

In the Name of Allah，the Most Beneficent，the Most Merciful

# The Chapters On <br> Pawning 

（المبحم（17）أَبْوَابُ الـُلُهُونِ
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## Comments：

The act of pawning is to deposit something in pledge or as security or guaranty against a loan obtained，so that if the loan is not returned on time， the lender could make recovery of his money from that property．
The legitimacy of the pledge is proven in the Noble Quran and the Traditions of the Noble Prophet．In the Noble Qur＂an there is：＂And if you are on a journey and cannot find a scribe，then let there be a pledge taken （mortgaging）．＂［1］＂Every person is a pledge for what he has earned．＂＂［2］It means he is a pledge against his deeds．This also applies to that thing which is surrendered to the lender as surety and security of his loan．

## Chapter 1．Abu Bakr Bin Abi Shaibah Narrated To Us ${ }^{[3]}$

2436．It was narrated from ＇Alisha that the Prophet bought some food from a Jew with payment to be made later， and he pawned his armor for that． （Sahih）


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2437．It was narrated that Anas said：＂The Messenger of Allah 䌊 pawned his armor to a Jew in Al－ Madinah，and took barley for his




[^0]family in return." (Sahih)

2438. It was narrated from Aswan' lint Yazid that the Prophet died while his armor was pawned to a Jew for food (Masan)






2439. It was narrated from In "Abbas that the Messenger of Allah died while his armor was ${ }_{4}$ pawned to a Jew for thirty Sấs s of barley; (Masan)










Animal May Be Ridden And Milked
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تخزيج: أخرجه البخاري، الرهن في الحضن، باب الرهن مزكوّب ومحلوب،

## Comments:

a. Pawned animal needs to be looked after. It has to be fed, otherwise it can
die or become sick or weak．Im this way it will be form of cruelty to the animal．
b．If a car or any kind af conveyance is pawned，whoever takes the benefit from it will bear the expenditure of maintenance and fuel etc．

Chapter 3．Pawned Items Are Not To Be Forfeited

2441．It was narrated from Abu Hurairah that the Messenger of Allâh 酸 said：＂Do mòt forfeit items held in pledge．＂（Dáif）

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## Comments：

Before the advent of Islam，it was customary that if the loan was not returned on：time，the pawned property would become the property of the lender，and even the delayed payment of the loan would not allow the borrower to take back his property．There is no logic to become the owner of the pledged property when the loan has been returned，though delayed．

## Chapter 4．Wages Of Workers



[^1]treacherous; a man who sells a free man and consumes his price; and a man who hires a worker, makes use of him, then does not give him his wages." (Sahih)




تخريج: أخرجه البخاري، الييوع، باب إثم من باع حرَّاله ح: سليم به * ويحيي وثقه الجمهورد في غير عبيدالها يت عمر، فحانيثّه لا ينزل عن درجة الحسن أبئًا، ، .

## Comments:

a. The three sins mentioned in the narration belong to the category of 'Rights of human beings' and they are ranked in the class of Major Sins'.
b. To escape from the humiliation and punishment on the Day of Resurrection it is necessary to escape from these major sins.
c. In air Islamic society, great importance has been given to justice and equity, rather the base and foundation of an Islamic society is justice and equity.
d. All Muslims, collectively and individually y $_{p}$ should exert themselves to create: a true Muslim society, and they should do so as their religious obligation.
2443. It was narrated from



## Comments:

a. Wages of the laborer should be paid as soon as he finishes his work.
b. Without a genuine cause, delaying payment of wages for labor is at great sin.

## Chapter 5. Hiring A Worker In Return For Food

2444. It was narrated that :Ali bin Rabâh said: "I heard 'Utbah bin Nuddar say: 'We were with

the Messenger of Allah 觡 and he recited $T a-S i n .{ }^{[1]}$ When he reached the story of Musa，he said：＇Muse 济t hired himself out for eight years，or ten，in return for his chastity and food in his stomach．＇＂（Da＇if）



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## Comments：

＇In return for his chastity＇means the promise of marriage as it has been given in the Noble Quran（An－Nur 24：32－33）．

2445．Salim bin Hayyân said：I heard my father say：I heard Abut Hurairah say：＂I grew up an orphan，and I emigrated as a poor man，and I was hired by the daughter of Ghazwân in return for food and a turn riding the camel．I would gather firewood for them when they stopped to camp and urge their camels along． for them by singing when they rode．Praise is to Allah Who has caused His religion to prevail and has made Abu Hurairah an Imâm：＂（Sahih）








تخخريج: أنخرجه البخاري في التارِخ الككير : :
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## Chapter 6．A Man Who Draws A Bucket Of Water In Return For A Date And Stipulates That They Must Be Good Quality Dried Dates

2446．It was narrated that Ion ＇Abbâs said：＂The Prophet of
 news of that reached＇Ali．He went out seeking work so that he could earn something to give to the Messenger of Allah 綡．He came to a garden belonging to a Jewish man，and he drew seventeen buckets of water for him；each bucket for a date．The Jew gave him the option to take seventeen of his＇Ajwath dates（a high quality of dates）and he brought them to the Prophet of Allah 繮：＂（Daff）

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2447．It was narrated that＇Ali said：＂I used to draw water，one bucket for a date，and I stipulated that they should be good quality， dried dates．＂（Da＇if）





2448．It was narrated that Abu Hurairah said：＂A man from among the Ansâr came and said： ＇O Messenger of Allâh，why do I see that your color has changed？＇ He said：＇Hunger．＇So the Ansâri
－「乡ミ人



went to his dwelling, but he did not find anything in his dwelling, so he went out looking, and he found a Jew watering his datepalm trees. The Ansâri said to the Jew: 'Shall I water your trees?' He said: 'Yes.' He said: 'Every bucket for one date.' And the Ansâri stipulated that he would not take any dates that were black (rotten), hard and dried out or inferior, and he would only take good quality dates. He earned nearly two Sâ's (of dates), and he brought it to the Prophet 縟." ( $D a^{\prime} i f$ )










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## Chapter 7. Lending Land In Return For One Third Or One Quarter (Of The Crop)

2449. It was narrated that Raff' bin Khadij said: "The Messenger of Allâh forbade Muhâqalah and Muzâbanah, and said: 'Only three may cultivate: A man who has land which he cultivates; a man who was given some land and cultivates what he was given; and a man who takes land on lease for gold or silver.'" (Masan)
 الأَنْوَصِ عَنْ طَارِقِ بْنِ عَبْدِ الرَّحْمُنِ، عَنْ








## Comments:

a. For the explanation of Muhâqualah and Muzâbanah see Hadith no. 2265: note b.
b. As cash can be given to help a poor man for earning his livelihood, similarly a piece of land can be given to a poor farmer for his use, to make a permanent source of lawful earnings.
c. Taking and giving a piece of land on the basis of division of produce between the cultivator and the landlord is lawful, but it is necessary to determine the terms and conditions beforehand to avoid the eruption of disputes.
d. Gold and silver are the symbols of currency, because in the times of the Noble Prophé 筑, gold and silver Dinâr and Dirham, respectively were in use.
2450. It was narrated that 'Amr bin Dinâr said: "I heard Ibn "Umar say: We used to lend land for cultivation in return for a share of the harvest, and we did not see anything wrong with that, until we heard Räfí bin Khadiif say: "The Messenger of Allâh 潟 forbade it." Then we stopped

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## Comments:

Mukhâbarah means division of produce between the cultivator and the landlord. For example the produce is divided between the two, half and half or one third and two thirds, or as agreed upon. It is lawful and permitted. But the division of the produce on the basis of particular parts of land is unlawful. It is prohibited to divide the produce such that the produce of this part of land will go to the landlord, and produce from the other part of the land will go to the tiller. (See Haidith no.2458)
2451. 'Atâ' said: "I heard Jẩbir bin 'Abdullâh say: Some men among us had extra land which they would rent out for one third or one quarter (of the crop). The Prophet said: "Whoever has extra land, let him cultivate it (himself) or let him give it to his brother (for free, to cultivate it), and if he does not want to do that, let him keep his land." (Sahih)



2452. It was narrated from Abu Hurairah that the Messenger of Allâh \% is said: "Wheever has lanid, let him cultivate it (himself) or let himgive it to his brother for free, to cullivate it) and if he does not want to do that, let him keep his land." (Sahih)








## Comments:

Thet him keep his land means to let his land remain without cultivation It is obvious that if the land remains without cultivation, it will produce nothing and there will be no profit at all, and it it is given to someone to cultivate, it will be a great act of generosity.

## Chapter 8. Leasing Out Land

2453. It was narrated from Ibn 'Umar that he used to lease out some land that belonged to him, for cultivation. Then someone came to him and told him that Raffí bin Khadij said that the Messenger of Allâh 势: had forbidden leasing out land for cultivation. Ibn 'Umar went, and I went with him, until he met him in Balata, ${ }^{[1]}$ and asked him about that, and he told him that the Messenger of Allâh 篤 had forbidden leasing out land for cultivation. So 'Abdullâh stopped leasing out land. (Sahih)







 رَ رَسُوْلَ عَعْ
[^3]تخريج ：أخرجه مسبلم، اللبيوع، باب كراء ألأرض، ح ：
وعقهُ ألـتأري؛

## Comments：

طرقي عن نافي به ．
a．＇Leasing out land＇means that the tiller will cultivate the land of the landlord according to a set treaty．The tiller，after collecting the produce will give a certain agreed upon amount of money to the landlord，and will keep the rest．
b．Giving the land for free to cultivate is a better deed than leasing it out．The Noble Prophet 絬 prohibited leasing out land，only to encourage the better gesture towards Muslim brothers，otherwise leasing out the land is lawful． （See Hadith no．2456）

2454．It was narrated that Jâbir bin＇Abdullâh said：＂The Messenger of Allah 瀄 addressed us and said：＇Whoever has land，let him cultivate it or allow someone else to cultivate it，and not rent it out．＇＇＂（Sahih）

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2455．It was narrated from Abu Sufyân，the freed slave of Ib Abu Ahmad，that he told him that he heard Abu Sa＇eed Al－Khudri say： ＂The Messenger of Allah 縟 forbade Muhâqalah．＂（Sahih）
Muhâqalah means leasing out land．






تخريج: أخرجه ألبخاري، اليّيوع، باب بيع المزابنة وهي بيع التمر بالثمر وبيع الزبيب بالكزم

## Chapter 9. Concession <br> Allowing Leasing Out Barren Land For Gold And Silver

2456. It was narrated from Ibn 'Abbâs fhat he heard that people were leasing out land more. He said: "Subhân-Allâh, the Messenger of Allâh said: 'Why does not one of you lend it to his brother?' But he did not forbid leasing it out.'" (Sahih)

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رَسُولُ اللِّهِ

تخريج: أْخرجه البخاري، الحرث والمزارعة، باب:(!)، ح:
2457. It was narrated from Ibn 'Abbâs that the Messenger of Allâh 侾 said: "If one of you were to lend his brother his land, it would be better for him than taking such and such rent for it." (Sahih)
Ibn 'Abbâs said: "It is Haql (i.e., leasing land for cultivation), and in the dialect of the Ansâr it is called Muhâqalah."







فَقَالَ ابْنُ عَبَّاسٍ : هُوَ الْحَعْلُ . وَهُوَ بِلِسَانِ الأَنْصَارِ الْمُحْحَاقَلَهُ

تخريج: أخرجه مسلم؛ البيوع، باب الأرض تمنح، ح:"
2458. It was narrated that Hanzalah bin Qais said: "I asked Rafi' bin Khadij and he said: 'We used to lease out land on the basis that you would have what is produced by this piece of land, and I would have what is produced by this (other) piece of





land，and we were forbidden to lease it out on the basis of crop－ sharing but he did not forbid us to rent out land for silver．＇＂ （Sahih）

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## Chapter 10．Kinds Of Cultivation That Are Disliked

2459．Râfi＇bin Khadi＇j narrated that his paternal uncle Zuhair said：＂The Messenger of Allâh 噛 forbade us from doing something that was convenient for us．＂I said：＂What the Messenger of Allah 餛 said is true．＂He said that the Messenger of Allah 髪 said：＂What do you do with your farms？＂We said：＂We rent them out for one third or one quarter of their yield，and a certain amount of wheat and barley．＂He said： ＂Do not do that；cultivate them or let others cultivate them．＂（Sahih）


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 رَافِعَ ابْنَ خَدِيجِ يُحَدِّثُ عَنْ عَمْهِ ظُهَيْرٍ قَالَّ ： نَهَانَا رَسُولُ اللِّ فَقُلْتُ：مَا قَالَ رَسُولُ الهِ


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2460．It was narrated from Usaid bin Zuhair，the paternal nephew of Râfi＇bin Khadij，that Râfí bin Khadij said：＂If one of us did not need his land，he would give it（to someone else to cultivate）in return for one third，or one quarter，or one half of the yield， and he would stipulate（that he should receive）the produce
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grown on the banks of three streams，and the grains that remain in the ear after threshing， and the produce irrigated by a stream．Life at that time was hard， and he would work（the land） with iron and whatever Allâh willed，and he would benefit from it．Then Râfí bin Khadij came to us and said：＇The Messenger of Allah 緱 forbade you to do something that may seem beneficial to you，but obedience to Allah and obedience to His Messenger are more beneficial for you．The Messenger of Allah 躬 forbade Hagl ${ }^{[1]}$ for you，and he said：＂Whoever has no need of his land，let him give it to his brother （to cultivate）or let him leave it （uncultivated）．＂（Sahih）
 ذَاكَكَ شَدِيداً ．وُكَانَ يَعْمَلُ ْلِيهَا بَالْحَحِيِيِ، وَبِمَا
 خَحِيِج，فَقَالَ ：إِنَّ رَسُولَ اللهِ




تخريج: [صحيح] أخرجه أبو داود، البيوع، باب في التشديد في ذلك، ح:هیY من

حـيثث منضور به．

## Comments：

a．The narration clears the concept of leasing out the land．Leasing out the land on one half or on one quarter is prohibited only on the conditional division of the produce，on the basis of particular parts of land．Usually the landlord keeps the produce of the piece of land which is more fertile，and is more productive．Since this is not fair，therefore，this kind of division is prohibited．
b．Leasing out the land on one half or on one quarter is allowed，on the basis of the total produce gained from the land．
 Allâh forgive Râfi＇bin Khadij．By Allah！I have more knowledge of Ahâdith than he does．Two men who had quarreled came to the Prophet 潫 and he said：＇If this is

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[^4]your situation，do not lease farms，＇and what Râfi＇bin Khadij heard was＇Do not lease farms．＇＂ （Masan）
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Chapter 11．Concession
Allowing Cultivation For One Third And One Quarter（Of The Crop）
2462．It was narrated that＇Amp bin Dinâr said：I said to Tâwus：＂O Abu＇Abdur－Rahmân，why do you not give up this $M u k h a \hat{b a r a h}{ }^{[1]}$ because they claim that the Messenger of Allah 竢 forbade it．＂ He said：＂O＂Amu，I help them by taking their land and cultivating it， and giving them something in return，and Mu＇âdh bin Jabal allowed people here to do that． The most knowledgeable of them －meaning Ion＇Abbâs－told me that the Messenger of Allah 埩 did not forbid it，rather he said：＇For one of you to give（land）to his brother is better for him than if he were to take a set amount in rent for it．＇＂（Sahih）
تخريج: أخرجاه من حديث عمرو بن دينار به، وانظر، خE OT: ح.

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## Comments:

a. It is the duty of the scholars to explain the issues and satisfy the common public. In support of their point of view, they can give the references of other great scholars as Tâwus quoted the two Companions, Mu'âdh bin Jabal and Ibn Abbâs. These kind of references prove more affective and satisfy the common man.
b. 'Set amount' means an agreement for a fixed amount.
2463. It was narrated from Tâwus that Mu'âdh bin Jabal leased some land during the time of the Messenger of Allâh 喈, Abu Bakr, 'Umar and 'Uthmân, in return for one third or one fourth (of the yield), and he was still doing that until this day of yours. ( $D a^{\prime} i f$ )

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تخريج: [إسناده ضعيف] وقال البوصيري: هنا إمناد صحيح رجاله ثقات ، قلت: طاوس

وغيره ـ
2464. It was narrated from Tâwus that Ibn 'Abbâs told that the Messenger of Allâh 㒄 merely said: "For one of you to give (land) to his brother is better for him than if he were to take a set amount in rent for it." (Sahih)

## Chapter 12. Renting Out Land In Return For Food

2465. It was narrated that Râfí bin Khadij said: We used to give land in return for food at the time
 some of my paternal uncles came


سُفْيَانَ، عَنْ عَمْرِو بُنِ دِينَارِ، عَنْ طَاُوُسِ

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to them and said: "The Messenger of Allâh 䈅 said: 'Whoever has land, he should not rent it out for a set amount of food."' (Sahih).

تخريج: أخرجه هسلم، الميوع، باب كراء الأزض بالطلعام، ح: 10 مين حليث سعيل بن

## Comments:

'Set amount of food' may mean one third or one fourth of the produce, or it may mean a certain fixed quantity of food stuff, like ten or twenty mounds of grain etc. Leasing out the land against a set amount of food instead of a certain amount of money is legal, as it has been discussed in detail in a previous chapter.

## Chapter 13. Whoever Cultivates People's Land Without Their Permission

2466. It was narrated that Raffi' bin Khadij said: "The Messenger of Allâh said: 'Whoever cultivates people's land without their permission, he has no right to any of the produce, but he should be recompensed for his expenditure.' " (Da'if)







تخريج: [إسناده ضعيف] أخرجه أبو داود، الثييو، باب: في زبع الأرض بغير إذن صاحبها،



## Comments:

In the situation mentioned in the narration, the cultivator will only get the expenditure which he has spent on seeds, manure, or hiring a tractor etc., but he will not get anything for his labor of tilling. This will be his punishment for not seeking permission in advance.

## Chapter 14. Dealing With People Who Have Date-Palm Trees And Grape Vines

2467. It was narrated from Ibn


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＇Unar that the Messenger of Allâh 選 entered into a contract with the people of Khaibar for one half of the fruits or crops yielded．（Sahih）

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تخريج：أْخرجه البخخاري، الخرث والمنزارغة، باب：إذا لم يشترط المنسنين في المزارعة،乙：

 ＇Abbâs that the Messenger of Allâh 稼 gave Khaibar to its people in return for one half of the yield of its palm trees and land．（Sahih）


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2469．It was narrated that Anas bin Mâlik said：＂When the Messenger of Allâh 数 conquered Khaibar，he gave it（to its people） in return for half（of its yield）．＂ （Sahih）

الحصديث（Y\＆TV）شا هل لـه ．

## Comments：

a．This type of agreement regarding gardens is called Masâqûtt．Whatever is the total produce of the garden，one half or one third，it is given to the person who is taking care of the garden and the rest is for the owner．Such an agreement regarding cultivation of land is called Muzâra＇ah．
b．The land of a non－Muslim country that comes under the control and possession of the Muslim victorious army，becomes the property of the Muslim State．For the development and settlement of this land，a contract can be made both with Muslim subjects or non－Muslim subjects of the country，but the land remains the property of the state．The tiller，according； to the contract，has to submit the produce to the government，and then he
will receive his share from the state．If the tiller is a Muslim and receives the produce for which Zakat becomes due；he will have to pay one tenth as Zakât．

## Chapter 15．Pollinating Palm Trees

2470．It was narrated from Simâk that he heard Musa bin Tallhah bin＇Ubaidullahh narrating that his father said：＂I passed by some palm trees with the Messenger of Allâh 数 and he saw some people pollinating the trees．He said： ＇What are these people doing？＇ They said：＇They are taking something from the male part（of the plant）and putting it in the female part．＇He said：＇I do not think that this will do any good．＇ News of that reached them，so they stopped doing it，and their yield declined．News of that reached the Prophet 蝶 and he said：＇That was only my thought． If it will do any good，then do it．I am only a human being like you， and what I think may be right or wrong．But when I tell you： ＂Allâh says，＂I will never tell lies about Allâh．＇＂（Sahih）

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حيث سمالك بـ.

## Comments：

a．In worldly matters everything is permitted accept those things that have been prohibited，but regarding worship，only that thing is permitted which has been taught by the Prophet 遾．Self－made rites and customs should not be made part of worship．These self－made rites are innovations in the religion．The Prophets were also human beings，therefore，in worldly matters，they did not give any importance to things of personal opinion．
b．It is not necessary that a Prophet is always aware of the specific details of every profession，but in the matters of religion，Allâh guides His Prophets．

2471．It was narrated from ＇Âishah that the Prophet 筑 heard some sounds and said：＂What is this noise？＂They said：＂Palm trees that are being pollinated．＂ He said：＂If they did not do that it would be better．＂So they did not pollinate them that year，and the dates did not mature properly． They mentioned that to the Prophet 触 and he said：＂If it is one of your worldly matters then it is your affair，but if it is one of the matters of your religion，then refer to me．＂（Sahih）

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 أْنْ مَالِلكِ．وَ هِشَامُ بْنُ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ أَنَّ الْنَّئَ




 فَإِلَيَّهر．
تخريج: أخرجه مسلم، الفضضائل، الباب السابق، ح: rדץץ من حديث حماد بن سلمة به.

## Chapter 16．The Muslims Are Partners In Three Things

2472．It was narrated from Ibn ＇Abbâs that the Messenger of Allah 響 said：＂The Muslims are partners in three things；water， pasture and fire，and their price is unlawful．＂（Da＇if）
Abr Sa＇eed said：＂This means flowing water．＂
（المعجم 17）－بَابٌّ：الْمُسْلِمُونَ





 وَتَمَنْهُ حَرَامُ

 أبوزرعة، والبخاري، والنسائي، وابن حجان وغيرهم ، وانظر متن الحديث الآتي فإنه يغني عنه．

## Comments：

a．Here，water means running water，like the water of a river or fountain． Everyone has the right to use the water according to his needs，and it must be unrestrained for others to use．If someone has constructed a pond or dug a well or installed a water hand pump for his personal use，it is better for him to let other people use it．It is obvious that he has the first right over its use．
b. Everyone has the right to use wild grass for his animals and other uses, and similarly, everyone can use the wood of wild plants for fuel. After cutting the wild plant the cut wood becomes the property of the cutter, so he can sell it as well.
2473. It was narrated from Abu Hurairah that the Messenger of Allâh 遮 said: "Three things cannot be denied to anyone: water, pasture and fire." (Sahih)

任 - Y\&VY
 عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللَّهِ

 الملقن، ، ح: "
 في ثلاث: في الماء والكلألُ والنار ، وإسناده صحيح.
2474. It was narrated that 'Âishah said: "O Messenger of Allâh, what are the things which are not permissible to withhold?" He said: "Water, salt and fire." She said: "I said: 'O Messenger of Allah, we know what water is, but what about salt and fire?" He said: "O Humairâ', whoever gives fire (to another), it is as if he has given in charity all the food that is cooked on that fire. And whoever gives salt, it is as if he has given in charity all that the salt makes good. And whoever gives a Muslim water to drink when water is available, it is as if he freed a slave; and whoever gives a Muslim water to drink when there is no water available, it is as if he brought him back to life." (Da'if)












رِنْ مَاءٍ، حَيْثُ لاَ يُوجَدُ الْمَاءُ، فَكَأَنَّمَا
 مجهول(تقريب) * وعلي بن غراب مدلس، وله شاهدان ضعيفان جـدّا .

## Chapter 17．Giving Rivers And Springs To People

2475．It was narrated from Abyad bin Hammâl that he asked for a salt flat called the salt flat of the Ma＇rib Dam to be given to him，and it was given to him． Then Aqra＇bin Hâbis At－Tamimi came to the Messenger of Allâh築 and said：＂O Messenger of Allâh，I used to come to the salt flat during the Ignorance period and it was in a land in which there was no water，and whoever came to it took from it．It was （plentiful）like flowing water．＂So the Messenger of Allâh 䇣 asked Abyad bin Hammâl to give back his share of the salt flat．He said： ＂I give it to you on the basis that you make it charity given by me．＂ The Messenger of Allâh 縟 said： ＂It is a charity from you，and it is like flowing water，whoever comes to it may take from it．＂
（One of the narrators）Faraj said： ＂That is how it is today，whoever comes to it takes from it．＂
He said：＂The Prophet ${ }^{6}$ him land and palm trees in Jurf Murâd instead，when he took back the salt flat from him．＂ （Hasan）



## Comments：

a．The head of an Islamic State can give a piece of land to any Muslim as a gift．It is known as estate．
b．A thing that is in common use by the community should not be given as an estate．
c．An endowment is not anyone＇s property but every member of the society has the right to take benefit from it．

## Chapter 18．The Prohibition Of Selling Water

2476．It was narrated that Abu Minhâl said：＂1 heard Yyâs bin ＇Abd Muzani say－when he saw people selling water：＇Do not sell water，for I heard the Messenger of Allah h 紋 forbidding selling of water．＇＂（Sahih）



 الْمَاءَ ．

تخريج：［صحيح］أخترجه أبو داود، البيوع، باب：في بيع فضل الماء، ح
 الميل، وأْحاكم：：

2477．It was narrated that Jâbir said：＂The Messenger of Allah 荿 forbade selling surplus water．＂ （Sahih）
الْمَاءِ.

تخريج：أُخرجه مسنم، المساڤاة، باب تحريم بيع فضل الماء اللذي يكون بالفلاة ويحتاج إليه
. . . الخ، ح :1070 من حديث وكيع به.

## Comments：

a．First come，first served is the basic principle of running water．Whose land comes first，in the way of flowing water，he has the first right to watering his fields and garden，and the water flow for use of others is made clear in chapter twenty．
b．When water is transported from one place to another place，it can be sold at a reasonable price，just as the wood of wild plants and trees can be sold．

$$
\begin{aligned}
& \text { - YミVV }
\end{aligned}
$$

## Chapter 19．The Prohibition Of Withholding Surplus Water From Common Pastureland

2478．It was narrated from Abu Hurairah that the Prophet 楀 said： ＂No one of you should withhold surplus water from common pastureland．＂（Sahih）





... الغ، ح: . .

2479．It was narrated from ＇Âishah that the Messenger of Allah said：＂Surplus water should not be withheld，and neither should surplus water from a well．＂（Masan）
－YミVQ

 يُمْنَعُ فَضْلُ الْمَاءِ، وَلاَ يُمْنَعُ نَقْعُ الْتِبْرِ＂．


طريق محمد بن أبي الرجال عن عمرة به، وصححه الدهاكم، والذهبي، وإسناده حسن .

## Comments：

a．The fields and gardens which come first in the flow of water，have the first right to use the water．
b．The Prophet＇s first decision gave Zubair his due right，at the same time needs of the second party were also given due consideration．It was suggested to Zubair to let the water flow for the second party＇s use．This type of reconciliation is legal．
c．The second decision of the Prophet was according to the principles of justice．The favor given to the Ansâri was taken back as punishment，and the decision was made according to the demand of justice．
d．As it is a must to obey the Quranic commands，similarly it is a must to obey the orders of the Prophet 篤。

## Chapter 20．Irrigation From Rivers And How Much Water May Be Retained

2480．It was narrated from ＇Abdullâh bin Zubair that a man from among the Ansâr had a dispute with Zubair in the presence of the Messenger of Allah 筑 concerning the streams of the Horah with which he irrigated his palm trees．The Ansâri said：＂Let the water flow，＂ but he refused．So they referred their dispute to the Messenger of Allah 橪．The Messenger of Allah遾 said：＂Irrigate（your trees） O Zubair，then let the water flow to your neighbor．＂The Ansâri became angry and said：＂$O$ Messenger of Allah 繂，is it because he is your cousin（son of your paternal aunt）？＇The expression of the Messenger of Allah 然 changed，then he said： ＂O Zubair，irrigate（your trees） then retain the water until it reaches the walls．＂Zubair said：＂I think this Verse was revealed concerning that：＂But no，by your Lord，they can have no Faith， until they make you（O Muhammad）judge in all disputes between them，and find in themselves no resistance against your decisions，and accept（them） with full submission．＂${ }^{[1]}$（Sahih）

2481．It was narrated that
（المعجمب ．
（الأَوْدِيَّة وَمِقْدَارِ حَبْسِ الْمَاءِ（الْتحفة
 ابْنُ سَعْلٍ عَنِ ابْنِ شِهَابٍ، عَنْ عُرْوَةُ بِّنِ





 جَارِكَّه فَغَضِبَ الأَنْصَارِيُّ فَقَالَّ ：يَا رَسُولَ الهِ！إِنْ كَانَ ابْنَ عَمَّتِكَّ فَتَلَّلَّنَ وَجْهُ رَسُولِ







[^6]Tha'labah bin Abu Mâlik said: "The Messenger of Allâh 䩶 ruled concerning the stream of Mahzur that the higher ground took precedence over the lower, so the higher ground should be irrigated until the water reached the ankles, then it should be released to those who were lower. (Hasan)

 تَضَى زَسُولُ الشٌ


تخريج: [حسن] وڤال البوصيري: وإسناد حديثه ضعيف، زكريا بن من منظور متفق على ضعفه

الكبير : الش



وللحجيث شواهد كثيرة عند أبي داود، ح:Аشآبّ وغيره، وانظر الحليث الآتي.

## Comments:

'Higher ground' means where fields or gardens come first in the flow of water, and 'lower ground' means where water reaches later. The owner of the higher ground can stop the water from going to others' fields until it reaches an ankle's height in his fields, and then he must release the water for others, and has no right to stop it.
2482. It was narrated from 'Amr bin Shu'aib, from his father, from his grandfather, that the Messenger of Allâh ruled concerning the stream of Mahzur that the water should be retained until it reached the ankles, then released. (Hasan)
2483. It was narrated from 'Ubâdah bin Sâmit that the
 concerning the irrigation of palm trees from streams, that the higher


萑


ground should be irrigated before the lower，and that the water should be allowed to reach the ankles，then released to flow the nearest lower ground，and so on， until all the fields were watered or until the water ran out．（Da＇if）




 يَفْنَى الْمَاءُ

تخريج：［ضعيف］وقال البوصيري：هنا إستاد ضعيف، إسحاق بن يحيى لم يدرك عبادة بن الصامت قاله البخازي

## Chapter 21．Distribution Of Water

（المعجبم（Y）－بَابُ قِسْمَةِ الْمَاءِ
（AY（التحغة）

 عَنْ كَثيرِ بْنِ عَبْرِ اللهِ بُنِ عَمْرِو بْنِ عَوْفِ



2484．It was narrated from Kathir bin＇Abdullâh bin＇Amu bin＇Awf Al－Muzani，from his father，that his grandfather said：＂The
 with the horses on the day that you bring（the animals to drink）．＇＂（Da＇if）

تخريج：［إسناده ضعيف جدًا］وضتفه البوصيري، وانظر، ح：170 لمالل كثير بن عبدالش العوفي المنزني، وفيه علة أْخرى．

2485．It was narrated from Ib ＇Abbâs that the Messenger of Allah 厥 said：＂Every division that was allocated according to （the rules of）the Ignorance days， stands as it is，and every division that was allocated according to （the rules of）Islam，stands according to the rules of Islam．＂ （Masan）








تخخريج：［إسناده حسن］أخرجه أبو داود، الفرائضف، باب فيمن أسلم على ميراث،


## Comments:

a. All sinful and wicked dealings regarding business and financial matters before embracing Islam are pardoned, and possession is considered legal.
b. A common property that has been distributed before accepting Islam need not be redistributed among the heirs.

## Chapter 22. The Land Around A Well (Which Belongs Only To The Well Owner)

2486. It was narrated from 'Abdullâh bin Mughaffal that the Prophet 䅗 said: "Whoever digs a well, is entitled to forty forearms' length surrounding it as a resting place for his flocks." (Hasan)





 ابْنِ مُغَنَّلٍ أَنَّ الْنَّبَيَّ








 نعيم (النبلاء:17/1/ (0)، وشيخه يوسف بن يعقوب القاضي من كبار الثقأت، ترجمته في تأريخ
 بهذا الشاهاهد حسن.

## Comments:

a. When camels are watered, they drink the water and sit down near the well, after a short while they drink again, that is why the adjoining place of the well is reserved for animals, and for this reason, this place is considered the property of the person who owns the well.
b. If someone digs up a well at a place which is no one's land, he is deemed to be the owner of that well, in addition to forty fore-arms' length of the surrounding area.

2487．It was narrated from Abu Sa＇eed Al－Khudri that the Messenger of Allah 䜌 said：＂The land around a well（that is considered to be part of it）is the length of the well rope（in all directions）．＂（Da＇if）


تخريج：［إسناده ضعيف］وقال البوصيري：هنا إسناد ضعيف، ثابت بن محمد انتلب على



## Comments：

＇Length of the well rope＇means the rope which is dropped down in the well for pulling up water．This length is the measure for the place around the well for his flocks．This is a Weak narration．

## Chapter 23．The Precincts Of Trees

2488．It was narrated from ＇Ubâdah bin Sâmit that the Messenger of Allâh 䇛 ruled concerning one，two or three date palms belonging to a man among other palm trees－when they differ concerning entitlement to the surrounding land．He ruled that the land around each of those trees，as far as their leaves reach， measured from the bottom of the tree，belongs to the owner of the tree．（Hasa）

$$
\begin{aligned}
& \text { (المعجم بY) - بَابُ حَرِيـمِ الشَّجَحِر } \\
& \text { (النتحفة } 1 \text { ) }
\end{aligned}
$$

$$
\begin{aligned}
& \text { يَحْيَي بْنِ الْوَيِيدِ، عَنْ عُبَادَةَ بْنِ المَّامِامِتِ أَنَّ } \\
& \text { رَسُولَ اللهِ }
\end{aligned}
$$

$$
\begin{aligned}
& \text { مِنَ الأَسْفَلِ، مَبْلَغُ جَرِيدِهَا حَرِيمُ لَهَا . }
\end{aligned}
$$

2489．It was narrated from Ib ＇Omar that the Messenger of Allah 篤 said：＂The land around a date－palm tree，as far as its branches reach，belongs to the
－Y\＆人Q
 تَابِتُ بْنُ مُحَحَّدِ الْتَبْدِيُّ عَنِ ابْنِ عُمَرَ قَالَّ
owner of the tree." (Da'if)
国 جَرِيلِهِا ".

تخريج: [إسناده ضعيف] وضعفه صاحب الزوائد، وانظر، ح:YEAV لعلته، وله شواهد.

Chapter 24. One Who Sells Property And Does Not Use The Money For Something Similar
2490. It was narrated that Sa'eed bin Huraith said: "I heard the Messenger of Allâh say: 'Whoever sells a house or property and does not use the money for something similar, deserves not to be blessed therein.'" ( $D a^{\prime} i f$ )
(المحجمر عَ) - بَابُ مَنْ بَاعَ عِقَارًا وَلَّمْ يَجْعْلْ تَمَنَهُ فِي هِثْلِهِ (التحتَة 10)

 مُهَاجِرِ، عَنْ عَبْلِ الْمَلِكِ بْنِ عُمَيْرٍ، غَنّْ سَعِيِّ
 [يَعُولُ: ] هَمَنْ بَاعَ دَارًا أَوْ عَقَارًا فَكَمْ يَجْعَلْ


Another chain with similar wording.



عُمَيرٍ، عَنْ عَمْرِو بْنِ حُرَيْثِ، عَنْ أَخِيهِ سَعِيٍِ

تخربج: (ب) [إسناده ضعيف] أخرجه ابن عدي: إني عبدالمجيميل، أبي علي الحنفي به، وهو الصواب


 رواية إسماعيل عنه، وله شواهده.
2491. It was narrated from Hudhaifah bin Yamân that the Messenger of Allâh 觨 said: "Whoever sells a house and does not use the money for something

 أَبُو مَالِلٍِ النَّخَحِعِيُ، غَنْ يُوسُفَ بْنِ مَيْمُونِ،
similar will not be blessed therein." (Da'if)






 ضعيف، انظر' ح:


[^0]:    ${ }^{[1]}$ Al－Bagarah 2：283．
    ${ }^{[2]}$ At－Tur 52：21 and Al－Muddathir 74：38．
    ${ }^{[3]}$ ．Indicating the beginning of the first chain of the chapter．

[^1]:    ${ }^{[1]}$ This naxration is a Hadith Qudsi，ass clearly narrated by Ahmad（2：358）and Bukhâri （2227 and 2270）in which it says：＂Allâh said：＇I am．．．．＇＂

[^2]:    ${ }^{[1]}$ That is Surat An－Naml（27）．

[^3]:    ${ }^{[1]}$ A place in Al-Madinah.

[^4]:    ${ }^{[1]}$ Leasing land in return for a share of the crops．

[^5]:    ${ }^{[1]}$ Leasing land in return for a share of the crops．

[^6]:    ${ }^{[1]}$ An－Nisấa 4：65．

