَالَ مَالِكٌ وَالأَمْرُ الْمَكْرُوهُ الَّذِي لاَ اخْتِلاَفَ فِيهِ عِنْدَنَا أَنْ يَكُونَ لِلرَّجُلِ عَلَى الرَّجُلِ الدَّيْنُ إِلَى أَجَلٍ فَيَضَعُ عَنْهُ الطَّالِبُ وَيُعَجِّلُهُ الْمَطْلُوبُ وَذَلِكَ عِنْدَنَا بِمَنْزِلَةِ الَّذِي يُؤَخِّرُ دَيْنَهُ بَعْدَ مَحِلِّهِ عَنْ غَرِيمِهِ وَيَزِيدُهُ الْغَرِيمُ فِي حَقِّهِ قَالَ فَهَذَا الرِّبَا بِعَيْنِهِ لاَ شَكَّ فِيهِ ‏.‏ قَالَ مَالِكٌ فِي الرَّجُلِ يَكُونُ لَهُ عَلَى الرَّجُلِ مِائَةُ دِينَارٍ إِلَى أَجَلٍ فَإِذَا حَلَّتْ قَالَ لَهُ الَّذِي عَلَيْهِ الدَّيْنُ بِعْنِي سِلْعَةً يَكُونُ ثَمَنُهَا مِائَةَ دِينَارٍ نَقْدًا بِمِائَةٍ وَخَمْسِينَ إِلَى أَجَلٍ هَذَا بَيْعٌ لاَ يَصْلُحُ وَلَمْ يَزَلْ أَهْلُ الْعِلْمِ يَنْهَوْنَ عَنْهُ ‏.‏ قَالَ مَالِكٌ وَإِنَّمَا كُرِهَ ذَلِكَ لأَنَّهُ إِنَّمَا يُعْطِيهِ ثَمَنَ مَا بَاعَهُ بِعَيْنِهِ وَيُؤَخِّرُ عَنْهُ الْمِائَةَ الأُولَى إِلَى الأَجَلِ الَّذِي ذَكَرَ لَهُ آخِرَ مَرَّةٍ وَيَزْدَادُ عَلَيْهِ خَمْسِينَ دِينَارًا فِي تَأْخِيرِهِ عَنْهُ فَهَذَا مَكْرُوهٌ وَلاَ يَصْلُحُ وَهُوَ أَيْضًا يُشْبِهُ حَدِيثَ زَيْدِ بْنِ أَسْلَمَ فِي بَيْعِ أَهْلِ الْجَاهِلِيَّةِ إِنَّهُمْ كَانُوا إِذَا حَلَّتْ دُيُونُهُمْ قَالُوا لِلَّذِي عَلَيْهِ الدَّيْنُ إِمَّا أَنْ تَقْضِيَ وَإِمَّا أَنْ تُرْبِيَ ‏.‏ فَإِنْ قَضَى أَخَذُوا وَإِلاَّ زَادُوهُمْ فِي حُقُوقِهِمْ وَزَادُوهُمْ فِي الأَجَلِ ‏.‏

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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, "Delay in payment by a rich man is injustice, but  
when one of you is referred for payment to a wealthy man, let him be  
referred."

حَدَّثَنَا يَحْيَى، عَنْ مَالِكٍ، عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ مَطْلُ الْغَنِيِّ ظُلْمٌ وَإِذَا أُتْبِعَ أَحَدُكُمْ عَلَى مَلِيءٍ فَلْيَتْبَعْ ‏"‏ ‏.‏

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86 Malik related to me from Musa ibn Maysara that he heard a man  
ask Said ibn al-Musayyab, "I am a man who sells for a debt." Said  
said, "Do not sell except for what you take to your camel."  
  
  
Malik spoke about a person who bought goods from a man provided that  
he provide him with those goods by a specific date, either in time for  
a market in which he hoped for their saleability, or to fulfil a need  
at the time he stipulated. Then the seller failed him about the date,  
and the buyer wanted to return those goods to the seller. Malik said,  
"The buyer cannot do that, and the sale is binding on him. If the  
seller does bring the goods before the completion of the term, the  
buyer cannot be forced to take them."  
  
  
Malik spoke about a  
person who bought food and measured it. Then some one came to him to  
buy it and he told him that he had measured it for himself and taken  
it in full. The new buyer wanted to trust him and accept his measure.  
Malik said, "Whatever is sold in this way for cash has no harm in it  
but whatever is sold in this way on delayed terms is disapproved of  
until the new buyer measures it out for himself. The sale with delayed  
terms is disapproved of because it leads to usury and it is feared  
that it will be circulated in this way without weight or measure. If  
the terms are delayed it is disapproved of and there is no  
disagreement about that with us."  
  
  
Malik said, "One should not  
buy a debt owed by a man whether present or absent, without the  
confirmation of the one who owes the debt, nor should one buy a debt  
owed to a man by a dead person even if one knows what the deceased man  
has left. That is because to buy that is an uncertain transaction and  
one does not know whether the transaction will be completed or not  
completed."  
  
  
He said, "The explanation of what is disapproved  
of in buying a debt owed by someone absent or dead, is that it is not  
known what unknown debtor may be connected to the dead person. If the  
dead person is liable for another debt, the price which the buyer gave  
on strength of the debt may become worthless."  
  
  
Malik said,  
"There is another fault in that as well. He is buying something which  
is not guaranteed for him, and so if the deal is not completed, what  
he paid becomes worthless. This is an uncertain transaction and it is  
not good."  
  
  
Malik said, "One distinguishes between a man who  
is only selling what he actually has and a man who is being paid in  
advance for something which is not yet in his possession. The man  
advancing the money brings his gold which he intends to buy with. The  
seller says, 'This is 10 dinars. What do you want me to buy for you  
with it?' It is as if he sold 10 dinars cash for 15 dinars to be paid  
later. Because of this, it is disapproved of. It is something leading  
to usury and fraud."

وَحَدَّثَنِي مَالِكٌ، عَنْ مُوسَى بْنِ مَيْسَرَةَ، أَنَّهُ سَمِعَ رَجُلاً، يَسْأَلُ سَعِيدَ بْنَ الْمُسَيَّبِ فَقَالَ إِنِّي رَجُلٌ أَبِيعُ بِالدَّيْنِ ‏.‏ فَقَالَ سَعِيدٌ لاَ تَبِعْ إِلاَّ مَا آوَيْتَ إِلَى رَحْلِكَ ‏.‏ قَالَ مَالِكٌ فِي الَّذِي يَشْتَرِي السِّلْعَةَ مِنَ الرَّجُلِ عَلَى أَنْ يُوَفِّيَهُ تِلْكَ السِّلْعَةَ إِلَى أَجَلٍ مُسَمًّى إِمَّا لِسُوقٍ يَرْجُو نَفَاقَهَا فِيهِ وَإِمَّا لِحَاجَةٍ فِي ذَلِكَ الزَّمَانِ الَّذِي اشْتَرَطَ عَلَيْهِ ثُمَّ يُخْلِفُهُ الْبَائِعُ عَنْ ذَلِكَ الأَجَلِ فَيُرِيدُ الْمُشْتَرِي رَدَّ تِلْكَ السِّلْعَةِ عَلَى الْبَائِعِ إِنَّ ذَلِكَ لَيْسَ لِلْمُشْتَرِي وَإِنَّ الْبَيْعَ لاَزِمٌ لَهُ وَإِنَّ الْبَائِعَ لَوْ جَاءَ بِتِلْكَ السِّلْعَةِ قَبْلَ مَحِلِّ الأَجَلِ لَمْ يُكْرَهِ الْمُشْتَرِي عَلَى أَخْذِهَا ‏.‏ قَالَ مَالِكٌ فِي الَّذِي يَشْتَرِي الطَّعَامَ فَيَكْتَالُهُ ثُمَّ يَأْتِيهِ مَنْ يَشْتَرِيهِ مِنْهُ فَيُخْبِرُ الَّذِي يَأْتِيهِ أَنَّهُ قَدِ اكْتَالَهُ لِنَفْسِهِ وَاسْتَوْفَاهُ فَيُرِيدُ الْمُبْتَاعُ أَنْ يُصَدِّقَهُ وَيَأْخُذَهُ بِكَيْلِهِ إِنَّ مَا بِيعَ عَلَى هَذِهِ الصِّفَةِ بِنَقْدٍ فَلاَ بَأْسَ بِهِ وَمَا بِيعَ عَلَى هَذِهِ الصِّفَةِ إِلَى أَجَلٍ فَإِنَّهُ مَكْرُوهٌ حَتَّى يَكْتَالَهُ الْمُشْتَرِي الآخَرُ لِنَفْسِهِ وَإِنَّمَا كُرِهَ الَّذِي إِلَى أَجَلٍ لأَنَّهُ ذَرِيعَةٌ إِلَى الرِّبَا وَتَخَوُّفٌ أَنْ يُدَارَ ذَلِكَ عَلَى هَذَا الْوَجْهِ بِغَيْرِ كَيْلٍ وَلاَ وَزْنٍ فَإِنْ كَانَ إِلَى أَجَلٍ فَهُوَ مَكْرُوهٌ وَلاَ اخْتِلاَفَ فِيهِ عِنْدَنَا ‏.‏ قَالَ مَالِكٌ لاَ يَنْبَغِي أَنْ يُشْتَرَى دَيْنٌ عَلَى رَجُلٍ غَائِبٍ وَلاَ حَاضِرٍ إِلاَّ بِإِقْرَارٍ مِنَ الَّذِي عَلَيْهِ الدَّيْنُ وَلاَ عَلَى مَيِّتٍ وَإِنْ عَلِمَ الَّذِي تَرَكَ الْمَيِّتُ وَذَلِكَ أَنَّ اشْتِرَاءَ ذَلِكَ غَرَرٌ لاَ يُدْرَى أَيَتِمُّ أَمْ لاَ يَتِمُّ ‏.‏ قَالَ وَتَفْسِيرُ مَا كُرِهَ مِنْ ذَلِكَ أَنَّهُ إِذَا اشْتَرَى دَيْنًا عَلَى غَائِبٍ أَوْ مَيِّتٍ أَنَّهُ لاَ يُدْرَى مَا يَلْحَقُ الْمَيِّتَ مِنَ الدَّيْنِ الَّذِي لَمْ يُعْلَمْ بِهِ فَإِنْ لَحِقَ الْمَيِّتَ دَيْنٌ ذَهَبَ الثَّمَنُ الَّذِي أَعْطَى الْمُبْتَاعُ بَاطِلاً ‏.‏ قَالَ مَالِكٌ وَفِي ذَلِكَ أَيْضًا عَيْبٌ آخَرُ أَنَّهُ اشْتَرَى شَيْئًا لَيْسَ بِمَضْمُونٍ لَهُ وَإِنْ لَمْ يَتِمَّ ذَهَبَ ثَمَنُهُ بَاطِلاً فَهَذَا غَرَرٌ لاَ يَصْلُحُ ‏.‏ قَالَ مَالِكٌ وَإِنَّمَا فُرِقَ بَيْنَ أَنْ لاَ يَبِيعَ الرَّجُلُ إِلاَّ مَا عِنْدَهُ وَأَنْ يُسَلِّفَ الرَّجُلُ فِي شَىْءٍ لَيْسَ عِنْدَهُ أَصْلُهُ أَنَّ صَاحِبَ الْعِينَةِ إِنَّمَا يَحْمِلُ ذَهَبَهُ الَّتِي يُرِيدُ أَنْ يَبْتَاعَ بِهَا فَيَقُولُ هَذِهِ عَشَرَةُ دَنَانِيرَ فَمَا تُرِيدُ أَنْ أَشْتَرِيَ لَكَ بِهَا فَكَأَنَّهُ يَبِيعُ عَشَرَةَ دَنَانِيرَ نَقْدًا بِخَمْسَةَ عَشَرَ دِينَارًا إِلَى أَجَلٍ فَلِهَذَا كُرِهَ هَذَا وَإِنَّمَا تِلْكَ الدُّخْلَةُ وَالدُّلْسَةُ ‏.‏

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Malik said there was no harm if a man who sold some drapery and  
excluded some garments by their markings, stipulated that he chose the  
marked ones from that. If he did not stipulate that he would choose  
from them when he made the exclusion, I think that he is partner in  
the number of drapery goods which were purchased from him. That is  
because two garments can be alike in marking and be greatly different  
in price.  
  
  
Malik said, "The way of doing things among us is  
that there is no harm in partnership, transferring responsibility to  
an agent, and revocation when dealing with food and other things,  
whether or not possession was taken, when the transaction is with  
cash, and there is no profit, loss, or deferment of price in it. If  
profit or loss or deferment of price from one of the two enters any of  
these transactions, it becomes sale which is made halal by what makes  
sale halal, and made haram by what makes sale haram, and it is not  
partnership, transferring responsibility to an agent, or revocation."  
  
  
Malik spoke about some one who bought drapery goods or  
slaves, and the sale was concluded, then a man asked him to be his  
partner and he agreed and the new partner paid the whole price to the  
seller and then something happened to the goods which removed them  
from their possession. Malik said, "The new partner takes the price  
from the original partner and the original partner demands from the  
seller the whole price unless the original partner stipulated on the  
new partner during the sale and before the transaction with the seller  
was completed that the seller was responsible to him. If the  
transaction has ended and the seller has gone, the pre-condition of  
the original partner is void, and he has the responsibility."  
  
  
Malik spoke about a man who asked another man to buy certain goods to  
share between them, and he wanted the other man to pay for him and he  
would sell the goods for the other man. Malik said, "That is not good.  
When he says, 'Pay for me and I will sell it for you,' it becomes a  
loan which he makes to him in order that he sell it for him and if  
those goods are destroyed, or pass, the man who paid the price will  
demand from his partner what he put in for him. This is part of the  
advance which brings in profit."  
  
  
Malik said, "If a man buys  
goods, and they are settled for him, and then a man says to him,  
'Share half of these goods with me, and I will sell them all for you,'  
that is halal, there is no harm in it. The explanation of that is that  
this is a new sale and he sells him half of the goods provided that he  
sells the whole lot."

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Yahya related to me from Malik from Ibn Shihab from Abu Bakr ibn  
Abd ar-Rahman ibn al-Harith ibn Hisham that the Messenger of Allah,  
may Allah bless him and grant him peace, said, "Whenever a man sells  
wares and then the buyer becomes bankrupt and the seller has not taken  
any of the price and he finds some of his property intact with the  
buyer, he is more entitled to it than anyone else. If the buyer dies,  
then the seller is the same as other creditors with respect to it."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ أَبِي بَكْرِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ الْحَارِثِ بْنِ هِشَامٍ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ أَيُّمَا رَجُلٍ بَاعَ مَتَاعًا فَأَفْلَسَ الَّذِي ابْتَاعَهُ مِنْهُ وَلَمْ يَقْبِضِ الَّذِي بَاعَهُ مِنْ ثَمَنِهِ شَيْئًا فَوَجَدَهُ بِعَيْنِهِ فَهُوَ أَحَقُّ بِهِ وَإِنْ مَاتَ الَّذِي ابْتَاعَهُ فَصَاحِبُ الْمَتَاعِ فِيهِ أُسْوَةُ الْغُرَمَاءِ ‏"‏ ‏.‏

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Malik related to me from Yahya ibn Said from Abu Bakr ibn  
Muhammad ibn Amr ibn Hazm from Umar ibn Abdal-Aziz from Abu Bakr ibn  
Abd ar-Rahman ibn al-Harith ibn Hisham from Abu Hurayra that the  
Messenger of Allah, may Allah bless him and grant him peace, said, "If  
anyone goes bankrupt, and a man finds his own property intact with  
him, he is more entitled to it than anyone else."  
  
  
Malik spoke  
about a man who sold a man wares, and the buyer went bankrupt. He  
said, "The seller takes whatever of his goods he finds. If the buyer  
has sold some of them and distributed them, the seller of the wares is  
more entitled to them than the creditors. What the buyer has  
distributed does not prevent the seller from taking whatever of it he  
finds. It is the seller's right if he has received any of the price  
from the buyer and he wants to return it to take what he finds of his  
wares, and in what he does not find, he is like the creditors."  
  
  
Malik spoke about some one who bought spun wool or a plot of land,  
and then did some work on it, like building a house on the plot of  
land or weaving the spun wool into cloth. Then he went bankrupt after  
he had bought it, and the original owner of the plot said, "I will  
take the plot and whatever structure is on it." Malik said, "That  
structure is not his. However, the plot and what is in it that the  
buyer has improved is appraised. Then one sees what the price of the  
plot is and how much of that value is the price of the structure. They  
are partners in that. The owner of the plot has as much as his  
portion, and the creditors have the amount of the portion of the  
structure."  
  
  
Malik said, "The explanation of that is that the  
value of it all is fifteen hundred dirhams. The value of the plot is  
five hundred dirhams, and the value of the building is one thousand  
dirhams. The owner of the plot has a third, and the creditors have  
two-thirds."  
  
  
Malik said, "It is like that with spinning and  
other things of the same nature in these circumstances and the buyer  
has a debt which he cannot pay. This is the behaviour in such cases."  
  
  
Malik said, "As for goods which have been sold and which the  
buyer does not improve, but those goods sell well and have gone up in  
price, so their owner wants them and the creditors also want to seize  
them, then the creditors choose between giving the owner of the goods  
the price for which he sold them and not giving him any loss and  
surrendering his goods to him.  
  
  
"If the price of the goods has  
gone down, the one who sold them has a choice. If he likes, he can  
take his goods and he has no claim to any of his debtor's property,  
and that is his right. If he likes, he can be one of the creditors and  
take a portion of his due and not take his goods. That is up to him."  
  
  
Malik said about someone who bought a slave-girl or animal  
and she gave birth in his possession and the buyer went bankrupt, "The  
slave-girl or the animal and the offspring belong to the seller unless  
the creditors desire it. In that case they give him his complete due  
and they take it."

وَحَدَّثَنِي مَالِكٌ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ أَبِي بَكْرِ بْنِ مُحَمَّدِ بْنِ عَمْرِو بْنِ حَزْمٍ، عَنْ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ، عَنْ أَبِي بَكْرِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ الْحَارِثِ بْنِ هِشَامٍ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ أَيُّمَا رَجُلٍ أَفْلَسَ فَأَدْرَكَ الرَّجُلُ مَالَهُ بِعَيْنِهِ فَهُوَ أَحَقُّ بِهِ مِنْ غَيْرِهِ ‏"‏ ‏.‏

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Yahya related to me from Malik from Zayd ibn Aslam from Ata ibn  
Yasar that Abu Rafi, the mawla of the Messenger of Allah, may Allah  
bless him and grant him peace, said, "The Messenger of Allah, may  
Allah bless him and grant him peace, borrowed a young camel and then  
the camels of sadaqa came to him." Abu Rafi said, "He ordered me to  
repay the man his young camel. I said, 'I can only find a good camel  
in its seventh year in the camels.' The Messenger of Allah, may Allah  
bless him and grant him peace, said, 'Give it to him. The best of  
people are those who discharge their debts in the best manner.' "

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ زَيْدِ بْنِ أَسْلَمَ، عَنْ عَطَاءِ بْنِ يَسَارٍ، عَنْ أَبِي رَافِعٍ، مَوْلَى رَسُولِ اللَّهِ صلى الله عليه وسلم أَنَّهُ قَالَ اسْتَسْلَفَ رَسُولُ اللَّهِ صلى الله عليه وسلم بَكْرًا فَجَاءَتْهُ إِبِلٌ مِنَ الصَّدَقَةِ قَالَ أَبُو رَافِعٍ فَأَمَرَنِي رَسُولُ اللَّهِ صلى الله عليه وسلم أَنْ أَقْضِيَ الرَّجُلَ بَكْرَهُ فَقُلْتُ لَمْ أَجِدْ فِي الإِبِلِ إِلاَّ جَمَلاً خِيَارًا رَبَاعِيًا ‏.‏ فَقَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏  
"‏ أَعْطِهِ إِيَّاهُ فَإِنَّ خِيَارَ النَّاسِ أَحْسَنُهُمْ قَضَاءً ‏"‏ ‏.‏

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Malik related to me from Humayd ibn Qays al-Makki that Mujahid  
said, "Abdullah ibn Umar borrowed some dirhams from a man, then he  
discharged his debt with dirhams better than them. The man said, 'Abu  
Abdar-Rahman. These are better than the dirhams which I lent you.'  
Abdullah ibn Umar said, 'I know that. But I am happy with myself about  
that.' "  
  
  
Malik said, "There is no harm in a person who has  
borrowed gold, silver, food, or animals, taking to the person who lent  
it, something better than what he lent, when that is not a stipulation  
between them nor a custom. If that is by a stipulation or promise or  
custom, then it is disapproved, and there is no good in it."  
  
  
He said, "That is because the Messenger of Allah, may Allah bless him  
and grant him peace, discharged his debt with a good camel in its  
seventh year in place of a young camel which he borrowed, and Abdullah  
ibn Umar borrowed some dirhams, and repaid them with better ones. If  
that is from the goodness of the borrower, and it is not by a  
stipulation, promise, or custom, it is halal and there is no harm in  
it."

وَحَدَّثَنِي مَالِكٌ، عَنْ حُمَيْدِ بْنِ قَيْسٍ الْمَكِّيِّ، عَنْ مُجَاهِدٍ، أَنَّهُ قَالَ اسْتَسْلَفَ عَبْدُ اللَّهِ بْنُ عُمَرَ مِنْ رَجُلٍ دَرَاهِمَ ثُمَّ قَضَاهُ دَرَاهِمَ خَيْرًا مِنْهَا فَقَالَ الرَّجُلُ يَا أَبَا عَبْدِ الرَّحْمَنِ هَذِهِ خَيْرٌ مِنْ دَرَاهِمِي الَّتِي أَسْلَفْتُكَ ‏.‏ فَقَالَ عَبْدُ اللَّهِ بْنُ عُمَرَ قَدْ عَلِمْتُ وَلَكِنْ نَفْسِي بِذَلِكَ طَيِّبَةٌ ‏.‏ قَالَ مَالِكٌ لاَ بَأْسَ بِأَنْ يُقْبِضَ مَنْ أُسْلِفَ شَيْئًا مِنَ الذَّهَبِ أَوِ الْوَرِقِ أَوِ الطَّعَامِ أَوِ الْحَيَوَانِ مِمَّنْ أَسْلَفَهُ ذَلِكَ أَفْضَلَ مِمَّا أَسْلَفَهُ إِذَا لَمْ يَكُنْ ذَلِكَ عَلَى شَرْطٍ مِنْهُمَا أَوْ عَادَةٍ فَإِنْ كَانَ ذَلِكَ عَلَى شَرْطٍ أَوْ وَأْىٍ أَوْ عَادَةٍ فَذَلِكَ مَكْرُوهٌ وَلاَ خَيْرَ فِيهِ ‏.‏ قَالَ وَذَلِكَ أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَضَى جَمَلاً رَبَاعِيًا خِيَارًا مَكَانَ بَكْرٍ اسْتَسْلَفَهُ وَأَنَّ عَبْدَ اللَّهِ بْنَ عُمَرَ اسْتَسْلَفَ دَرَاهِمَ فَقَضَى خَيْرًا مِنْهَا فَإِنْ كَانَ ذَلِكَ عَلَى طِيبِ نَفْسٍ مِنَ الْمُسْتَسْلِفِ وَلَمْ يَكُنْ ذَلِكَ عَلَى شَرْطٍ وَلاَ وَأْىٍ وَلاَ عَادَةٍ كَانَ ذَلِكَ حَلاَلاً لاَ بَأْسَ بِهِ ‏.‏

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Yahya related to me from Malik that he had heard that Umar ibn  
al-Khattab said that he disapproved of one man lending another food on  
the provision that he gave it back to him in another city. He said,  
"Where is the transport?"

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ عُمَرَ بْنَ الْخَطَّابِ، قَالَ فِي رَجُلٍ أَسْلَفَ رَجُلاً طَعَامًا عَلَى أَنْ يُعْطِيَهُ إِيَّاهُ فِي بَلَدٍ آخَرَ فَكَرِهَ ذَلِكَ عُمَرُ بْنُ الْخَطَّابِ وَقَالَ فَأَيْنَ الْحَمْلُ يَعْنِي حُمْلاَنَهُ ‏.‏

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And Malik related to me that he had heard that a man came to  
Abdullah ibn Umar and said, "Abu Abd ar-Rahman, I gave a man a loan  
and stipulated that he give me better than what I lent him." Abdullah  
ibn Umar said, "That is usury." Abdullah said, "Loans are of three  
types:A free loan which you lend by which you desire the pleasure of  
Allah, and so you have the pleasure of Allah. A free loan which you  
lend by which you desire the pleasure of your companion, so you have  
the pleasure of your companion, and a free loan which you lend by  
which you take what is impure by what is pure, and that is usury." He  
said, "What do you order me to do, Abu Abd ar-Rahman?" He said, "I  
think that you should tear up the agreement. If he gives you the like  
of what you lent him, accept it. If he gives you less than what you  
lent him, take it and you will be rewarded. If he gives you better  
than what you lent him, of his own good will, that is his gratitude to  
you and you have the wage of the period you gave him the loan."

وَحَدَّثَنِي مَالِكٌ، أَنَّهُ بَلَغَهُ أَنَّ رَجُلاً، أَتَى عَبْدَ اللَّهِ بْنَ عُمَرَ فَقَالَ يَا أَبَا عَبْدِ الرَّحْمَنِ إِنِّي أَسْلَفْتُ رَجُلاً سَلَفًا وَاشْتَرَطْتُ عَلَيْهِ أَفْضَلَ مِمَّا أَسْلَفْتُهُ ‏.‏ فَقَالَ عَبْدُ اللَّهِ بْنُ عُمَرَ فَذَلِكَ الرِّبَا ‏.‏ قَالَ فَكَيْفَ تَأْمُرُنِي يَا أَبَا عَبْدِ الرَّحْمَنِ فَقَالَ عَبْدُ اللَّهِ السَّلَفُ عَلَى ثَلاَثَةِ وُجُوهٍ سَلَفٌ تُسْلِفُهُ تُرِيدُ بِهِ وَجْهَ اللَّهِ فَلَكَ وَجْهُ اللَّهِ وَسَلَفٌ تُسْلِفُهُ تُرِيدُ بِهِ وَجْهَ صَاحِبِكَ فَلَكَ وَجْهُ صَاحِبِكَ وَسَلَفٌ تُسْلِفُهُ لِتَأْخُذَ خَبِيثًا بِطَيِّبٍ فَذَلِكَ الرِّبَا ‏.‏ قَالَ فَكَيْفَ تَأْمُرُنِي يَا أَبَا عَبْدِ الرَّحْمَنِ قَالَ أَرَى أَنْ تَشُقَّ الصَّحِيفَةَ فَإِنْ أَعْطَاكَ مِثْلَ الَّذِي أَسْلَفْتَهُ قَبِلْتَهُ وَإِنْ أَعْطَاكَ دُونَ الَّذِي أَسْلَفْتَهُ فَأَخَذْتَهُ أُجِرْتَ وَإِنْ أَعْطَاكَ أَفْضَلَ مِمَّا أَسْلَفْتَهُ طَيِّبَةً بِهِ نَفْسُهُ فَذَلِكَ شُكْرٌ شَكَرَهُ لَكَ وَلَكَ أَجْرُ مَا أَنْظَرْتَهُ ‏.‏

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Yahya related to me from Malik from Nafi that he heard Abdullah  
ibn Umar say, "If someone lends something, let the only condition be  
that it is repaid."

وَحَدَّثَنِي مَالِكٌ، عَنْ نَافِعٍ، أَنَّهُ سَمِعَ عَبْدَ اللَّهِ بْنَ عُمَرَ، يَقُولُ مَنْ أَسْلَفَ سَلَفًا فَلاَ يَشْتَرِطْ إِلاَّ قَضَاءَهُ ‏.‏

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Malik related to me that he had heard that Abdullah ibn Masud  
used to say, "If someone makes a loan, they should not stipulate  
better than it. Even if it is a handful of grass, it is usury."  
  
  
Malik said, "The generally agreed on way of doing things among us  
is that there is no harm in borrowing any animals with a set  
description and itemisation, and one must return the like of them.  
This is not done in the case of female slaves. It is feared about that  
that it will lead to making halal what is not halal, so it is not  
good. The explanation of what is disapproved of in that, is that a man  
borrow a slave-girl and have intercourse with her as seems proper to  
him. Then he returns her to her owner. That is not good and it is not  
halal. The people of knowledge still forbid it and do not give an  
indulgence to any one in it."

وَحَدَّثَنِي مَالِكٌ، أَنَّهُ بَلَغَهُ أَنَّ عَبْدَ اللَّهِ بْنَ مَسْعُودٍ، كَانَ يَقُولُ مَنْ أَسْلَفَ سَلَفًا فَلاَ يَشْتَرِطْ أَفْضَلَ مِنْهُ وَإِنْ كَانَتْ قَبْضَةً مِنْ عَلَفٍ فَهُوَ رِبًا ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا أَنَّ مَنِ اسْتَسْلَفَ شَيْئًا مِنَ الْحَيَوَانِ بِصِفَةٍ وَتَحْلِيَةٍ مَعْلُومَةٍ فَإِنَّهُ لاَ بَأْسَ بِذَلِكَ وَعَلَيْهِ أَنْ يَرُدَّ مِثْلَهُ إِلاَّ مَا كَانَ مِنَ الْوَلاَئِدِ فَإِنَّهُ يُخَافُ فِي ذَلِكَ الذَّرِيعَةُ إِلَى إِحْلاَلِ مَا لاَ يَحِلُّ فَلاَ يَصْلُحُ وَتَفْسِيرُ مَا كُرِهَ مِنْ ذَلِكَ أَنْ يَسْتَسْلِفَ الرَّجُلُ الْجَارِيَةَ فَيُصِيبُهَا مَا بَدَا لَهُ ثُمَّ يَرُدُّهَا إِلَى صَاحِبِهَا بِعَيْنِهَا فَذَلِكَ لاَ يَصْلُحُ وَلاَ يَحِلُّ وَلَمْ يَزَلْ أَهْلُ الْعِلْمِ يَنْهَوْنَ عَنْهُ وَلاَ يُرَخِّصُونَ فِيهِ لأَحَدٍ ‏.‏

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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 let any of you bid against each other."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ لاَ يَبِعْ بَعْضُكُمْ عَلَى بَيْعِ بَعْضٍ ‏"‏ ‏.‏

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Malik related to me from Abu'z-Zinad from al-Araj from Abu  
Hurayra that the Messenger of Allah, may Allah bless him and grant him  
peace, said, "Do not go out to meet the caravans for trade, do not bid  
against each other, outbidding in order to raise the price, and a  
townsman must not buy on behalf of a man of the desert, and do not tie  
up the udders of camels and sheep so that they appear to have a lot of  
milk, for a person who buys them after that has two recourses open to  
him after he milks them. If he is pleased with them, he keeps them and  
if he is displeased with them, he can return them along with a sa of  
dates."  
  
  
Malik said, "The explanation of the words of the  
Messenger of Allah, may Allah bless him and grant him peace, according  
to what we think - and Allah knows best - 'do not bid against each  
other,' is that it is forbidden for a man to offer a price over the  
price of his brother when the seller has inclined to the bargainer and  
made conditions about the weight of the gold and he has declared  
himself not liable for faults and such things by which it is  
recognised that the seller wants to make a transaction with the  
bargainer. This is what he forbade, and Allah knows best."  
  
  
Malik said, "There is no harm, however, in more than one person  
bidding against each other over goods put up for sale."  
  
  
He  
said, "Were people to leave off haggling when the first person started  
haggling, an unreal price might be taken and the disapproved would  
enter into the sale of the goods. This is still the way of doing  
things among us."

وَحَدَّثَنِي مَالِكٌ، عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ لاَ تَلَقَّوُا الرُّكْبَانَ لِلْبَيْعِ وَلاَ يَبِعْ بَعْضُكُمْ عَلَى بَيْعِ بَعْضٍ وَلاَ تَنَاجَشُوا وَلاَ يَبِعْ حَاضِرٌ لِبَادٍ وَلاَ تُصَرُّوا الإِبِلَ وَالْغَنَمَ فَمَنِ ابْتَاعَهَا بَعْدَ ذَلِكَ فَهُوَ بِخَيْرِ النَّظَرَيْنِ بَعْدَ أَنْ يَحْلُبَهَا إِنْ رَضِيَهَا أَمْسَكَهَا وَإِنْ سَخِطَهَا رَدَّهَا وَصَاعًا مِنْ تَمْرٍ ‏"‏ ‏.‏

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Malik said, from Nafi from Abdullah ibn Umar that the Messenger  
of Allah, may Allah bless him and grant him peace, forbade najsh.  
  
  
Malik said, "Najsh is to offer a man more than the worth of his  
goods when you do not mean to buy them and someone else follows you in  
bidding."

قَالَ مَالِكٌ عَنْ نَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم نَهَى عَنِ النَّجْشِ ‏.‏

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Yahya related to me from Malik from Abdullah ibn Dinar from  
Abdullah ibn Umar that a man mentioned to the Messenger of Allah, may  
Allah bless him and grant him peace, that he was always being cheated  
in business transactions. The Messenger of Allah, may Allah bless him  
and grant him peace, said, "When you enter a transaction, say, 'No  
trickery.' So whenever that man entered a transaction, he would say,  
'No trickery.' "

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ عَبْدِ اللَّهِ بْنِ دِينَارٍ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، أَنَّ رَجُلاً، ذَكَرَ لِرَسُولِ اللَّهِ صلى الله عليه وسلم أَنَّهُ يُخْدَعُ فِي الْبُيُوعِ فَقَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏  
"‏ إِذَا بَايَعْتَ فَقُلْ لاَ خِلاَبَةَ ‏"‏ ‏.‏ قَالَ فَكَانَ الرَّجُلُ إِذَا بَايَعَ يَقُولُ لاَ خِلاَبَةَ ‏.‏

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Malik related to me that Yahya ibn Said heard Said ibn al-  
Musayyab say, "When you come to a land where they give full measure  
and full weight, stay there. When you come to a land where they  
shorten the measure and weight, then do not stay there very long."

وَحَدَّثَنِي مَالِكٌ، عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّهُ سَمِعَ سَعِيدَ بْنَ الْمُسَيَّبِ، يَقُولُ إِذَا جِئْتَ أَرْضًا يُوفُونَ الْمِكْيَالَ وَالْمِيزَانَ فَأَطِلِ الْمُقَامَ بِهَا وَإِذَا جِئْتَ أَرْضًا يُنَقِّصُونَ الْمِكْيَالَ وَالْمِيزَانَ فَأَقْلِلِ الْمُقَامَ بِهَا ‏.‏

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Malik related to me from Yahya ibn Said that he heard Muhammad  
ibn al-Munkadir say, "Allah loves his slave who is generous when he  
sells, and generous when he buys, generous when he repays, and  
generous when he is repaid."  
  
  
Malik said about a man who  
bought camels or sheep or dry goods or slaves or any goods without  
measuring precisely, "There is no buying without measuring precisely  
in anything which can be counted . "  
  
  
Malik said about a man  
who gave a man goods to sell for him and set their price saying, "If  
you sell them for this price as I have ordered you to do, you will  
have a dinar (or something which he has specified, which they are both  
satisfied with), if you do not sell them, you will have nothing,"  
"There is no harm in that when he names a price to sell them at and  
names a known fee. If he sells the goods, he takes the fee, and if he  
does not sell them, he has nothing."  
  
  
Malik said, "This is  
like saying to another man, 'If you capture my runaway slave or bring  
my stray camel, you will have such-and-such.' This is from the  
category of reward, and not from the category of giving a wage. Had it  
been from the category of giving a wage, it would not be good."  
  
  
Malik said, "As for a man who is given goods and told that if he  
sells them he will have a named percentage for every dinar, that is  
not good because whenever he is a dinar less than the price of the  
goods, he decreases the due which was named for him. This is an  
uncertain transaction. He does not know how much he will be given."

وَحَدَّثَنِي مَالِكٌ، عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّهُ سَمِعَ مُحَمَّدَ بْنَ الْمُنْكَدِرِ، يَقُولُ أَحَبَّ اللَّهُ عَبْدًا سَمْحًا إِنْ بَاعَ سَمْحًا إِنِ ابْتَاعَ سَمْحًا إِنْ قَضَى سَمْحًا إِنِ اقْتَضَى ‏.‏ قَالَ مَالِكٌ فِي الرَّجُلِ يَشْتَرِي الإِبِلَ أَوِ الْغَنَمَ أَوِ الْبَزَّ أَوِ الرَّقِيقَ أَوْ شَيْئًا مِنَ الْعُرُوضِ جِزَافًا إِنَّهُ لاَ يَكُونُ الْجِزَافُ فِي شَىْءٍ مِمَّا يُعَدُّ عَدًّا ‏.‏ قَالَ مَالِكٌ فِي الرَّجُلِ يُعْطِي الرَّجُلَ السِّلْعَةَ يَبِيعُهَا لَهُ وَقَدْ قَوَّمَهَا صَاحِبُهَا قِيمَةً فَقَالَ إِنْ بِعْتَهَا بِهَذَا الثَّمَنِ الَّذِي أَمَرْتُكَ بِهِ فَلَكَ دِينَارٌ - أَوْ شَىْءٌ يُسَمِّيهِ لَهُ يَتَرَاضَيَانِ عَلَيْهِ - وَإِنْ لَمْ تَبِعْهَا فَلَيْسَ لَكَ شَىْءٌ إِنَّهُ لاَ بَأْسَ بِذَلِكَ إِذَا سَمَّى ثَمَنًا يَبِيعُهَا بِهِ وَسَمَّى أَجْرًا مَعْلُومًا إِذَا بَاعَ أَخَذَهُ وَإِنْ لَمْ يَبِعْ فَلاَ شَىْءَ لَهُ ‏.‏ قَالَ مَالِكٌ وَمِثْلُ ذَلِكَ أَنْ يَقُولَ الرَّجُلُ لِلرَّجُلِ إِنْ قَدَرْتَ عَلَى غُلاَمِي الآبِقِ أَوْ جِئْتَ بِجَمَلِي الشَّارِدِ فَلَكَ كَذَا ‏.‏ فَهَذَا مِنْ بَابِ الْجُعْلِ وَلَيْسَ مِنْ بَابِ الإِجَارَةِ وَلَوْ كَانَ مِنْ بَابِ الإِجَارَةِ لَمْ يَصْلُحْ ‏.‏ قَالَ مَالِكٌ فَأَمَّا الرَّجُلُ يُعْطَى السِّلْعَةَ فَيُقَالُ لَهُ بِعْهَا وَلَكَ كَذَا وَكَذَا فِي كُلِّ دِينَارٍ ‏.‏ لِشَىْءٍ يُسَمِّيهِ فَإِنَّ ذَلِكَ لاَ يَصْلُحُ لأَنَّهُ كُلَّمَا نَقَصَ دِينَارٌ مِنْ ثَمَنِ السِّلْعَةِ نَقَصَ مِنْ حَقِّهِ الَّذِي سَمَّى لَهُ فَهَذَا غَرَرٌ لاَ يَدْرِي كَمْ جَعَلَ لَهُ ‏.‏

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Malik related to me that he asked Ibn Shihab about a man who  
hired an animal, and then re-hired it out for more than what he hired  
it for. He said, "There is no harm in that."

وَحَدَّثَنِي مَالِكٌ، عَنِ ابْنِ شِهَابٍ، أَنَّهُ سَأَلَهُ عَنِ الرَّجُلِ، يَتَكَارَى الدَّابَّةَ ثُمَّ يُكْرِيهَا بِأَكْثَرَ مِمَّا تَكَارَاهَا بِهِ فَقَالَ لاَ بَأْسَ بِذَلِكَ ‏.‏

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