Appendix B: Fatwās Chapter One

Translation of *Fatāwā Ibn Rushd* #299, p. 1030

Question 299. Concerning someone who owed a man some dinārs, paid him the weight of the dinārs in pieces of gold jewelry of the same or of lesser gold quality.

And as to the second question, it concerns a man who owed another man some dinārs. He paid the man the weight of the dinārs in pieces of gold jewelry of the same, or of lesser weight/quality than the dinārs, without charge (*ʿada*), condition, or specified number (*ʿidda*). When the weight of each dinār was examined separately, however, some were found to be more complete than others (*awfū min baʿḍ*). If one hundred of them were gathered on a balance with the stone weight, the weight may prove correct or may come short. Furthermore, what is to be done if the man settled the debt using Murābiṭī dinārs instead of ‘Abbādī ones?

The answer: I have examined this, your question, and have considered it carefully. As to being paid in pieces of gold jewelry that quantitatively exceed or fall short of the weight of the corresponding dinārs (*tajūzu ʿadadan ḥulīy dhahab bi-wazn danānirīhi mithl ʿaynihi*), this is not permissible because of the absence of an equivalence (*mumāthala*) with the original object of the pledge (*maʿ al-qaṣad ilā al-mubāyaʿa*), and the resulting discrepancy between [the original] intentions [of the parties].

As to the settlement of a debt with Almoravid gold in substitution of ‘Abbādī gold, on the other hand, this is permissible, because the surplus (*faḍl*) in this exchange is one sided, when the ‘Abbādī gold falls short in quality or weight. In God – may He be exalted – is success. He has no equal.

Translation of *Fatāwā Ibn Rushd* #333, p. 1095–1097

Question 333. Concerning pieces of jewelry (*ḥulīy*) cast in pure, impure, and counterfeitr gold (*al-khāliṣa wa-ghayr al-khāliṣa wa-l-maghshūsha*).

And [Ibn Rushd] – may God be contented with him – was asked a question concerning jewelry and this is the text: Give us your answer – may God be contented with you – concerning gold cast for jewelry for the adornment of women, according to the different standards of gold (*ʿalā ikhtilāf ʿiyārāt al-dhahab*): the pure, noble metal (*ṭīb khāliṣ*) with no impurities, the kind that is partial or half gold, and that which is of an eighth, two-thirds, three-fourth, seven-eighths gold and the like. These standards are
known to experts and merchants of gold, from whom a little added or subtracted cannot be concealed.

Also, people’s objectives in acquiring gold are various. There is he who wants the noble kind as treasure for savings (li-zamānīhi) and as ornament for his women. Others desire the kind widely available, which is bought and sold according to people’s wealth or lack of means. Then there is he who goes for the lowest standard. His objective is slightness of weight at maximum size and insignificant price.

Noble gold is heavy in weight, contemptible (ḥaqīr) to the eye, and great in price.

So – may God grant you success – is the sale of gold for dirhams, across this range of standards, permissible or not? And is it permissible to weigh these different qualities of gold by the pound (al-murāṭala), against non-minted gold (al-ghayr al-maskūk), weight for weight, one amount for another (yad bi-yad) or not? Is it permissible to weigh the noble kind by the pound excluding the lesser kind? Or the lesser excluding the noble? Or is it permissible across the range of standards? And is a judge entitled to prevent people from acquiring jewelry of a quality lesser than the noble kind? Does he have the right to keep goldsmiths (ṣāgha) from their smithing, for others or for themselves? And does this apply equally for he who smiths his gold for his own use as it does for he who does so to sell? May a judge destroy the non-noble jewelry that is in people’s possession, to devalue it and compel people to acquire exclusively gold of the noble kind? Clarify for us what is the obligatory course to be taken in this matter – may you be rewarded and thanked, if God so wills. May He be exalted.

The answer: So [Ibn Rushd] – may God grant him success – answered this question with this text: I have studied – God have mercy upon us – your question and I have informed myself regarding it. The smithing of jewelry from pure and impure gold, alloyed with (mashbūh bi) silver, brass, and copper is permissible (jāʾiz) and its use is allowed if it is characterized as you have described. For God, glorified and exalted, said: “Would they attribute to God females who adorn themselves with trinkets and are powerless in disputation?” Likewise, a person is allowed to procure it in quantities as treasure for his time when zakāt has been paid on it (if it has reached the minimum amount on which the zakāt must be paid) or when that person has other wealth added to it and he incurs the obligation of zakāt on it. Furthermore, its sale as merchandise (bi-l-ʿurūḍ) is permissible, for specie and on credit (ilā ajal), as it is permissible to sell it for silver and dirhams, one amount for another (yad bi-yad).

As to weighing some of it against other gold by the pound (al-murāṭala fī baʿdihi bi-baʿd) or just against pure, minted gold, this is only permissible for the pure kind, excluding the lesser. It is also not proper (lā yanbaghī) to prohibit goldsmiths from working their trade for people, for pay, or for themselves, to sell or use, because all of this activity is lawful and permissible. As it is also not permissible to destroy what is in

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1 Qurʾān 43:18.