

The Islamic Jurisprudential Provisions Related to the Trade of Manuscripts

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Abstract

The research topic focused on the explanation of the Islamic jurisprudential provisions related to the trade of manuscripts.

The research objectives are: First: Providing an Islamic jurisprudential material that reveals the jurisprudential aspects related to the trade of manuscripts. Second: Spreading jurisprudential awareness and clarifying the Islamic jurisprudential provisions to those who wish to sell or buy a manuscript they own, or even wish to be manuscript brokers and mediate between the owners of manuscripts, and those who want to collect them. Third: Demonstrating the greatness of the provisions of Sharia law, and their ability to deal with contemporary transactions related to different types of trades, including the trade of manuscripts in particular.

The current research necessitates the researcher to adopt an analytical inductive approach based on revealing the jurisprudential aspects related to the trade of manuscripts; and discussing, interpreting, and explaining them.

The research reached a set of scientific results listed at the end.

Keywords: *Heritage - Manuscripts - Trade - Selling - Forgery.*

INTRODUCTION

Recently, the trade of manuscripts has witnessed remarkable activity. What is happening in international auctions attests to this activity. Brokers of antiquities from various countries have entered this trade. The popularity of this trade has led to a negative phenomenon, which is the smuggling of manuscripts from Islamic countries after stealing them from the safes, and then making deals with external parties to whom these manuscripts are sold at high prices; and they - in turn- double such prices in the international auctions. Greed has led some weak souls to forge manuscripts in ways that specialists can detect, and then the forged manuscripts are sold

on the basis that they are authentic. Thus, it has become necessary to shed light on the trade of manuscripts according to the Islamic Sharia law clarifying a set of jurisprudential provisions related to this popular trade.

Research Importance

The importance of the present research stems from its relationship to the Islamic heritage through monitoring the transfer of ownership from one person to another; in addition to clarifying the Islamic jurisprudential provisions related to the trade of manuscripts. Islamic scholars have paid great attention to the provisions of selling in Islamic jurisprudence

because of people's need to fully understand these provisions.

Research Problems and Questions

This research addresses a fundamental question: What is meant by the trade of manuscripts?

Several closely related questions stem from this fundamental question, to identify a number of jurisprudential provisions that control this trade, to determine a set of behaviors that must be taken into consideration, to clarify the violations of the traders of manuscripts, and to list a set of proposals and recommendations that explain the deeper dimensions to this trade.

Reasons for Choosing this Topic

They can be summarized in the following three points:

First: The dire need to identify the Islamic jurisprudential provisions related to the trade of manuscripts, after thoroughly analyzing the current movement of the trade of manuscripts, and carefully evaluating the common prices.

Second: The close relationship of the manuscripts to our Islamic cultural heritage.

Third: To shut the door before traders of weak faith who forge manuscripts, and sell them as authentic, hoping that they become aware that such action does not conform to Islamic jurisprudential provisions.

Research Objectives

The main research objectives are:

First: Providing an Islamic jurisprudential material that reveals the jurisprudential aspects related to the trade of manuscripts.

Second: Spreading jurisprudential awareness, and clarifying the Islamic jurisprudential provisions to those who wish to sell or buy a

manuscript they own, or even wish to be manuscript brokers and mediate between the owners of manuscripts, and those who want to collect them.

Third: Demonstrating the greatness of the provisions of Sharia law, and their ability to deal with contemporary transactions related to different types of trades, including the trade of manuscripts in particular.

Previous Studies

I did not find research that discussed the Islamic jurisprudential provisions related to the trade of manuscripts. However, I found a title about the provisions related to books, written by: Prof. Yassin Karamatullah Makhdoom, published in Riyadh by “Treasures of Seville” publishing house, in two volumes, in 1431 Hijri. Nonetheless, the author did not address the provisions related to books in the case of a manuscript, despite covering -in brief- the case when we do not know the owner of the books and manuscripts. On the contrary, the current research addresses the issue in detail. The book did cover a wide range of useful provisions related to books, but it did not discuss the provisions related to the trade of manuscripts.

Research Methodology

The current research necessitates the researcher to adopt an analytical inductive approach based on revealing the jurisprudential aspects related to the trade of manuscripts; and discussing, interpreting, and explaining them.

Research Plan and Procedures

The research plan and procedures are covered in an introduction, four main points, and a conclusion.

The Introduction: It summarizes the idea of the research, its importance, its problems and questions, the reasons for its selection, its

objectives, previous studies, its methodology, and its plan.

The First Point: A definition of the term “manuscript”.

The Second Point: A definition of the trade of manuscripts.

The Third Point: A historical overview of the trade of manuscripts.

The Fourth Point: The Islamic jurisprudential provisions related to the trade of manuscripts, and covers fourteen requirements:

The First Requirement: Essentially, the trade of manuscripts is permissible.

The Second Requirement: The five main provisions related to the trade of manuscripts.

The Third Requirement: Selling a manuscript of the Holy Quran.

The Fourth Requirement: Selling a manuscript of the Holy Quran by a Muslim to a Christian.

The Fifth Requirement: Manuscript Auctions

The Sixth Requirement: Competing with Western traders in manuscript auctions by Muslim traders.

The Seventh Requirement: The issue of manuscripts owned by individuals.

The Eighth Requirement: The trade of manuscripts during times of crises, and wars.

The Ninth Requirement: The trade of forged manuscripts.

The Tenth Requirement: The trade of illustrated manuscripts and the like.

The Eleventh Requirement: The trade of full and fragmented manuscripts.

The Twelfth Requirement: Contract revocation in the trade of manuscripts

The Thirteenth Requirement: Selling the manuscripts of a bankrupt person.

The Fourteenth Requirement: A set of behaviors that must be taken into consideration.

The Conclusion: It contains the most important findings and recommendations.

The First Point: Definition of the Term “Manuscript”.

Contemporary scholars who are interested in studying cultural heritage are the ones who widely used the term “manuscript”. Ibn Faris, the famous linguist, says: “Every script is considered a manuscript”. [25] [41] [14]

This includes the effects of handwriting, resulting in certain forms arranged over a paper, and this is what made contemporary scholars derive the term “manuscript” to signify the book written by hand, i.e. the pages of the manuscript. Undoubtedly, this modern term is in line with an era in which printing was so overwhelming that the book in its initial handwritten form almost no longer existed. Thus, it became widely known that “the manuscript is the book that was written by hand as opposed to the printed book”. [40]

The Second Point: Definition of the Trade of Manuscripts

The trade of manuscripts is buying and selling handwritten books.

It is a definition that refers to three pillars in this trade:

First: A salesman who legitimately owned the manuscript.

Second: A buyer willing to purchase the manuscript for money or compensation.

Third: The very book, i.e. the manuscript.

The Third Point: A Historical Overview of the Trade of Manuscripts

The trade of manuscripts was an old custom that was widespread among people, and anyone who sold books was known as “A BOOKER”[15], and many literary scholars were providing their livelihood from the profession of selling books, and Imad al-Din al-Asabahani, who wrote the biography of Sheikh Abu Ma'ali Sa'ad bin Ali al-Warraq al-Kutbi al-Hudairi, stated that: “He sold books written by his own hands; he avoided the contentment of others; and he did not seek knowledge from others [...] He is “A BOOKER” who knew the books and what is in them, as well as their authors.” [17]. The biographies of the “BOOKERS” are very inspiring and indicate that the trade of manuscripts is a respected profession.

The Fourth Point: The Islamic jurisprudential provisions related to the trade of manuscripts, and covers fourteen requirements:

The First Requirement: Essentially, the trade of manuscripts is permissible.

Basically, the trade of manuscripts is permissible since it is a financial transaction. In general, financial transactions are permissible, unless they include something against the Islamic Sharia law. The evidence of this is the general Sharia texts that dealt with buying and selling, and the trade of manuscripts is included. Its benefit to people is clear, as it spreads knowledge and science. Almost all Islamic scholars regard the trade of manuscripts as a permissible practice. [1] [21] [34] [27]

The Second Requirement: The five main provisions related to the trade of manuscripts.

As mentioned above, the trade of manuscripts is permissible. However, there are certain cases in which it is prohibited, which are:

First: Prohibition; such as, selling manuscripts that are dedicated solely to certain institutions, and this is the case of many manuscripts whose owners dedicated them solely to private bodies like mosques, schools, or public libraries.

The prohibition is also applicable to manuscripts that are not owned by the seller; as there is a consensus among Islamic scholars that one of the conditions for the validity of selling the manuscript is the ownership of the manuscript in the first place.

Second: Abomination; if the manuscript is in the possession of its owner and he is in need of it, and he is not in dire need of money, then -in this case- selling it is seen as an abominable act.

Third: Obligation; if the owner of the manuscript is very poor, and he is unable to quench his thirst, nor of his family, except by selling this manuscript, then -in this case- he must sell it, because by selling it he avoids starvation.

Fourth: desirability; if the owner has several copies of the same manuscript, and his family needed something like food or clothing and so forth, then -in this case- it is desirable to sell a copy or two.

Except for these four cases -i.e. prohibition, abomination, obligation, and desirability- the trade of manuscripts is permissible in general.

The Third Requirement: Selling a manuscript of the Holy Quran.

It is permissible to trade in manuscript copies, and it is permissible to sell the Quran, Imam Malik said: “It is fine to sell and buy the holy Quran.”

The arguments of those who say that it is permissible are many, including:

1- The Prophet (peace and blessings of Allah be upon him) said: "The most worthy of what you have received, is the reward of Allah's Book" [22]

This is a general text which covers selling and buying the holy Quran, and for this reason, al-Khattaby said:

.. : "In the Prophet's saying, there is evidence that it is permissible to sell the holy Quran, and to take the fare of writing it." [39]

2- Many statements about a number of predecessors indicate that they permit selling and buying the Holy Quran [11], and they oppose other statements to others that indicate the prevention.

3- The holy Quran is pure and useful, and the paid price is for the paper, the ink, and so forth, as they are in this regard like any other book. [11]

4- Comparing the permissibility of selling and buying the Holy Quran to the permissibility of selling and buying the Dirhams and Dinars on which the verse of the Holy Quran is written, because what goes for one verse goes for the whole Quran. [11]

When selling and buying the Holy Quran, the following shall be taken into account:

1- Selecting the complete written copies free of missing verses, breaches, deficiency, filtration, and distortion.

2- Selling and buying copies written by scientists who are familiar with the art of writing the Holy Quran.

3- Avoid selling and buying copies that are placed on certain mosques, libraries, and safes.

4- Selling and buying only the copies owned by the merchant, unless one is authorized by the owner to sell and buy them.

5- Paying attention to the rare manuscripts of the holy Quran in particular.

6- Using only halal money to pay for the purchase of manuscripts in general and the manuscripts of the holy Quran in particular.

The Fourth Requirement: Selling a manuscript of the Holy Quran by a Muslim to a Christian.

There are amateur manuscript collectors of Jews, Christians, and others, like Orientalists, who have vaults of many Islamic manuscripts in their countries, and they do trade with Muslims who sell books. They often meet in international auctions, and it is easy to trade with them scientific manuscripts. However, many Islamic scholars are against selling and buying manuscripts of the Holy Quran. Some scholars differentiated between the case when a Muslim sell the holy Quran to a Christian, and the opposite case when a Christian sell the holy Quran to a Muslim. Because if a Muslim sells the holy Quran to a Christian, he gives the book of God to the hands of a disbeliever, who might not respect the holy book. However, if a Christian sells the holy Quran to a Muslim, it is more like saving a copy of the holy book from the hands of a disbeliever. Thus, Ibrahim bin Yazid, said: "They hated selling the holy Quran, and said: "If you must do, then [buy] from a Jew or a Christian". [36]

The Fifth Requirement: Manuscript Auctions

Auctions are one of the most important places where original manuscripts and ancient monuments are presented, and they are usually visited by antiquities dealers and amateur collectors of manuscripts. The merchant or owner delivers his manuscript to the auction managers to set a precise date on which the

manuscript is presented with other archaeological holdings to the attendees of the antiquities and manuscript dealers, and a competent employee displays the manuscript, and opens the way for the attendees to start the bidding. Usually, there is a catalog in front of them, introducing what will be presented on this day, so that one of them opens the auction at a certain price, and others add to it a higher price, and so on until the price reaches a value that may be satisfied by the owner of the manuscript or withdraws, and in both cases (acceptance or withdrawal) the auction takes a certain percentage as a commission to enter the manuscript in the auction. Some of the most popular auctions include Christie's House and Sotheby's at Home, both in London.

These auctions are characterized by:

- 1- Examination of manuscripts displayed by means of detecting forged traces, often by means of infrared or ultraviolet rays.
- 2- Carbon examination of some atoms of manuscript dust.
- 3- Inspection by an expert specialized in antiquities.
- 4- Narrate a brief, focused overview of the value of the manuscript presented for bidding.
- 5- The owner of the manuscript is required to present a document that proves his ownership of it for fear of being stolen from a museum or a library specialized in manuscripts or from an individual interested in the manuscript heritage from scientists or amateur collectors.
- 6- The owner of the manuscript often gets a very favorable price that satisfies his commercial ambition, especially since these Western heritage auctions are attended by eminent businessmen or specialized delegates, most of whom buy them in order to resell them

to another party, and rarely buy them just for the enjoyment of the tycoons who find pleasure and happiness in collecting ancient antiquities.

The requirement of such auctions for radiological examinations or expert examination of the manuscripts on display is a great thing that has contributed greatly to the establishment of the reputation of these auctions, which is a good behavior supported by Islamic Sharia law.

As for the request of the auction management for the owner of the manuscript to prove his ownership of it, it is an important condition, though it is often difficult to achieve, and usually, the administration is satisfied with any document in which the title of the manuscript, the name of the author, the number of papers, the date of copying, and a brief description of the physical body of the manuscript in ink, paper, and cover are recorded.

Manuscript merchants usually obtain such documents of ownership in three ways:

- 1- Presenting the original manuscript to one of the heritage centers such as King Faisal Center for Research and Islamic Studies, or one of the famous libraries such as King Fahd National Library.
- 2- Obtaining the ownership document through a notary public office in return for a commission obtained by the office.
- 3- Forging a document in one of the different ways of forgery, and the act of forgery is sinful, and in the prophetic saying: "Whoever cheats us is not one of us [Muslims]."

These methods may be replaced by others proving the validity of the ownership, and the most famous of these are the following:

- 1- Mentioning the name of the original owner of the manuscript inside it.

2- A record of a gift in the original owner's handwriting, and the gifted person is the merchant to whom the manuscript belongs, like saying: "I gave this book to ...".

3- That the person wishing to sell the manuscript is the author himself, and the manuscript is all written in his known handwriting, which is known to the experts, and this is a proof that is usually used to prove the validity of ownership.

4- The manuscript belonged to the merchant through inheritance, and -in this case- the inheritance division document issued by the judge or notary is sufficient to prove the validity of the ownership.

Essentially, objects possessed by someone are his own, unless there is a proof that they are not his.

The Sixth Requirement: Competing with Western traders in manuscript auctions by Muslim traders.

Islamic scholars see that selling by auction is permissible. However, this is restricted by two conditions:

First: There is no intention of harming anyone.

Second: The existence of the true will to buy, otherwise it is deceitful, and -in this case- it is prohibited. [33] [19] [44] [30] [13] [42]

These are two valid conditions that require that there should be no secret collusion between the bidders or the management of the auction, as many of these secret hidden collusions underestimate the rights of the owners, so the price of the manuscript descends to a low value that surprises the trader, or an excessive price in order to attract some bidders to enter the competition.

The Seventh Requirement: The issue of manuscripts owned by individuals.

History has known a large number of heritage owners who left behind precious safes which included rare manuscripts. Unfortunately, they did not have wise successors to take care of what their fathers left to them, and did not pay any attention to these scientific treasures in the lives of their owners, and sold them at the lowest prices after their death, and here comes the traders and brokers of manuscripts and exploit the ignorance of the sons of what the fathers left them, and suggest them a few Dirhams, and underestimate their right, sure that they are not aware of the real financial value of these manuscripts. al-Hafiz Abu Al-Mawahib Ibn Sarry who wrote the biography of Abu Al-Maali Abdullah Ibn Al-Muhadith Abdul Rahman Ahmed bin Ali bin Saber Al-Sollamy Al-Dimashqy known as "Ibn Seeda", said: "He sold his father's and uncle's books for very low prices" [8] i.e. it was a great loss. [16]

Islamic scholars said: Underestimating the real value of the things. [14] This is not far from the linguistic definition. In brief, the buyer does not know the real price of the commodity. Basically, it is supposed to give people their rights in accordance with what is known among them, and it is prohibited to reduce their rights. In fact, the understatement of prices in sales is considered cheating, deceit, deception, and injustice. This is a consensus among Islamic scholars. Ibn al-Arabi said: "It is forbidden to sell or buy a commodity for less than its fair price; since this is clearly a deceit which is forbidden in every faith. However, it is not entirely avoidable; otherwise, there would be no selling or buying." [2]

The proposed solution in order to prevent undervaluation in the prices of manuscripts is that the heirs use an honest expert of

manuscripts or a broker to accurately evaluate the entirety of these manuscripts. It is fine -in this case- to give him a fee for this evaluation since hiring experts in order to determine the appropriate prices is permissible and giving the broker his right is fine as well. Imam Bukhari, said: "Ibn Sirin, Ataa, Ibrahim, and al-Hassan did not see anything wrong with the brokerage" [22], and the broker is "the one who indicates the place of the commodity and its owner" [10]. The brokers of manuscripts are experts who know the safes of books, and they have strong relationships with the merchants of manuscripts. [3]

The Eighth Requirement: The trade of manuscripts during times of crises, and wars.

The duty in times of crisis is as follows:

1- To cooperate to rescue what can be saved from these manuscripts. If it is not possible to keep them in their places, it is fine to be distributed among honest people to keep them in secret places. This should be documented by listing the names of these people, and the number of manuscripts received; or to record scenes via mobile phones and the like due to the lack of enough time, and the severity of the calamities that require expediting and initiating the removal of these manuscripts from their original places at once.

2- Keeping them in safe places, which are likely not reachable by the thieves.

3- After the stabilization of the situation, these people should return what was handed to them to the supervisors of the museums and libraries.

The Ninth Requirement: The trade of forged manuscripts.

Forgery of manuscripts is a punishable crime, and the trade of forged manuscripts is a prohibited behavior for earning money. It

causes many harms, the most important of which are the following:

1- Distortion of the authentic heritage.

2- Helping those who forge manuscripts in spreading lies.

3- Spreading suspicion of the original manuscript heritage.

4- The owners of the safes of manuscripts will be in great embarrassment if they know that a safe includes both authentic manuscripts and forged ones.

To stop trade the trade of forged manuscripts, the researcher suggests the following:

1- Defaming the reputation of those who have been proven with certainty to engage in the trade of forged manuscripts that they forged, or acquired from private forgery offices, and defamation is: "Declaring the guilt of the offender or announcing his punishment" [24], which is a punishment that exposes the forger and prevents him from continuing to forge heritage.

2- Stopping the commercial dealing with those who forge manuscripts.

3- Drafting a law that punishes those who forge the manuscripts issued by the judge against those who did not stop their misbehavior after the defamatory penalties.

4- Firing those who forge the manuscripts from the job that provided a suitable atmosphere for forgery: Ibn al-Najjar al-Boghdady said when he wrote the biography of Mohamed Mahmoud Isaac al-Harrany al-Shahid (died 594 Hijri), that he:

"was never allowed to be a witness in any case since 588 Hijri, and he was obliged to ride a camel, and there was someone behind him saying: "This is the reward of those who forge,

he forged a book in the name of Al-Hasan Al-Astrabazi, the merchant, and Fatima bint Muhammad bin Hudaydah, and registered it at the Abbasid judge Muhammad bin Ja'far, and the judge was fired from his position because of this.” [18]

5- Seizure and confiscation of forged manuscripts: As a punishment.

6- After detecting forgery in the manuscript, two things follow:

First: The expert writes a report on the features of forgery that he noticed in the manuscript, and the competent authorities can use this report to support the lawsuit filed against the forger.

Second: The buyer of the forged manuscript shall remove all of these forged features, and shall put a cover that says: “A Fabricated Rare Title, a famous author, or a fake ancient history at the end of the manuscript attached.”

The trade of forged manuscripts is prohibited by law, and efforts must be exerted to reduce them in order to avoid the spread of suspicions in the heritage centers.

All of the above is directed to the original manuscripts, which consist of papers, inks, bindings, and ancient ornaments, as for the sub-manuscripts of photographs, films, and the like, forgery is not easily possible. We need to thoroughly discuss the trade of them as follows.

The Tenth Requirement: The trade of illustrated manuscripts and the like.

Manuscripts fall into two main categories: the first category is characterized by the originality of papers, inks, and covers; and the second category is taken as an image of the original manuscript through illustrations, microfilm scripts, Macrofilm scripts, or PDF Manuscripts, which is now widespread in the heritage community. Trade is widely spread over the

Internet of the latter type because of its clarity, vivid colors, and being a typical copy; and they are treated by experts as same as dealing with manuscripts in their natural form.

Essentially, the trade of these sub-types is permissible, as is the case with its originals. The Islamic scholars said: “The copy follows the original.” [5], unless there is a proof that indicates the distinction between the original and the copy, and there is no such proof here, both formats describe the manuscript.

The trade of the original manuscripts and their sub-types of digital copies and the like is permissible. Taking into account that they are complete manuscripts, they may be sold in parts of the fragments of the manuscripts that are independent of the title and the author, which is evident in the following.

The Eleventh Requirement: The trade of full and fragmented manuscripts.

Basically, selling and buying manuscripts is for perfect and complete copies. However, many circumstances have affected this status and caused the fragmentation and loss of the first and the last parts, and this has often contributed to the confusion of researchers in revealing the title of the manuscript or knowing the origins. Yet, experts in manuscripts have accurate methods of revealing the secrets of manuscripts and reviving their features again, and they find scientific pleasure in this, which only a masterful heritage expert realizes.

It is not prohibited to sell or buy these incomplete, truncated, and fragmented manuscripts. Many traders of manuscripts are eager to possess unknown manuscripts hoping to find a rare one that was once considered missing, and -in this case- their profit doubles. They bought the unknown manuscript for a low price and sold it after revealing its rare identity

for a large sum of money. In fact, I have witnessed wonders of manuscripts sold by hurried merchants and later found out that they are very rarer. They demanded to revoke the deal, but as it is said in such cases: “It is too late!” [7], and the buyer reveals the identity of the unknown manuscript and rejects the revocation, especially as he has revealed its secrets. On the one hand, he has the right to discovery, and on the other hand, he has the right to sell it at the price he deems appropriate.

The Twelfth Requirement: Contract Revocation in the Trade of Manuscripts

Revocation means canceling the contract signed between the contractors with their consent. This happens when one of the contractors wants to terminate the contract, or it turns out to the buyer that he does not need the commodity anymore or could not pay for it. Thus, both the seller and the buyer return to what they had before sealing the deal without increase or decrease [29]. Contract revocation is permissible according to Islamic Sharia law.

Like other commercial transactions, contract revocation is valid in the trade of manuscripts. In fact, the reasons for demanding such revocation are many, the most important of which are four:

- 1- The seller might find out that the unknown manuscript that he has just sold is very rare, and its financial value is higher than the price at which he sold it.
- 2- The manuscript might have several parts copied by the same scribe, and the seller has got some parts of it, e.g. the second and third.
- 3- That seller might find out that he did not own this manuscript, but it was given to him by another merchant, and he made a mistake in selling it. In this case, the buyer must revoke the deal because it is a condition of the validity

of the sale that the seller should own the commodity he sells; and there is a consensus among Islamic scholars that it is not permissible for the seller to sell what he does not own. [32]

- 4- The buyer of the manuscript regretted sealing the deal. He may have paid a high price and then faces a difficult financial situation, and he has children and family he has to provide for, so he asks the seller to revoke the deal, and return his money, which in turn returns the manuscript back to the seller.

In fact, the interest of the seller and buyer of the manuscript was taken into consideration here, as was the interest of creditors who lent to a manuscript merchant and then went bankrupt, and he has original manuscripts with which he could pay the debts. This is addressed in the following requirement.

The Thirteenth Requirement: Selling the manuscripts of a bankrupt person.

If the owner of manuscripts goes bankrupt and has debts that he has not paid off; those who lent him the money have the right to ask the judge to sell these manuscripts to meet their debts, especially since the values of the manuscripts are high and usually meet the payment of the debt, and this is better for him than to remain imprisoned and he has manuscripts that make it possible for him to sell them to leave the prison. Since the Sharia principle says: “avoiding evil deeds is prior to bringing benefits” as stated by the scholars. [26] [9]

Indeed, selling the books of the bankrupt is in favor of those who lent him the money, as -in this case- they will get their money back; and in favor of the bankrupt -as well- as he will pay his debt.

“It is permissible to sell the books of the bankrupt,” said the Hanafi scholars [1]. Muhammad bin Abdul Hakam, the Maliki scholar, stated that it is permissible to sell them, and Ibn Rushd -the grandfather- stated that it is permissible to sell the books of the bankrupt to pay his debt. [44]

However, Imam Malik said that it is not permissible to sell the books of the bankrupt: “Do not sell [them] to the creditors, even if he dies, then the heir and others who are entitled to benefit from them are alike.” [12]

Al-Abadi, the Shafi’y scholar, hinted that the scholar needs his books, and if he goes bankrupt, he shall not be deprived of them, and he said: “The scholar shall keep his books [i.e. Even if bankrupt]” [43]. However, what is the benefit of keeping the manuscripts with the bankrupt scholar when he is in debt; if he died without paying his debts, he would lose. These manuscripts can be dispensed with for this exceptional circumstance related to the financial rights of other humans.

In short, the seizure of the manuscripts of the bankrupt scholar is permissible, and this is in his own favor. If the creditors left them to him, that is out of their grace and generosity. The manuscripts are dear to the scholar, and they can seize other funds and exclude them. This would be very kind of them. Consequently, the trade of manuscripts has a set of behaviors that must be taken into consideration. The following requirement sheds light on these behaviors.

The Fourteenth Requirement: A set of behaviors that must be taken into consideration.

The trade of manuscripts has a set of good manners that must be taken into account, and among these manners are the following:

1- Consultation and not to rush to buy manuscripts, because a consultation might reveal that the manuscript to be sold is a product of forgery known to the merchant friend and consultant, provided that he does not use his advice as a means to win this manuscript.

2- Unifying their efforts, especially in the international auctions of manuscripts, to win what is presented in them from the rarer manuscripts, and not to let them fall into the hands of traders from other faith, who knows what they would do with this precious Islamic heritage. The concerted traders can enter a collective partnership, and the manuscript that was awarded to one of them becomes a common property among them.

3- Warning from the merchants of manuscripts who have practiced forgery, and this is like a safety valve that prevents the leakage of forged manuscripts among the scientific communities of heritage.

4- Taking care of the damage resulting from the frequent handling of the original manuscripts without protectors, as they often emit harmful odors, or contain microbes, causing a defect in the kidneys and skin. The solution is to use protective gloves, and medical masks, and drink antibacterial drugs.

5- Seeking to form a union for the manuscript merchants who combine virtuous ethics and deep experience, as there is a dire need for them in tracking the international auctions of manuscripts.

6- Avoiding the backbiting, accusations, and underestimation of each other. This act has been seen among some manuscript merchants, which is contrary to the morals of the Muslim merchant.

7- Trying to trade in the precious manuscripts that provide an addition to the heritage library, and not to work with ordinary manuscripts, which have thousands of copies, which have basically entered the world of printing.

8- Helping the poor who inherited the manuscripts of their fathers, and not underestimate their rights.

9- Seeking help from heritage experts in evaluating the manuscripts offered to dealers, and giving them their wages for their scientific reports on these manuscripts.

The Conclusion: It contains the most important findings and recommendations.

First: Research Results

The research reached a set of scientific results listed as follows:

1- Essentially, the trade of manuscripts is permissible, and it might be obligatory, desirable, abominable, or prohibited.

2- The term “manuscript” was not known to the early Muslims because all books in this era were handwritten; thus, for them, the books are the manuscripts and vice versa.

3- The researcher defined the “manuscript” as what has been handwritten by the authors, scholars, or scribes.

4- The trade of manuscripts means buying and selling handwritten books.

5- The trade of manuscripts was an old custom that was widespread among people, and anyone who sold books was known as “A BOOKER”; and many literary scholars were providing for their livelihood from the profession of selling books.

6- The trade of manuscripts is a permissible financial process, the pillars of which are

included, and nothing is associated with it that prevents it from being valid. Its benefits to people are clear, and through its knowledge spreads and science is preserved.

7- It is permissible to trade in manuscript copies of the Holy Quran. When selling and buying the Holy Quran, there are six points that should be taken into account, the most important of which are: selecting complete written copies free of missing verses, breaches, deficiency, filtration, and distortion.

8- Many Islamic scholars are against selling and buying manuscripts of the Holy Quran. Some scholars differentiated between the case when a Muslim sell the holy Quran to a Christian, which is not permissible; and the opposite case when a Christian sell the holy Quran to a Muslim, which is permissible.

9- Auctions are one of the most important places where the original manuscripts and ancient monuments are presented. They have six main advantages, the most important of which are: the examination of manuscripts displayed by means of detecting forged traces, often by means of infrared or ultraviolet rays.

10- Manuscript merchants, who go to international auctions, usually obtain the document of ownership in different ways.

11- There are four main presumptions that prove the ownership of the manuscript, which were discussed in detail.

12- Islamic scholars see that selling by auction is permissible.

13- There are two main problems that prevent the participation of manuscripts in Western auctions, which were discussed in detail.

14- Wealthy Muslims, and ministers of culture, among others, have an active role to play in an

honest competition to win the precious manuscripts on display in Western auctions.

15- The trade of manuscripts often includes understatement of prices, and there are four main reasons for this, which were discussed in detail.

16- The proposed solution in order to prevent undervaluation in the prices of manuscripts is that the heirs use an honest expert of manuscripts to accurately evaluate the entirety of these manuscripts. It is fine -in this case- to give him a fee for this evaluation.

17- The duty in times of crisis is as follows:

(a) To cooperate to rescue what can be saved from these manuscripts.

(b) to keep them in safe places.

(C) After the stabilization of the situation, these people should return what was handed to them to the supervisors of the museums and libraries.

18- “Forgery” among those who study cultural heritage has several definitions, and the researcher drafted a new definition that reads as follows: “Forgery is making a suspicious change in a manuscript by adding, scraping, obliterating, or erasing for obtaining a commercial injustice, or a false scientific rank, for nullifying a right or evading a penalty.”

19- To limit the trade of forged manuscripts, the researcher proposed the following:

(a) Defaming the reputation of those who have been proven with certainty to engage in the trade of forged manuscripts.

(b) Stopping the commercial dealing with those who forge the manuscripts.

(c) Drafting a law that punishes those who forge the manuscripts issued by the judge

against those who did not stop their misbehavior after the defamatory penalties.

(d) Firing those who forge the manuscripts from the job that provided a suitable atmosphere for forgery.

(e) Seizure and confiscation of forged manuscripts.

(f) After detecting forgery in the manuscript, two things follow:

First: The expert writes a report on the features of forgery that he noticed in the manuscript, and the competent authorities can use this report to support the lawsuit filed against the forger.

Second: The buyer of the forged manuscript shall remove all of these forged features.

20- The trade of forged manuscripts is prohibited by law, and efforts must be exerted to reduce them in order to avoid the spread of suspicions in the heritage centers.

21- Manuscripts fall into two main categories: the first category is characterized by the originality of papers, inks, and covers; and the second category is taken as an image of the original manuscript through illustrations, microfilm scripts, Macrovis scripts, or PDF Manuscripts.

22- Nothing wrong with the brokerage, and the broker is “the one who indicates the place of the commodity and its owner”.

23- Essentially, the trade of these sub-types is permissible, as in the case of its originals. The Islamic scholars said: “The copy follows the original”, unless there is a proof that indicates the distinction between the original and the copy, and there is no such proof here, both formats describe the manuscript.

24- The person who keeps the dedicated digital manuscripts is similar to the waqf

administrator, and his duty is to facilitate the access of those who meet the condition of the waqf, to the dedicated items.

25- If the waqf administrator refuses to photograph the manuscript, then -at least- he shall facilitate for those who intend to read the manuscript and benefit from it through the displaying screens available in the library, to access them.

26- Basically, selling and buying manuscripts is for perfect and complete copies. However, many circumstances have affected this status and caused the fragmentation and loss of the first and the last parts, and this has often contributed to the confusion of researchers in revealing the title of the manuscript or knowing the origins.

27- It is not prohibited to sell or buy these incomplete, truncated, and fragmented manuscripts. Many traders of manuscripts are eager to possess unknown manuscripts hoping to find a rare one that was once considered missing.

29- Revocation means to cancel the contract signed between the contractors with their consent. This happens when one of the contractors wants to terminate the contract, or it turns out to the buyer that he does not need the commodity anymore, or could not pay for it. Thus, both the seller and the buyer return to what they had before sealing the deal without increase or decrease.

29- Contract revocation is permissible according to Islamic Sharia law.

30- Like other commercial transactions, contract revocation is valid in the trade of manuscripts. In fact, the reasons for demanding such revocation are many.

31- When selling a manuscript, the merchant can add a condition that entitles him to retrieve it, in case it turns out that the sold manuscript is part of a whole that has several parts supplemented by the part that he sold; and Muslims shall fulfill their terms. The introduction of a condition that achieves the interest of one of the contracting parties and does not harm the other is accepted by Islamic scholars.

32- If the owner of manuscripts goes bankrupt and has debts that he has not paid off, the creditors have the right to ask the judge to sell his manuscripts to get their money back, and he shall be free of his debt, especially since the prices of the manuscripts are high and usually meet the payment of the debt.

33- Stating that selling the books of the bankrupt is in favor of the creditors since they would receive their money back, and in favor of the bankrupt since he would pay his debt.

34- The seizure of the manuscripts of the bankrupt scholar is permissible, and this is in his favor.

Second: Search Recommendations

This research reached a number of recommendations proposed to be addressed by the researchers in the future, including the following:

1- Studying the history of the scribes, and their biographies.

2- The Islamic jurisprudential rules change with time, which leads to contemporary jurisprudential applications.

3- A Jurisprudential Rule: The delusional does not oppose the realized: jurisprudential applications.

- 4- The best means of forming successful manuscript merchants.
- 5- Penalties for forgeries of ancient antiquities.
- 6 The rule of Treatment Contrary to Intent in Islamic Jurisprudence: Contemporary Jurisprudential Applications.
- 7- Smuggling antiquities according to the Sharia and the law.
- 8- Undervalue in trade: contemporary jurisprudential looks.
- 9- The statutes of limitations: contemporary jurisprudential applications.
- 10- Financial enrichment between the legitimate and forbidden gains, contemporary jurisprudential views.
- 11- Once again, I thank the Deanship of Scientific Research at the University of Najran for its support for this research and its code: (NU/RG/SEHRC/12/44), and praise be to Allah, by whose grace good deeds are completed.

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