



Holding Marriage contracts using metaphorical forms (Comparative jurisprudence study)

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Abstract: Praise be to Allah, who deserve all praise, a praise that is preferable to all praise, a praise like Allah's grace upon His creation, and blessings and peace be upon our Master Muhammad, His Messenger and worshipper.

And after

This research will shed light on the issue of contracting marriage using metaphorical forms or metaphoric formulae. The researcher attempts to discuss the opinions of the jurists on the issue, then infer each opinion from the Book of Allah and the Sunnah of His Messenger (may Allah bless him and grant him peace) and other Islamic sources. Then the researcher will balance these evidences and compare them according to the rules of weighting in Comparative jurisprudence. The researcher will discuss in detail the role of the objectives of Sharia in this issue in order to arrive to the most appropriate opinion for our time.

Keywords: metaphorical forms (صيغ الكناية), marriage contract (عقد النكاح), marriage contract in the form of mortgage (عقد نكاح بصيغة الرهن).

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1. Introduction

Praise be to Allah, Lord of the Worlds, and the best blessings and peace be upon our Master, Muhammad, his family and all his companions, and after:

The marriage contract is one of the contracts in which precaution should be taken, given its dangerous effects, as the requirement of this contract is the woman will be a legitimate wife to her husband, and the man will be legitimate husband to his wife, and the resulting expenses including: housing, lineage, and inheritance.

Hence, we found that our noble Sharia included more regulations, conditions, and even pillars for this contract, so as this contract be disciplined and legitimate in accordance with the Book of Allah and the Sunnah of His Messenger (may Allah bless him and grant him peace)

The formulas for marriage in the Qur'an and Sunnah came with explicit words, and others that were not explicit (metaphorical), so a dispute arose among jurists regarding the validity of the contract using metaphorical forms because of the seriousness of this contract.

Our research came to discuss holding marriage contract in metaphorical forms, and the disagreement of the jurists regarding it, leading to the opinion that the researcher prefers.

Research problem:

The research problem lies in: If the marriage was contracted in one of the metaphorical forms, is this contract considered legitimate?

Research questions:

Therefore, the research questions are summarized as follows:

1- What are metaphorical forms?

2- Is it legitimate to contract a marriage using metaphorical forms?

3- What is the legal opinion about this form of marriage contract, according to those who believe in it and those who oppose it?

Search Plan:

This research comprises an introduction in which we mentioned the importance of the research, its problem and questions, the research plan, and then two sections.

The first section: We discussed the most important terms mentioned in the research, and the sayings of jurists regarding contracting marriage using metaphorical words.

The second section: We tackled the most important words of metaphor mentioned by the ancient jurists, and whether they differed on the permissibility of a marriage contract by this words or not.

Contracting Marriage Using Metaphorical words

It was stated in Al-Durr Al-Mukhtar: "The words 'marriage' and 'nikah' are valid only because they are explicit and everything else is a metaphor" (1).

Imam Al-Tahtawi - may Allah have mercy upon him - commented on this by saying: "Every word used to give ownership of a property immediately is legitimate to contract marriage, like mentioning dowry, otherwise it is an intention for marriage not a fulfilled marriage contract. The problem remains when the dowry is not mentioned, because witnesses have no knowledge about the intention of the suitor 2)).

Introduction

Before discussing this issue, it is necessary to clarify the meaning of both words (form / metaphor), and then explain the meaning of the dowry and the intention, as they are related to our issue.

1- Definition of the terms mentioned in the issue

1- Definition of the word "صيغة" linguistically and terminologically

- The word (formula) linguistically: "The letters (ح, و, غ) letter are of correct origin, and it is an indication of doing something in its perfect shape, such as their saying: "He crafted the jewels and shaped it in a perfect way" (3), another example when we say somebody has a good shape (we mean he is handsome), that is, Allah has shaped him in a beautiful way. (4)

The word formation: the word (صاغ) resulting from the arrangement of its letters and their vowels, and the plural form is (صيغ). They said: the forms of speech differ in both: structures and expressions. (5)

- The word (صيغة) terminologically: The advanced jurists did not address a specific definition of the forms of the marriage contract, but rather they defined it through a defining its two pillars: (offer and acceptance).

Offer "إيجاب" in language: it comes from the root (ج, و, ب) that refers to happening or occurrence (6). It also refers to validity, obligation and taking place. (7)

Acceptance linguistically: "It is love and contentment with a thing and the soul's inclination towards ". (8)

Offer and acceptance, in terms of terminology: "The offer is: what is mentioned first from the words of one of the contracting parties.

Acceptance: what is mentioned second to the other" (9).

The form of the word "صيغة" is known to contemporary scholars as: "Whatever expresses the will in

terms of speech, or what takes its place in writing or gesture, and the manifestation of the will is necessary, so the inner will or the intention does not matter".(10(

2- Definition of metaphor linguistically and terminologically

- Metaphor in language: (ك, ن, أ) It is said: I said so and so metaphorically if you said something other than you mean.(11 (it is also defined as: "to say something and intend something else(12(
- Metaphor as a term: "Whatever has two meanings or more, but some meanings is more apparent"(13(.It is also defined as: "to mention something in a way other than the word used for it".(14(

Definition of dowry linguistically and terminologically

Linguistically, the dowry means "a woman's dowry: what the husband pays to his wife in the marriage contract."(15(

Dowry, technically: "the compensation specified in the marriage contract or after it."(16(

3- definition of (النية), the intention, linguistically and idiomatically:

Linguistically, intention means: "He intended doing something with intention and he intended it.it means both: he intended it and believed it," and "intention means determination(17)."

Intention, as a term: "the intention, which is the determination of the heart(18)."

It is also known as: "A person intends in his heart what he wants by doing it."(19(

After this introduction, it is time for us to enter into our issue through the following:

First: the perception of this issue

If a man was ordered to hold a marriage contract with the woman's guardian, and he used metaphoric form, such as gift, property and charity, would this contract be valid, or not?

Second: Editing the dispute over this issue

There is no disagreement among the jurists regarding the validity of marriage contract if it is performed using explicit words, such as the wording of marriage, except that they differed.

Third: The sayings of jurists on the issue

The first opinion: It is permissible to do a marriage contract in metaphorical forms , with the presence of the intention or dowry.

It is the doctrine of the Hanafis(20(, and most of the Malikis(21(said it , and there are narrations that accord this form of marriage in the Hanbalis.(22(

The second opinion: It is not permissible to contract marriage by using metaphorical form

And this is the doctrine of Some of the Malikis(23(, the Shafis(24(, and the Hanbali doctrine (25(

The third opinion: It is not permissible to contract marriage by metaphorical forms, except with explicit mentioning of the dowry, and not being satisfied with the intention, which is what Imam Al-Tahtawi - may Allah have mercy on him - chose in his footnote to (Al-Durr Al-Mukhtar). Explaining that the witnesses are not informed of the intention of the suitor(26)).

Fourth: Evidences for the previous opinions

- The proponents of the first opinion who say that it is permissible to conclude a marriage in metaphorical form, with the presence of the intention or dowry, reasoned with the following:

1- His saying (peace be upon him) when a man married a woman, after her guardian said to the suitor: " I have given you possession of her with what you have of the Qur'an" (27(

We can infer from this occurrence that The Prophet (peace and blessings of Allah be upon him) used the word “tamlik\ possession” to indicate: the permissibility of contracting a marriage without verbal action, i.e. without pronouncing the word marriage)28).

2- The Almighty's saying: {And a believing woman, if she gives herself (as a gift) to the Prophet and if the Prophet wishes to marry her purely for you, excluding [other] believers.} (29)

We infer from that: : “He added the word gift to the woman, and Allah Almighty said: {And a believing woman if she gives herself to the Prophet}, so he permitted the marriage contract from her with the word gift. We know that the marriage did not occur in the wording, but rather it was in the dowry” (30), and that the marriage of the Messenger of Allah (may Allah bless him and grant him peace) was contracted with the word “hiba \ gift” (31), So the marriage of his female slave is contracted with him. We can infer that the Almighty's verse: {And a believing woman, if she gives herself to the Prophet, if the Prophet wishes to marry her purely for you, with the exclusion of the [others] believers} (32), with a reference to another Almighty's verse: {O Prophet, indeed We have made lawful for you your wives} (33), as Allah Almighty told that the believing woman who gave herself to the Prophet (peace and blessings of Allah be upon him) was permissible for him, in sequence, it is permissible for the nation of Prophet (Muslims). (34)

- The proponents of the second opinion, who say that it is not permissible to contract a marriage using a metaphorical form, used the following as evidence:

1- The Almighty's saying: {And a believing woman, if she gives herself to the Prophet, if the Prophet wishes to marry her purely for you, to the exclusion of the believers}} (35).

Meaning: Allah Almighty made marriage with the word “hiba” exclusively for His Noble Messenger and not his female slave, so it is not permissible to marry with the word “hiba” except for the Prophet (peace be upon him) (36).

2- His saying (peace and blessings be upon him): “Fear Allah regarding women, for you took them by Allah's assurance, and you made their private parts lawful by the word of Allah” (37).

Meaning: “You have made their private parts permissible by the word of Allah” (38), there is nothing in the Book of Allah Almighty except the wording of marriage and marriage, which indicates that private parts have not been made permissible except by them (39).

- Imam Al-Tahtawi - may Allah have mercy on him - supported his statement, that it is not permissible to contract a marriage in metaphoric forms, except with the mention of the dowry, and not to be satisfied with the intention, due to the following:

That testimony is a condition in the marriage contract, and the form of metaphor requires an intention, and intention is an act of the heart, and there is no room for witnesses to see it, so the marriage contract is not valid with it. However, with the presence of the dowry in the contract, the marriage contract is valid using the metaphor, because mentioning the dowry took the place of a statement. (40).

The prevailing opinion

It seems to me that the second opinion of those who say that it is not permissible to contract a marriage in metaphorical forms, to be preponderant, due to the strength of their evidence. Marriage contract has a high importance, as Allah Almighty said: {And they took from you a solemn covenant} (41), so caution must be taken regarding it, and caution requires declaring the contract.

It also seems to me that what Imam Al-Tahtawi went for in terms of conducting the marriage contract in metaphoric forms (if the dowry is mentioned) is also a sound opinion. It has been established by Muslims scholars that “what matters in contracts is the purposes and meanings, not the words and structures” (42), and Allah Almighty knows best.

Section: marriage contract is not permissible by using word mortgage

It was stated in Al-Durr Al-Mukhtar: "And a mortgage. (43(

Imam Al-Tahtawi - may Allah have mercy on him - commented on this by saying: "There are two opinions, the most correct of which is not to hold a contract, as in Al-Walajiyah, and it is apparent, because it does not subserve possession, and so on in the sea" (44).

Introduction

Before embarking on this issue, which is branching off from the issue of contracting a marriage using metaphorical forms, it is necessary to clarify the meaning of the mortgage, and then explain the terms used to contract marriage.

First: Definition of the terms mentioned in the issue:

- Definition of mortgage linguistically and terminologically

- Mortgage linguistically

It either means "imprisonment and immanence" (45), Allah Almighty said: {Every soul is hostage for what it has earned} (46), meaning: "imprisoned by its earnings" (47), or "permanence and stability", and everything that is established and lasts has the meaning of mortgage. That is putting something as a mortgage means it is stable and lasts for a long time.(48)

- Mortgage terminologically:

It is: "a contracting a document with legitimate money to ensure the payment of a debt" (49). It is also known as: "Withholding a financial asset as security for a debt" (50).

Second: verbal actions that holds marriage contract and those that do not.

- These terms are divided according to the Hanafi majority into four categories, which are:

First: What holds marriage, without dispute, which are: the word marriage, gift, charity, and ownership.

Second: What cannot hold marriage contract, without dispute, which are: mortgage, permissibility, subrogation, secondment, dismissal, temporary marriage "Muta'a", and Khul'.

Third: What can hold marriage contract, but disputed among Muslim scholars, which are: buying, selling, peace, exchange, loan, and reconciliation.

Fourth: What is disputed and better not to hold a contract by, which is the lease and the absolute will) 51).

It will be noted here that they included the mortgage as part of the second category: which cannot hold contract, without dispute, but when referring to the books of the Hanafi school of thought, we find that the dispute exists in the word "mortgage" according to some Hanafi jurists, as Imam Al-Tahtawi - may Allah have mercy on him - mentioned it himself, and he considered it more likely that mortgage contract is invalid.

Accordingly, this section will discuss the following:

First: perception of the issue

If the guardian said to a man that I pledged my daughter to you ,as a mortgage, is this word considered a valid marriage contract, or not?

Second: clarifying the point of dispute

There is no disagreement among the jurists regarding the marriage contract being held using the terms(nikah \ marriage), but the disagreement occurred regarding the word mortgage.

Third: The sayings of jurists on the issue

The first statement: marriage is not valid using the word “mortgage,” even if the suitor has the intention for marriage and he mentioned the word dowry”

It is the doctrine of the majority of jurists, including the Hanafi (52), Maliki (53), Shafi’i (54), and Hanbali (55), and it is what Imam Al-Tahtawi - may Allah have mercy on him - chose.(56)

The second opinion: The marriage contract is valid with the word “mortgage”: This was said by Abu Al-Hasan Al-Karkhi (57), from the Hanafi school. (58)

Fourth: Evidence support their opinions

- The majority of jurists who hold the first opinion have cited as evidence that a marriage is not concluded with the word mortgage, even if the suitor has the intention for marriage and he mentioned the word dowry”

1- They used as evidence what the majority of jurists have indicated at the origin of our issue, regarding the impermissibility of contracting marriage by metaphoric forms, and that is that: There is nothing in the Book of Allah Almighty except the word marriage and wedding, so this indicates that private parts are not permissible except with them (59), and this is what Imam Al-Tahtawi cited as evidence. - May Allah have mercy on him - (60).

2- Marriage cannot be contracted except with a wording that means ownership of the property. Every word in the language that refers to ownership of the neck is, for a free woman, a marriage, and the contract marriage with a wording that includes prohibition from contracting is invalid, because it means ownership of the benefit, so how can ownership of a property be proven by ownership of the benefit of the property only? Marriage contract is not valid unless the word ownership is included in the marriage contract.(61), and they explained that by saying " the word mortgage does not mean ownership at all" (62)

- Abu Al-Hasan Al-Karkhi provided evidence for his statement that the marriage contract was valid using the word mortgage, with the following:

Concerning the mortgage, the jurists were in dispute (63), it was narrated on the authority of Abu Al-Hasan Al-Karkhi - may Allah have mercy on him – that marriage contract is valid using the word mortgage. He said: “mortgage serves as benefit ownership. Don’t you see that it is permissible to obtain the benefits without ownership” (64).

Imam Al-Karkhi - may Allah have mercy on him - believes that it is valid to contract a marriage using the word mortgage, because the mortgage benefits the ownership of usufructs, and this is sufficient for the marriage to be contracted with it, without the need for ownership of the property (65).

The preponderant opinion

It seems to me that the first opinion is more likely, which is the opinion of the majority of jurists, who say that marriage must not be concluded with the word “mortgage” due to the strength of their evidence, and because the marriage contract essentially involves ownership, so it must bear the meaning of ownership, so it is not sufficient to contract it with a word that may permit the benefit only, “since precaution is taken regarding private parts that are.” In others” (66), and Allah Almighty knows best.

summary

After this wandering through the jurisprudential opinions, it is time for us to record the most important results that we have reached. Whatever good and right is from Allah alone, and whatever error and shortcomings is from myself and the Satan, and Allah and His Messenger are innocent of it, so we summarize the outcomes of this paper as follows:

1- Marriage is contracted using explicit verbal forms, but dispute arose among jurists regarding the metaphorical forms.

2- What is meant by metaphoric forms is every form that indicates the intention for a marriage contract or anything else alike.

3- One of the metaphorical forms in the marriage contract is the word mortgage, as he says: I mortgaged you, my daughter.

4- A group of scholars said that it is not valid at all to conclude a marriage using metaphoric words.

5- Another group of scholars is of the opinion that it is permissible to contract marriage with these words, if it is accompanied by mention of the dowry, or if the intention is present.

6- Another group argued that the intention was not sufficient, but rather the dowry must be mentioned. If it is mentioned, the contract is valid in the metaphoric sense.

Conclusion

The researcher believed that it is not permissible to conclude a marriage using metaphoric words at all, because the texts explicitly state the marriage words with clear meaning, and the marriage contract is one of the contracts that has great importance, given its effects in terms of cohabitation, and the expenses, lineage, and inheritance that follow, so my opinion goes with the explicit form of marriage, which is the most appropriate for this contract, and Allah knows best.

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- [33] See: Ahkam al-Qur'an, same source, 3/479; Bada'i' Al-Sana'i', Al-Kasani, previous reference, 2/230.
- [34] Surah Al-Ahzab, part of verse: 50.
- [35] See: Ahkam al-Qur'an by Al-Shafi'i - collected by Al-Bayhaqi, Abu Bakr, Ahmad bin Al-Hussein bin Ali bin Musa Al-Khusrawjerdi Al-Khorasani, Al-Bayhaqi (d. 458 AH). His footnotes were written by: Abd al-Ghani Abd al-Khaliq, presented to him by: Muhammad Zahid al-Kawthari, (2nd edition, Publisher: Al-Khanji Library - Cairo, 1414 AH - 1994 AD),, 1/199; Al-Hawi Al-Kabir in the jurisprudence of the Imam Al-Shafi'i doctrine, Abu Al-Hasan, Ali bin Muhammad bin Muhammad bin Habib Al-Basri Al-Baghdadi, famous for Al-Mawardi (d. 450 AH), edited by: Sheikh Ali Muhammad Moawad - Sheikh Adel Ahmed Abdel-Mawjoud, (1st edition, publisher: Dar Al-Kutub Al-Ilmiyya - Beirut, Lebanon, 1419 AH - 1999 AD), 9/153.
- [36] Sahih Muslim, Abu Al-Hussein, Muslim bin Al-Hajjaj Al-Qushayri Al-Naysaburi (261 AH), edited by: Muhammad Fouad Abdel-Baqi (Dr. T., Publisher: Issa Al-Babi Al-Halabi and Partners Press - Cairo,

- 1374 AH - 1955 AD), Book: Hajj, Chapter: The Proof of the Prophet (peace be upon him), 2/886, Hadith No. (1218).
- [37] Previously published, same source.
- [38] See: Al-Muffih lām al-Ahlām in summarizing the book of Muslim, Al-Qurtubi (656 AH), Book: Hajj, Chapter: On the Proof of the Prophet (peace be upon him), 3/334, Hadith No. (1094); Al-Hawi Al-Kabir, Al-Mawardi, previous reference, 9/154.
- [39] See: Al-Tahtawi's footnote to Al-Durr Al-Mukhtar, previous reference, 4/29.
- [40] Surat An-Nisa, part of verse: 21.
- [41] Gamz Al uyoun Alnawazir in Sharh Al-Ashbah wa Al-Naza'ir, Abu Al-Abbas, Ahmed bin Muhammad Makki, Shihab Al-Din Al-Husseini Al-Hamawi Al-Hanafi (d. 1098 AH), (1st edition, publisher: Dar Al-Kutub Al-Ilmiyyah, 1405 AH - 1985 AD), 2/268.
- [42] Al-Durr Al-Mukhtar, Al-Hasakfi, previous reference, 178.
- [43] Al-Tahtawi's Commentary on Al-Durr Al-Mukhtar, 4/31; See: Al-Fatawa Al-Walualji, the jurist Abi Al-Fath, Zahir Al-Din Abdul Rashid bin Abi Hanifa Al-Walualji (d. after the year 540 AH), verified and commented on by: Sheikh Miqdad bin Musa, (1st edition, Dar Al-Kutub Al-Ilmiyya - Beirut, Lebanon, 1424 AH - 2003 AD), 1/362; Al-Bahr Al-Raiq, Ibn Najim, previous reference, 3/92.
- [44] Lisan al-Arab, Ibn Manzur, previous reference, 13/189.
- [45] Surah Al-Muddaththir, verse: 38.
- [46] Lisan al-Arab, same source, 13/189.
- [47] See: Lisan al-Arab, same source, 13/189-190; Al-Sahhah, Al-Jawhari, previous reference, 5/2128.
- [48] Al-Mabsut, Muhammad ibn Ahmad ibn Abi Sahl Shams al-A'imah al-Sarkhasi (d. 483 AH), began to correct it: A collection of the best scholars, (Dr. I, Publisher: Al-Saada Press - Egypt, D. T), 21/63.
- [49] Al-Lubab fi Sharh al-Kitab, Abd al-Ghani al-Ghunaimi al-Dimashqi al-Maydani al-Hanafi (1363 AH), verified, detailed, and documented, and annotated with footnotes: Muhammad Muhyi al-Din Abd al-Hamid, (d. i., publisher: Scientific Library, Beirut - Lebanon, d. d.), 2/ 54; Al-Durr Al-Mukhtar, same source, 683.
- [50] See: Hashiyat al-Tahtawi on al-Durr al-Mukhtar, 3/28_29; The Clear Sea Explanation of the Treasure of Minutes, Ibn Najim al-Masry, Zain al-Din bin Ibrahim bin Muhammad (d. 970 AH), (2nd edition, publisher: Dar al-Kitab al-Islami - Egypt, d.d.), 3/91; Fath Al-Qadeer, Muhammad bin Ali bin Muhammad bin Abdullah Al-Shawkani Al-Yamani (d. 1250 AH), (1st edition, publisher: Dar Ibn Kathir, Dar Al-Kalam Al-Tayyib - Damascus, Beirut, 1414 AH) 3/193; Footnote to the response of the confused to Al-Durr Al-Mukhtar: Explanation of Tanweer Al-Absar, Muhammad Amin, famous for Ibn Abidin (d. 1252 AH), (2nd edition, publisher: Mustafa Al-Babi Al-Halabi and Sons Library and Press Company - Egypt, 1386 AH - 1966 AD) 3/16.
- [51] See: Al-Bahr Al-Raiq, Ibn Najim, previous reference, 3/92; Fath Al-Qadeer, Al-Kamal bin Al-Hammam, previous reference, 3/197; Hashiyat Ibn Abidin, previous reference, 3/18.
- [52] See: Hashiyat al-Adawi, previous reference, 2/40; Sharh Al-Kharshi, previous reference, 3/173.
- [53] See: Mughni al-Muhtaj Il-Minhaj al-Minhaj al-Minhaj, Shams al-Din, Muhammad ibn Muhammad, al-Khatib al-Shirbini (d. 977 AH), verified and commented on by: Ali Muhammad Moawad - Adel Ahmad Abd al-Mawjoud, (1st edition, publisher: Dar al-Kutub al-Ilmiyyah, 1415 AH). - 1994 AD), 4/227; Rawdat al-Talibin wa Umdat al-Muftin, Abu Zakaria, Muhyi al-Din Yahya bin Sharaf al-Nawawi (d. 676 AH), edited by: Zuhair al-Shawish, (3rd edition, publisher: Al-Maktab al-Islami - Beirut, Damascus, Amman, 1412 AH - 1991 AD), 7/36.
- [54] See: Al-Mughni, Ibn Qudamah, previous reference, 7/78; Al-Rawd al-Murabba', Al-Bahuti, previous reference, 511.
- [55] See: Hashiyat al-Tahtawi on al-Durr al-Mukhtar, 4/31.

- [56] Abu Al-Hasan Al-Karkhi: He is Abu Al-Hasan, Ubayd Allah bin Al-Hussein bin Dalal, Al-Baghdadi Al-Karkhi, the Mufti of Iraq, and the Sheikh of the Hanafi School. He has: (A Treatise on Fundamental Principles) on which the Hanafi branches revolve, (Explanation of Al-Jami' Al-Saghir), (Explanation of Al-Jami' Al-Kabir) , (340 AH). See: Biographies of Noble Figures, Shams al-Din Muhammad bin Ahmad bin Othman al-Dhahabi (748 AH), edited by: Shuaib al-Arnaut - Hussein Asad, (3rd edition, publisher: Al-Resala Foundation, 1405 AH - 1985 AD), 15/426; Al-A'lam, Al-Zirikli, previous reference, 4/193.
- [57] See: Al-Muhit Al-Burhani in Al-Numani jurisprudence: The jurisprudence of Imam Abu Hanifa, may God be pleased with him, Abu Al-Ma'ali, Burhan Al-Din Mahmud bin Ahmed bin Abdul Aziz bin Omar bin Mazza Al-Bukhari Al-Hanafi (d. 616 AH), ed.: Abdul Karim Sami Al-Jundi, (1st ed. , Publisher: Dar Al-Kutub Al-Ilmiyyah, Beirut - Lebanon, 1424 AH - 2004 AD), 3/6.
- [58] See: Al-Hawi Al-Kabir, Al-Mawardi, previous reference, 9/154.
- [59] See: Hashiyat al-Tahtawi on al-Durr al-Mukhtar, 4/31.
- [60] See: Bada'i' al-Sana'i', al-Kasani, previous reference, 2/230.
- [61] See: Al-Bahr Al-Raiq, Ibn Najim, previous reference, 3/92; Hashiyat al-Tahtawi on al-Durr al-Mukhtar, 4/31.
- [62] See: Al-Muhit Al-Burhani fi Al-Numani Jurisprudence: The Jurisprudence of Imam Abu Hanifa, may God be pleased with him, Abu Al-Ma'ali, Burhan Al-Din Mahmud bin Ahmed bin Abdul Aziz bin Omar bin Mazza Al-Bukhari Al-Hanafi (d. 616 AH), ed.: Abdul Karim Sami Al-Jundi, (1st ed. , Publisher: Dar Al-Kutub Al-Ilmiyyah, Beirut - Lebanon, 1424 AH - 2004 AD), 3/6.
- [63] Same source, 3/6.
- [64] See: same source, 3/6.
- [65] Hashiyat Al-Sawy, previous reference, 4/98.