

# Forbidden Transactions

Part 5

# **Sales in Islam**

# The Status of Sales in Islam

- **The Qur'an:**

- 1) ((وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا))

- “And Allah has permitted sale and has forbidden interest...” [Al-Baqarah 2: 275]

- 2) ((أَلَيْسَ عَلَيْكُمْ جُنَاحٌ أَنْ تَبْتَغُوا فَضْلًا مِنْ رَبِّكُمْ))

- “There is no harm upon you to seek bounty from your Lord...” [Al-Baqarah 2: 198]

- **The Sunnah:**

- ((البيعان بالخيار ما لم يتفرقا))

- “Two parties to a sale have option until they part.”  
[Bukhari]

# The Status of Sales in Islam (Cont.)

- Ijma:
  - Ibn Qudamah (يرحمه الله) said:
  - “Muslims have unanimously agreed upon the permissibility of sale in general...” [Al-Mughni 6/6]

# Pillars of Sale in Islam

- Imam An-Nawawi (يرحمه الله) said in *Al-Majmu' Sharh Al-Mahzab*, 149/9 that the pillars of sale transaction are:
  - The two parties (العاقدان)
  - The agreement (الصيغة)
  - The subject (معقود عليه)

# Conditions of a Sale

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- **There are 2 types of conditions which must be considered:**
  - 1) Conditions concerning the item  
– (الشروط المعتبرة في المعقود عليه)
  - 2) Conditions concerning the buyer and seller  
– (الشروط المعتبرة في المتعقدان)

# Conditions concerning the item (1)

- **The item must exist at the time of transaction:**
  - ((نهى رسول الله صلى عليه و سلم عن بيع المضامين و الملاقيح و حبل الحبله)) 1)
  - The Prophet (peace be upon him) forbade the sale of what is in the wombs of female camels, the sale of the breeding qualities of camels and selling the offspring of the offspring of a pregnant camel. [*Sahih Al-Jami'* 6/62, authenticated by Al-Albaani]
  - ((نهى رسول الله صلى الله عليه و سلم عن بيع الغرر)) 2)
  - The Prophet (peace be upon him) forbade 'Gharar' sales.

# Conditions concerning the item (2)

- **The item must have value.**
  - That is, the item being traded must have benefit.
- **Based on this it is not permitted to sell:**
  - Autographs
  - Blood
  - Dirt
  - Dead meat
- Within this category, there are items over which there is a different of opinion.

# Selling Autographs (1)

- That being sold must have benefit:
- Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said:
  - Selling that in which there is no benefit is not permissible. [*Majmoo' al-Fataawa*, 31/224]
- Ibn Qudaamah (may Allah have mercy on him) said:
  - It is not permissible to sell that in which there is no benefit. [*al-Mughni* (4/174)]

# Selling Autographs (2)

- **Benefit must be defined:**
  - The fuqaha' are of the view that it is permissible to sell birds whose flesh may be eaten, such as pigeons, small birds and so on, because there is some benefit in it. As for selling birds that are not eaten or used for hunting, such as Egyptian vultures, kites, ostriches and crows, that are not eaten, it is not permissible to sell them, because there is no benefit in them and they are of no value, so taking money for them comes under the heading of consuming wealth unlawfully and spending money on them is foolishness. *al-Mawsoo'ah al-Fiqhiyyah* (29/148)

# Selling Dogs (Difference of Opinion)

- The general principle concerning sale of dogs is that it is prohibited:

– روى البخاري (1944) عن أبي جحيفة رضي الله عنه قال : نهى النبيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ ثَمَنِ الْكَلْبِ .

– Abu Juhayfah said: **The Prophet (peace and be upon him) forbade the price of a dog.** [Bukhari, no. 1944]

- **Q: Is the sale of hunting dogs permissible?**

# Hunting Dogs

- **The Prophet (peace be upon him) allowed the use of hunting dogs:**

- من اقتنى كلبا إلا كلب صيد أو ماشية نقص من أجره كل يوم قيراطان
- “Whoever keeps a dog, except a dog for hunting or herding livestock, his reward will be decreased by two *qeeraats* every day.” [Muslim (1574)]

- **It is not permitted however for these dogs to enter the home:**

- لا تدخل الملائكة بيتا فيه كلب ولا صورة
- “The angels do not enter a house in which there is a dog or an image.” [Narrated by al-Bukhaari, 3322; Muslim, 2106.]

# The Sale of Hunting Dogs (Prohibition)

- The Hanafis, Malikis and some of the Shafi'is believe that the sale of hunting dogs is permissible.
- As for the Hanbali scholars:
  - Ibn Qudaamah said in *al-Mughni*: **There is no dispute that sales of dogs are invalid, no matter what kind of dog it is.**
  - Shaykh Ibn 'Uthaymeen said in *al-Sharh al-Mumti*' (8/90): **It is not permissible to sell dogs; even if they are sold for hunting, that is not permissible.**
- As for Ibn Hazm said in *al-Muhalla* (7/493):
  - It is not permissible to sell a dog at all, whether it is a hunting dog or a herding dog, or any other kind. If a person is forced to buy a dog and cannot find someone to give him one, then he may buy it, and it is halaal for the buyer and haraam for the seller, and the buyer may take back his money whenever he is able. This is like a bribe in order to ward off oppression and ransoms for freeing prisoners and appeasing an oppressor. There is no difference.

# What about guard dogs?

- Al-'Iraaqi said in *Tarh al-Tathreeb*, 6/28:
  - “Our companions and others said: it is permissible to keep a dog for these three purposes, namely hunting and protecting one’s livestock and farmland. They differed concerning keeping a dog for the fourth purpose, which is to guard houses or roads etc. Some of our companions said that it is not permissible because of this hadeeth and others, which clearly state that it is haraam except for one of these three things. But most of them said, which is the more correct view, that it is permissible by way of analogy, based on the reason that may be understood from this hadeeth, which is necessity.”

# Selling *Mushafs* (Difference of Opinion)

- There are 3 views:
  - 1) As a *mushaf* contains the words of Allah, written down, some of the *Ulema* said it was impermissible.
    - Ibn Umar said: “I would rather cut my two hands than sell a *mushaf*.”
  - 2) Abu Hanifah and Imam Ash-Shaf’i believed that it was permissible because the sale is for writing, printing and manufacturing.
  - 3) According to a narration attributed to Imam Ahmed, it is permissible to purchase to purchase but not sell.

# Conditions concerning the item (3)

- **The item must be owned by the seller.**
  - The Prophet (peace be upon him) said:
  - ((لا تبع ما ليس عندك))
  - “Do not sell that which you do not have.” [Tirmidhi, it was authenticated by Al-Albaani in Sahih Al-Jaami’, no. 7083]

# Conditions concerning the item (4)

- **One must have the ability to deliver the item:**
- **Based on this it is not permitted to sell:**
  - A bird in the sky.
  - A fish in a river

# Conditions concerning the item (5)

- **The item being sold must be known by both parties:**
- **Based on this it is not permitted to sell:**
  - Ambiguous transactions
  - Mystery showbags
  - Mystery tours

# Conditions concerning the item (6)

- **The item being sold must be 'pure':**
- This was a point added by the:
  - Shafis
  - Malikis
- **Based on this it is not permitted to sell:**
  - Pigs
  - Dogs
  - Alcohol
  - Dead flesh before being tanned

# Selling Alcohol to Non-Muslims

- “It is not permissible to deal in foods and other things, such as alcohol and pork, that Allaah has prohibited, even if one is selling to kaafirs, because it was reported that the Prophet (peace be upon him) said: “When Allah forbids a thing, He forbids its price.” And because he (peace and blessings of Allah be upon him) cursed alcohol and the one who drinks it, the one who sells it, the one who buys it, the one who carries it, the one to whom it is carried, the one who consumes its price, the one who squeezes the grapes and the one for whom they are squeezed. And Allah knows best.”
  - Fataawaa al-Lajnah al-Daa’imah, 13/47

# Selling Pig Bones/Skin

- It is not permissible to buy and sell pigs or any part of them, such as the skin, bones and fat, because Allah, may He be exalted, says (interpretation of the meaning):
  - ***“Say (O Muhammad ): ‘I find not in that which has been inspired to me anything forbidden to be eaten by one who wishes to eat it, unless it be Maytatah (a dead animal) or blood poured forth (by slaughtering or the like), or the flesh of swine (pork, etc.) for that surely is impure”***
- Ibn al-Qayyim (may Allah have mercy on him) said:
  - **With regard to the prohibition on selling pork, it includes the entire pig and all of its parts, outside and inside.**

# Dead Sea Products?

- It was narrated from ‘Abdullah ibn ‘Umar (may Allah be pleased with him) that the Messenger of Allah (peace be upon him) said:
  - “Do not enter upon these people who are being punished, unless you are weeping. If you are not weeping then do not enter upon them, lest there befall you the like of what befell them.” [Narrated by al-Bukhaari, 423; Muslim, 2980.]
- It was narrated from Naafi’ that ‘Abdullah ibn ‘Umar (may Allah be pleased with them) told him:
  - That the people stopped at al-Hijr, the land of Thamood, with the Messenger of Allah (peace be upon him), and they drew water from its wells and made dough with it. The Messenger of Allah (blessings and peace of Allah be upon him) told them to throw away the water they had drawn from its wells. [Narrated by al-Bukhaari, 3199]
    - Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said:
      - The Messenger of Allah (peace of Allah be upon him) forbade entering upon the places of those who were subjected to divine punishment, unless one is weeping, lest there befall the one who enters the same as befell them. He also forbade making use of their water, to such an extent that despite their need for it during that campaign –the campaign of hardship (the campaign to Tabook), which was the hardest campaign for the Muslims – he instructed them to feed the dough made with that water to their camels. [*Iqtida’ as-Siraat al-Mustaqeem*, p. 80]

# Conditions Concerning the Buyer and Seller (1)

- Both parties must be able to perform transactions, they must be:
  - Free (حر)
  - Over the age of puberty (مكلف)
  - Rasheed (رشيد)

# Selling to a Child

- **1) It must be done with guardian's permission:**
  - Ibn Qudaamah said in *al-Mughni* (4/168): It is valid for a child who has reached the age of discernment to engage in transactions by buying and selling, if his guardian has given permission for that, according to one of the two reports. This is also the view of Abu Haneefah.
- **2) It is something small:**
  - It says in *Mataalib Ooli al-Nuha* (3/10): “Except for something small, such as a small loaf of bread, a bunch of herbs or a piece of candy and so on.”

# Conditions Concerning the Buyer and Seller (2)

- That there be no compulsion within the transaction, the proof for this is:
- Allah said:
  - يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ
  - “O you who believe! Do not wrongfully devour each others’ wealth except if it be a trade by mutual consent.” [An-Nisaa 4:29]
- The Prophet (peace be upon him) said:
  - ((إِنَّمَا الْبَيْعُ عَنِ التَّرَاضِي))
  - “Indeed, sale can only be through consent.” [Ibn Majah 1/13, authenticated by Al-Albaani in *Sahih Sunan Ibn Majah*]

# Invalid Conditions (3)

- 3) Bai' Mu'allaq: Conditions that are reliant on something which may or may not happen.
  - i.e. Someone saying: 'If my father agrees, I will sell.'
  - Hanbalis: This is an incorrect condition.
  - Malikis: This is a valid condition.