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Establishing Proof Against Those Who Claimed to Contradict Al-Numan in Matters Such as Sales

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Abstract

Jurisprudential disagreements are a significant source of a vast jurisprudential wealth. Among the manifestations of these disagreements are scholarly critiques raised by some scholars against others, claiming their divergence from the legal evidence or established principles for deducing legal rulings. One such critique is presented by the narrator scholar Abu Bakr Ibn Abi Shaybah, may Allah have mercy on him, directed towards Abu Hanifah al-Nu'man, may Allah have mercy on him. In his compilation, Ibn Abi Shaybah cited numerous hadiths and traditions that he considered conflicting with the judgments as perceived by Imam Abu Hanifah, may Allah have mercy on him. These issues cover various branches of jurisprudence, including worship, sales, family jurisprudence, boundary matters, crimes, and more. The researchers have chosen to dedicate this study to examining selected issues related to the sales from those hadiths and traditions. This selection is based on the general significance of transactional matters and the specific practical impact these chosen issues have on people's lives. The focus of the research is particularly on two issues: the sale of fruits before their ripening and the acceptance of sales.

Keywords: Proof, Violation, Al-Numan, Sales.

Introduction

All praise is due to Allah, the Lord of all worlds, who has honored His chosen servants with knowledge. The most excellent prayers and perfect peace be upon the chosen Prophet, our Master Muhammad, the Trustworthy, the leader of sincere scholars, and upon his pure and noble family, and all his righteous companions, and those who follow them in excellence until the Day of Judgment.

Now, the significance of Islamic jurisprudence is undeniable for anyone studying the religious sciences, as it entails understanding the permissible and impermissible, distinguishing between the sound and corrupt aspects of worship and sales. The variations among scholars in deducing legal rulings or interpreting and understanding related texts should not cause apprehension. Indeed, the diversity of opinions among scholars represents a scholarly and legislative wealth unparalleled in the history of global legislation. Therefore, the researchers have turned their attention to writing a research paper related to jurisprudential disagreements that hold both scientific and practical significance, influencing people's lives and dealings in various circumstances.

Our choice fell upon studying the jurisprudential disagreement raised by Imam Abu Bakr ibn Abi Shaybah against Imam Abu Hanifah al-Nu 'man regarding certain noble Prophetic traditions. Ibn Abi Shaybah, in his compilation, presented numerous traditions, claiming that Imam Abu Hanifah, may Allah have mercy on him, contradicted the apparent meanings and rulings of these traditions. Since the

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traditions mentioned by Ibn Abi Shaybah cover various branches of jurisprudence, including worship, sales, family jurisprudence, boundaries, crimes, and more, the researchers chose to focus on the jurisprudential critiques related to selected issues from the Book of Sales.

Due to the extensive nature of these critiques, the researchers have narrowed the scope of this brief research to the study of two specific issues. The first issue is “selling fruits before their ripening,” and the second issue is “receiving sales” or what is known as “receiving the rakban.” This research will be structured into two sections, each dedicated to the examination of one of the aforementioned issues.

First Topic: Selling Fruits Before Their Ripening

The term “Buduww” linguistically refers to appearance (Al-Maqari, 1986; Al-Zubaidi, 1993) with the “Ba,” “Dal,” and emphasized “Waw.” In the context of this topic, there is a divergence in its definition.

According to the Hanafis, it is defined as ensuring the safety of the unripe and damaged fruits (Al-Ayni, 2000, p. 38).

On the other hand, the Shafi’is define it as the appearance of the principles of ripening and sweetness, implying full maturity and softening (Al-Shirazi, 2007, p. 104).

Analyzing these two definitions, it becomes evident that the essence of “Buduww Salah al-Thamara” revolves around securing fruits from the emergence of defects. Each school has its own perspective on what ensures safety for the fruit, recognizing that safety varies from one fruit to another.

Imam Ibn Abi Shaybah (may Allah have mercy on him) asserts that selling fruits before their ripening is impermissible. He supports his stance with evidence, as outlined below:

1. Hadith One: Ibn ‘Uyaynah narrated from Al-Zuhri, from Salim, from his father, who reported that the Prophet (Peace Be Upon Him) forbade selling fruits before their ripening (Ibn Abi Shayba, 1989, p. 312).
2. Hadith Two: Abu Al-Ahwas narrated from Zaid bin Jubair, who said: A man asked Ibn ‘Umar about buying fruits. He replied, “The Messenger of Allah (Peace Be Upon Him) prohibited selling fruits before their ripening.” (Ibn Abi Shayba, 1989, p. 312)
3. Hadith Three: Ibn Idris narrated from Shu’bah, from Yazid bin Khumayr, from the freed slave of Quraysh, who reported that Abu Huraira said: “The Prophet (Peace Be Upon Him) prohibited selling fruits until they are protected from any harm.” (Ibn Abi Shayba, 1989, p. 313)
4. Hadith Four: Ali bin Hisham narrated from Ibn Abi Layla, from ‘Atiyah, from Abu Sa’eed, who reported that the Prophet (Peace Be Upon Him) said: “Do not buy fruits before their ripening.” When asked about ripening, he replied, “Until their defects disappear, and their goodness is apparent. (Ibn Abi Shayba, 1989, p. 383)
5. Hadith Five: Ghundar narrated from Shu’bah, from ‘Amr, from Abu Al-Bukhtari, who said: “I asked Ibn ‘Abbas about selling date-palm trees. He said, ‘The Prophet (Peace Be Upon Him) prohibited selling date-palm trees until he eats from them or they are eaten from, and until they are weighed.’ I asked, ‘What is weighing?’ A man with him replied, ‘Until they are protected.’ (Ibn Abi Shayba, 1989, p. 388).
6. Hadith Six: Sahl bin Yusuf narrated from Humayd, from Anas, who reported that the Prophet (Peace Be Upon Him) forbade selling fruits until their ripening. When asked about ripening, he said, “When they turn red or yellow.” (Ibn Abi Shayba, 1989, p. 313)

Despite Ibn Shaybah presenting these hadiths and reports, he mentions that Imam Abu Hanifah (may Allah have mercy on him) stated, “There is no harm in selling it as dried dates (Balah),” (Al-Maqari, 1986, p. 67) opposing the established narrations. (Ibn Abi Shayba, 1989, p. 388)

This claim implies that Abu Hanifah disagrees with the reported prohibition by the Prophet (Peace Be Upon Him) on selling fruits before their ripening. The subsequent analysis aims to elucidate and scrutinize the veracity of this assertion.

Elaboration on Ibn Abi Shaybah's Claim of Abu Hanifah's Disagreement Regarding the Mentioned Hadiths:

Before delving into the ruling on this matter, it is essential to elucidate the various forms of selling fruits and determine the consensus among scholars. This clarification will reveal the disputed aspect of the issue and set the stage for further investigation.

Scholars unanimously agree on the invalidity of selling fruits before their appearance because they are nonexistent, and selling the nonexistent is void. They also unanimously agree on the validity of selling fruits after their ripening absolutely, with the condition of harvesting them and the condition of leaving them attached to the tree, ensuring their safety from defects after ripening, usually due to their hardness and the maturity of their kernels.

Regarding selling fruits after their appearance but before ripening, three situations arise:

1. First Case: Sale with the condition of retention, i.e., keeping the fruits on the tree. This type of sale is unanimously deemed invalid.
2. Second Case: Sale with the condition of immediate harvesting. This type of sale is unanimously deemed valid, subject to conditions, some of which are agreed upon, while others are subject to variation.
3. Third Case: Absolute sale, meaning it does not require conditions of immediate harvesting or retention. (Al-Nisaburi, 1999)

It is in this third case that scholars differ, constituting the crux of the disagreement in the matter. This is the subject under examination, and the following outlines the opinions of scholars to ascertain the reality of the alleged disagreement of Imam Abu Hanifah concerning the mentioned narrations.

In this third case, scholars have diverged into two main opinions:

First Opinion: Selling fruits after their appearance and before ripening is absolutely invalid, similar to the second case. Many eminent scholars, including Malik bin Anas, Ash-Shafi'i, Ahmad bin Hanbal, Ishaq, Dawud Az-Zahiri, Al-Layth bin Sa'd, Sufyan Ath-Thawri, Al-Awza'i, and Ibn Abi Layla, may Allah have mercy on them, adhered to this view (Al-Bukhari, 2022).

Evidence for this Opinion and Its Discussion

1. First Evidence: Abdullah bin Umar (may Allah be pleased with them) reported that the Prophet (Peace Be Upon Him) forbade selling fruits until their ripening, and both the seller and the buyer were prohibited (Ibn Abi Shaybah, 1989).
2. Second Evidence: The Prophet (Peace Be Upon Him) prohibited selling fruits until their ripening and, regarding palm trees, until they flourish. When asked what "flourish" meant, he explained either reddening or yellowing. (Al-Nisaburi, 1999).
3. Third Evidence: Anas (may Allah be pleased with him) reported that the Prophet (Peace Be Upon Him) prohibited selling dates until they flourish. When asked about the meaning of "flourish," he said either reddening or yellowing. ("The Hadith is reported by Al-Bukhari, Volume 78, Page 3, Hadith Number 2208, and Muslim, Book 11, Hadith Number 1555)
4. Fourth Evidence: Ibn Umar (may Allah be pleased with them) reported that the Prophet (Peace Be Upon Him) said: "Do not engage in the mutual buying of fruits until their ripening, and do not sell unripe fruit for ripe ones (Al-Asqalani, 2001).

5. Fifth Evidence: Jabir (may Allah be pleased with him) reported that the Prophet (Peace Be Upon Him) prohibited selling fruit until it becomes mature. When asked what “mature” meant, he specified ripening and being ready to eat. (Al-Qurtubi, 2006, p. 456).
6. Sixth Evidence: Ibn Abbas (may Allah be pleased with him) reported that the Prophet (Peace Be Upon Him) forbade selling palm trees until they are eaten from or are ready to be eaten, and until they are weighed. When asked about weighing, a man said, “Until it becomes well-established.” (Al-Shawkani, 1983)

Basis of Indication

These hadiths were narrated by five companions (may Allah be pleased with them all), all unanimously prohibiting the sale of fruits before their ripening. Although the wording varies, the consensus in meaning or content is evident. The discrepancy in wording may be attributed to the Prophet (Peace Be Upon Him) uttering them at different times, with each narrator conveying what he heard. The variations could also result from the Prophet (Peace Be upon Him) expressing the same meaning in different words.

Seventh Evidence: Zaid bin Thabit (may Allah be pleased with him) reported: During the era of the Prophet Muhammad (peace be upon him), people used to engage (Al-Shirbini, 1997, p. 5676) in buying and selling fruits. When disputes arose among them, and they came to claim their shares, the buyer would say, “It has afflicted the fruit with a defect (Al-Shirazi, 2007, p.), a blemish, and a defect from Syria (Ibn Qudamah, 2004, p. 5620) – issues they argue with.” When disputes on this matter increased, the Messenger of Allah (peace be upon him) said, “Either do not engage in transactions until the condition of the fruit becomes apparent (Qalaji & Qunibi, 1985), resembling white pebbles, indicating its soundness as a solution to their frequent disputes (“The Hadith is reported by Al-Bukhari, Volume 76, Page 3, Hadith Number 2193.”).”

The indication is that purchasing fruit before its ripening, with the condition of preservation, is invalid. This is because it may be vulnerable to diseases that could spoil it, leading to disputes between the seller and the buyer (Ibn Manzur, 1984, p. 5711). One might object to this by arguing that Jabir’s narration suggests the prohibition in earlier hadiths is not absolute. Two considerations support this:

1. The Prophet’s statement, “Either not at all,” implies refraining from contention until the fruit’s ripeness is evident, suggesting the prohibition is contingent on this condition. This implies that if they refrain from contention, such a transaction becomes permissible. However, this interpretation lacks certainty as the buyers’ future withdrawal from contention is uncertain. Furthermore, the explicit prohibition in the hadith, “The seller and the buyer are prohibited,” confirms the prohibition.
2. The hadith implies advisory guidance due to the prevalence of disputes. Yet, countering this, it is argued that interpreting the hadith as mere advice is not compelling, as all the Prophet’s commands and prohibitions are for the welfare of both worldly and hereafter interests (Al-Zubaidi, 1993).

The eighth evidence, relying on Ibn Abi Shaybah’s deduction, could serve as proof for proponents of this view. Additionally, the ninth evidence highlights that unrestricted sales of this kind necessitate preservation. Leaving the fruit on the tree without harvesting immediately might expose it to harm, leading to conflicts between the transacting parties. Therefore, this type of sale, with its unqualified nature requiring preservation, is deemed invalid. (Al-Shirazi, 2007, p. 85; Ibn Rushd, 1992, p. 189).

An objection is raised that the prohibition mentioned in the hadiths, which the proponents of this view rely upon, is the prohibition of selling fruits while they are still unripe. This objection is based on the statement: “Have you considered if Allah prohibits the fruit, how can any of you take his brother’s

money?” The term “prohibition” implies that the contract encompasses a meaning that is absent in the current context.

Response: The Prophet (Peace Be Upon Him) issued a general prohibition against selling unripe fruit, which includes situations of dispute. Thus, the prohibition is broader than what the opponent has mentioned (Ibn Qudamah, 2004, p. 486).

The tenth evidence is that the Prophet’s (Peace Be Upon Him) prohibition of selling unripe fruit is to prevent exploitation, and he had indeed prohibited the sale of speculative sales (gharar). When the Prophet (Peace Be Upon Him) commanded the sale of fruits after their ripening, it indicates that this transaction has moved away from speculative sales for the most part. Consequently, the meaning of his statement, “Have you considered if Allah prohibits the fruit,” implies that if the fruit is immature and Allah prohibits it, by selling it prematurely, you engage in exploitation and unjustly take the buyer’s money. Therefore, refrain from selling it until its ripeness becomes evident. By doing so, you safeguard yourself from engaging in speculative sales, as the likelihood at that point is that the fruit is safe. If it is struck by an unusual calamity, it is a rare occurrence with no specific ruling (Al-Qurtubi, 2006, p. 311).

The second opinion posits the validity of selling fruit after its appearance but before its full ripening unconditionally, similar to the first case. This view is attributed to Umar ibn al-Khattab and Abdullah ibn al-Zubair (may Allah be pleased with them). Al-Awza’i, Abu Hanifah, and their followers also endorse this view. It aligns with Malik’s narration and Ahmad’s statement, yet the majority of Hanafis differentiate between whether the fruit is beneficial, even in some aspects, or not. They contend that if the fruit is in a condition where it is not usable for consumption or animal fodder, it is impermissible. However, if it has some utility, it is permissible (Ibn Al-Humam, 1970, p. 488; Al-Tha’uni, 2018, p. 43.

Al-Qurtubi, 2006, p. 306), according to the consensus of the Hanafis.

Evidence for the Proponents of The Second Opinion and Their Discussion:

Supporters of this stance present several arguments, the main ones being as follows:

1. First Argument: The unrestricted term (i.e., not specifying the fruits to remain on the tree or not requiring them to be cut) in this case (the third case) is merely verbal and does not imply a lack of cutting. The seller stipulated cutting, so the buyer is obligated to cut the fruit immediately. The implication of cutting arises with the use of the term, as the right to timely delivery is inherent in contractual rights. Thus, it is as if, upon using this term, the seller stipulated cutting.

Therefore, in this type of sale, the seller has the option to either instruct the buyer to cut the fruit, making it incumbent upon the buyer to cut it, or refrain from issuing such an order, in which case it is not obligatory for the buyer to cut the fruit. This is not because cutting is a condition of the sale, but because the seller has shown leniency in his instruction. It is akin to selling with the condition of cutting and then, leniently, not instructing the buyer to cut. In this case, there is no difference between the third and first cases (Al-Shirazi, 2007, p. 250; Ibn Al-Humam, 1970, p. 471; Al-Jassas, 2010, p. 49).

2. Second Argument: Ibn Umar (may Allah be pleased with them) reported that the Messenger of Allah (peace be upon him) said: “Whoever sells date palms that have flowered, their fruits belong to the seller unless the buyer stipulates otherwise.” The Hadith is reported by Al-Bukhari, Volume 7, Page 3, Hadith Number 220.

These arguments form the basis for the proponents of the second opinion and serve as points of contention in the discussion.

The indication here is that the expression (Qalaji& Qunibi, 1985, p. 117) (tābir) refers to the flowering of the date palms before their full ripening. The Prophet (peace be upon him) permitted the sale of date fruits after this stage, thus affirming the permissibility of selling the fruit before its full ripening (Al-Othmani,2006, p. 250).

An objection is raised, contending that the sale of fruit, as mentioned here, is not independent but rather subordinate to the palm tree. The essence of the argument is that permitting the sale of fruit before its full ripening is contingent upon its connection to the palm tree. In this context, the sale of the fruit independently is not necessarily justified.

The response is that the principle in this matter is that what is not inherently included in the sale of an item can be sold independently only through explicit stipulation. In this case, the fruit does not inherently enter into the sale of the tree; thus, it can be sold independently, similar to selling the offspring of a sheep, which is permissible without stipulating it in the sale of the sheep. Consequently, based on this hadith, it is inferred that selling the fruit before its full ripening is permissible, whether it is associated with the palm tree or sold independently (Al-Othmani,2006, p. 250; Ibn Qudamah, 2004).

The third evidence: Ibn Al-Humam relied on it to support the Hanafi school, and it is what Malik narrated in the sales of Al-Muwatta from Ummarah bin Abd al-Rahman: A man bought a wall of dates during the time of the Messenger of Allah (peace be upon him) and treated it. He stood by it until the deficiency became apparent to him. He asked the owner of the wall (Al-Jassas, 2010, p. 171) to either compensate him or release him from the contract. The owner of the wall swore not to do either. The mother of the buyer went to the Messenger of Allah (peace be upon him) and narrated the situation. The Messenger of Allah (peace be upon him) said, “By the One in whose hand my soul is, he will not do any good.” Upon hearing this, the owner of the wall came to the Messenger of Allah (peace be upon him) and said, “O Messenger of Allah, it belongs to him (Ibn Malik, 1985, p. 191).”

Indicative Aspect: The statement “treated it and stood by it” suggests that the sale of the fruits occurred before their ripening. The buyer’s request for compensation or release from the contract implies the completion of the sale, a point acknowledged by the Prophet (peace be upon him). If the sale were valid, the Prophet (peace be upon him) would not have encouraged compensation or reconciliation; instead, he would have annulled the sale decisively. Scholars who have expounded on this hadith concur that the Prophet (peace be upon him) did not annul this sale. Instead, he encouraged the seller to consider compensation or reconciliation. If the sale of the fruits were inherently invalid before ripening, there would be no need for reconciliation (Al-Shirazi, 2007, p. 251). The continuation of Ummarah’s narration is recorded by Al-Bukhari in the Book of Reconciliation (Al-Bukhari, 2022) and Muslim in the Book of Transactions (Al-Nisaburi, 1999).

An objection is raised, arguing that the hadiths cited by proponents of the first opinion explicitly prohibit the sale of fruits before their full ripening.

The response to this objection, as posited by the Hanafis, is threefold:

1. First Aspect: The prohibition mentioned in these hadiths is interpreted as specifically pertaining to the sale of fruits with the condition of leaving them on the trees, similar to the second case. The Hanafis adhere to this interpretation.

Muhammad Taqi al-Uthmani asserts, “One of the indications favoring the Hanafi view is that the Prophet (peace be upon him) rationalized this prohibition in the hadith narrated by Anas, saying, ‘Have you not seen that if Allah prohibits the fruit with something, would any of you desire the wealth of his brother?’ It becomes evident that the rationale lies in the potential deception in the sale, and deception only occurs when leaving the fruit on the trees is stipulated.” (Al-Othmani, 2006, p. 351).

Al-Kamal Ibn al-Humam adds, “The statement of the Prophet (peace be upon him), ‘Have you not seen that if Allah prohibits the fruit with something, would any of you desire the wealth of his brother?’ implies that the prohibition of its sale is understood before perception and adorned before ripening – meaning, it is sold before reaching the stage of being fully perceptible.” (Ibn Al-Humam, 1970, p. 491).

An objection is raised, questioning why this prohibition is specifically related to selling before the full ripening, considering that the condition of leaving the fruits is not permissible in sales, whether before or after their full ripening.

The response is that the restriction specifying the prohibition in selling before the full ripening is not a restrictive condition but rather lies outside the norm. People used to trade fruits with the condition of leaving them before their full ripening.

Sheikh Muhammad Taqi al-Uthmani provides another perspective to address this objection, stating, “It seems apparent to this humble servant that the Prophet (peace be upon him) singled out the sale of what has not yet ripened because it involves two factors:

Firstly, it is a sale with a condition.

Secondly, it encompasses deception since it is possible that no fruit would emerge. This is in contrast to selling after the full ripening with the condition of leaving them, as it does not involve deception. It is forbidden solely because it is a sale with a condition. Since the intention in the hadith of this chapter is to warn against deception and to appeal to emotions toward the deceived buyer, the Prophet (peace be upon him) specifically mentioned selling before the full ripening and did not mention the ruling on selling after the full ripening. Allah knows best.” (Al-Othmani, 2006, p. 252).

The second aspect of the response is provided by At-Tahawi, may Allah have mercy on him, in his explanation of the meanings of the narrations concerning the prohibition of selling fruits before their full ripening. He clarifies that this hadith is not about general sales but specifically pertains to deferred payment sales. This is because the people of Medina used to advance payment for fruits for a year or two in advance. The prohibition was directed at this practice unless they paid with a known measure and weight for a known period. For the permissibility of selling on deferred payment, the sold item must be present from the time of the contract until the delivery. Thus, the sale of fruits on deferred payment must occur after their full ripening and assurance of safety from defects to be valid, affirming its existence at the time of the contract. Otherwise, it would be like selling something non-existent. The conclusion is that the intent of the hadith is to prohibit deferred payment sales before the full ripening, not to prohibit general sales. (Al-Jassas, 2010)

The third perspective, as mentioned by At-Tahawi citing some scholars, is that the hadith is applicable not only to deferred payment sales but to general sales. It acknowledges that the sale is absolute, whether with the condition of leaving the fruits or cutting them, yet it is not a prohibition but rather guidance and advice. This interpretation is derived from a hadith in Sahih al-Bukhari narrated by Zaid bin Thabit. (Al-Othmani, 2006, p. 252; Al-Tha’uni, 2018, p. 44; Al-Kawthari, 2017, p. 98).

Al-Kawthari presents an alternative view regarding the significance of the prohibition hadiths, suggesting that the previous hadiths imply a prohibition on selling what is not yet present when the fruits have not formed. The ripening of the fruits becomes irrelevant, ensuring they do not reach maturity to avoid contradiction between the hadiths. (Al-Kawthari, 2017, p. 98).

Before delineating the prevailing opinion on this matter, I address Imam Ibn Abi Shaybah (may Allah have mercy on him). Having thoroughly examined this issue and its various viewpoints, it becomes evident that Abu Hanifah and his followers did not contradict the hadiths of this chapter. Instead, they

acted in accordance with them based on their own evidence, as befits their independent reasoning. A diligent jurist must act according to his own independent reasoning, and it is impermissible for him to blindly follow others.

Having clarified this, I present the prevailing opinion. I assert that the adherents of both opinions did not apply the general expressions of the hadiths. They both permitted the sale of fruits before their full ripening with the condition of cutting them from the trees. However, the distinction between the two opinions lies in how they interpreted the hadiths. The followers of the first opinion restricted the prohibition mentioned in the hadiths to cases where cutting was not stipulated, while the followers of the second opinion specifically linked it to the condition of leaving the fruits on the trees. If the followers of the first opinion had adhered to the general expressions of the hadiths without imposing restrictions, their view would have been more prevailing, as the apparent meaning of the hadiths supports that. However, they allowed the sale of fruits before their full ripening with the condition of cutting. Given the near equality of evidence from both sides, I find that the opinion of the Hanafis is more convincing in this matter. This is further supported by the fact that the Prophet (peace be upon him) rationalized the prohibition in the hadith narrated by Anas, stating, ‘Have you not seen that if Allah prohibits the fruit with something, would any of you desire the wealth of his brother?’ It becomes evident that the rationale is deception, and deception only occurs when leaving the fruits on the trees is stipulated. Allah knows best.

The Second Principle: The Reception of Sales

This sale is identified by various terms in its wording, yet they unanimously agree in their meaning. Among these terms are “*Talq al-Buyu*” including the receipt of sales, the receipt of goods, and simply “*Talq*.” These terms differ in wording but align in meaning, signifying a man leaving the town to meet traders arriving with funds from abroad, purchasing from them there before they enter the town and become aware of its prices.

Scholars have diverged in defining the wisdom behind prohibiting this type of sale. Some argue that its wisdom lies in safeguarding the sellers from harm, as they sell their goods before reaching the market and knowing its prices. The buyer might take advantage, purchasing at a price lower than the town’s standard.

Others assert that the wisdom is to protect the locals from harm. The recipient immediately seizes control of the price, waiting until prices rise in the town after buying from the locals. Consequently, the goods are sold at a higher price, causing an increase in prices for the locals (Al-Othmani, 2006, p. 216).

There is no objection to the possibility that the wisdom in prohibiting this sale is encompassed in all that has been mentioned.

Imam Ibn Abi Shaybah (1989, p. 397) holds the view that the receipt of sales is not permissible. He derives this from the following evidence:

1. The first hadith, narrated by Abdullah bin Al-Mubarak, states that the Prophet (Peace Be Upon Him) prohibited the receipt of sales. (Ibn Abi Shaybah, 1989, p. 298)
2. The second hadith, narrated by Abu Al-Ahwas from Samaak from Ikrimah from Ibn Luhay’ah, quotes the Prophet (Peace Be Upon Him) saying, “Do not accept or leave.” (Ibn Abi Shaybah, 1989, p. 298)
3. The third hadith, narrated by Ibn Abi Zaid from Ubaydah from Nafi’ from Ibn Umar, states that the Prophet (Peace Be Upon Him) prohibited the receipt. (Ibn Abi Shaybah, 1989, p. 298)

It has been reported from Abu Hanifah (may Allah have mercy on him) that he said: “There is no harm in it.” (Ibn Abi Shaybah, 1989, p. 298)

Elaborating on the disagreement with Imam Abu Hanifah's stance, those who delve into the opinions of scholars regarding this matter find unanimous agreement that the receipt of sales involving sales is prohibited.

They have substantiated this with explicit and authentic evidence elucidating the ruling on this sale, indicative of its prohibition. Among the crucial evidence mentioned by Ibn Abi Shaybah in his compilation are:

1. The first proof is from Ibn Mas'ud (may Allah be pleased with him), who stated that the Prophet (Peace Be Upon Him) prohibited the receipt of sales. ("The Hadith is reported by Al-Bukhari, Volume 70, Page 3, Hadith Number 2149, and Muslim, Volume 1156, Page 3, Hadith Number 1518).
2. The second proof is from Abu Huraira (may Allah be pleased with him), reporting that the Messenger of Allah (Peace Be Upon Him) forbade the receipt of sales. ("The Hadith is reported by Muslim, Volume 3, Page 1157, Hadith Number 1519)
3. The third proof is from Ibn Sirin, who heard Abu Huraira saying that the Messenger of Allah (Peace Be Upon Him) stated, "Do not accept sales. If someone accepts and buys from them, when they reach the market, it is at his discretion." (ibid)

The Indicative Aspect of the Preceding Evidence

The implication of these proofs is clear in prohibiting the receipt of incoming sales with their goods and affirming the discretion for their owners in dealing with their merchandise.

However, scholars differ in specifying the indication of the prohibition mentioned in these narrations and others, which we have omitted to avoid prolixity. Does the prohibition of this sale signify its prohibition, or does it indicate its disapproval?

Subsequently, they differ on whether this prohibition entails the corruption of what is prohibited in this sale or if it does not necessarily imply its invalidity.

In the scholars' discourse on the ruling of this matter, two opinions emerge:

The first opinion posits that the prohibition indicated in these evidences implies the prohibition without necessitating invalidity. This is the majority view, held by most Malikis, the majority of Shafi'is, and Hanbalis, except for a narration from Imam Ahmad stating it is not authentic. Some adherents of these schools opine that the prohibition implies invalidity, a view considered balanced by scholars of these schools.

The Dhahiriyah school contends that the sale is void based on the apparent meaning of these texts. According to proponents of the first opinion, whether the market is harmed by the recipient's actions or not, the prohibition remains. They differ in the intended meaning of this prohibition.

Imam Malik, may Allah have mercy on him, holds that the objective is to prevent harm to the market, ensuring the recipient does not monopolize goods without considering the local market. He also asserts that it is impermissible for anyone to buy goods until they enter the market, especially if the receipt is imminent. If the receipt is distant, there is no objection.

Imam Malik further states that if the sale has occurred, it is valid, but the buyer involves the local market in that specific commodity, which could be considered its market.

Imam Shafi'i, may Allah have mercy on him, believes the purpose is to alleviate harm to the seller, preventing exploitation by the recipient, as the seller is unaware of the town's prices. He also opines that the sale is valid but contingent on the seller's discretion to proceed or annul if the sale occurs at a price lower than the market rate.

These scholars disagree on the extent of the distance for the prohibition. Some suggest not leaving the town, others propose a mile, some mention a distance of two days (56), and some argue for any distance beyond the town, while others consider the proximity within six miles, with the mile equals 1848 meters. (Qalaji & Qunibi, 1985, p. 470).

Imam Malik holds the view that once a sale has taken place, it is permissible. However, the buyer should involve the local market residents in those goods that are typically traded in that market.

Imam Al-Shafi'i, may Allah exalt his mention, perceives the intention behind this as compensating the seller to prevent unjust treatment, considering that the seller may be unaware of the local pricing.

Imam Al-Shafi'i also contends that the sale is valid. However, if the sale occurs at a price lower than the market value, and the seller is unaware of this, the sale is contingent upon the choice of the owner of the goods, whether to proceed or annul it.

There is disagreement among the proponents of this opinion regarding the extent of the locality: some argue it does not extend beyond the city limits, while others posit it covers a distance of two farsakh, with the latter equals 5544 meters (ibid). Some suggest a journey of two days, and others state it depends on whether the distance is within or outside the city, whether short or long. It is said that if the distance is short, the prohibition does not apply, while if it is far, the prohibition applies, with "close" defined as within six miles. A number of scholars agreed on this such Ibn Rushd (Averroes), Al-Shawkani, Ibn Qudamah, Al-Mawardi, Ibn Qudamah, Al-Nawawi, Ibn Qudamah, Al-Shawkani, Al-Suyut.

The second opinion asserts that the prohibition implies disapproval, but it becomes impermissible only if it results in harm to the market residents. Otherwise, it is deemed permissible unless the seller engages in deception, in which case it is disliked. According to proponents of this view, the prohibition is not absolute; rather, it is conditional and contingent upon the occurrence of harm or deception. Thus, as long as the underlying reason for the prohibition is absent, the sale is considered permissible. This perspective is advocated by Abu Hanifah, his followers, and Al-Awza'i. In this viewpoint, the prohibition is not unrestricted but is qualified and subject to specific conditions such as the presence of harm or deceit. Consequently, when these conditions are met, the prohibition is applicable; otherwise, the prohibition is not deemed to have occurred. Ibn Al-Humam, however, deviated from the scholars of the school and asserted that the sale is invalid if harm ensues.

The foundation of the Hanafi opinion, excluding Ibn al-Humam, is rooted in the concept of disapproval. They argue that the prohibition in the evidence is not directly linked to a fundamental element of the sale but rather describes an external and related aspect: either concerning the market participants or the seller, both of whom are extrinsic to the core of the contract.

On the other hand, Ibn al-Humam's stance, asserting the invalidity of the contract, is based on the premise that the harms resulting from receiving sales should necessitate the invalidity of the contract according to the principles of the Hanafi school. The absolute nature of the prohibition implies prohibition itself unless averted. The concept of harm as a reason for the prohibition reinforces the prohibition rather than mitigates it, as its occurrence is detrimental to Muslims and those under protection, rendering it impermissible. Therefore, it must not be a valid contract due to non-consent, and the descriptor (harm) being adjacent or inherent does not negate the previously mentioned considerations. Terminology should not negate the inherent meanings that imply either nullity or invalidity.

Ibn al-Humam asserts, "The prohibition based on speculative reports from solitary narrators, what is termed abhorrent in our terminology, and considering the pillar—mutual exchange of goods for goods by mutual agreement—as established, deems it corrupt (Ibn Al-Humam, 1970, p 106)." He contends that the flaw has reached the core of the contract, leading to its condemnation.

According to the Hanafis, the intent behind the prohibition is not exclusive to one party over the other but is contingent on harm occurring, whether affecting one or both parties: the market participants and the price manipulation by the sales, who are the owners of the goods.

For the Hanafis, there is no significance to the distance covered to receive the sales for establishing reprehensibility if harm occurs. The determinant for establishing reprehensibility in this matter is the occurrence or absence of harm, regardless of the distance.

The Hanafis justify that receiving sales is permissible if no harm occurs through a narration from Ibn Umar, where the Prophet (Peace Be Upon Him) did not disapprove of receiving them but instead permitted it. However, he forbade them from selling the purchased food in that location and instructed them not to sell until they brought it to the market. This was because the sales did not unload their goods on the way but deposited them where loads were typically placed for sale. If the recipient immediately sold it after buying, it would be a sale before possession, and thus the Prophet (Peace Be Upon Him) prohibited it. He did not prohibit the sales from selling, nor the recipients from buying.

It is argued that this narration conflicts with the evidence indicating the prohibition of receiving sales.

The response is that there is no real contradiction between them; they can be reconciled. The reconciliation lies in the fact that the evidence of prohibition implies harm to the market participants or the seller, while the narration suggests the absence of harm. Bukhari reconciled the evidence of prohibition and permission as follows: what is permissible from receiving is when it is at the top of the market, and what is prohibited is when it is elsewhere.

The Hanafis argue for the absence of the seller's option in case of deception through several points:

1. The option is established with a condition; without the condition, it is not established, as in the hadith of Huban bin Munqidh concerning deception in a sale, where the legislator did not establish the option without a condition.
2. Analogical reasoning negates the option here, as the seller was not compelled to boast, as he had the option not to rely on the buyer's statement. By relying on it, he was deceived due to his negligence, so the option is not granted.
3. The narrations implying the existence of the option are interpreted as a policy to dissuade people from receiving. (Reported by al-Bukhari: Volume 58, Book 3, Hadith number 2079)
4. The saying that the option is established contradicts what is reported from the Prophet (Peace Be Upon Him): "The two parties have the option as long as they do not separate," as the Prophet (Peace Be Upon Him) set a limit for the option, which is the absence of separation. Therefore, it does not establish it afterward.
5. Ibn Malik, as reported by Ibn Mulak, suggested that the hadith is weak because if the purchase is made at the local price or higher, the seller's option is not established according to the Hanafi principles; thus, it has no legal standing.

An objection is raised against the first and fifth pieces of evidence. Regarding the objection to the first, it is argued that relying on the hadith of Huban bin Munqidh is an argument by implication, which does not stand as it contradicts the explicit content of the Hanafi school. As for the objection to the fifth, it is argued that simply stating that the hadith is weak does not hold unless accompanied by solid proof, which has not been presented. This is supported by a host of authors such as: Ibn Abi Jamrah, Al-Shawkani, Ibn Humam, Ibn 'Abidin, Al-Tahanawi.

The prevailing opinion on the ruling of this matter, as it appears to researchers, can be summarized as follows:

1. If the buyer intends to deceive the seller (the owner of the goods), he is considered sinful in his conduct.

2. Scholars from various schools of thought, excluding the Dhahiris, did not strictly adhere to the apparent meaning of the hadith in its applications. Some restricted the application of the hadith based on the distance, while others considered the intention in purchasing. There are also those who linked the hadith to the harm condition, relying on the principle of justification in transactions.
3. As for the Dhahiris, they adhered to the apparent evidence in line with their principle of holding onto the literal meaning of the text. They maintained their position based on the explicit evidence of this issue.

After this exposition, it becomes evident that Abu Hanifah did not oppose the narration or evidence of the matter. Instead, he acted in accordance with his reasoning and knowledge, fortifying his independent judgment with what Bukhari narrated from Ibn Umar.

Abu Hanifah, along with others from different schools of thought, prioritized the hadith. This suggests that Ibn Abu Shaybah acted upon the apparent meaning without interpretation. It is undeniable that Abu Hanifah's independent reasoning takes precedence over the opinion of Ibn Shaybah because Abu Hanifah was a skilled jurist, exercising unrestrained independent reasoning. A skilled jurist is one who relies on his discernment to derive rulings from the evidence.

Consequently, the Hanafi opinion is more plausible than others. Connecting the prohibition to the occurrence or non-occurrence of harm is more precise, closer to reality, and exhibits a stronger comprehension. This is reinforced by what Bukhari narrated from Ibn Umar.

Regarding the issue of establishing the option, I lean towards the viewpoint of the author of *Takhmilat Fath al-Mulhim*, who supports the establishment of the option when harm occurs to the seller. This aligns with the majority opinion among scholars.

This conclusion is subject to the knowledge and wisdom of Allah, the Most Sublime.

Conclusion

Upon completing the writing of any research, it is imperative for researchers to elucidate the most significant findings and recommendations they have reached. This is precisely the purpose of this conclusion, which is succinctly summarized as follows:

1. Imam Ibn Abi Shaybah is among those scholars universally acknowledged for their authentication and esteemed status in the realm of knowledge.
2. His education was under the tutelage of eminent scholars, including Abu al-Ahwas, Sufyan ibn Uyaynah, Shurayk ibn Abdullah, and Abdullah ibn al-Mubarak. He transmitted hadiths to distinguished scholars such as al-Bukhari, Muslim, Abu Dawood, Ibn Majah, Ahmad ibn Hanbal, and Abu Zur'ah.
3. Specialization in Hadith made Ibn Abi Shaybah renowned for his knowledge and prolific contributions in this field.
4. Key Result: The paramount outcome of this research is the examination of whether Abu Hanifah genuinely opposed hadiths and narrations, as claimed by Ibn Abi Shaybah. After a thorough investigation, no evidence was found, adhering to the scientific methodology employed, indicating any contradiction between Abu Hanifah and the narrations or traditions in question. Imam Abu Hanifah indeed incorporated all relevant evidence into his rulings.
5. The Role of the Jurist: The perception and handling of hadiths and narrations differ between jurists and scholars of hadith. A jurist possesses tools to base his jurisprudence on, and these tools include the understanding that evidence may be definitive yet speculative in its implications. The jurist's understanding carries a nuanced load, differing from the apparent meaning of the hadith. Hence, one should exercise caution and refrain from hasty accusations, especially toward a scholar who acknowledges his knowledge, as the jurist's approach to evidence differs from that of a traditionist.

6. Ibn Abi Shaybah's Claim: The assertion that Imam Abu Hanifah contradicted narrations deserves scrutiny. After studying the relevant issues, it became clear that Imam Abu Hanifah did not stand alone in his chosen opinions. Scholars, such as Sufyan al-Thawri, expressed similar views. Therefore, singling out Imam Abu Hanifah for allegedly opposing narrations is unwarranted.
7. Critique Directed at Imam Abu Hanifah: Critique and claims of contradiction with narrations were not driven by an intent to diminish or defame; rather, both critics and those criticized are esteemed scholars recognized by the Ummah for their knowledge and virtues. Any statements made are scholarly critiques, firmly within the scope of academic research.

In conclusion, researchers are reminded, as they finalize this research, to heed self-reflection and advisement, especially concerning the tendency to rush and hastily criticize esteemed scholars who dedicated their lives to the pursuit, study, and dissemination of knowledge. Justice must prevail, for, as the saying goes, "Justice is the leader of virtues." In our final supplication, praise be to Allah, the Lord of all worlds, and peace and blessings upon the best of those whom Allah sent as a mercy to mankind.

References

- Abid, H. M. (2023). *The Phenomenon of Electronic Defamation in Islamic Jurisprudence and Iraqi Law: A Study on Iraqi Society*. Published in *Akleel Journal*, 14.
- Abu Dawood, S. (2014). *Sunan Abi Dawood*, by Abu Dawood Sulayman ibn al-Ash'ath al-Sijistani. Dar al-Asriyyah, Sidon – Beirut.
- Al-Aliwi, M. A. A. (2009). Sale of Sample in Islamic Law and Contemporary Applications. *Journal of Islamic Sciences – University of Baghdad*, 1(20).
- Al-Asqalani, A. (2001). *Fath al-Bari*, by Imam al-Hafidh Ahmad ibn Ali ibn Hajar al-Asqalani. Maktabah Misr.
- Al-Ayni, B. (2000). *Sharh al-Hidayah*, by Imam Muhammad. Dar al-Kutub al-Ilmiyyah, Beirut, Lebanon.
- Al-Bukhari, M. I. I. B. I. A. (Abu Abdullah). (2022). **Sahih Al-Bukhari (Ed. Tawq Al-Najah)** (1st ed., Vols. 1-9). Muhammad Zuhair Naser (Ed.), **Uniini version, with Narrations from Al-Asili, Abu Dhar Al-Harawi, Al-Sijzi, and Ibn Asakir, Attributed to Tuhfat Al-Ashraf, Fath Al-Bari, Tughliq Al-Ta'liq, Umdat Al-Qari, and Irshad Al-Sari**. Dar Tawq Al-Najah.
- Al-Fayruzabadi, M. Y. (1995). *Al-Qamus al-Muhit*. Dar al-Risalah.
- Al-Haithami, H. (1994). *Majma' al-Zawaid*, by Abu al-Hasan Ali ibn Abu Bakr ibn Abdullah ibn Muhammad ibn Abdullah al-Mawardi (1st ed.). Dar Taq al-Najah.
- Al-Jassas, A. (2010). *Sharh Mukhtasar al-Tahawi*, by Imam Abu Bakr al-Razi. Dar al-Basha'ir al-Islamiyyah, Dar al-Siraj.
- Al-Kawthari, M. (2017). *Al-Nukat al-Tariqah fi al-Tahdith 'an Rudud Ibn Abi Shaybah 'ala Abi Hanifah*. Idarat al-Quran wal Unum al-Islamiyyah, Karachi, Pakistan.
- Al-Khailani, Z. A. K., & Al-Taie, A. A. H. (2021). The Impact Of Preserving Offspring In The Decisions Of The International Fiqh Council Concerning Human Cloning And The Use Of Embryos.
- Al-Kubaisi, M. H. A., & Al-Dulaymi, M. A. M. (2014). The Sale of Najash: Its Ruling and Forms in Islamic Law. *Journal of Islamic Sciences – University of Baghdad*, 1(40).
- Al-Maqari, A. (1986). *Al-Misbah al-Munir fi Gharib al-Sharh al-Kabir lil-Rafi'i*. al-Maktabah al-Ilmiyyah. Publisher not available.
- Al-Othmani, H. (2006). *Tkmlat Fath al-Mulhim b Sharh Sahih Muslim*, by Hamd Taqi al-Othmani. Dar al-Ilm, Damascus.
- Al-Quran
- Al-Qurtubi, A. (2006). *Al-istithkar*, by Abu Umar Yusuf ibn Abdullah ibn Muhammad ibn Abdullah ibn Muhammad ibn Abdullah al-Qurtubi. Dar al-Kutub al-Ilmiyyah, Beirut, Lebanon.
- Al-Shawkani, M. I. A. (1983). *Nayl al-awtar*. Ansar Al-Sunnah, Lahore: Al-Muhammadiyya.

- Al-Shirazi, A. (Ed.). (2007). *Al-Muhadhdhab's Completion (Takmilat al-Majmu')*. Dar al-Kutub al-Ilmiyyah.
- Al-Shirazi, A. I. I. B., & Abadi, A. B. Y. A. F. (1986). *Al-Muhadhab Fi Fiqh Al-Imam Al-Shafi 'i*. Bayrut: Dar Al-Fikr, Taba 'ah, 2.
- Al-Shirbini, M. (1997). *Maraqī al-Falah Sharh I'līNur al-Idah*, by al-Sheikh Shams al-Din Muhammad ibn Abu Bakr al-Ramli. Dar al-Ma'rifah, Beirut.
- Al-Tamimi, A. (2008). *Sharh al-Talqeen*, by Abu Abdullah Muhammad ibn Ali ibn Omar al-Tamimi al-Mazri al-Maliki. Dar al-Gharb al-Islami.
- Al-Tamimi, R. S., & Ghanim, K. S. (2021). The effect of Daniel's model on the development of critical thinking in the subject of Arabic language among students of the College of Management and Economics. *Psychology and Education*, 58(1).
- Al-Tamimi, R. S., Ghanim, K. S., & Farhan, N. D. (2023). The effect of productive thinking strategy upon the student's achievement for the subject of research methodology in the College of Islamic Sciences. *Journal of Namibian Studies*, 34(1).
- Al-Tha'uni, M. (2018). *I'la al-Sunan*, by Mufti Zafar al-Othmani. Idarat al-Quran wal Ulum al-Islamiyyah, Karachi, Pakistan.
- Al-Zubaidi, M. M. (1993). *Taj al-Arus min Jawahir al-Qamus*. Dar al-Huda.
- Encyclopedia Printing House – Kuwait. (1989).
- Ghanim, K. S. (2020). Attitudes of Arabic Language Teachers Towards the use of Technological Means in Light of the Corona. *International Journal of Innovation, Creativity and Change*, 13(5).
- Ghanim, K. S., & Al-Tamimi, R. S. A. R. (2021). The impact of mind-clearing method in teaching reading book to second class intermediate students. *Turkish Journal of Computer and Mathematics Education*, 12(13).
- Ghanim, K. S., Shihab, M. M. T., & Hussien, F. S. (2020). The effect of e-learning on the acquisition of reading in reading and texts, and the development of creative reading skills and innovative thinking concepts for literary fifth students. *PalArchs Journal of Archaeology of Egypt/Egyptology*.
- Hayawi, H. K., & Abdul, H. M. (2019). *Civilizational Approaches to Economic Problems According to Sayyid Qutb and Muhammad Hussein Fadlallah*. Published in *Al-Ustath Journal*, 2019.
- Ibn Abi Shaybah, B. (1989). *Musannaf Ibn Abi Shaybah*, by Abu Bakr Abdullah ibn Muhammad ibn Ibrahim ibn Al-Khawast al-Abasi. Maktabah al-Rushd, Riyadh.
- Ibn Al-Humam, K. (1970). *Al-Fath al-Qadeer*. Dar Ihya al-Turath al-Arabi, Beirut, Lebanon.
- Ibn Hazm, A. (1984). *Al-Muhalla bi al-Athar*, by Abu Muhammad Ali ibn Ahmad ibn Sa'id ibn Hazm al-Andalusi. Dar al-Fikr, Beirut.
- Ibn Malik, M. (1985). *Muwatta Malik*, by Muhammad ibn Hasan al-Shaybani. The Islamic Library.
- Ibn Manzur, M. M. (1984). *Lisan al-Arab*. Dar Sader.
- Ibn Qudamah, M. (Ed.). (2004). *Al-Mughni*. Dar al-Hadith.
- Ibn Rushd, A. (1992). *Bidayat al-Mujtahid wa Nihayat al-Muqtasid*, by Imam Ibn Rushd (Al-Hafidh). Dar al-Kutub al-Ilmiyyah, Beirut, Lebanon.
- Qalaji, M. R., & Qunibi, H. S. (1985). *Glossary of Jurists' Language*. Dar al-Nafa'is Mustafa al-Babi al-Halabi and Sons.