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

Yahya related to me from Malik from Abdullah ibn Abi Bakr ibn  
Muhammad ibn Amr ibn Hazm from his father that in a letter which the  
Messenger of Allah, may Allah bless him and grant him peace, sent to  
Amr ibn Hazm about blood-money he wrote that it was one hundred camels  
for a life, one hundred camels for a nose if completely removed, a  
third of the blood-money for a wound in the brain, the same as that  
for a belly wound, fifty for an eye, fifty for a hand, fifty for a  
foot, ten camels for each finger, and five for teeth, and five for a  
head wound which laid bare the bone.

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ عَبْدِ اللَّهِ بْنِ أَبِي بَكْرِ بْنِ مُحَمَّدِ بْنِ عَمْرِو بْنِ حَزْمٍ، عَنْ أَبِيهِ، أَنَّ فِي الْكِتَابِ الَّذِي، كَتَبَهُ رَسُولُ اللَّهِ صلى الله عليه وسلم لِعَمْرِو بْنِ حَزْمٍ فِي الْعُقُولِ أَنَّ فِي النَّفْسِ مِائَةً مِنَ الإِبِلِ وَفِي الأَنْفِ إِذَا أُوعِيَ جَدْعًا مِائَةٌ مِنَ الإِبِلِ وَفِي الْمَأْمُومَةِ ثُلُثُ الدِّيَةِ وَفِي الْجَائِفَةِ مِثْلُهَا وَفِي الْعَيْنِ خَمْسُونَ وَفِي الْيَدِ خَمْسُونَ وَفِي الرِّجْلِ خَمْسُونَ وَفِي كُلِّ أُصْبُعٍ مِمَّا هُنَالِكَ عَشْرٌ مِنَ الإِبِلِ وَفِي السِّنِّ خَمْسٌ وَفِي الْمُوضِحَةِ خَمْسٌ ‏.‏

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Malik related to me that he had heard that Umar ibn al-Khattab  
estimated the full blood-money for the people of urban areas. For  
those who had gold, he made it one thousand dinars. and for those who  
had silver he made it ten thousand dirhams.  
  
  
Malik said, "The  
people of gold are the people of ash-Sham and the people of Egypt. The  
people of silver are the people of Iraq "  
  
  
Yahya related to me  
from Malik that he heard that the blood-money was divided into  
instalments over three or four years.  
  
  
Malik said, "Three is  
the most preferable to me of what I have heard on that."  
  
  
Malik said, "The generally agreed on way of doing things in our  
community is that camels are not accepted from the people of cities  
for blood-money nor is gold or silver accepted from the desert people.  
Silver is not accepted from the people of gold and gold is not  
accepted from the people of silver."

حَدَّثَنِي مَالِكٌ، أَنَّهُ بَلَغَهُ أَنَّ عُمَرَ بْنَ الْخَطَّابِ، قَوَّمَ الدِّيَةَ عَلَى أَهْلِ الْقُرَى فَجَعَلَهَا عَلَى أَهْلِ الذَّهَبِ أَلْفَ دِينَارٍ وَعَلَى أَهْلِ الْوَرِقِ اثْنَىْ عَشَرَ أَلْفَ دِرْهَمٍ ‏.‏ قَالَ مَالِكٌ فَأَهْلُ الذَّهَبِ أَهْلُ الشَّامِ وَأَهْلُ مِصْرَ وَأَهْلُ الْوَرِقِ أَهْلُ الْعِرَاقِ ‏.‏ وَحَدَّثَنِي يَحْيَى عَنْ مَالِكٍ أَنَّهُ سَمِعَ أَنَّ الدِّيَةَ تُقْطَعُ فِي ثَلاَثِ سِنِينَ أَوْ أَرْبَعِ سِنِينَ ‏.‏ قَالَ مَالِكٌ وَالثَّلاَثُ أَحَبُّ مَا سَمِعْتُ إِلَىَّ فِي ذَلِكَ ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا أَنَّهُ لاَ يُقْبَلُ مِنْ أَهْلِ الْقُرَى فِي الدِّيَةِ الإِبِلُ وَلاَ مِنْ أَهْلِ الْعَمُودِ الذَّهَبُ وَلاَ الْوَرِقُ وَلاَ مِنْ أَهْلِ الذَّهَبِ الْوَرِقُ وَلاَ مِنْ أَهْلِ الْوَرِقِ الذَّهَبُ ‏.‏

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Yahya related to me from Malik that Ibn Shihab said, "The full  
blood-money for murder when it is accepted is twenty-five yearlings,  
twenty-five two-year-olds, twenty-five four-year-olds, and twenty-five  
five-year-olds."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّ ابْنَ شِهَابٍ، كَانَ يَقُولُ فِي دِيَةِ الْعَمْدِ إِذَا قُبِلَتْ خَمْسٌ وَعِشْرُونَ بِنْتَ مَخَاضٍ وَخَمْسٌ وَعِشْرُونَ بِنْتَ لَبُونٍ وَخَمْسٌ وَعِشْرُونَ حِقَّةً وَخَمْسُ وَعِشْرُونَ جَذَعَةً ‏.‏

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Yahya related to me from Malik from Yahya ibn Said that Marwan  
ibn al-Hakam wrote to Muawiya ibn Abi Sufyan that a madman was brought  
to him who had killed a man. Muawiya wrote to him, "Tie him up and do  
not inflict any retaliation on him. There is no retaliation against a  
madman."  
  
  
Malik said about an adult and a child when they  
murder a man together, "The adult is killed and the child pays half  
the full blood-money."  
  
  
Malik said, "It is like that with a  
freeman and a slave when they murder a slave. The slave is killed and  
the freeman pays half of his value."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّ مَرْوَانَ بْنَ الْحَكَمِ، كَتَبَ إِلَى مُعَاوِيَةَ بْنِ أَبِي سُفْيَانَ أَنَّهُ أُتِيَ بِمَجْنُونٍ قَتَلَ رَجُلاً ‏.‏ فَكَتَبَ إِلَيْهِ مُعَاوِيَةُ أَنِ اعْقِلْهُ وَلاَ تُقِدْ مِنْهُ فَإِنَّهُ لَيْسَ عَلَى مَجْنُونٍ قَوَدٌ ‏.‏ قَالَ مَالِكٌ فِي الْكَبِيرِ وَالصَّغِيرِ إِذَا قَتَلاَ رَجُلاً جَمِيعًا عَمْدًا أَنَّ عَلَى الْكَبِيرِ أَنْ يُقْتَلَ وَعَلَى الصَّغِيرِ نِصْفُ الدِّيَةِ ‏.‏ قَالَ مَالِكٌ وَكَذَلِكَ الْحُرُّ وَالْعَبْدُ يَقْتُلاَنِ الْعَبْدَ فَيُقْتَلُ الْعَبْدُ وَيَكُونُ عَلَى الْحُرِّ نِصْفُ قِيمَتِهِ ‏.‏

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Yahya related to me from Malik from Ibn Shihab from Irak ibn  
Malik and Sulayman ibn Yasar that a man of the Banu Sad ibn Layth was  
running a horse and it trod on the finger of a man from the Juhayna  
tribe. It bled profusely, and he died. Umar ibn al-Khattab said to  
those against whom the claim was made. "Do you swear by Allah with  
fifty oaths that he did not die of it?" They refused and stopped  
themselves from doing it. He said to the others, "Will you take an  
oath?" They refused, so Umar ibn al-Khattab gave a judgement that the  
Banu Sad had to pay half the full blood-money.  
  
  
Malik said,  
"One does not act on this."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ عِرَاكِ بْنِ مَالِكٍ، وَسُلَيْمَانَ بْنِ يَسَارٍ، أَنَّ رَجُلاً، مِنْ بَنِي سَعْدِ بْنِ لَيْثٍ أَجْرَى فَرَسًا فَوَطِئَ عَلَى إِصْبَعِ رَجُلٍ مِنْ جُهَيْنَةَ فَنُزِيَ مِنْهَا فَمَاتَ ‏.‏ فَقَالَ عُمَرُ بْنُ الْخَطَّابِ لِلَّذِي ادُّعِيَ عَلَيْهِمْ أَتَحْلِفُونَ بِاللَّهِ خَمْسِينَ يَمِينًا مَا مَاتَ مِنْهَا فَأَبَوْا وَتَحَرَّجُوا وَقَالَ لِلآخَرِينَ أَتَحْلِفُونَ أَنْتُمْ فَأَبَوْا فَقَضَى عُمَرُ بْنُ الْخَطَّابِ بِشَطْرِ الدِّيَةِ عَلَى السَّعْدِيِّينَ ‏.‏ قَالَ مَالِكٌ وَلَيْسَ الْعَمَلُ عَلَى هَذَا ‏.‏

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Yahya related to me from Malik  
that Ibn Shihab, Sulayman ibn Yasar, and Rabia ibn Abi Abd ar-Rahman  
said, "The blood-money of manslaughter is twenty yearlings, twenty  
two-year-olds, twenty male two-year-olds, twenty four-year-olds, and  
twenty five-year-olds."  
  
  
Malik said, "The generally agreed on  
way with us is that there is no retaliation against children. Their  
intention is accidental. The hudud are not obliged for them if they  
have not yet reached puberty. If a child kills someone it is only  
accidentally. Had a child and an adult killed a free man accidentally,  
each of them pays half the full blood-money."  
  
  
Malik said, "A  
person who kills someone accidentally pays blood-money with his  
property and there is no retaliation against him. That money is like  
anything else from the dead man's property and his debt is paid with  
it and he is allowed to make a bequest from it. If he has a total  
property of which the blood-money is a third and then the blood-money  
is relinquished, that is permitted to him. If all the property he has  
is his blood-money, he is permitted to relinquish a third of it and to  
make that a bequest."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّ ابْنَ شِهَابٍ، وَسُلَيْمَانَ بْنَ يَسَارٍ، وَرَبِيعَةَ بْنَ أَبِي عَبْدِ الرَّحْمَنِ، كَانُوا يَقُولُونَ دِيَةُ الْخَطَإِ عِشْرُونَ بِنْتَ مَخَاضٍ وَعِشْرُونَ بِنْتَ لَبُونٍ وَعِشْرُونَ ابْنَ لَبُونٍ ذَكَرًا وَعِشْرُونَ حِقَّةً وَعِشْرُونَ جَذَعَةً ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا أَنَّهُ لاَ قَوَدَ بَيْنَ الصِّبْيَانِ وَإِنَّ عَمْدَهُمْ خَطَأٌ مَا لَمْ تَجِبْ عَلَيْهِمُ الْحُدُودُ وَيَبْلُغُوا الْحُلُمَ وَإِنَّ قَتْلَ الصَّبِيِّ لاَ يَكُونُ إِلاَّ خَطَأً وَذَلِكَ لَوْ أَنَّ صَبِيًّا وَكَبِيرًا قَتَلاَ رَجُلاً حُرًّا خَطَأً كَانَ عَلَى عَاقِلَةِ كُلِّ وَاحِدٍ مِنْهُمَا نِصْفُ الدِّيَةِ ‏.‏ قَالَ مَالِكٌ وَمَنْ قَتَلَ خَطَأً فَإِنَّمَا عَقْلُهُ مَالٌ لاَ قَوَدَ فِيهِ وَإِنَّمَا هُوَ كَغَيْرِهِ مِنْ مَالِهِ يُقْضَى بِهِ دَيْنُهُ وَيُجَوَّزُ فِيهِ وَصِيَّتُهُ فَإِنْ كَانَ لَهُ مَالٌ تَكُونُ الدِّيَةُ قَدْرَ ثُلُثِهِ ثُمَّ عُفِيَ عَنْ دِيَتِهِ فَذَلِكَ جَائِزٌ لَهُ وَإِنْ لَمْ يَكُنْ لَهُ مَالٌ غَيْرُ دِيَتِهِ جَازَ لَهُ مِنْ ذَلِكَ الثُّلُثُ إِذَا عُفِيَ عَنْهُ وَأَوْصَى بِهِ ‏.‏

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Malik related to me that the generally agreed on way of doing  
things amongst the community about an accident is that there is no  
blood-money until the victim is better. If a man's bone, either a  
hand, or a foot, or another part of his body, is broken accidentally  
and it heals and becomes sound and returns to its form, there is no  
blood-money for it. If the limb is impaired or there is a scar on it,  
there is blood-money for it according to the extent that it is  
impaired.  
  
  
Malik said, "If that part of the body has a  
specific blood-money mentioned by the Prophet, may Allah bless him and  
grant him peace, it is according to what the Prophet, may Allah bless  
him and grant him peace, specified. If it is part of what does not  
have a specific blood-money for it mentioned by the Prophet, may Allah  
bless him and grant him peace, and if there is no previous sunna about  
it or specific blood-money, one uses ijtihad about it."  
  
  
Malik  
said, "There is no blood-money for an accidental bodily injury when  
the wound heals and returns to its form. If there is any scar or mark  
in that, ijtihad is used about it except for the belly-wound. There is  
a third of the blood-money of a life for it. "  
  
  
Malik said,  
"There is no blood-money for the wound which splinters a bone in the  
body, and it is like the wound to the body which lays bare the bone."  
  
  
Malik said, "The generally agreed on way of doing things in  
our community is that when the doctor performs a circumcision and cuts  
off the glans, he must pay the full blood-money. That is because it is  
an accident which the tribe is responsible for, and the full blood  
money is payable for all that in which a doctor errs or exceeds, when  
it is not intentional."

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Yahya related to me from Malik from Yahya ibn Said that Said ibn  
al-Musayyab said, "The blood-money for a woman is the same as for a  
man up to one third of the blood-money. Her finger is like his finger,  
her tooth is like his tooth, her injury which lays bare the bone is  
like his, and her head wound which splinters the bone is like his."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّهُ كَانَ يَقُولُ تُعَاقِلُ الْمَرْأَةُ الرَّجُلَ إِلَى ثُلُثِ الدِّيَةِ إِصْبَعُهَا كَإِصْبَعِهِ وَسِنُّهَا كَسِنِّهِ وَمُوضِحَتُهَا كَمُوضِحَتِهِ وَمُنَقِّلَتُهَا كَمُنَقَّلَتِهِ ‏.‏

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Yahya related to me from Malik that Ibn Shihab and also Urwa  
ibn az-Zubayr said the same as Said ibn al-Musayyab said about a  
woman. Her blood-money from a man is the same up to a third of the  
blood-money of a man. If what she is owed exceeds a third of the  
blood-money of the man, she is given up to half of the blood-money of  
a man.  
  
  
Malik said, "The explanation of that is that she has  
blood-money for a head wound that lays bare the bone and one that  
splinters the bone and for what is less than the brain wound and the  
belly wound and the like of that of those which obliges a third of the  
blood-money or more. If the amount owed her exceeds that, her blood-  
money in that is half of the blood-money of a man."

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، وَبَلَغَهُ، عَنْ عُرْوَةَ بْنِ الزُّبَيْرِ، أَنَّهُمَا كَانَا يَقُولاَنِ مِثْلَ قَوْلِ سَعِيدِ بْنِ الْمُسَيَّبِ فِي الْمَرْأَةِ أَنَّهَا تُعَاقِلُ الرَّجُلَ إِلَى ثُلُثِ دِيَةِ الرَّجُلِ فَإِذَا بَلَغَتْ ثُلُثَ دِيَةِ الرَّجُلِ كَانَتْ إِلَى النِّصْفِ مِنْ دِيَةِ الرَّجُلِ ‏.‏ قَالَ مَالِكٌ وَتَفْسِيرُ ذَلِكَ أَنَّهَا تُعَاقِلُهُ فِي الْمُوضِحَةِ وَالْمُنَقَّلَةِ وَمَا دُونَ الْمَأْمُومَةِ وَالْجَائِفَةِ وَأَشْبَاهِهِمَا مِمَّا يَكُونُ فِيهِ ثُلُثُ الدِّيَةِ فَصَاعِدًا فَإِذَا بَلَغَتْ ذَلِكَ كَانَ عَقْلُهَا فِي ذَلِكَ النِّصْفَ مِنْ عَقْلِ الرَّجُلِ ‏.‏

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Yahya  
related to me from Malik that he heard Ibn Shihab say, "The precedent  
of the sunna when a man injures a woman is that he must pay the blood-  
money for that injury and there is no retaliation against him."  
  
  
Malik said, "That is an accidental injury, when a man strikes a  
woman and hits with a blow what he did not intend, for instance, if he  
struck her with a whip and cut her eye open and the like of that."  
  
  
Malik said about a woman who has a husband and children who  
are not from her paternal relatives or her people, that since he is  
from another tribe, there is no blood-money against her husband for  
her criminal action, nor any against her children if they are not from  
her people, nor any against her maternal brothers when they are not  
from her paternal relations or her people. These are entitled to her  
inheritance but only the paternal relations have paid blood-money from  
since the time of the Messenger of Allah, may Allah bless him and  
grant him peace. Until today it is like that with the mawla of a  
woman. The inheritance they leave goes to the children of the woman  
even if they are not from her tribe, but the blood-money of the  
criminal act of the mawla is only against her tribe."

وَحَدَّثَنِي عَنْ مَالِكٍ، أَنَّهُ سَمِعَ ابْنَ شِهَابٍ، يَقُولُ مَضَتِ السُّنَّةُ أَنَّ الرَّجُلَ، إِذَا أَصَابَ امْرَأَتَهُ بِجُرْحٍ أَنَّ عَلَيْهِ عَقْلَ ذَلِكَ الْجُرْحِ وَلاَ يُقَادُ مِنْهُ ‏.‏ قَالَ مَالِكٌ وَإِنَّمَا ذَلِكَ فِي الْخَطَإِ أَنْ يَضْرِبَ الرَّجُلُ امْرَأَتَهُ فَيُصِيبَهَا مِنْ ضَرْبِهِ مَا لَمْ يَتَعَمَّدْ كَمَا يَضْرِبُهَا بِسَوْطٍ فَيَفْقَأُ عَيْنَهَا وَنَحْوَ ذَلِكَ ‏.‏ قَالَ مَالِكٌ فِي الْمَرْأَةِ يَكُونُ لَهَا زَوْجٌ وَوَلَدٌ مِنْ غَيْرِ عَصَبَتِهَا وَلاَ قَوْمِهَا فَلَيْسَ عَلَى زَوْجِهَا إِذَا كَانَ مِنْ قَبِيلَةٍ أُخْرَى مِنْ عَقْلِ جِنَايَتِهَا شَىْءٌ وَلاَ عَلَى وَلَدِهَا إِذَا كَانُوا مِنْ غَيْرِ قَوْمِهَا وَلاَ عَلَى إِخْوَتِهَا مِنْ أُمِّهَا إِذَا كَانُوا مِنْ غَيْرِ عَصَبَتِهَا وَلاَ قَوْمِهَا فَهَؤُلاَءِ أَحَقُّ بِمِيرَاثِهَا وَالْعَصَبَةُ عَلَيْهِمُ الْعَقْلُ مُنْذُ زَمَانِ رَسُولِ اللَّهِ صلى الله عليه وسلم إِلَى الْيَوْمِ وَكَذَلِكَ مَوَالِي الْمَرْأَةِ مِيرَاثُهُمْ لِوَلَدِ الْمَرْأَةِ وَإِنْ كَانُوا مِنْ غَيْرِ قَبِيلَتِهَا وَعَقْلُ جِنَايَةِ الْمَوَالِي عَلَى قَبِيلَتِهَا ‏.‏

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Yahya related to me from Malik from Ibn Shihab from Abu Salama  
ibn Abd ar-Rahman ibn Awf from Abu Hurayra that a woman from the  
Hudhayl tribe threw a stone at a woman from the same tribe, and she  
had a miscarriage. The Messenger of Allah, may Allah bless him and  
grant him peace, gave a judgement that a slave or slave-girl of fair  
complexion and excellence should be given to her.

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ امْرَأَتَيْنِ، مِنْ هُذَيْلٍ رَمَتْ إِحْدَاهُمَا الأُخْرَى فَطَرَحَتْ جَنِينَهَا فَقَضَى فِيهِ رَسُولُ اللَّهِ صلى الله عليه وسلم بِغُرَّةٍ عَبْدٍ أَوْ وَلِيدَةٍ ‏.‏

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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, gave a judgement that the compensation for a foetus killed  
in its mother's womb was a slave or slave-girl of fair complexion and  
excellence. The one against whom the judgement was given said, "Why  
should I pay damages for that which did not drink or eat or speak or  
make any cry. The like of that is nothing." The Messenger of Allah,  
may Allah bless him and grant him peace, said, "This is only one of  
the brothers of the diviners." He disapproved of the rhyming speech of  
the man's declaration.

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَضَى فِي الْجَنِينَ يُقْتَلُ فِي بَطْنِ أُمِّهِ بِغُرَّةٍ عَبْدٍ أَوْ وَلِيدَةٍ فَقَالَ الَّذِي قُضِيَ عَلَيْهِ كَيْفَ أَغْرَمُ مَا لاَ شَرِبَ وَلاَ أَكَلْ وَلاَ نَطَقَ وَلاَ اسْتَهَلّ وَمِثْلُ ذَلِكَ بَطَلْ ‏.‏ فَقَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم ‏  
"‏ إِنَّمَا هَذَا مِنْ إِخْوَانِ الْكُهَّانِ ‏"‏ ‏.‏

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Yahya related to me from Malik that  
Rabia ibn Abi Abd ar-Rahman said, "The slave of fair complexion and  
excellence is estimated at fifty dinars or six hundred dirhams. The  
blood-money of a free muslim woman is five hundred dinars or six  
thousand dirhams."  
  
  
Malik said, "The blood-money of the foetus  
of a free woman is a tenth of her blood-money. The tenth is fifty  
dinars or six hundred dirhams."  
  
  
Malik said, "I have not heard  
anyone dispute that there is no slave in compensation for the foetus  
until it leaves its mother's womb and falls still-born from her womb .  
"  
  
  
Malik said, "I heard that if the foetus comes out of its  
mother's womb alive and then dies, the full blood-money is due for  
it."  
  
  
Malik said, "The foetus is not alive unless it cries at  
birth. If it comes out of its mother's womb and cries out and then  
dies, the complete blood-money is due for it. We think that the slave-  
girl's foetus has a tenth of the price of the slave-girl."  
  
  
Malik said, "When a woman murders a man or woman, and the murderess is  
pregnant, retaliation is not taken against her until she has given  
birth. If a woman who is pregnant is killed intentionally or  
unintentionally, the one who killed her is not obliged to pay anything  
for her foetus. If she is murdered, then the one who killed her is  
killed and there is no blood-money for her foetus. If she is killed  
accidentally, the tribe obliged to pay on behalf of her killer pays  
her blood-money, and there is no blood-money for the foetus."  
  
  
Yahya related to me, "Malik was asked about the foetus of the  
christian or jewish woman which was aborted. He said, 'I think that  
there is a tenth of the blood-money of the mother for it.' "

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ رَبِيعَةَ بْنِ أَبِي عَبْدِ الرَّحْمَنِ، أَنَّهُ كَانَ يَقُولُ الْغُرَّةُ تُقَوَّمُ خَمْسِينَ دِينَارًا أَوْ سِتَّمِائَةِ دِرْهَمٍ وَدِيَةُ الْمَرْأَةِ الْحُرَّةِ الْمُسْلِمَةِ خَمْسُمِائَةِ دِينَارٍ أَوْ سِتَّةُ آلاَفِ دِرْهَمٍ ‏.‏ قَالَ مَالِكٌ فَدِيَةُ جَنِينِ الْحُرَّةِ عُشْرُ دِيَتِهَا وَالْعُشْرُ خَمْسُونَ دِينَارًا أَوْ سِتُّمِائَةِ دِرْهَمٍ ‏.‏ قَالَ مَالِكٌ وَلَمْ أَسْمَعْ أَحَدًا يُخَالِفُ فِي أَنَّ الْجَنِينَ لاَ تَكُونُ فِيهِ الْغُرَّةُ حَتَّى يُزَايِلَ بَطْنَ

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Yahya related to me from Malik from Ibn Shihab that Said ibn al-  
Musayyab used to say, "The full blood-money is payable for cutting off  
both lips, but when the lower one only is cut off, two-thirds of the  
blood-money is due for it."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّهُ كَانَ يَقُولُ فِي الشَّفَتَيْنِ الدِّيَةُ كَامِلَةً فَإِذَا قُطِعَتِ السُّفْلَى فَفِيهَا ثُلُثَا الدِّيَةِ ‏.‏

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Yahya related to me from Malik  
that he asked Ibn Shihab about the one-eyed man who gouged out the eye  
of a healthy person. Ibn Shihab said, "If the healthy person wants to  
take retaliation from him, he can have his retaliation. If he prefers,  
he has blood-money of one thousand dinars, twelve thousand dirhams."  
  
  
Yahya related to me from Malik that he heard that full blood-  
money was payable for both of a pair of anything in a man that  
occurred in pairs, and the tongue had full blood-money. The ears, when  
their hearing departed, had full blood-money, whether or not they were  
cut off, and a man's penis had full blood-money and the testicles had  
full blood-money.  
  
  
Yahya related to me from Malik that he  
heard that the breasts of a woman had full blood-money.  
  
  
Malik  
said, "The least of that are the eyebrows and a man's breasts."  
  
  
Malik said, "What is done in our community when a man is injured  
in his extremities to an extent that obliges payment of more than the  
amount of his full blood-money, is that it is his right. If his hands,  
feet, and eyes are all injured, he has three full blood-moneys."  
  
  
Malik said about the sound eye of a one-eyed man when it is  
accidentally gouged out, "The full blood-money is payable for it."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ سَأَلَ ابْنَ شِهَابٍ عَنِ الرَّجُلِ الأَعْوَرِ، يَفْقَأُ عَيْنَ الصَّحِيحِ فَقَالَ ابْنُ شِهَابٍ إِنْ أَحَبَّ الصَّحِيحُ أَنْ يَسْتَقِيدَ، مِنْهُ فَلَهُ الْقَوَدُ وَإِنْ أَحَبَّ فَلَهُ الدِّيَةُ أَلْفُ دِينَارٍ أَوِ اثْنَا عَشَرَ أَلْفَ دِرْهَمٍ ‏.‏ وَحَدَّثَنِي يَحْيَى عَنْ مَالِكٍ أَنَّهُ بَلَغَهُ أَنَّ فِي كُلِّ زَوْجٍ مِنَ الإِنْسَانِ الدِّيَةَ كَامِلَةً وَأَنَّ فِي اللِّسَانِ الدِّيَةَ كَامِلَةً وَأَنَّ فِي الأُذُنَيْنِ إِذَا ذَهَبَ سَمْعُهُمَا الدِّيَةَ كَامِلَةً اصْطُلِمَتَا أَوْ لَمْ تُصْطَلَمَا وَفِي ذَكَرِ الرَّجُلِ الدِّيَةُ كَامِلَةً وَفِي الأُنْثَيَيْنِ الدِّيَةُ كَامِلَةً ‏.‏ وَحَدَّثَنِي يَحْيَى عَنْ مَالِكٍ أَنَّهُ بَلَغَهُ أَنَّ فِي ثَدْيَىِ الْمَرْأَةِ الدِّيَةَ كَامِلَةً ‏.‏ قَالَ مَالِكٌ وَأَخَفُّ ذَلِكَ عِنْدِي الْحَاجِبَانِ وَثَدْيَا الرَّجُلِ ‏.‏ قَالَ مَالِكٌ الأَمْرُ عِنْدَنَا أَنَّ الرَّجُلَ إِذَا أُصِيبَ مِنْ أَطْرَافِهِ أَكْثَرُ مِنْ دِيَتِهِ فَذَلِكَ لَهُ إِذَا أُصِيبَتْ يَدَاهُ وَرِجْلاَهُ وَعَيْنَاهُ فَلَهُ ثَلاَثُ دِيَاتٍ ‏.‏ قَالَ مَالِكٌ فِي عَيْنِ الأَعْوَرِ الصَّحِيحَةِ إِذَا فُقِئَتْ خَطَأً إِنَّ فِيهَا الدِّيَةَ كَامِلَةً ‏.‏

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Yahya related to me from Malik from Yahya ibn Said from Sulayman  
ibn Yasar that Zayd ibn Thabit used to say, "When the eye remains but  
the sight is lost, one hundred dinars are payable for it."  
  
  
Yahya said, "Malik was asked about cutting off the lower lid of the  
eye and the bone around the eye. He said, 'There is only ijtihad in  
that unless the vision of the eye is impaired. He is entitled to an  
amount that is compatible to the extent the vision of the eye has been  
impaired."  
  
  
Yahya said that Malik said, "What is done in our  
community about removing the bad eye of a one-eyed man when it has  
already been blinded and still remains there in its place and the  
paralyzed hand when it is cut off, is that there is only ijtihad in  
that, and there is no prescribed blood-money."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ سُلَيْمَانَ بْنِ يَسَارٍ، أَنَّ زَيْدَ بْنَ ثَابِتٍ، كَانَ يَقُولُ فِي الْعَيْنِ الْقَائِمَةِ إِذَا طَفِئَتْ مِائَةُ دِينَارٍ ‏.‏ قَالَ يَحْيَى وَسُئِلَ مَالِكٌ عَنْ شَتَرِ الْعَيْنِ وَحِجَاجِ الْعَيْنِ فَقَالَ لَيْسَ فِي ذَلِكَ إِلاَّ الاِجْتِهَادُ إِلاَّ أَنْ يَنْقُصَ بَصَرُ الْعَيْنِ فَيَكُونُ لَهُ بِقَدْرِ مَا نَقَصَ مِنْ بَصَرِ الْعَيْنِ ‏.‏ قَالَ يَحْيَى قَالَ مَالِكٌ الأَمْرُ عِنْدَنَا فِي الْعَيْنِ الْقَائِمَةِ الْعَوْرَاءِ إِذَا طَفِئَتْ وَفِي الْيَدِ الشَّلاَّءِ إِذَا قُطِعَتْ إِنَّهُ لَيْسَ فِي ذَلِكَ إِلاَّ الاِجْتِهَادُ وَلَيْسَ فِي ذَلِكَ عَقْلٌ مُسَمًّى ‏.‏

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Yahya related to me from Malik that Yahya ibn Said heard Sulayman  
ibn Yasar mention that a face wound in which the bone was bared was  
like a head wound in which the bone was bared, unless the face was  
scarred by the wound. Then the blood-money is increased by one half of  
the blood-money of the head wound in which the skin was bared so that  
seventy five dinars are payable for it.  
  
  
Malik said, "What is  
done in our community is that the head wound with splinters has  
fifteen camels." He explained, "The head wound with splinters is that  
from which pieces of bone fly off and which does not reach the brain.  
It can be in the head or the face."  
  
  
Malik said, "The  
generally agreed on way of doing things in our community, is that  
there is no retaliation for a wound to the brain or a belly wound, and  
Ibn Shihab has said, 'There is no retaliation for a wound to the  
brain.' "  
  
  
Malik explained, "The wound to the brain is what  
pierces the bones to the brain. This type of wound only occurs in the  
head. It is that which reaches the brain when the bones are pierced."  
  
  
Malik said, "What is done in our community is that there is  
no blood-money paid on any head wound less than one which lays bare  
the skull. Blood-money is payable only for the head wound that bares  
the bone and what is worse than that. That is because the Messenger of  
Allah, may Allah bless him and grant him peace, stopped at the head  
wound which bared the bone in his letter to Amr ibn Hazm. He made it  
five camels. The imams, past and present, have not made any blood-  
money payable for injuries less than the head wound which bares the  
bone."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّهُ سَمِعَ سُلَيْمَانَ بْنَ يَسَارٍ، يَذْكُرُ أَنَّ الْمُوضِحَةَ، فِي الْوَجْهِ مِثْلُ الْمُوضِحَةِ فِي الرَّأْسِ إِلاَّ أَنْ تَعِيبَ الْوَجْهَ فَيُزَادُ فِي عَقْلِهَا مَا بَيْنَهَا وَبَيْنَ عَقْلِ نِصْفِ الْمُوضِحَةِ فِي الرَّأْسِ فَيَكُونُ فِيهَا خَمْسَةٌ وَسَبْعُونَ دِينَارًا ‏.‏ قَالَ مَالِكٌ وَالأَمْرُ عِنْدَنَا أَنَّ فِي الْمُنَقَّلَةِ خَمْسَ عَشْرَةَ فَرِيضَةً ‏.‏ قَالَ وَالْمُنَقَّلَةُ الَّتِي يَطِيرُ فِرَاشُهَا مِنَ الْعَظْمِ وَلاَ تَخْرِقُ إِلَى الدِّمَاغِ وَهِيَ تَكُونُ فِي الرَّأْسِ وَفِي الْوَجْهِ ‏.‏ قَالَ مَالِكٌ الأَمْرُ الْمُجْتَمَعُ عَلَيْهِ عِنْدَنَا أَنَّ الْمَأْمُومَةَ وَالْجَائِفَةَ لَيْسَ فِيهِمَا قَوَدٌ ‏.‏ وَقَدْ قَالَ ابْنُ شِهَابٍ لَيْسَ فِي الْمَأْمُومَةِ قَوَدٌ ‏.‏ قَالَ مَالِكٌ وَالْمَأْمُومَةُ مَا خَرَقَ الْعَظْمَ إِلَى الدِّمَاغِ وَلاَ تَكُونُ الْمَأْمُومَةُ إِلاَّ فِي الرَّأْسِ وَمَا يَصِلُ إِلَى الدِّمَاغِ إِذَا خَرَقَ الْعَظْمَ ‏.‏ قَالَ مَالِكٌ الأَمْرُ عِنْدَنَا أَنَّهُ لَيْسَ فِيمَا دُونَ الْمُوضِحَةِ مِنَ الشِّجَاجِ عَقْلٌ حَتَّى تَبْلُغَ الْمُوضِحَةَ وَإِنَّمَا الْعَقْلُ فِي الْمُوضِحَةِ فَمَا فَوْقَهَا وَذَلِكَ أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم انْتَهَى إِلَى الْمُوضِحَةِ فِي كِتَابِهِ لِعَمْرِو بْنِ حَزْمٍ فَجَعَلَ فِيهَا خَمْسًا مِنَ الإِبِلِ وَلَمْ تَقْضِ الأَئِمَّةُ فِي الْقَدِيمِ وَلاَ فِي الْحَدِيثِ فِيمَا دُونَ الْمُوضِحَةِ بِعَقْلٍ ‏.‏

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Yahya related to me from Malik from Yahya ibn Said,  
that Said ibn al-Musayyab said, "For every piercing wound in any of  
the organs or limbs of the body, one third of the blood-money of that  
limb is payable."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّهُ قَالَ كُلُّ نَافِذَةٍ فِي عُضْوٍ مِنَ الأَعْضَاءِ فَفِيهَا ثُلُثُ عَقْلِ ذَلِكَ الْعُضْوِ ‏.‏

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Malik related to me, "Ibn Shihab did not  
think and nor do I, that there is a generally agreed on way of doing  
things regarding a piercing wound in any of the organs or limbs of the  
body, but I think that there is ijtihad in the case. The imam uses  
ijtihad in it, and there is no generally agreed on way of doing things  
in our community about it."  
  
  
Malik said, "What is done in our  
community about the wound to the brain and the wound which splinters  
the bone, and the wound that bares the bone is that they apply only to  
the head and face. Whatever of that occurs in the body only has  
ijtihad in it."  
  
  
Malik said, "I do not think the lower jaw and  
the nose are part of the head in their injury because they are  
separate bones, and except for them the head is one bone."

حَدَّثَنِي مَالِكٌ، كَانَ ابْنُ شِهَابٍ لاَ يَرَى ذَلِكَ وَأَنَا لاَ، أَرَى فِي نَافِذَةٍ فِي عُضْوٍ مِنَ الأَعْضَاءِ فِي الْجَسَدِ أَمْرًا مُجْتَمَعًا عَلَيْهِ وَلَكِنِّي أَرَى فِيهَا الاِجْتِهَادَ يَجْتَهِدُ الإِمَامُ فِي ذَلِكَ وَلَيْسَ فِي ذَلِكَ أَمْرٌ مُجْتَمَعٌ عَلَيْهِ عِنْدَنَا ‏.‏ قَالَ مَالِكٌ الأَمْرُ عِنْدَنَا أَنَّ الْمَأْمُومَةَ وَالْمُنَقَّلَةَ وَالْمُوضِحَةَ لاَ تَكُونُ إِلاَّ فِي الْوَجْهِ وَالرَّأْسِ فَمَا كَانَ فِي الْجَسَدِ مِنْ ذَلِكَ فَلَيْسَ فِيهِ إِلاَّ الاِجْتِهَادُ ‏.‏ قَالَ مَالِكٌ فَلاَ أَرَى اللَّحْىَ الأَسْفَلَ وَالأَنْفَ مِنَ الرَّأْسِ فِي جِرَاحِهِمَا لأَنَّهُمَا عَظْمَانِ مُنْفَرِدَانِ وَالرَّأْسُ بَعْدَهُمَا عَظْمٌ وَاحِدٌ ‏.‏

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Yahya related to me from Malik from Rabia ibn Abi Abd ar-Rahman that  
Abdullah ibn az-Zubayr allowed retaliation for a head wound which  
splintered the bone.

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ رَبِيعَةَ بْنِ أَبِي عَبْدِ الرَّحْمَنِ، أَنَّ عَبْدَ اللَّهِ بْنَ الزُّبَيْرِ، أَقَادَ مِنَ الْمُنَقَّلَةِ ‏.‏

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ibn Abi Abd ar-Rahman said, "I asked Said ibn al Musayyab, 'How  
much for the finger of a woman?' He said, 'Ten camels' I said, 'How  
much for two fingers?' He said, 'Twenty camels.' I said, 'How much for  
three?' He said, 'Thirty camels.' I said, 'How much for four?' He  
said, 'Twenty camels.' I said, 'When her wound is greater and her  
affliction stronger, is her blood-money then less?' He said, 'Are you  
an Iraqi?' I said, 'Rather, I am a scholar who seeks to verify things,  
or an ignorant man who seeks to learn.' Said said, 'It is the sunna,  
my nephew.' "  
  
  
Malik said, "What is done in our community  
about all the fingers of the hand being cut off is that its blood-  
money is complete. That is because when five fingers are cut, their  
blood-money is the blood-money of the hand:fifty camels. Each finger  
has ten camels."  
  
  
Malik said, "The reckoning of the fingers is  
thirty-three dinars for each fingertip, and that is three and a third  
shares of camels."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ رَبِيعَةَ بْنِ أَبِي عَبْدِ الرَّحْمَنِ، أَنَّهُ قَالَ سَأَلْتُ سَعِيدَ بْنَ الْمُسَيَّبِ كَمْ فِي إِصْبَعِ الْمَرْأَةِ فَقَالَ عَشْرٌ مِنَ الإِبِلِ ‏.‏ فَقُلْتُ كَمْ فِي إِصْبَعَيْنِ قَالَ عِشْرُونَ مِنَ الإِبِلِ ‏.‏ فَقُلْتُ كَمْ فِي ثَلاَثٍ فَقَالَ ثَلاَثُونَ مِنَ الإِبِلِ ‏.‏ فَقُلْتُ كَمْ فِي أَرْبَعٍ قَالَ عِشْرُونَ مِنَ الإِبِلِ ‏.‏ فَقُلْتُ حِينَ عَظُمَ جُرْحُهَا وَاشْتَدَّتْ مُصِيبَتُهَا نَقَصَ عَقْلُهَا فَقَالَ سَعِيدٌ أَعِرَاقِيٌّ أَنْتَ فَقُلْتُ بَلْ عَالِمٌ مُتَثَبِّتٌ أَوْ جَاهِلٌ مُتَعَلِّمٌ ‏.‏ فَقَالَ سَعِيدٌ هِيَ السُّنَّةُ يَا ابْنَ أَخِي ‏.‏ قَالَ مَالِكٌ الأَمْرُ عِنْدَنَا فِي أَصَابِعِ الْكَفِّ إِذَا قُطِعَتْ فَقَدْ تَمَّ عَقْلُهَا وَذَلِكَ أَنَّ خَمْسَ الأَصَابِعِ إِذَا قُطِعَتْ كَانَ عَقْلُهَا عَقْلَ الْكَفِّ خَمْسِينَ مِنَ الإِبِلِ فِي كُلِّ إِصْبَعٍ عَشَرَةٌ مِنَ الإِبِلِ ‏.‏ قَالَ مَالِكٌ وَحِسَابُ الأَصَابِعِ ثَلاَثَةٌ وَثَلاَثُونَ دِينَارٍ وَثُلُثُ دِينَارٍ فِي كُلِّ أَنْمُلَةٍ وَهِيَ مِنَ الإِبِلِ ثَلاَثُ فَرَائِضَ وَثُلُثُ فَرِيضَةٍ ‏.‏

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Yahya related to me from Malik from Zayd ibn Aslam from Muslim  
ibn Jundub from Aslam, the mawla of Umar ibn al-Khattab that Umar ibn  
al-Khattab decided on a camel for a molar, a camel for a collar-bone,  
and a camel for a rib.

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ زَيْدِ بْنِ أَسْلَمَ، عَنْ مُسْلِمِ بْنِ جُنْدُبٍ، عَنْ أَسْلَمَ، مَوْلَى عُمَرَ بْنِ الْخَطَّابِ أَنَّ عُمَرَ بْنَ الْخَطَّابِ، قَضَى فِي الضِّرْسِ بِجَمَلٍ وَفِي التَّرْقُوَةِ بِجَمَلٍ وَفِي الضِّلَعِ بِجَمَلٍ ‏.‏

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Yahya related to me from Malik that  
Yahya ibn Said heard Said ibn al-Musayyab say, ''Umar ibn al-Khattab  
decided on a camel for each molar, and Muawiya ibn Abi Sufyan decided  
on five camels for each molar."  
  
  
Said ibn al-Musayyab said,  
"The blood-money is less in the judgement of Umar ibn al-Khattab and  
more in the judgement of Muawiya. Had it been me, I would have made it  
two camels for each molar. That is the fair blood-money, and every one  
who strives with ijtihad is rewarded."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّهُ سَمِعَ سَعِيدَ بْنَ الْمُسَيَّبِ، يَقُولُ قَضَى عُمَرُ بْنُ الْخَطَّابِ فِي الأَضْرَاسِ بِبَعِيرٍ بَعِيرٍ وَقَضَى مُعَاوِيَةُ بْنُ أَبِي سُفْيَانَ فِي الأَضْرَاسِ بِخَمْسَةِ أَبْعِرَةٍ خَمْسَةِ أَبْعِرَةٍ ‏.‏ قَالَ سَعِيدُ بْنُ الْمُسَيَّبِ فَالدِّيَةُ تَنْقُصُ فِي قَضَاءِ عُمَرَ بْنِ الْخَطَّابِ وَتَزِيدُ فِي قَضَاءِ مُعَاوِيَةَ فَلَوْ كُنْتُ أَنَا لَجَعَلْتُ فِي الأَضْرَاسِ بَعِيرَيْنِ بَعِيرَيْنِ فَتِلْكَ الدِّيَةُ سَوَاءٌ وَكُلُّ مُجْتَهِدٍ مَأْجُورٌ ‏.‏

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Yahya related to me  
from Malik from Yahya ibn Said that Said ibn al-Musayyab used to say,'  
'When a tooth is struck and becomes black, there is complete blood-  
money for it. If it falls out after it becomes black, there is also  
the complete blood-money for it."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّهُ كَانَ يَقُولُ إِذَا أُصِيبَتِ السِّنُّ فَاسْوَدَّتْ فَفِيهَا عَقْلُهَا تَامًّا فَإِنْ طُرِحَتْ بَعْدَ أَنْ تَسْوَدَّ فَفِيهَا عَقْلُهَا أَيْضًا تَامًّا ‏.‏

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Yahya related to me from Malik from Da'ud ibn al-Husayn that Abu  
Ghatafan ibn Tarif al-Murri informed him that Marwan ibn al-Hakam sent  
him to Abdullah ibn Abbas to ask him what there was for the molar.  
Abdullah ibn Abbas said, "There are five camels for it." He said,  
"Marwan sent me back again to Abdullah ibn Abbas.'' He said, "Do you  
make front teeth like molars?" Abdullah ibn Abbas said, "It is enough  
that you take the fingers as the example for that, their blood-moneys  
being all the same."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ دَاوُدَ بْنِ الْحُصَيْنِ، عَنْ أَبِي غَطَفَانَ بْنِ طَرِيفٍ الْمُرِّيِّ، أَنَّهُ أَخْبَرَهُ أَنَّ مَرْوَانَ بْنَ الْحَكَمِ بَعَثَهُ إِلَى عَبْدِ اللَّهِ بْنِ عَبَّاسٍ يَسْأَلُهُ مَاذَا فِي الضِّرْسِ فَقَالَ عَبْدُ اللَّهِ بْنُ عَبَّاسٍ فِيهِ خَمْسٌ مِنَ الإِبِلِ ‏.‏ قَالَ فَرَدَّنِي مَرْوَانُ إِلَى عَبْدِ اللَّهِ بْنِ عَبَّاسٍ فَقَالَ أَتَجْعَلُ مُقَدَّمَ الْفَمِ مِثْلَ الأَضْرَاسِ ‏.‏ فَقَالَ عَبْدُ اللَّهِ بْنُ عَبَّاسٍ لَوْ لَمْ تَعْتَبِرْ ذَلِكَ إِلاَّ بِالأَصَابِعِ عَقْلُهَا سَوَاءٌ ‏.‏

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Yahya related to me from Malik from  
Hisham ibn Urwa that his father made all the teeth the same in the  
blood-money and did not prefer any kind over others.  
  
  
Malik  
said, "What is done in our community is that the front teeth, molars,  
and eye-teeth have the same blood-money. That is because the Messenger  
of Allah, may Allah bless him and grant him peace, said, 'The tooth  
has five camels.' The molar is one of the teeth and he did not prefer  
any kind over the others."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، أَنَّهُ كَانَ يُسَوِّي بَيْنَ الأَسْنَانِ فِي الْعَقْلِ وَلاَ يُفَضِّلُ بَعْضَهَا عَلَى بَعْضٍ ‏.‏ قَالَ مَالِكٌ وَالأَمْرُ عِنْدَنَا أَنَّ مُقَدَّمَ الْفَمِ وَالأَضْرَاسِ وَالأَنْيَابِ عَقْلُهَا سَوَاءٌ وَذَلِكَ أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ فِي السِّنِّ خَمْسٌ مِنَ الإِبِلِ ‏"‏ ‏.‏ وَالضِّرْسُ سِنٌّ مِنَ الأَسْنَانِ لاَ يَفْضُلُ بَعْضُهَا عَلَى بَعْضٍ ‏.‏

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Yahya related to me from Malik that he had heard that Said ibn  
al-Musayyab and Sulayman ibn Yasar said, "The head wound of the slave  
in which the bone is bared is a twentieth of his price."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ سَعِيدَ بْنَ الْمُسَيَّبِ، وَسُلَيْمَانَ بْنَ يَسَارٍ، كَانَا يَقُولاَنِ فِي مُوضِحَةِ الْعَبْدِ نِصْفُ عُشْرِ ثَمَنِهِ ‏.‏

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Malik related to me that he had heard that Marwan ibn al-Hakam gave a  
decision about a slave who was injured that the person who injured him  
had to pay what he had diminished of the value of the slave.  
  
  
Malik said, "What is done in our community is that for the head wound  
of a slave that bares the bone, there is a twentieth of his price. The  
head wound which splinters the bone is three twentieths of his price.  
Both the wound to the brain and the belly wound are a third of his  
price. Besides these four, any other types of injury that decrease the  
price of the slave are considered after the slave is better and well,  
and one sees what the value of the slave is after his injury and what  
his value whole was before he had the injury. Then the one who injured  
him pays the difference between the two values."

وَحَدَّثَنِي مَالِكٌ، أَنَّهُ بَلَغَهُ أَنَّ مَرْوَانَ بْنَ الْحَكَمِ، كَانَ يَقْضِي فِي الْعَبْدِ يُصَابُ بِالْجِرَاحِ أَنَّ عَلَى مَنْ جَرَحَهُ قَدْرَ مَا نَقَصَ مِنْ ثَمَنِ الْعَبْدِ ‏.‏ قَالَ مَالِكٌ وَالأَمْرُ عِنْدَنَا أَنَّ فِي مُوضِحَةِ الْعَبْدِ نِصْفَ عُشْرِ ثَمَنِهِ وَفِي مُنَقَّلَتِهِ الْعُشْرُ وَنِصْفُ الْعُشْرِ مِنْ ثَمَنِهِ وَفِي مَأْمُومَتِهِ وَجَائِفَتِهِ فِي كُلِّ وَاحِدَةٍ مِنْهُمَا ثُلُثُ ثَمَنِهِ وَفِيمَا سِوَى هَذِهِ الْخِصَالِ الأَرْبَعِ مِمَّا يُصَابُ بِهِ الْعَبْدُ مَا نَقَصَ مِنْ ثَمَنِهِ يُنْظَرُ فِي ذَلِكَ بَعْدَ مَا يَصِحُّ الْعَبْدُ وَيَبْرَأُ كَمْ بَيْنَ قِيمَةِ الْعَبْدِ بَعْدَ أَنْ أَصَابَهُ الْجُرْحُ وَقِيمَتِهِ صَحِيحًا قَبْلَ أَنْ يُصِيبَهُ هَذَا ثُمَّ يَغْرَمُ الَّذِي أَصَابَهُ مَا بَيْنَ الْقِيمَتَيْنِ ‏.‏ قَالَ مَالِكٌ فِي الْعَبْدِ إِذَا كُسِرَتْ يَدُهُ أَوْ رِجْلُهُ ثُمَّ صَحَّ كَسْرُهُ فَلَيْسَ عَلَى مَنْ أَصَابَهُ شَىْءٌ فَإِنْ أَصَابَ كَسْرَهُ ذَلِكَ نَقْصٌ أَوْ عَثَلٌ كَانَ عَلَى مَنْ أَصَابَهُ قَدْرُ مَا نَقَصَ مِنْ ثَمَنِ الْعَبْدِ ‏.‏ قَالَ مَالِكٌ الأَمْرُ عِنْدَنَا فِي الْقِصَاصِ بَيْنَ الْمَمَالِيكِ كَهَيْئَةِ قِصَاصِ الأَحْرَارِ نَفْسُ الأَمَةِ بِنَفْسِ الْعَبْدِ وَجُرْحُهَا بِجُرْحِهِ فَإِذَا قَتَلَ الْعَبْدُ عَبْدًا عَمْدًا خُيِّرَ سَيِّدُ الْعَبْدِ الْمَقْتُولِ فَإِنْ شَاءَ قَتَلَ وَإِنْ شَاءَ أَخَذَ الْعَقْلَ فَإِنْ أَخَذَ الْعَقْلَ أَخَذَ قِيمَةَ عَبْدِهِ وَإِنْ شَاءَ رَبُّ الْعَبْدِ الْقَاتِلِ أَنْ يُعْطِيَ ثَمَنَ الْعَبْدِ الْمَقْتُولِ فَعَلَ وَإِنْ شَاءَ أَسْلَمَ عَبْدَهُ فَإِذَا أَسْلَمَهُ فَلَيْسَ عَلَيْهِ غَيْرُ ذَلِكَ وَلَيْسَ لِرَبِّ الْعَبْدِ الْمَقْتُولِ إِذَا أَخَذَ الْعَبْدَ الْقَاتِلَ وَرَضِيَ بِهِ أَنْ يَقْتُلَهُ وَذَلِكَ فِي الْقِصَاصِ كُلِّهِ بَيْنَ الْعَبِيدِ فِي قَطْعِ الْيَدِ وَالرِّجْلِ وَأَشْبَاهِ ذَلِكَ بِمَنْزِلَتِهِ فِي الْقَتْلِ ‏.‏ قَالَ مَالِكٌ فِي الْعَبْدِ الْمُسْلِمِ يَجْرَحُ الْيَهُودِيَّ أَوِ النَّصْرَانِيَّ إِنَّ سَيِّدَ الْعَبْدِ إِنْ شَاءَ أَنْ يَعْقِلَ عَنْهُ مَا قَدْ أَصَابَ فَعَلَ أَوْ أَسْلَمَهُ فَيُبَاعُ فَيُعْطِي الْيَهُودِيَّ أَوِ النَّصْرَانِيَّ مِنْ ثَمَنِ الْعَبْدِ دِيَةَ جُرْحِهِ أَوْ ثَمَنَهُ كُلَّهُ إِنْ أَحَاطَ بِثَمَنِهِ وَلاَ يُعْطِي الْيَهُودِيَّ وَلاَ النَّصْرَانِيَّ عَبْدًا مُسْلِمًا ‏.‏

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Yahya related to me from Malik that he heard that Umar ibn Abd  
al-Aziz gave a decision that when a jew or christian was killed, his  
blood-money was half the blood-money of a free muslim.  
  
  
Malik  
said, "What is done in our community, is that a muslim is not killed  
for a kafir unless the muslim kills him by deceit. Then he is killed  
for it."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ عُمَرَ بْنَ عَبْدِ الْعَزِيزِ، قَضَى أَنَّ دِيَةَ الْيَهُودِيِّ، أَوِ النَّصْرَانِيِّ - إِذَا قُتِلَ أَحَدُهُمَا - مِثْلُ نِصْفِ دِيَةِ الْحُرِّ الْمُسْلِمِ ‏.‏ قَالَ مَالِكٌ الأَمْرُ عِنْدَنَا أَنْ لاَ يُقْتَلَ مُسْلِمٌ بِكَافِرٍ إِلاَّ أَنْ يَقْتُلَهُ مُسْلِمٌ قَتْلَ غِيْلَةٍ فَيُقْتَلُ بِهِ ‏.‏

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Yahya related to me from Malik from Yahya ibn Said  
that Sulayman ibn Yasar said, "The blood-money of a magian is eight  
hundred dirhams."  
  
  
Malik said, "This is what is done in our  
community."  
  
  
Malik said, "The blood-monies of the jew,  
christian, and magian in their injuries, is according to the injury of  
the muslims in their blood-moneys. The head wound is a twentieth of  
his full blood-money. The wound that opens the head is a third of his  
blood-money. The belly-wound is a third of his blood-money. All their  
injuries are according to this calculation."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّ سُلَيْمَانَ بْنَ يَسَارٍ، كَانَ يَقُولُ دِيَةُ الْمَجُوسِيِّ ثَمَانِي مِائَةِ دِرْهَمٍ ‏.‏ قَالَ مَالِكٌ وَهُوَ الأَمْرُ عِنْدَنَا ‏.‏ قَالَ مَالِكٌ وَجِرَاحُ الْيَهُودِيِّ وَالنَّصْرَانِيِّ وَالْمَجُوسِيِّ فِي دِيَاتِهِمْ عَلَى حِسَابِ جِرَاحِ الْمُسْلِمِينَ فِي دِيَاتِهِمُ الْمُوضِحَةُ نِصْفُ عُشْرِ دِيَتِهِ وَالْمَأْمُومَةُ ثُلُثُ دِيَتِهِ وَالْجَائِفَةُ ثُلُثُ دِيَتِهِ فَعَلَى حِسَابِ ذَلِكَ جِرَاحَاتُهُمْ كُلُّهَا ‏.‏

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Yahya related to me from Malik from Hisham ibn Urwa that his  
father said, "The tribe is not obliged to pay blood-money for  
intentional murder. They pay blood-money for accidental killing."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، أَنَّهُ كَانَ يَقُولُ لَيْسَ عَلَى الْعَاقِلَةِ عَقْلٌ فِي قَتْلِ الْعَمْدِ إِنَّمَا عَلَيْهِمْ عَقْلُ قَتْلِ الْخَطَإِ ‏.‏

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Yahya related to me from Malik that Ibn Shihab said, "The  
precedent of the sunna is that the tribe are not liable for any blood-  
money of an intentional killing unless they wish that."  
  
  
Yahya  
related to me from Malik from Yahya ibn Said the same as that.

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، أَنَّهُ قَالَ مَضَتِ السُّنَّةُ أَنَّ الْعَاقِلَةَ لاَ تَحْمِلُ شَيْئًا مِنْ دِيَةِ الْعَمْدِ إِلاَّ أَنْ يَشَاءُوا ذَلِكَ ‏.‏   
 وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، مِثْلَ ذَلِكَ ‏.

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Malik said that Ibn Shihab said, "The precedent of the sunna in  
the intentional murder is that when the relatives of the murdered  
person relinquish retaliation, the blood-money is owed by the murderer  
from his own property unless the tribe helps him with it willingly."  
  
  
Malik said, "What is done in our community is that the blood-  
money is not obliged against the tribe until it has reached a third of  
the full amount and upwards. Whatever reaches a third is against the  
tribe, and whatever is below a third, is against the property of the  
one who did the injury."  
  
  
Malik said, "The way of doing things  
about which there is no dispute among us, in the case of someone who  
has the blood-money accepted from him in intentional murder or in any  
injury in which there is retaliation, is that that blood-money is not  
due from the tribe unless they wish it. The blood-money for that is  
from the property of the murderer or the injurer if he has property.  
If he does not have any property, it is a debt against him, and none  
of it is owed by the tribe unless they wish."  
  
  
Malik said,  
"The tribe does not pay blood-money to anyone who injures himself,  
intentionally or accidentally. This is the opinion of the people of  
fiqh in our community. I have not heard that anyone has made the tribe  
liable for any blood-money incurred by intentional acts. Part of what  
is well-known of that is that Allah, the Blessed, and the Exalted,  
said in His Book, 'Whoever has something pardoned him by his brother,  
should follow it with what is accepted and pay it with good will'  
(Sura 2 ayat 178) The commentary on that - in our view - and Allah  
knows best, is that whoever gives his brother something of the blood-  
money, should follow it with what is accepted and pay him with good  
will."  
  
  
Malik spoke about a child who had no property and a  
woman who had no property. He said, "When one of them causes an injury  
below a third of the blood-money, it is taken on behalf of the child  
and woman from their personal property, if they have property from  
which it may be taken. If not, the injury which each of them has  
caused is a debt against them. The tribe does not have to pay any of  
it and the father of a child is not liable for the blood-money of an  
injury caused by the child and he is not responsible for it."  
  
  
Malik said, "The way of doing things in our community about which  
there is no dispute, is that when a slave is killed, the value for him  
is that of the day on which he was killed. The tribe of the murderer  
is not liable for any of the value of the slave, great or small. That  
is the responsibility of the one who struck him from his own personal  
property as far as it covers. If the value of the slave is the blood-  
money or more, that is against him in his property. That is because  
the slave is a certain type of goods."

قَالَ مَالِكٌ إِنَّ ابْنَ شِهَابٍ قَالَ مَضَتِ السُّنَّةُ فِي قَتْلِ الْعَمْدِ حِينَ يَعْفُو أَوْلِيَاءُ الْمَقْتُولِ أَنَّ الدِّيَةَ تَكُونُ عَلَى الْقَاتِلِ فِي مَالِهِ خَاصَّةً إِلاَّ أَنْ تُعِينَهُ الْعَاقِلَةُ عَنْ طِيبِ نَفْسٍ مِنْهَا ‏.‏ قَالَ مَالِكٌ وَالأَمْرُ عِنْدَنَا أَنَّ الدِّيَةَ لاَ تَجِبُ عَلَى الْعَاقِلَةِ حَتَّى تَبْلُغَ الثُّلُثَ فَصَاعِدًا فَمَا بَلَغَ الثُّلُثَ فَهُوَ عَلَى الْعَاقِلَةِ وَمَا كَانَ دُونَ الثُّلُثِ فَهُوَ فِي مَالِ الْجَارِحِ خَاصَّةً ‏.‏ قَالَ مَالِكٌ الأَمْرُ الَّذِي لاَ اخْتِلاَفَ فِيهِ عِنْدَنَا فِيمَنْ قُبِلَتْ مِنْهُ الدِّيَةُ فِي قَتْلِ الْعَمْدِ أَوْ فِي شَىْءٍ مِنَ الْجِرَاحِ الَّتِي فِيهَا الْقِصَاصُ أَنَّ عَقْلَ ذَلِكَ لاَ يَكُونُ عَلَى الْعَاقِلَةِ إِلاَّ أَنْ يَشَاءُوا وَإِنَّمَا عَقْلُ ذَلِكَ فِي مَالِ الْقَاتِلِ أَوِ الْجَارِحِ خَاصَّةً إِنْ وُجِدَ لَهُ مَالٌ فَإِنْ لَمْ يُوجَدْ لَهُ مَالٌ كَانَ دَيْنًا عَلَيْهِ وَلَيْسَ عَلَى الْعَاقِلَةِ مِنْهُ شَىْءٌ إِلاَّ أَنْ يَشَاءُوا ‏.‏ قَالَ مَالِكٌ وَلاَ تَعْقِلُ الْعَاقِلَةُ أَحَدًا أَصَابَ نَفْسَهُ عَمْدًا أَوْ خَطَأً بِشَىْءٍ وَعَلَى ذَلِكَ رَأْىُ أَهْلِ الْفِقْهِ عِنْدَنَا وَلَمْ أَسْمَعْ أَنَّ أَحَدًا ضَمَّنَ الْعَاقِلَةَ مِنْ دِيَةِ الْعَمْدِ شَيْئًا وَمِمَّا يُعْرَفُ بِهِ ذَلِكَ أَنَّ اللَّهَ تَبَارَكَ وَتَعَالَى قَالَ فِي كِتَابِهِ ‏{‏فَمَنْ عُفِيَ لَهُ مِنْ أَخِيهِ شَىْءٌ فَاتِّبَاعٌ بِالْمَعْرُوفِ وَأَدَاءٌ إِلَيْهِ بِإِحْسَانٍ‏}‏ فَتَفْسِيرُ ذَلِكَ - فِيمَا نُرَى وَاللَّهُ أَعْلَمُ - أَنَّهُ مَنْ أُعْطِيَ مِنْ أَخِيهِ شَىْءٌ مِنَ الْعَقْلِ فَلْيَتْبَعْهُ بِالْمَعْرُوفِ وَلْيُؤَدِّ إِلَيْهِ بِإِحْسَانٍ ‏.‏ قَالَ مَالِكٌ فِي الصَّبِيِّ الَّذِي لاَ مَالَ لَهُ وَالْمَرْأَةِ الَّتِي لاَ مَالَ لَهَا إِذَا جَنَى أَحَدُهُمَا جِنَايَةً دُونَ الثُّلُثِ إِنَّهُ ضَامِنٌ عَلَى الصَّبِيِّ وَالْمَرْأَةِ فِي مَالِهِمَا خَاصَّةً إِنْ كَانَ لَهُمَا مَالٌ أُخِذَ مِنْهُ وَإِلاَّ فَجِنَايَةُ كُلِّ وَاحِدٍ مِنْهُمَا دَيْنٌ عَلَيْهِ لَيْسَ عَلَى الْعَاقِلَةِ مِنْهُ شَىْءٌ وَلاَ يُؤْخَذُ أَبُو الصَّبِيِّ بِعَقْلِ جِنَايَةِ الصَّبِيِّ وَلَيْسَ ذَلِكَ عَلَيْهِ ‏.‏ قَالَ مَالِكٌ الأَمْرُ عِنْدَنَا الَّذِي لاَ اخْتِلاَفَ فِيهِ أَنَّ الْعَبْدَ إِذَا قُتِلَ كَانَتْ فِيهِ الْقِيمَةُ يَوْمَ يُقْتَلُ وَلاَ تَحْمِلُ عَاقِلَةُ قَاتِلِهِ مِنْ قِيمَةِ الْعَبْدِ شَيْئًا قَلَّ أَوْ كَثُرَ وَإِنَّمَا ذَلِكَ عَلَى الَّذِي أَصَابَهُ فِي مَالِهِ خَاصَّةً بَالِغًا مَا بَلَغَ وَإِنْ كَانَتْ قِيمَةُ الْعَبْدِ الدِّيَةَ أَوْ أَكْثَرَ فَذَلِكَ عَلَيْهِ فِي مَالِهِ وَذَلِكَ لأَنَّ الْعَبْدَ سِلْعَةٌ مِنَ السِّلَعِ ‏.‏

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Yahya related to me from Malik from Ibn Shihab that Umar ibn al-  
Khattab demanded of the people at Mina, "If anyone has knowledge of  
blood-money, let him inform me." Ad-Dahhak ibn Sufyan al-Kilabi stood  
up and said, "The Messenger of Allah, may Allah bless him and grant  
him peace, wrote to me that the wife of Ashyam ad-Dibabi inherited  
from the blood-money of her husband." Umar ibn al-Khattab said to him,  
"Go into the tent until I come to you." When Umar ibn al-Khattab came  
in, ad-Dahhak told him about it and Umar ibn al-Khattab gave a  
decision based on that.  
  
  
Ibn Shihab said, "The killing of  
Ashyam was accidental."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ، نَشَدَ النَّاسَ بِمِنًى مَنْ كَانَ عِنْدَهُ عِلْمٌ مِنَ الدِّيَةِ أَنْ يُخْبِرَنِي ‏.‏ فَقَامَ الضَّحَّاكُ بْنُ سُفْيَانَ الْكِلاَبِيُّ فَقَالَ كَتَبَ إِلَىَّ رَسُولُ اللَّهِ صلى الله عليه وسلم أَنْ أُوَرِّثَ امْرَأَةَ أَشْيَمَ الضِّبَابِيِّ مِنْ دِيَةِ زَوْجِهَا ‏.‏ فَقَالَ لَهُ عُمَرُ بْنُ الْخَطَّابِ ادْخُلِ الْخِبَاءَ حَتَّى آتِيَكَ فَلَمَّا نَزَلَ عُمَرُ بْنُ الْخَطَّابِ أَخْبَرَهُ الضَّحَّاكُ فَقَضَى بِذَلِكَ عُمَرُ بْنُ الْخَطَّابِ ‏.‏ قَالَ ابْنُ شِهَابٍ وَكَانَ قَتْلُ أَشْيَمَ خَطَأً ‏.‏

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Malik related to me from Yahya ibn Said from Amr ibn Shuayb that  
a man of the Banu Mudlij called Qatada threw a sword at his son and it  
struck his thigh. The wound bled profusely and he died. Suraqa ibn  
Jusham came to Umar ibn al-Khattab and mentioned that to him Umar said  
to him, "At the watering place of Qudayd count one hundred and twenty  
camels and wait until I come to you." When Umar ibn al-Khattab came to  
him, he took thirty four-year-old camels, thirty five-year-old camels,  
and forty pregnant camels from them. Then he said, "Where is the  
brother of the slain man?" He said, "Here." He said, "Take them. The  
Messenger of Allah, may Allah bless him and grant him peace, said,  
'The killer gets nothing.' "

وَحَدَّثَنِي مَالِكٌ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ عَمْرِو بْنِ شُعَيْبٍ، أَنَّ رَجُلاً، مِنْ بَنِي مُدْلِجٍ - يُقَالُ لَهُ قَتَادَةُ - حَذَفَ ابْنَهُ بِالسَّيْفِ فَأَصَابَ سَاقَهُ فَنُزِيَ فِي جُرْحِهِ فَمَاتَ فَقَدِمَ سُرَاقَةُ بْنُ جُعْشُمٍ عَلَى عُمَرَ بْنِ الْخَطَّابِ فَذَكَرَ ذَلِكَ لَهُ فَقَالَ لَهُ عُمَرُ اعْدُدْ عَلَى مَاءِ قُدَيْدٍ عِشْرِينَ وَمِائَةَ بَعِيرٍ حَتَّى أَقْدَمَ عَلَيْكَ فَلَمَّا قَدِمَ إِلَيْهِ عُمَرُ بْنُ الْخَطَّابِ أَخَذَ مِنْ تِلْكَ الإِبِلِ ثَلاَثِينَ حِقَّةً وَثَلاَثِينَ جَذَعَةً وَأَرْبَعِينَ خَلِفَةً ثُمَّ قَالَ أَيْنَ أَخُو الْمَقْتُولِ قَالَ هَا أَنَا ذَا ‏.‏ قَالَ خُذْهَا فَإِنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ لَيْسَ لِقَاتِلٍ شَىْءٌ ‏"‏ ‏.‏

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Malik said that he had heard  
that Said ibn al-Musayyab and Sulayman ibn Yasar were asked, "Does one  
deal more harshly in taking the blood-money in the sacred month?" They  
said, "No. But it is increased in it because of violating the month."  
It was said to Said, "Does one increase for the wound as one increases  
for the life?" He said, "Yes."  
  
  
Malik added, "I think that  
they meant the same as what Umar ibn al-Khattab did with respect to  
the blood-money of the Mudliji when he struck his son." (i.e. giving  
120 camels instead of 100).

وَحَدَّثَنِي مَالِكٌ، أَنَّهُ بَلَغَهُ أَنَّ سَعِيدَ بْنَ الْمُسَيَّبِ، وَسُلَيْمَانَ بْنَ يَسَارٍ، سُئِلاَ أَتُغَلَّظُ الدِّيَةُ فِي الشَّهْرِ الْحَرَامِ فَقَالاَ لاَ وَلَكِنْ يُزَادُ فِيهَا لِلْحُرْمَةِ ‏.‏ فَقِيلَ لِسَعِيدٍ هَلْ يُزَادُ فِي الْجِرَاحِ كَمَا يُزَادُ فِي النَّفْسِ فَقَالَ نَعَمْ ‏.‏ قَالَ مَالِكٌ أُرَاهُمَا أَرَادَا مِثْلَ الَّذِي صَنَعَ عُمَرُ بْنُ الْخَطَّابِ فِي عَقْلِ الْمُدْلِجِيِّ حِينَ أَصَابَ ابْنَهُ ‏.‏

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11 Malik related to me from Yahya ibn Said from Urwa ibn az-  
Zubayr that a man of the Ansar called Uhayha ibn al-Julah had a young  
paternal uncle who was younger than him and who was living with his  
maternal uncles. Uhayha took him and killed him. His maternal uncles  
said, "We brought him up from a baby to a youth till he stood firm on  
his feet, and we have had the right of a man taken from us by his  
paternal uncle." Urwa said, "For that reason a killer does not inherit  
from the one he killed."  
  
  
Malik said, "The way of doing things  
about which there is no dispute is that the intentional murderer does  
not inherit anything of the blood-money of the person he has murdered  
or any of his property. He does not stop anyone who has a share of  
inheritance from inheriting. The one who kills accidentally does not  
inherit anything of the blood-money and there is dispute as to whether  
or not he inherits from the dead person's property because there is no  
suspicion that he killed him for his inheritance and in order to take  
his property. I prefer that he inherit from the dead person's property  
and not inherit from the blood-money."

وَحَدَّثَنِي مَالِكٌ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ عُرْوَةَ بْنِ الزُّبَيْرِ، أَنَّ رَجُلاً، مِنَ الأَنْصَارِ - يُقَالُ لَهُ أُحَيْحَةُ بْنُ الْجُلاَحِ - كَانَ لَهُ عَمٌّ صَغِيرٌ هُوَ أَصْغَرُ مِنْ أُحَيْحَةَ وَكَانَ عِنْدَ أَخْوَالِهِ فَأَخَذَهُ أُحَيْحَةُ فَقَتَلَهُ فَقَالَ أَخْوَالُهُ كُنَّا أَهْلَ ثُمِّهِ وَرُمِّهِ حَتَّى إِذَا اسْتَوَى عَلَى عُمَمِهِ غَلَبَنَا حَقُّ امْرِئٍ فِي عَمِّهِ ‏.‏ قَالَ عُرْوَةُ فَلِذَلِكَ لاَ يَرِثُ قَاتِلٌ مَنْ قَتَلَ ‏.‏ قَالَ مَالِكٌ الأَمْرُ الَّذِي لاَ اخْتِلاَفَ فِيهِ عِنْدَنَا أَنَّ قَاتِلَ الْعَمْدِ لاَ يَرِثُ مِنْ دِيَةِ مَنْ قَتَلَ شَيْئًا وَلاَ مِنْ مَالِهِ وَلاَ يَحْجُبُ أَحَدًا وَقَعَ لَهُ مِيرَاثٌ وَأَنَّ الَّذِي يَقْتُلُ خَطَأً لاَ يَرِثُ مِنَ الدِّيَةِ شَيْئًا وَقَدِ اخْتُلِفَ فِي أَنْ يَرِثَ مِنْ مَالِهِ لأَنَّهُ لاَ يُتَّهَمُ عَلَى أَنَّهُ قَتَلَهُ لِيَرِثَهُ وَلِيَأْخُذَ مَالَهُ فَأَحَبُّ إِلَىَّ أَنْ يَرِثَ مِنْ مَالِهِ وَلاَ يَرِثُ مِنْ دِيَتِهِ ‏.‏

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Yahya related to me from Malik from Ibn Shihab from Said ibn al-  
Musayyab and Abu Salama ibn Abd ar-Rahman from Abu Hurayra that the  
Messenger of Allah, may Allah bless him and grant him peace, said,  
"The wound of an animal is of no account and no compensation is due  
for it. The well is of no account and no compensation is due for it.  
The mine is of no account and no compensation is due for it and a  
fifth is due for buried treasures." (Al-kanz:see Book 17).  
  
  
Malik said, "Everyone leading an animal by the halter, driving it, and  
riding it is responsible for what the animal strikes unless the animal  
kicks out without anything being done to it to make it kick out. Umar  
ibn al-Khattab imposed the blood-money on a person who was exercising  
his horse."  
  
  
Malik said, "It is more fitting that a person  
leading an animal by the halter, driving it, or riding it incur a loss  
than a person who is exercising his horse." (See hadith 4 of this  
book).  
  
  
Malik said, "What is done in our community about a  
person who digs a well on a road or ties up an animal or does the like  
of that on a road used by muslims, is that since what he has done is  
included in that which he is not permitted to do in such a place, he  
is liable for whatever injury or other thing arises from that action.  
The blood-money of that which is less than a third of the full blood-  
money is owed from his own personal property. Whatever reaches a third  
or more, is owed by his tribe. Any such things that he does which he  
is permitted to do on the muslims' road are something for which he has  
no liability or loss. Part of that is a hole which a man digs to  
collect rain, and the beast from which the man alights for some need  
and leaves standing on the road. There is no penalty against anyone  
for this."  
  
  
Malik spoke about a man who went down a well, and  
another man followed behind him, and the lower one pulled the higher  
one and they fell into the well and both died He said, "The tribe of  
the one who pulled him in is responsible for the blood-money."  
  
  
Malik spoke about a child whom a man ordered to go down into a  
well or to climb a palm tree and he died as a result. He said, "The  
one who ordered him is liable for whatever befalls him, be it death or  
something else."  
  
  
Malik said, "The way of doing things in our  
community about which there is no dispute is that women and children  
are not obliged to pay blood-money together with the tribe in the  
blood-moneys which the tribe must pay. The blood-money is only  
obligatory for a man who has reached puberty."  
  
  
Malik said  
that the tribe could bind themselves to the blood-money of mawali if  
they wished. If they refused, they were people of the diwan or were  
cut off from their people. In the time of the Messenger of Allah, may  
Allah bless him and grant him peace, people paid the blood-money to  
each other as well as in the time of Abu Bakr as-Siddiq before there  
was a diwan. The diwan was in the time of Umar ibn al-Khattab. No one  
other than one's people and the ones holding the wala' paid blood-  
money for one because the wala' was not transferable and because the  
Prophet, may Allah bless him and grant him peace, said, "The wala'  
belongs to the one who sets free."  
  
  
Malik said, "The wala' is  
an established relationship."  
  
  
Malik said, "What is done in  
our community about animals that are injured is that the person who  
causes the injury pays whatever of their value has been diminished."  
  
  
Malik said about a man condemned to death and one of the  
other hudud befell him, "He is not punished for it. That is because  
the killing overrides all of that, except for slander. The slander  
remains hanging over the one to whom it was said because it will be  
said to him, 'Why do you not flog the one who slandered you?' I think  
that the condemned man is flogged with the hadd before he is killed,  
and then he is killed. I do not think that any retaliation is  
inflicted on him for any injury except killing because killing  
overrides all of that."  
  
  
Malik said, "What is done in our  
community is that when a murdered person is found among the main body  
of a people in a village or other place, the house or place of the  
nearest people to him is not responsible. That is because the murdered  
person can be slain and then cast at the door of some people to shame  
them by it. No one is responsible for the like of that."  
  
  
Malik said about a group of people who fight with each other and when  
the fight is broken up, a man is found dead or wounded, and it is not  
known who did it, "The best of what is heard about that is that there  
is blood-money for him, and the blood-money is against the people who  
argued with him. If the injured or slain person is not from either of  
the two parties, his blood-money is against both of the two parties  
together."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، وَأَبِي، سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ ‏  
"‏ جَرْحُ الْعَجْمَاءِ جُبَارٌ وَالْبِئْرُ جُبَارٌ وَالْمَعْدِنُ جُبَارٌ وَفِي الرِّكَازِ الْخُمُسُ ‏"‏ ‏.‏

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Yahya related to me from Malik from Yahya ibn Said from Said ibn  
al-Musayyab that Umar ibn al-Khattab killed five or seven people for  
one man whom they had killed secretly by trickery. Umar said, "Had all  
the people of Sana joined forces against him, I would have killed them  
all."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ، قَتَلَ نَفَرًا خَمْسَةً أَوْ سَبْعَةً بِرَجُلٍ وَاحِدٍ قَتَلُوهُ قَتْلَ غِيلَةٍ وَقَالَ عُمَرُ لَوْ تَمَالأَ عَلَيْهِ أَهْلُ صَنْعَاءَ لَقَتَلْتُهُمْ جَمِيعًا ‏.‏

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Yahya related to me from Malik from Muhammad ibn Abd ar-Rahman  
ibn Sad ibn Zurara that he had heard that Hafsa, the wife of the  
Prophet, may Allah bless him and grant him peace, killed one of her  
slave-girls who had used sorcery against her. She was a mudabbara.  
Hafsa gave the order, and she was killed.  
  
  
Malik said, "The  
sorcerer is the one who uses sorcery for himself and no one else uses  
that for him. It is like the one about whom Allah, the Blessed, the  
Exalted, said in His Book, 'They know the one who devotes himself to  
it will have no share in the Next World.' (Sura 2 ayat 102) I think  
that that person is killed if he does that himself."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ سَعْدِ بْنِ زُرَارَةَ، أَنَّهُ بَلَغَهُ أَنَّ حَفْصَةَ، زَوْجَ النَّبِيِّ صلى الله عليه وسلم قَتَلَتْ جَارِيَةً لَهَا سَحَرَتْهَا وَقَدْ كَانَتْ دَبَّرَتْهَا فَأَمَرَتْ بِهَا فَقُتِلَتْ ‏.‏ قَالَ مَالِكٌ السَّاحِرُ الَّذِي يَعْمَلُ السِّحْرَ وَلَمْ يَعْمَلْ ذَلِكَ لَهُ غَيْرُهُ هُوَ مَثَلُ الَّذِي قَالَ اللَّهُ تَبَارَكَ وَتَعَالَى فِي كِتَابِهِ ‏{‏وَلَقَدْ عَلِمُوا لَمَنِ اشْتَرَاهُ مَا لَهُ فِي الآخِرَةِ مِنْ خَلاَقٍ‏}‏ فَأَرَى أَنْ يُقْتَلَ ذَلِكَ إِذَا عَمِلَ ذَلِكَ هُوَ نَفْسُهُ ‏.‏

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Yahya related to me from Malik from Umar ibn Husayn, the mawla of  
A'isha bint Qudama, that Abd al-Malik ibn Marwan imposed retaliation  
against a man who killed a mawla with a stick and so the mawla's  
patron killed the man with a stick.  
  
  
Malik said, "The  
generally agreed on way of doing things in our community about which  
there is no dispute is that when a man strikes another man with a  
stick or hits him with a rock or intentionally strikes him causing his  
death, that is an intentional injury and there is retaliation for it."  
  
  
Malik said, "Intentional murder with us is that a man  
intentionally goes to a man and strikes him until his life goes. Part  
of intentional injury also is that a man strikes a man in a quarrel  
between them. He leaves him while he is alive, and he bleeds to death  
and so dies. There is retaliation for that."  
  
  
Malik said,  
"What is done in our community is that a group of free men are killed  
for the intentional murder of one free man, and a group of women for  
one woman, and a group of slaves for one slave."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ عُمَرَ بْنِ حُسَيْنٍ، مَوْلَى عَائِشَةَ بِنْتِ قُدَامَةَ أَنَّ عَبْدَ الْمَلِكِ بْنَ مَرْوَانَ، أَقَادَ وَلِيَّ رَجُلٍ مِنْ رَجُلٍ قَتَلَهُ بِعَصًا فَقَتَلَهُ وَلِيُّهُ بِعَصًا ‏.‏ قَالَ مَالِكٌ وَالأَمْرُ الْمُجْتَمَعُ عَلَيْهِ الَّذِي لاَ اخْتِلاَفَ فِيهِ عِنْدَنَا أَنَّ الرَّجُلَ إِذَا ضَرَبَ الرَّجُلَ بِعَصًا أَوْ رَمَاهُ بِحَجَرٍ أَوْ ضَرَبَهُ عَمْدًا فَمَاتَ مِنْ ذَلِكَ فَإِنَّ ذَلِكَ هُوَ الْعَمْدُ وَفِيهِ الْقِصَاصُ ‏.‏ قَالَ مَالِكٌ فَقَتْلُ الْعَمْدِ عِنْدَنَا أَنْ يَعْمِدَ الرَّجُلُ إِلَى الرَّجُلِ فَيَضْرِبَهُ حَتَّى تَفِيظَ نَفْسُهُ وَمِنَ الْعَمْدِ أَيْضًا أَنْ يَضْرِبَ الرَّجُلُ الرَّجُلَ فِي النَّائِرَةِ تَكُونُ بَيْنَهُمَا ثُمَّ يَنْصَرِفُ عَنْهُ وَهُوَ حَىٌّ فَيُنْزَى فِي ضَرْبِهِ فَيَمُوتُ فَتَكُونُ فِي ذَلِكَ الْقَسَامَةُ ‏.‏ قَالَ مَالِكٌ الأَمْرُ عِنْدَنَا أَنَّهُ يُقْتَلُ فِي الْعَمْدِ الرِّجَالُ الأَحْرَارُ بِالرَّجُلِ الْحُرِّ الْوَاحِدِ وَالنِّسَاءُ بِالْمَرْأَةِ كَذَلِكَ وَالْعَبِيدُ بِالْعَبْدِ كَذَلِكَ ‏.‏

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Yahya related to me from Malik that he had heard that Marwan ibn  
al-Hakam wrote to Muawiya ibn Abi Sufyan to mention to him that a  
drunkard was brought to him who had killed a man. Muawiya wrote to him  
to kill him in retaliation for the dead man.  
  
  
Yahya said that  
Malik said, "The best of what I have heard on the interpretation of  
this ayat, the word of Allah, the Blessed, the Exalted, 'The free man  
for the free man and the slave for the slave - these are men and the  
woman for the woman,' (Sura 2 ayat 178) is that retaliation is between  
women as it is between men. The free woman is killed for the free  
woman as the free man is killed for the free man. The slave-girl is  
slain for the slave-girl as the slave is slain for the slave.  
Retaliation is between women as it is between men. That is because  
Allah, the Blessed, the Exalted, said in His Book, 'We have written  
for them in it that it is a life for a life and an eye for an eye, a  
nose for a nose, and an ear for an ear, and a tooth for a tooth, and  
for wounds there is retaliation.' (Sura 5 ayat 48) Allah, the Blessed,  
the Exalted, mentioned that it is a life for a life. It is the life of  
a free woman for the life of a free man, and her injury for his  
injury."  
  
  
Malik said about a man who held a man fast for  
another man to hit, and he died on the spot, "If he held him and he  
thought that he meant to kill him, the two of them are both killed for  
him. If he held him and he thought that he meant to beat him as people  
sometimes do, and he did not think that he meant to kill him, the  
murderer is slain and the one who held him is punished with a very  
severe punishment and jailed for a year. There is no killing against  
him."  
  
  
Malik said about a man who murdered a man intentionally  
or gouged out his eye intentionally, and then was slain or had his eye  
gouged out himself before retaliation was inflicted on him, "There is  
no blood-money nor retaliation against him. The right of the one who  
was killed or had his eye gouged out goes when the thing which he is  
claiming as retaliation goes. It is the same with a man who murders  
another man intentionally and then the murderer dies. When the  
murderer dies, the one seeking blood-revenge has nothing of blood-  
money or anything else. That is by the word of Allah, the Blessed the  
Exalted, 'Retaliation is written for you in killing. The free man for  
the free man and the slave for the slave.' "  
  
  
Malik said, "He  
only has retaliation against the one who killed him. If the man who  
murdered him dies, he has no retaliation or blood-money."  
  
  
Malik said, "There is no retaliation held against a free man by a  
slave for any injury. The slave is killed for the free man when he  
intentionally murders him. The free man is not slain for the slave,  
even if he murders him intentionally. It is the best of what I have  
heard."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ مَرْوَانَ بْنَ الْحَكَمِ، كَتَبَ إِلَى مُعَاوِيَةَ بْنِ أَبِي سُفْيَانَ يَذْكُرُ أَنَّهُ أُتِيَ بِسَكْرَانَ قَدْ قَتَلَ رَجُلاً فَكَتَبَ إِلَيْهِ مُعَاوِيَةُ أَنِ اقْتُلْهُ بِهِ ‏.‏ قَالَ يَحْيَى قَالَ مَالِكٌ أَحْسَنُ مَا سَمِعْتُ فِي تَأْوِيلِ هَذِهِ الآيَةِ قَوْلِ اللَّهِ تَبَارَكَ وَتَعَالَى ‏{‏الْحُرُّ بِالْحُرِّ وَالْعَبْدُ بِالْعَبْدِ ‏}‏ فَهَؤُلاَءِ الذُّكُورُ ‏{‏وَالأُنْثَى بِالأُنْثَى‏}‏ أَنَّ الْقِصَاصَ يَكُونُ بَيْنَ الإِنَاثِ كَمَا يَكُونُ بَيْنَ الذُّكُورِ وَالْمَرْأَةُ الْحُرَّةُ تُقْتَلُ بِالْمَرْأَةِ الْحُرَّةِ كَمَا يُقْتَلُ الْحُرُّ بِالْحُرِّ وَالأَمَةُ تُقْتَلُ بِالأَمَةِ كَمَا يُقْتَلُ الْعَبْدُ بِالْعَبْدِ وَالْقِصَاصُ يَكُونُ بَيْنَ النِّسَاءِ كَمَا يَكُونُ بَيْنَ الرِّجَالِ وَالْقِصَاصُ أَيْضًا يَكُونُ بَيْنَ الرِّجَالِ وَالنِّسَاءِ وَذَلِكَ أَنَّ اللَّهَ تَبَارَكَ وَتَعَالَى قَالَ فِي كِتَابِهِ ‏{‏وَكَتَبْنَا عَلَيْهِمْ فِيهَا أَنَّ النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ وَالأَنْفَ بِالأَنْفِ وَالأُذُنَ بِالأُذُنِ وَالسِّنَّ بِالسِّنِّ وَالْجُرُوحَ قِصَاصٌ ‏}‏ فَذَكَرَ اللَّهُ تَبَارَكَ وَتَعَالَى أَنَّ النَّفْسَ بِالنَّفْسِ فَنَفْسُ الْمَرْأَةِ الْحُرَّةِ بِنَفْسِ الرَّجُلِ الْحُرِّ وَجُرْحُهَا بِجُرْحِهِ ‏.‏ قَالَ مَالِكٌ فِي الرَّجُلِ يُمْسِكُ الرَّجُلَ لِلرَّجُلِ فَيَضْرِبُهُ فَيَمُوتُ مَكَانَهُ أَنَّهُ إِنْ أَمْسَكَهُ وَهُوَ يَرَى أَنَّهُ يُرِيدُ قَتْلَهُ قُتِلاَ بِهِ جَمِيعًا وَإِنْ أَمْسَكَهُ وَهُوَ يَرَى أَنَّهُ إِنَّمَا يُرِيدُ الضَّرْبَ مِمَّا يَضْرِبُ بِهِ النَّاسُ لاَ يَرَى أَنَّهُ عَمَدَ لِقَتْلِهِ فَإِنَّهُ يُقْتَلُ الْقَاتِلُ وَيُعَاقَبُ الْمُمْسِكُ أَشَدَّ الْعُقُوبَةِ وَيُسْجَنُ سَنَةً لأَنَّهُ أَمْسَكَهُ وَلاَ يَكُونُ عَلَيْهِ الْقَتْلُ ‏.‏ قَالَ مَالِكٌ فِي الرَّجُلِ يَقْتُلُ الرَّجُلَ عَمْدًا أَوْ يَفْقَأُ عَيْنَهُ عَمْدًا فَيُقْتَلُ الْقَاتِلُ أَوْ تُفْقَأُ عَيْنُ الْفَاقِئِ

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Yahya related to me from Malik that he saw whomever he was  
satisfied with among the people of knowledge say about a man who  
willed that his murderer be pardoned when he murdered him  
intentionally, "That is permitted for him. He is more entitled to the  
man's blood than any of his relatives after him."  
  
  
Malik said  
about a man who pardoned murder, after he had claimed his right and it  
was obliged for him, "There is no blood-money against the murderer  
unless the one who pardons him stipulates that when he pardons him."  
  
  
Malik said about the murderer when he was pardoned, "He is  
flogged one hundred lashes and jailed for a year."  
  
  
Malik  
said, "When a man murders intentionally and there is a clear proof of  
that, and the murdered man has sons and daughters and the sons pardon  
and the daughters refuse to pardon, the pardon of the sons is  
permitted in opposition to the daughters and there is no authority for  
the daughters with the sons in demanding blood and pardoning."

وَحَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، أَنَّهُ بَلَغَهُ أَنَّ أَبَا بَكْرِ بْنَ مُحَمَّدِ بْنِ عَمْرِو بْنِ حَزْمٍ، أَقَادَ مِنْ كَسْرِ الْفَخِذِ ‏.‏

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Yahya said that Malik said, "The generally agreed on way of doing  
things in our community is that retaliation is taken from someone who  
breaks someone's hand or foot intentionally and not blood-money."  
  
  
Malik said, "Retaliation is not inflicted on anyone until the  
wound of the injured party has healed. Then retaliation is inflicted  
on him. If the wound of the person on whom the retaliation has been  
inflicted is like the first person's wound when it heals, it is  
retaliation. If the wound of the one on whom the retaliation has been  
inflicted becomes worse or he dies, there is nothing held against the  
one who has taken retaliation. If the wound of the person on whom the  
retaliation has been inflicted heals and the injured party is  
paralysed or his injury has healed but he has a scar, defect, or  
blemish, the person on whom the retaliation has been inflicted does  
not have his hand broken again and further retaliation is not taken  
for his injury."  
  
  
He said, "But there is blood-money from him  
according to what he has impaired or maimed of the hand of the injured  
party. The bodily injury is also like that."  
  
  
Malik said,  
"When a man intentionally goes to his wife and gouges out her eye or  
breaks her hand or cuts off her finger or such like, and does it  
intentionally, retaliation is inflicted on him. As for a man who  
strikes his wife with a rope or a whip and hits what he did not mean  
to hit or does what he did not intend to do, he pays blood-money for  
what he has struck according to this principle, and retaliation is not  
inflicted on him."   
  
  
Yahya related to me from Malik that he  
had heard that Abu Bakr ibn Muhammd ibn Amr ibn Hazm took retaliation  
for the breaking of a leg.

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Yahya related to me from Malik from Abu'z-Zinad from Sulayman ibn  
Yasar that a slave was set free by one of the people on hajj and his  
master had abandoned the right to inherit from him. The ex-slave then  
killed a man from the Banu A'idh tribe. An A'idhi, the father of the  
slain man came to Umar ibn al-Khattab seeking the blood-money of his  
son. Umar said, "He has no blood-money." The A'idhi said, "What would  
you think if it had been my son who killed him?" Umar said, "Then you  
would pay his blood-money." He said, "He is then like the black and  
white Arqam snake. If it is left, it devours and if it is killed, it  
takes revenge."

حَدَّثَنِي يَحْيَى، عَنْ مَالِكٍ، عَنْ أَبِي الزِّنَادِ، عَنْ سُلَيْمَانَ بْنِ يَسَارٍ، أَنَّ سَائِبَةً، أَعْتَقَهُ بَعْضُ الْحُجَّاجِ فَقَتَلَ ابْنَ رَجُلٍ مِنْ بَنِي عَائِذٍ فَجَاءَ الْعَائِذِيُّ أَبُو الْمَقْتُولِ إِلَى عُمَرَ بْنِ الْخَطَّابِ يَطْلُبُ دِيَةَ ابْنِهِ فَقَالَ عُمَرُ لاَ دِيَةَ لَهُ ‏.‏ فَقَالَ الْعَائِذِيُّ أَرَأَيْتَ لَوْ قَتَلَهُ ابْنِي فَقَالَ عُمَرُ إِذًا تُخْرِجُونَ دِيَتَهُ فَقَالَ هُوَ إِذًا كَالأَرْقَمِ إِنْ يُتْرَكْ يَلْقَمْ وَإِنْ يُقْتَلْ يَنْقَمْ ‏.‏

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