

(The Rules of the Bay' (Selling

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The Bay' (Selling)

What is bay'? The bay' (selling) means the sale and exchange of a property with another property in a way that the owner, who is called "the seller" of the merchandise transfers the ownership of his property to the other party in exchange for money, and the other party called "the buyer" pays the money to the seller in exchange for the merchandise. As is evident, the bay' is considered as one of the 'uqud (contracts) and requires two parties (the seller and the buyer) for implementation. Thus those, who enter into the 'uqud, must fulfil the general conditions of the 'uqud such as maturity, wisdom, niyyah, and authority

The Irrevocability Of Bay'

The bay' is an irrevocable 'aqd, i.e., it cannot be revoked by either of the contracting parties (seller or buyer) after the conclusion of the contract.

In view of the fact that sometimes the seller or the buyer is cheated due to his negligence or default and sustains a considerable loss and because in such instances the irrevocability of the contract is against the public interest, Islamic laws have enjoined the following two commands to take care of this sedition:

- (i) Faskh al-'aqd (cancellation of contract): When one of the parties of the contract changes his decision and requests the revocation of the transaction, it is mustahabb for the other party to accept his request for the cancellation of the contract.
- (ii) Khiyar al-'aqd (option for the contract). It is a special option or a right which the dealer can exercise to cancel the contract.

The important khiyarat (options) are as follows:

- (i) Khiyar al-majlis (option during the meeting): Both parties reserve the right to cancel the transaction before they disperse.
- (ii) Khiyar al-ghabn (option in the case of cheating): It means that when one of the parties to the contract is cheated and has suffered a loss in the transaction, for example, if the merchandise is sold at lower than its actual price or purchased at higher than its actual price, in this case the one who has been cheated has an option to cancel the contract.
- (iii) Khiyar al-'ayb (option in the case of defect): If after the completion of the transaction, the

buyer finds out that the merchandise is defective, he can either cancel the transaction or demand the difference in price (difference in price of defect less and of defective merchandise).

(iv) Khiyar al-hayawan (option in the case of animals): With respect to the option in the case of animals such as sheep and horses, the buyer has the option to cancel the contract within three days.

(v) Khiyar al-shart: (option of condition): If the seller or the buyer or both have agreed upon certain terms and conditions in their transaction, they can revoke the transaction if the .previously stipulated terms have been violated

The Bay on Cash, On Credit, And On Advance Payment

The bay' is of four kinds depending on the payment of money and the delivery of the goods:

- (i) The bay' on cash: If the commodity and its price in money is exchanged right after the contract for transaction is finalized, it is called the bay' on cash.
- (ii) The bay' on credit: In the credit transaction, the commodity is delivered to the buyer at the time of transaction, but the payment of the price of the commodity is deferred by the buyer.
- (iii) The bay' on advance payment: In this type of transaction, unlike the second type, the money is paid in cash by the buyer, but the delivery of the commodity by the seller is postponed.
- (iv) The bay' on deferred payment and delivery. Unlike the bay' on cash, in this type of transaction, both the delivery of the commodity by the seller and the payment of money by the buyer are deferred to a later time.

.The first three kinds of bay' are correct, but the fourth kind of bay' is *batil*