

REMUNERATION FOR LEADING TARĀWĪḤ DURING RAMAḌĀN

Abu Asim Badrul Islam

Introduction

In an age when the *tarāwīḥ* prayers of the blessed month of Ramaḍān are seen and treated by many as an unwelcome hindrance and burden, an erroneous practice that needs to be highlighted is that of remuneration for the *khatm* (complete recital) of the Holy Qur'ān. It has become normal in many masājid to make a payment to the reciter of the Holy Qur'ān and for the reciter to accept such a payment. In fact, such a payment is seen as veneration and promotion of the Holy Qur'ān. Hence, the sum paid to the reciter is usually very generous. The management committees of many masājid effectively compel those who live within the locality of the masjid or who had attended the *tarāwīḥ* prayers to make a fixed contribution toward this payment – effectively, a '*tarāwīḥ* tax'. Many make this payment reluctantly, out of embarrassment or for fear of being named and shamed. Others make the payment wholeheartedly, believing it to be a service to the Holy Qur'ān.

Many people confuse this unlawful payment with that of *imāmah* (leading the five daily prayers) and teaching of the Holy Qur'ān. They fail to understand the difference between the two types of services and their respective remuneration.

Remuneration for *imāmah* and teaching the Holy Qur'ān and other similar services¹ were originally deemed by the *fuqahā'* (jurists) unlawful. This was during the early centuries of Islām when Islamic governments, or governments that were to some degree based on Islamic principles and values, took adequate care of these essential functions and services. Those in *Dīnī* professions (imāms, *mu'adhdhins*², teachers and instructors of the *Dīn* and others like them) were duly looked after by the state. They received respectful stipends from the state and were respected by the Ummah for their pivotal roles in their communities. However, when the condition of the Ummah deteriorated and law and order was replaced by lawlessness and anarchy, obedience was replaced by rebellion, unity was replaced by disunity, and honesty and just governance were replaced by dishonesty and corruption, those in *Dīnī* professions were often no longer being respected and cherished by the state or the Muslim masses. Consequently, they now needed to turn to other means of livelihood just like everyone else in society. The inevitable consequence of such a move from their essential *Dīnī* professions to other means of livelihood would have been the neglect of the essential services to the *Dīn*, upon which depended the protection and preservation of the *Dīn*. It was in this context that the later generation of *fuqahā'* issued the consensual *fatwā* of permissibility of remuneration for the above and similar services to Islām and the Muslims. Reciting a *khatm* of the Holy Qur'ān in *tarāwīḥ* prayers does not, in any way, equate to any of the above essential services, nor does the protection and preservation of the *Dīn* depend on it in any way at all.

¹ For example, calling the *adhān*, cleaning the masjid and teaching the *Dīn*.

² Those who call the *adhān*.

Amongst those who have written about the impermissibility of remuneration for the recitation of the Holy Qur'ān and drawn the clear distinction between this and other essential *Dīnī* services is the great Ḥanafī jurist of Damascus, Imām Muḥammad Amīn 'ibn 'Ābidīn' (d. 1252/1836) in his *magnum opus*, the authoritative *Radd al-Muḥtār 'alā 'l-Durr al-Mukhtār Sharḥ Tanwīr al-Absār* (also known as *Hāshiyat Ibn 'Ābidīn*). He also wrote a detailed treatise on the subject, which he entitled *Shifā' al-'Alīl wa Ball al-Ghalīl fi Ḥukm al-Waṣīyyat bi 'l-Khatamāt wa 'l-Tahālīl*³.

The *tarāwīḥ* prayers, which are a special blessing to this Ummah, granted by Allāh Most Gracious through His most beloved Messenger ﷺ, are being shown lack of appreciation in many communities throughout the world. This special prayer, gifted by Allāh Most Gracious, is being shown so much indifference that it has now become tantamount to abuse in some masājid. A large and growing portion of the Muslim Ummah has defied the consensus of the four established legal schools (*madhāhib* or *madhhabs*) – namely, the Ḥanafī, Shāfi'ī, Mālikī and Ḥanbalī schools – on the *tarāwīḥ* prayers being a total of twenty *raka'āt sunnah* and no less⁴. The twenty *raka'āt* have now been reduced to a mere eight *raka'āt*, in spite of the 'ulamā' of the four schools and the great imāms of the early centuries stating unequivocally in their respective works that a total of twenty *raka'āt* must be prayed in order for the full *sunnah* to be discharged, and the countless *ḥadīth* and *athar* evidences, more and more of which are now coming to light.

There are those who pray the full twenty *raka'āt*, but do so in such a way that it is obvious that they see it as a burden and not the *subḥah* (praise and glorification of Allāh) and a powerful means of gaining closeness to Allāh Most High that it actually is. In order to reduce the time it takes to pray the full twenty *raka'āt*, the opening *thanā'* (praise and glorification of Allāh) is omitted, those behind the imām can barely say the *tasbīḥ* of the *rukū'* and *sujūd* three times, and – even worse – say the *ṣalāt 'ala 'l-Nabiyy* (*durūd sharīf*) and the *du'ā* that follows it properly or at all, in some cases. The *tarwīḥah* (pl. *tarāwīḥ* – resting between every four *raka'āt* the same duration that it took to pray the four *raka'āt*), from which this special prayer takes its name is so short that one can barely notice it. In some masājid it has been completely omitted.

As for the speed of the Qur'ān recitation, Allāh be our protector! In his haste to reduce the time taken to complete the full recital of the Holy Qur'ān, the imām gives little or no regard to the fine science of correct Qur'ān recitation (*'ilm al-tajwīd*), renders the words of Allāh Most High unclear and, in his frenzy, regularly chops off the ends of words in his pronunciation. Many masjid committees and attendees are impressed by this abuse of the Holy Qur'ān, which, in reality, is no less than desecration of the Book of Allāh. Such imāms are praised and invited the following year. This needs urgent rectification by those of power and influence, in whatever capacity that may be. The Messenger of Allāh ﷺ said:

من رأى منكم منكراً فليغيره بيده، فإن لم يستطع فبلسانه، فإن لم يستطع فبقلمه، وذلك أضعف الإيمان. (مسلم ٤٩)

“Whoever from amongst you sees a vice should change it with his hand. If he is unable to do so, he should change it with his tongue. If he is unable to do so, he should [detest it] with his heart. That is the lowest degree of faith.” (Muslim, 49)

The great *ḥadīth* master and Shāfi'ī authority, Imām al-Nawawī (d. 676/1277), writes in his *Kitāb al-Adhkār*:

³ This has been published as part of the first volume of his *مجموعة رسائل ابن عابدين*.

⁴ Although, there is also an opinion of thirty six *raka'āt* in the Mālikī school.

“Know that the *tarāwīh* prayer is a *sunnah* by consensus of the ‘*ulamā*’. It is a total of twenty *raka’āt* in units of two. The description of the prayer is the same as that of every other prayer, as mentioned previously. All the *adhkār* that have been described will be said in this prayer – for example, the *du‘ā* of opening (i.e. the *thanā*’ at the beginning of the prayer), the completion of all the other *adhkār* of *ṣalāh*, the completion of the *tashahhud* and the *du‘ā* thereafter, and all the other things that have been mentioned previously. Although, this is all obvious, I have nevertheless mentioned this here due to the carelessness of most people in this regard and their omission of most of the *adhkār*. The correct way is what has been described.

As for the recitation of the Qur’ān, the preferred opinion of the majority of ‘*ulamā*’, upon which is the practice of the people, is that a complete *khatm* of the Qur’ān should be recited during the month. Approximately a *juz*’ (one thirtieth portion) should be recited each night. It is desirable (*yustahabbu*) to recite the Qur’ān at a steady pace and clearly with *tartīl*. The imām should avoid prolonging the prayer and making it difficult upon the people by reciting more than a *juz*’ a night.”⁵

I have mentioned the above in passing only, as the remit of this paper is the issue of remuneration for the recitation of the Holy Qur’ān. The above issues are, nevertheless, not completely unrelated to the issue at hand. They are, in my view, of grave concern, requiring urgent action and ought to be addressed separately.

The following is a brief collection of *fatāwā* that I had the *tawfiq* of translating during my time as a student of the *Dīn* in Bangladesh. They were translated in 1999 and have been amongst my old papers ever since. I am grateful to Ml. Shahin-ur-Rahman, who recently completed the *Dars-e-Nizāmī* course and graduated from the madrasah of the Islamic Da’wah Academy in Leicester, England for taking this and several other papers that were written or translated during that period and typing them on computer. *In-shā’Allāh*, I hope to make these available one by one in the not too distant future.

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22nd Ramaḍān 1436/9th July 2015

⁵ *Kitāb al-Adhkār*, p. 215-216 (Damascus: Dār al-Kalim al-Ṭayyib, 1421/2001), 8th edn.

Fatāwā of some eminent ‘ulamā’ of the last century regarding remuneration for the Qur’ān khatm

The great master, Imām Rashīd Aḥmad Gangohī (d. 1323/1905), states in his *Fatāwā*:

QUERY 1:

How is it to give the *sāmi’* (the *ḥāfiẓ* who stands behind the reciter and corrects him when he errs in his recitation) and the *qārī* (the *ḥāfiẓ* who recites) a sum of payment, which may or may not be agreed by both parties for the *khatm* in the *tarāwīḥ* prayers?

FATWĀ 1:

It is not correct to accept payment for the recital of the Holy Qur’ān in the *tarāwīḥ* prayers, as recitation of the Holy Qur’ān is an act of *‘ibādah* and to accept payment for an act of *‘ibādah* is *ḥarām*.

قال في رد المحتار: الأخذ والمعطي آثم.

QUERY 2:

How is it to recite the Holy Qur’ān in the *tarāwīḥ* prayers in return for payment and how is it for the *ḥāfiẓ* to accept payment, be it with prior agreement of both parties or not? Zayd says that the acceptance of payment is prohibited while ‘Amr claims that just as payment is allowed for the services of *adhān*, *iqāmah* and *imāmah*, it is allowed for recitation of the Holy Qur’ān. Who is right?

FATWĀ 2:

For the *ḥāfiẓ* to recite the Holy Qur’ān in return for payment is *ḥarām* and to offer him payment is also impermissible. The later *fuqahā’* (*muta’akhhirūn*) have excluded (from the prohibition) the acceptance of payment for the services of *adhān*, *imāmah*, teaching Islām and *wa’ẓ* (sermons and lectures) due to necessity. To recite the whole Qur’ān in the *tarāwīḥ* prayers is not a necessity. He who has rationalised this with the *adhān* [and other similarly essential religious services] has erred.

QUERY 3:

Is it better to perform the *tarāwīḥ* daily by reciting from ‘*Alam tara’*’ (*Sūrat al-Fīl*) than listen to the full *khatm* and give the [*qārī* and] *sāmi’* something as payment?

FATWĀ 3:

Payment for the recitation of the Holy Qur’ān or for listening to it is *ḥarām*. When the payment is *ḥarām* the *tarāwīḥ* should be performed by reciting from ‘*Alam tara’*’ (*Sūrat al-Fīl*).

Imām Rashīd Aḥmad Gangohī
Fatāwā Rashīdiyyah, p. 391
(Deoband, INDIA: Maktabah Thānwī, 1987).

Imām Muḥammad Ashraf ‘Alī Thānwī ؒ (d. 1362/1943) states in his *Iṣlāḥ al-Rusūm*, in the chapter discussing prevalent erroneous customs and practices of Ramaḍān:

Some *ḥuffāz*⁶ are in the habit of reciting the Holy Qur’ān for remuneration. To accept remuneration for acts of *‘ibādāt*, and to remunerate, is *ḥarām*. Some argue, “We did not agree the sum (of payment) in advance – therefore, it will not be deemed remuneration.” We say in response: you did not agree the sum in advance, but the intention of both parties⁷ was this. This intention was not of the degree of mere probability; rather, it was of certainty. If by the slightest hint such a *ḥāfiẓ* were to find out that he would not receive payment at a certain place, he would never agree to recite there. It is stated in the principles of fiqh that that which is [popularly and obviously] known (or understood) is treated as an express condition [even though, the condition may not be clearly expressed]. When this method has become customary and the intention of the giver and acceptor is this, then without doubt it is remuneration. As for the possible counter-argument with analogy from the doubt surrounding remuneration for teaching the Holy Qur’ān, we have discussed it in detail in a previous chapter.

There are some who say, “We cannot find a *ḥāfiẓ* who is willing to recite the Holy Qur’ān without remuneration. If to listen to the Holy Qur’ān with payment is unlawful, how can we hear its recital?” The simple answer is that to listen to a complete recital of the Holy Qur’ān [during the *tarāwīḥ* prayers] is not *farḍ*; it is *mustaḥabb* (desirable). To commit a *ḥarām* act in order to carry out a *mustaḥabb* deed can never be lawful. Perform the *tarāwīḥ* prayers by reciting from *sūrat al-Fīl* [to *sūrat al-Nās*]⁸. In the abovementioned circumstance it does not remain important to complete a full recital of the Holy Qur’ān in the *tarāwīḥ* prayers.

Imām Muḥammad Ashraf ‘Alī Thānwī ؒ
Iṣlāḥ al-Rusūm (Rectification of Prevalent Erroneous Customs and Practices), p. 148
(Deoband, INDIA: Maktabah Dīn wa Adab, no date).

Shaykh ‘Azīz al-Raḥmān ‘Uthmānī (d. 1347/1928), the grand mufti of the great Islamic seminary in Deoband, UP, INDIA, Dār al-‘Ulūm states in the ten-volume *Fatāwā* of the Dār al-‘Ulūm:

QUERY:

How is it to give the *ḥāfiẓ qārī* [money etc.] for the recital of the Holy Qur’ān during the *qiyām* of Ramaḍān⁹ and for him to accept it? Both parties intend this transaction from the beginning and without it none shall recite the Qur’ān nor listen to it (as a *sāmi’ ḥāfiẓ*). If the *khatm* of the Holy

⁶ Plural of *ḥāfiẓ*: a title generally given to one who has committed the entire Holy Qur’ān to memory. (Trans.)

⁷ That is, the people making the payment and the one accepting it. (Trans.)

⁸ That is, the final ten *sūrats* of the Holy Qur’ān, which are very short and most Muslims tend to know them from memory. This way, there will be no need to hire the service of a *ḥāfiẓ* and pay for his recital of the Holy Qur’ān and, thereby, commit a *ḥarām* act. (Trans.)

⁹ Standing in prayer during the nights of Ramaḍān, which is the *tarāwīḥ* prayer.

Qur'ān is not completed in a masjid and the *tarāwīḥ* prayers are offered [without the *khatm*], will the people be deprived of the virtues of the *qiyām* of Ramaḍān?

FATWĀ:

It is not correct to recite the Holy Qur'ān in return for payment and there is no virtue in doing so. In accordance to the principle of المعروف كالمشروط (that which is well-known is like a stipulated condition), the mere intention to give and accept is considered payment and, therefore, not permissible.

وإن القراءة بشيء من الدنيا لا تجوز، والآخذ والمعطي آثمَان لأن ذلك يشبه الاستئجار ونفس الاستئجار عليها لا يجوز.

(رد المحتار - باب قضاء الفوائت - مطلب في بطلان الوصية ٦٨٧١)

In such a circumstance, it will be best to perform the *tarāwīḥ* [with the shorter *sūrats*] and not listen to the recital of the Holy Qur'ān where payment is involved. By simply performing the *tarāwīḥ* prayers, the virtues of the *qiyām* of Ramaḍān shall be attained.

Shaykh 'Azīz al-Raḥmān 'Uthmānī

Fatāwā Dār al-'Ulūm Deoband, 4:246

(Deoband, INDIA: Zakariyyā Book Depot, no date).

One of the most eminent muftis of his time, Shaykh Rashīd Aḥmad Ludhyānwī (d. 1422/2002), states in his nine-volume *Fatāwā*:

QUERY:

If in Ramaḍān the *qārī* (the *ḥāfiẓ* who recites) and the *sāmi'* (the *ḥāfiẓ* who stands behind the reciter and corrects him when he errs in his recitation) do not fix any remuneration for their *khatm* of the Holy Qur'ān and the people of the masjid serve (*khidmah*) them financially or give them clothing, will this be lawful?

FATWĀ:

To offer cash or clothing in the name of service (*khidmah*) is in itself remuneration. This is worse than fixing any remuneration, since in it there are two sins being committed: (1) the sin of accepting remuneration for reciting the Holy Qur'ān and (2) the ignorance in not knowing that it is remuneration.

Some people say, "The *qārī* and the *sāmi'* do what they do for the pleasure of Allāh and we also serve them for the pleasure of Allāh; we do not intend remuneration." In order to expose such people's intentions the *fuqahā'* (jurists) have mentioned the following test:

If the *qārī* and *sāmi'* are not given anything, will they be willing to come and serve this masjid again? The test for the people of the masjid is that if this *qārī* and *sāmi'* do not come the following year, will

they¹⁰ be willing to ‘serve’ them again? Now test the people of today with this touchstone. If the *qārī* and the *sāmi‘* are not given anything, they will not even turn their faces in the direction of this masjid in the future¹¹.

The state of the people of the masjid is that they will never feel pity for the *qārī* and the *sāmi‘* who have not completed a *khatm* of the Holy Qur’ān in their masjid, no matter how needy or destitute they may be. This proves that both parties intend remuneration – not the pleasure of Allāh – and they are lying in their claims. Therefore, those who recite the Holy Qur’ān and those who listen to it in this manner are grave sinners and *fussāq*¹². The *imāmah* of such a *qārī* is *makrūh taḥrīman* (prohibitively disliked).

The ruling regarding the *imāmah* of a *fāsiq* in the *farḍ* (obligatory) prayers is that if a *ṣāliḥ* (righteous) imām is not found or it is not within one’s power to remove the *fāsiq* imam, prayers may be performed behind him, but the *jamā‘ah*¹³ must in no circumstance be missed.

However, the ruling regarding the *tarāwīḥ* prayers is that they must in no circumstance be offered behind an imām who is a *fāsiq*. If a *ṣāliḥ* imām is not found, the prayers should be performed with short *sūrats*. If such a *ḥāfiẓ*¹⁴ leads the *tarāwīḥ* prayers in the local masjid, one should perform the *farḍ* prayers there with the *jamā‘ah* and leave the masjid to perform the *tarāwīḥ* in his home.

Even if we imagine that the aim of a *ḥāfiẓ* is not remuneration, he will, nevertheless, hope and look forward to being given something due to the common practice nowadays. On not receiving anything, he will be regretful and unhappy. This is known as *ishrāf al-nafs* (greed of the ego), which is *ḥarām*.

Even if a *qārī* is imagined to be pure from such *ishrāf al-nafs*, this transaction should be avoided, as it resembles and supports a general *ḥarām* practice and it is against religious modesty. Therefore, it is *wājib* (compulsory) to fully avoid this at all costs.

23rd Shawwāl 1386 AH.

Shaykh Rashīd Aḥmad Ludhyānwī مدظلله¹⁵

Aḥsan al-Fatāwā, 3:514
(Deoband, INDIA: Zakariyyā Book Depot).

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¹⁰ The people of the masjid.

¹¹ That is, they will not even think of coming to this masjid ever again.

¹² Open transgressors. *Sing.* *fāsiq*.

¹³ Congregational prayer.

¹⁴ That is, one who is considered a *fāsiq*.

¹⁵ The shaykh was alive at the time of this translation in December 1999 – hence, the Arabic prayer for a long life. May Allāh Most Gracious grant him a high place in Jannat al-Firdaws.

Appendix

Reproduced below is the full discussion on remuneration for acts of worship ('ibādāt/tā'āt) from the authoritative *Radd al-Muhtār 'alā 'l-Durr al-Mukhtār Sharḥ Tanwīr al-Abṣār* (also known as *Hāshiyat Ibn 'Ābidīn*) of the great Ḥanafī jurist of Damascus, Imām Muḥammad Amīn 'ibn 'Ābidīn' (d. 1252/1836). It is being reproduced for the benefit of scholars. Those scholars who wish to gain a deeper juristic insight into the issue may refer to his separate work, *Shifā' al-'Alīl wa Ball al-Ghalīl fī Ḥukm al-Waṣīyyat bi 'l-Khatamāt wa 'l-Tahālīl*, which, in his own words, is a “wonder of wonders”. He says he presented this work to his contemporary, another great Ḥanafī jurist, Imām Sayyid Aḥmad Ṭaḥṭāwī (d. 1231/1816), the grand mufti of Egypt, who praised the work and wrote a preface to it.

مَطْلَبٌ: فِي الْإِسْتِجَارِ عَلَى الطَّاعَاتِ

قَوْلُهُ (وَلَا لِأَجْلِ الطَّاعَاتِ) الْأَصْلُ أَنَّ كُلَّ طَاعَةٍ يُخْتَصُّ بِهَا الْمُسْلِمُ لَا يَجُوزُ الْإِسْتِجَارُ عَلَيْهَا عِنْدَنَا لِقَوْلِهِ ﷺ «أَقْرَأُوا الْقُرْآنَ وَلَا تَأْكُلُوا بِهِ» وَفِي آخِرِ مَا عَهَدَ رَسُولُ اللَّهِ ﷺ إِلَى عَمْرِو بْنِ الْعَاصِ «وَأِنْ أَخَذْتَ مُؤَدَّنًا فَلَا تَأْخُذْ عَلَى الْأَذَانِ أَجْرًا» وَلِأَنَّ الْقُرْبَةَ مَتَى حَصَلَتْ وَقَعَتْ عَلَى الْعَامِلِ وَهَذَا تَتَعَيَّنُ أَهْلِيَّتُهُ، فَلَا يَجُوزُ لَهُ أَخْذُ الْأَجْرَةِ مِنْ غَيْرِهِ كَمَا فِي الصَّوْمِ وَالصَّلَاةِ. هِدَايَةٌ.

مَطْلَبٌ: تَحْرِيرُ مُهْمٌ فِي عَدَمِ جَوَازِ الْإِسْتِجَارِ عَلَى التَّلَاوَةِ وَالتَّهْلِيلِ وَنَحْوِهِ بِمَا لَا ضَرُورَةَ إِلَيْهَا

قَوْلُهُ (وَيُفْتَى الْيَوْمَ بِصَحَّتِهَا لِتَعْلِيمِ الْقُرْآنِ الْإِلْحَاقِ) قَالَ فِي الْهِدَايَةِ: وَبَعْضُ مَشَائِخِنَا ﷺ اسْتَحْسَنُوا الْإِسْتِجَارَ عَلَى تَعْلِيمِ الْقُرْآنِ الْيَوْمَ لِظُهُورِ التَّوَانِي فِي الْأُمُورِ الدِّيْنِيَّةِ، فَفِي الْإِمْتِنَاعِ تَضْيِيعُ حِفْظِ الْقُرْآنِ وَعَلَيْهِ الْفَتْوَى اهـ، وَقَدْ اقْتَصَرَ عَلَى اسْتِثْنَاءِ تَعْلِيمِ الْقُرْآنِ أَيْضًا فِي مَتْنِ الْكَنْزِ وَمَتْنِ مَوَاهِبِ الرَّحْمَنِ وَكَثِيرٍ مِنَ الْكُتُبِ، وَزَادَ فِي مُحْتَضِرِ الْوُقَايَةِ وَمَتْنِ الْإِصْلَاحِ تَعْلِيمِ الْفِقْهِ، وَزَادَ فِي مَتْنِ الْمَجْمَعِ الْإِمَامَةِ، وَمِثْلُهُ فِي مَتْنِ الْمُلْتَمَى وَدُرَرِ الْبِحَارِ، وَزَادَ بَعْضُهُمُ الْأَذَانَ وَالْإِقَامَةَ وَالْوَعظَ، وَذَكَرَ الْمَصْنُفُ مُعْظَمَهَا، وَلَكِنَّ الَّذِي فِي أَكْثَرِ الْكُتُبِ الْإِقْتِصَارُ عَلَى مَا فِي الْهِدَايَةِ، فَهَذَا جَمْعٌ مِمَّا أَفْتَى بِهِ الْمُتَأَخَّرُونَ مِنْ مَشَائِخِنَا وَهُمْ الْبَلْخِيونَ عَلَى خِلَافٍ فِي بَعْضِهِ مَخَالِفِينَ مَا ذَهَبَ إِلَيْهِ الْإِمَامُ وَصَاحِبَاهُ، وَقَدْ اتَّفَقَتْ كَلِمَتُهُمْ جَمِيعًا فِي الشُّرُوحِ وَالْفَتْاوَى عَلَى التَّعْلِيلِ بِالضَّرُورَةِ وَهِيَ خَشْيَةُ ضَيَاعِ الْقُرْآنِ كَمَا فِي الْهِدَايَةِ، وَقَدْ نَقَلْتُ لَكَ مَا فِي مَشَاهِيرِ مُتُونِ الْمَذْهَبِ الْمَوْضُوعَةِ لِلْفَتْوَى فَلَا حَاجَةَ إِلَى نَقْلِ مَا فِي الشُّرُوحِ وَالْفَتْاوَى، وَقَدْ اتَّفَقَتْ كَلِمَتُهُمْ جَمِيعًا عَلَى التَّصْرِيحِ بِأَصْلِ الْمَذْهَبِ مِنْ عَدَمِ الْجَوَازِ، ثُمَّ اسْتَشْنَوْا بَعْدَهُ مَا عَلِمْتَهُ، فَهَذَا دَلِيلٌ قَاطِعٌ وَبُرْهَانٌ سَاطِعٌ عَلَى أَنَّ الْمُتَمَيَّنَ بِهِ لَيْسَ هُوَ جَوَازُ الْإِسْتِجَارِ عَلَى كُلِّ طَاعَةٍ بَلْ عَلَى مَا ذَكَرُوهُ فَقَطْ بِمَا فِيهِ ضَرُورَةٌ ظَاهِرَةٌ تَبِيحُ الْخُرُوجِ عَنْ أَصْلِ الْمَذْهَبِ مِنْ طَرَفِ الْمَنْعِ، فَإِنَّ مَفَاهِيمَ الْكُتُبِ حُجَّةٌ وَلَوْ مَفْهُومٌ لَقَبِ عَلَى مَا صَرَّحَ بِهِ الْأُصُولِيُّونَ بَلْ هُوَ مَنْطُوقٌ، فَإِنَّ الْإِسْتِثْنَاءَ مِنْ أَدَوَاتِ الْعُمُومِ كَمَا صَرَّحُوا بِهِ أَيْضًا.

وَأَجْمَعُوا عَلَى أَنَّ الْحُجَّ عَنِ الْغَيْرِ بِطَرِيقِ النَّيَابَةِ لَا الْإِسْتِجَارَ، وَهَذَا لَوْ فَضَلَ مَعَ النَّائِبِ شَيْءٌ مِنَ النَّفَقَةِ يَجِبُ عَلَيْهِ رُدُّهُ لِلْأَصِيلِ أَوْ وَرَثَتِهِ، وَلَوْ كَانَ أَجْرَةً لَمَا وَجَبَ رُدُّهُ، فَظَهَرَ لَكَ بِهَذَا عَدَمُ صِحَّةِ مَا فِي الْجَوْهَرَةِ مِنْ قَوْلِهِ وَاخْتَلَفُوا فِي الْإِسْتِجَارِ عَلَى قِرَاءَةِ الْقُرْآنِ مُدَّةً مَعْلُومَةً، قَالَ بَعْضُهُمْ: لَا يَجُوزُ: وَقَالَ بَعْضُهُمْ: يَجُوزُ وَهُوَ الْمُخْتَارُ اهـ وَالصَّوَابُ أَنَّ يُقَالُ عَلَى تَعْلِيمِ الْقُرْآنِ، فَإِنَّ الْخِلَافَ فِيهِ كَمَا عَلِمْتَ لَا فِي الْقِرَاءَةِ الْمَجْرَدَةِ فَإِنَّهُ لَا ضَرُورَةَ

فِيهَا، فَإِنْ كَانَ مَا فِي الْجَوْهَرَةِ سَبَقَ قَلَمَ فَلَا كَلَامَ، وَإِنْ كَانَ عَنْ عَمْدٍ فَهُوَ مُخَالَفٌ لِكَلَامِهِمْ قَاطِبَةً فَلَا يُقْبَلُ.

وَقَدْ أَطْنَبَ فِي رَدِّهِ صَاحِبُ تَبْيِينِ الْمُحَارِمِ مُسْتَنِدًا إِلَى النُّقُولِ الصَّرِيحَةِ، فَمِنْ جُمْلَةِ كَلَامِهِ قَالَ تَأَجُّ الشَّرِيعَةِ فِي شَرْحِ الْهُدَايَةِ: إِنَّ الْقُرْآنَ بِالْأَجْرَةِ لَا يَسْتَحِقُّ الثَّوَابَ لَا لِلْمِيَّتِ وَلَا لِلْقَارِئِ. وَقَالَ الْعَبَّاسِيُّ فِي شَرْحِ الْهُدَايَةِ: وَيُتَمَنَّى الْقَارِئُ لِلدُّنْيَا، وَالْأَخْذُ وَالْمُعْطَى آتِيَانِ. فَالْحَاصِلُ أَنَّ مَا شَاعَ فِي زَمَانِنَا مِنْ قِرَاءَةِ الْأَجْرَاءِ بِالْأَجْرَةِ لَا يَجُوزُ؛ لِأَنَّ فِيهِ الْأَمْرَ بِالْقِرَاءَةِ وَإِعْطَاءِ الثَّوَابِ لِلْأَمْرِ وَالْقِرَاءَةَ لِأَجْلِ الْمَالِ؛ فَإِذَا لَمْ يَكُنْ لِلْقَارِئِ ثَوَابٌ لِعَدَمِ النِّيَّةِ الصَّحِيحَةِ فَأَيُّ ثَوَابٍ يَصِلُ الثَّوَابُ إِلَى الْمُسْتَأْجِرِ وَلَوْ لَا الْأَجْرَةَ مَا قَرَأَ أَحَدٌ لِأَحَدٍ فِي هَذَا الزَّمَانِ بَلْ جَعَلُوا الْقُرْآنَ الْعَظِيمَ مَكْسَبًا وَسَبِيلًا إِلَى جَمْعِ الدُّنْيَا - إِنَّا لِلَّهِ وَإِنَّا إِلَيْهِ رَاجِعُونَ - اهـ

وَقَدْ اغْتَرَبَ بِنَا فِي الْجَوْهَرَةِ صَاحِبُ الْبَحْرِ فِي كِتَابِ الْوَقْفِ وَتَبِعَهُ الشَّارِحُ فِي كِتَابِ الْوَصَايَا حَيْثُ يُشْعِرُ كَلَامُهَا بِجَوَازِ الْإِسْتِجَارِ عَلَى كُلِّ الطَّاعَاتِ وَمِنْهَا الْقِرَاءَةُ. وَقَدْ رَدَّهُ الشَّيْخُ خَيْرُ الدِّينِ الرَّمْلِيُّ فِي حَاشِيَةِ الْبَحْرِ فِي كِتَابِ الْوَقْفِ حَيْثُ قَالَ: أَقُولُ الْمَفْتَى بِهِ جَوَازُ الْأَخْذِ اسْتِحْسَانًا عَلَى تَعْلِيمِ الْقُرْآنِ لَا عَلَى الْقِرَاءَةِ الْمَجْرَدَةِ كَمَا صَرَّحَ بِهِ فِي التَّارِخَانِيَةِ حَيْثُ قَالَ: لَا مَعْنَى لِهَذِهِ الْوَصِيَّةِ وَلِصَلَةِ الْقَارِئِ بِقِرَاءَتِهِ؛ لِأَنَّ هَذَا بِمَنْزِلَةِ الْأَجْرَةِ وَالْإِجَارَةِ فِي ذَلِكَ بَاطِلَةٌ وَهِيَ بَدْعَةٌ وَلَمْ يَفْعَلْهَا أَحَدٌ مِنَ الْخُلَفَاءِ، وَقَدْ ذَكَرْنَا مَسْأَلَةَ تَعْلِيمِ الْقُرْآنِ عَلَى اسْتِحْسَانٍ أَيْ يَعْني الضَّرُورَةَ وَلَا ضَرُورَةَ فِي الْإِسْتِجَارِ عَلَى الْقِرَاءَةِ عَلَى الْقَبْرِ.

وَفِي الزِّيْلَعِيِّ وَكَثِيرٍ مِنَ الْكُتُبِ: لَوْ لَمْ يَفْتَحْ لَهُمْ بَابُ التَّعْلِيمِ بِالْأَجْرِ لَدَهَبَ الْقُرْآنُ فَأَقْتَنُوا بِجَوَازِهِ وَرَأَوْهُ حَسَنًا فَتَنَّبَهُ اهـ كَلَامُ الرَّمْلِيِّ. وَمَا فِي التَّارِخَانِيَةِ فِيهِ رَدٌّ عَلَى مَنْ قَالَ: لَوْ أَوْصَى لِقَارِئٍ يَقْرَأُ عَلَى قَبْرِهِ بِكَذَا يَنْبَغِي أَنْ يَجُوزَ عَلَى وَجْهِ الصَّلَاةِ دُونَ الْأَجْرِ، وَيَمْنَنُ صَرَّحَ بِبُطْلَانِ هَذِهِ الْوَصِيَّةِ صَاحِبُ الْوَلُؤَالِجِيَّةِ وَالْمُحِيطِ وَالْبَرَاذِيَّةِ، وَفِيهِ رَدٌّ أَيْضًا عَلَى صَاحِبِ الْبَحْرِ حَيْثُ عَلَّلَ الْبُطْلَانَ بِأَنَّهُ مَبْنِيٌّ عَلَى الْقَوْلِ بِكَرَاهَةِ الْقُرْآنِ عَلَى الْقَبْرِ وَلَيْسَ كَذَلِكَ، بَلْ لَمَّا فِيهِ مِنْ شِبْهِ الْإِسْتِجَارِ عَلَى الْقِرَاءَةِ كَمَا عَلِمْتُمْ، وَصَرَّحَ بِهِ فِي الْإِخْتِيَارِ وَغَيْرِهِ، وَلِذَا قَالَ فِي الْوَلُؤَالِجِيَّةِ مَا نَصَّهُ: وَلَوْ زَارَ قَبْرَ صَدِيقٍ أَوْ قَرِيبٍ لَهُ وَقَرَأَ عِنْدَهُ شَيْئًا مِنَ الْقُرْآنِ فَهُوَ حَسَنٌ، أَمَّا الْوَصِيَّةُ بِذَلِكَ فَلَا مَعْنَى لَهَا وَلَا مَعْنَى أَيْضًا لِصَلَةِ الْقَارِئِ؛ لِأَنَّ ذَلِكَ يُشْبِهُ اسْتِجَارَةَ عَلَى قِرَاءَةِ الْقُرْآنِ وَذَلِكَ بَاطِلٌ وَلَمْ يَفْعَلْ ذَلِكَ أَحَدٌ مِنَ الْخُلَفَاءِ اهـ إِذْ لَوْ كَانَتْ الْعِلَّةُ مَا قَالَهُ لَمْ يَصِحَّ قَوْلُهُ هُنَا فَهُوَ حَسَنٌ، وَيَمْنَنُ أَفْتَى بِبُطْلَانِ هَذِهِ الْوَصِيَّةِ الْخَيْرِ الرَّمْلِيِّ كَمَا هُوَ مَبْسُوطٌ فِي وَصَايَا فَنَاوَاهُ فَرَا جَعَلَهَا.

وَنَقَلَ الْعَلَامَةُ الْخُلُوتِيُّ فِي حَاشِيَةِ الْمُتَهَمِيِّ الْحَنْبَلِيِّ عَنْ شَيْخِ الْإِسْلَامِ تَقِيِّ الدِّينِ مَا نَصَّهُ: وَلَا يَصِحُّ الْإِسْتِجَارُ عَلَى الْقِرَاءَةِ وَإِهْدَائِهَا إِلَى الْمِيَّتِ؛ لِأَنَّهُ لَمْ يُنْقَلْ عَنْ أَحَدٍ مِنَ الْأئِمَّةِ الْإِذْنُ فِي ذَلِكَ. وَقَدْ قَالَ الْعَلَمَاءُ: إِنَّ الْقَارِئَ إِذَا قَرَأَ لِأَجْلِ الْمَالِ فَلَا ثَوَابَ لَهُ فَأَيُّ شَيْءٍ يُهْدِيهِ إِلَى الْمِيَّتِ، وَإِنَّمَا يَصِلُ إِلَى الْمِيَّتِ الْعَمَلُ الصَّالِحِ، وَالْإِسْتِجَارُ عَلَى مَجْرَدِ التَّلَاوَةِ لَمْ يَقُلْ بِهِ أَحَدٌ مِنَ الْأئِمَّةِ، وَإِنَّمَا تَنَازَعُوا فِي الْإِسْتِجَارِ عَلَى التَّعْلِيمِ أَيْ بِحُرُوفِهِ، وَيَمْنَنُ صَرَّحَ بِذَلِكَ أَيْضًا الْإِمَامُ الْبَرْكَوِيُّ قَدَّسَ سِرَّهُ فِي آخِرِ الطَّرِيقَةِ الْمُحَمَّدِيَّةِ فَقَالَ: الْفَضْلُ الثَّلَاثُ فِي أُمُورٍ مُبْتَدَعَةٍ بَاطِلَةٌ أَكْبَرُ النَّاسِ عَلَيْهَا عَلَى ظَنِّ أَنَّهُا قُرْبٌ مَفْصُودَةٌ إِلَى أَنْ قَالَ: وَمِنْهَا الْوَصِيَّةُ مِنَ الْمِيَّتِ بِاتِّخَاذِ الطَّعَامِ وَالضِّيَافَةِ يَوْمَ مَوْتِهِ أَوْ بَعْدَهُ وَإِعْطَاءِ دَرَاهِمٍ لِمَنْ يَتْلُو الْقُرْآنَ لِرُوحِهِ أَوْ يُسَبِّحُ أَوْ يُهَيِّئُ لَهُ وَكُلُّهَا بَدْعٌ مُنْكَرَاتٌ بَاطِلَةٌ، وَالْمَأْخُودُ مِنْهَا حَرَامٌ لِأَجْلِ، وَهُوَ عَاصٍ بِالتَّلَاوَةِ وَالدُّكْرِ لِأَجْلِ الدُّنْيَا اهـ مُلْخَصًا. وَذَكَرَ أَنَّ لَهُ فِيهَا أَرْبَعُ رَسَائِلَ.

فَإِذَا عَلِمْتَ ذَلِكَ ظَهَرَ لَكَ حَقِيقَةُ مَا قُلْنَاهُ وَأَنَّ خِلَافَهُ خَارِجٌ عَنِ الْمَذْهَبِ وَعَمَّا أَفْتَى بِهِ الْبَلْغِيُّونَ وَمَا أَطْبَقَ عَلَيْهِ أَيْمَتُنَا مُتُونًا وَشُرُوحًا وَفَتَاوَى، وَلَا يُنْكَرُ ذَلِكَ إِلَّا غَمْرٌ مُكَابِرٌ أَوْ جَاهِلٌ لَا يَفْهَمُ كَلَامَ الْأَكَابِرِ، وَمَا اسْتَدَلَّ بِهِ بَعْضُ الْمُحْسِنِينَ عَلَى الْجَوَازِ بِحَدِيثِ الْبُخَارِيِّ فِي اللَّدِيغِ فَهُوَ خَطَأٌ؛ لِأَنَّ الْمُتَقَدِّمِينَ الْمَانِعِينَ الْإِسْتِئْجَارَ مُطْلَقًا جَوَّزُوا الرَّقِيبَةَ بِالْأَجْرَةِ وَلَوْ بِالْقُرْآنِ كَمَا ذَكَرَهُ الطَّحَاوِيُّ؛ لِأَنَّهَا كَيْسَتْ عِبَادَةً مُحْضَةً بَلْ مِنَ التَّدَاوِيِّ. وَمَا نُقِلَ عَنْ بَعْضِ الْهُوَامِشِ وَعَزَى إِلَى الْحَاوِيِّ الرَّاهِدِيِّ مِنْ أَنَّهُ لَا يَجُوزُ الْإِسْتِئْجَارُ عَلَى الْحَتْمِ بِأَقْلٍ مِنْ حَمْسَةٍ وَأَرْبَعِينَ دِرْهَمًا فَخَارِجٌ عَمَّا اتَّفَقَ عَلَيْهِ أَهْلُ الْمَذْهَبِ قَاطِبَةً. وَحِينَئِذٍ فَقَدْ ظَهَرَ لَكَ بَطْلَانُ مَا أَكَبَّ عَلَيْهِ أَهْلُ الْعَصْرِ مِنَ الْوَصِيَّةِ بِالْحَتْمَاتِ وَالتَّهَالِيلِ مَعَ قَطْعِ النَّظَرِ عَمَّا يَحْصُلُ فِيهَا مِنَ الْمُنْكَرَاتِ الَّتِي لَا يُنْكَرُهَا إِلَّا مَنْ طُمَسَتْ بَصِيرَتُهُ، وَقَدْ جَمَعْتُ فِيهَا رِسَالَةً سَمَّيْتُهَا شِفَاءَ الْعَلِيلِ وَبَلُّ الْعَلِيلِ فِي حُكْمِ الْوَصِيَّةِ بِالْحَتْمَاتِ وَالتَّهَالِيلِ وَأَتَيْتُ فِيهَا بِالْعَجَبِ الْعُجَابِ لِدَوِيِّ الْأَلْبَابِ، وَمَا ذَكَرْتُهُ هُنَا بِالنُّسْبَةِ إِلَيْهَا كَقَطْرَةٍ مِنْ بَحْرٍ أَوْ شَذْرَةٍ مِنْ عَقْدِ نَحْرٍ، وَأَطْلَعْتُ عَلَيْهَا مُحْتَمِي هَذَا الْكِتَابِ فَقِيَّةَ عَصْرِهِ وَوَحِيدَ دَهْرِهِ السَّيِّدِ أَحْمَدَ الطَّحطاوِيِّ مُفْتِيٍّ وَمُضَرِّ سَابِقًا فَكَتَبْتُ عَلَيْهَا وَأَتَيْتُ الشَّنَاءَ الْجَوِيلَ، فَاللَّهُ يَجْزِيهِ الْخَيْرَ الْجَزِيلَ، وَكَتَبْتُ عَلَيْهَا غَيْرُهُ مِنْ فُقَهَاءِ الْعَصْرِ.

«رد المحتار على الدر المختار شرح تنوير الأبصار»

للإمام العلامة محمد أمين الشهير بابن عابدين - ٥٣٤١٥ من طبعة بولاق بمصر و٥٥١٦ من طبعة الحلبي بمصر وطبعة الحاج محمد سعيد باكستان و٧٦١٩ من طبعة دار الكتب العلمية بيروت وطبعة دار عالم الكتب بالرياض.