

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Series of Questions Addressed to Eminent Scholar Ata Bin Khalil Abu Al-Rashtah

Ameer of Hizb ut Tahrir through his Facebook Fiqhi Page

Answer to Question

Renting Gold Jewelry

To: Sheikh Hussam Abu Mahmoud

(Translated)

Question:

Assalam Alaikum Wa Rahmatullah Wa Barakatuh. Jazak Allah Khair and may Allah (swt) open ways for you.

If you would be so kind, I would like to ask a question: What is the ruling on renting gold, since there are those who rent gold for a day or more, and this custom has become common in some countries. Jazak Allah khair.

Answer:

Wa Alaikum Assalam Wa Rahmatullah Wa Barakatuh

Hiring (ijara) is a contract for a benefit in return for compensation. Ijara includes the contract that comes upon the benefit of things like hiring houses, animals, vehicles and the like. We have explained this in the book "The Islamic Personality" volume II, in the chapter "Hiring", it states;

(Hiring is a contract for a benefit in return for compensation, and it is of three types:

The first type: the contract that comes upon the benefit of things like hiring houses, animals, vehicles and the like.

The second type: the contract that comes upon the benefit of work like the owners of industries and factories for specific work, that which is contracted upon the benefit resulting from the work such as hiring painters, ironmongers, carpenters and the like.

The third type: the contract that comes upon the benefit of the person like hiring servants and workmen and the like.

Hiring in all its types is permitted by the Shar'a. Allah (swt) said: ﴿وَرَفَعْنَا بَعْضَهُمْ فَوْقَ بَعْضٍ دَرَجَاتٍ﴾ **"And we raised some of them above others in rank so that some may employ others in their work"** [TMQ 43:32]. And Al-Baihaqi narrated via the way of Abu Hurairah (ra) that the Prophet (saw): «من استأجر أجييراً فليعلمه أجره» **"Whoever hires an employee, he should let him know his wage."** And Al-Bukhari narrated: **«أن النبي ﷺ والصدِّيق استأجرا رجلاً من بني الدَّيْل هادياً خريئاً»** **"That the Prophet (saw) and As-Siddeeq hired a man from Banu Ad-Deel as a guide through the country."** End of Quote.

As you can see, everything whose benefit is permissible may be rented for a known fee and a known period. So, it is permissible to rent a car for a specific amount for a specific period and with a specific use. **But for renting gold and silver for a specific amount for a specific period for a woman to adorn with it, I am not content with because gold and silver are the basis of money in Islam, so how can cash be rented for cash?! That is, how is cash rented by its type?** In any case, this issue requires deeper study, and perhaps it will happen in the future, Allah willing.

However, I will mention some fiqhi opinions for you so that you can follow the opinion that you feel comfortable with:

1- Al-Mughni by Ibn Qudamah (5/403)

Chapter (4305): While it is permissible to rent it out, it is permissible to rent out any property that can be used for a permissible benefit, while it remains as in the original rule such as land and a house.... It is permissible to rent out jewelry. Ahmad stated it, in the narration of his son Abdullah. This is what Al-Thawri, Al-Shafi'i, Ishaq, Abu Thawr, and the people of opinion also said. **It was narrated on the authority of Ahmad that he said regarding renting out jewelry: I don't know what it is? Alqadi said: This is subject to it being rented out for a rent of its type, but as for something other than its type, there is no problem with it, based on the statement of Ahmad that it is permissible.**

Malik said, regarding renting jewelry and clothes: It is one of the doubtful matters. Perhaps he believes that what is meant by that is adornment, and that is not one of the original objectives].

2- Imam Al-Nawawi said [As-Saymari, then Al-Mawardi and their followers mentioned here that **it is better if he rents out gold or silver jewelry, not to rent it for its kind**, but rather to rent gold for silver and silver for gold. If he rents gold for gold or silver for silver, there are two opinions: (One of them) is that it is invalid, out of caution against usury, and the correct view is that it is permissible like all other rentals. Al-Mawardi said: The first statement is false; because the rental contract does not involve usury, and for this reason it is permissible to rent out gold jewelry for deferred dirhams according, by the consensus of the Muslims, and if usury was involved here, this would not be permissible.] Al-Majmu' 6/46.

3- Kuwaiti Encyclopedia of Jurisprudence (12/283, with Ash-Shamla automatic numbering)

[Renting for adornment:

25- The basic principle is the permissibility of the lease of items that can be benefited from, but it should be a permissible benefit and the rented item should be returned to its owner as it was, and for this Al-Shafi'i's and Hanbalis stated that clothes and jewelry are permissible for adornment. Benefitting from them is permissible if intended to be returned to its owner as it was, and the adornment is one of the legitimate purposes. Allah (swt) said: **﴿قُلْ مَنْ حَرَّمَ زِينَةَ اللَّهِ الَّتِي أَخْرَجَ لِعِبَادِهِ﴾** **"Say, "Who has forbidden the adornment of [i.e., from] Allah which He has produced for His servants"** [Al-A'raf: 32].

The permissibility of renting gold and silver jewelry for a different type is subject to agreement between them.

Ahmad hesitated as to whether the rent was of the same type, and it was reported from him that it was absolutely permissible

As for the Hanafis, they declared the invalidity of renting things such as clothes and utensils for adornment; they said: If he rents clothes or utensils to beautify himself with them, or an animal as an earning, or a house not to live in... then the rental is invalid in all and there is no reward for him, because it is an unintended benefit from the property. It is permissible to rent clothing for wearing them, weapons for jihad, tents for housing, and the like for a specific period in exchange for a known sum, and jewelry is considered as clothing for them.

The Malikis disliked renting out jewelry, because it was not people's concern, and they said: It is better to lend it because it is what was known.

- The Kuwaiti Encyclopedia of Fiqh (294/22, with Ash-Shamla automatic numbering)

Rent what is needed of gold:

30- The Hanbalis stated that it is permissible to rent gold dinars for a specified period of time for adornment and weight, as well as everything that is needed, such as extra pieces of gold, because it is a permissible benefit that is fulfilled while the asset remains, and everything that is similar is permissible to rent without disagreement.

The Shafi'i's prohibited renting dinars for adornment, and stipulated that it is permissible to rent jewelry] **End.**

4- It was stated in (Jawahir Al-Uqood) by its author Shams al-Din Muhammad Al-Asyuti, and then Al-Qahiri Al-Shafi'i who died in 880 AH, Chapter (216/1)

(They disagreed about renting out jewelry - gold for gold, or silver for silver- is it disliked? Abu Hanifa, Al-Shafi'i and Malik said: It is not disliked.

Ahmad said it is disliked).

5- Al-Fiqh Ala Al-Mathahib Al-Arba'a (60/3)

(As for the third category: which is disliked, it includes matters such as: **renting jewelry, as it is disliked, whether it is gold or silver.**

From that you learn that what is disliked to rent is jewelry that is permissible to use, but renting it is prohibited for prohibited items. If a man rents jewelry, renting it is not valid, and some of them see it as disliked to rent it, whether its use is permissible or prohibited). **End quote.**

For your information, Al-Nasa'i narrated in his Sunan on the authority of Abu Musa that the Messenger of Allah (saw) said: «أَجَلَ الذَّهَبِ وَالْحَرِيرِ لِإِنَاثِ أُمَّتِي وَحَرَّمَ عَلَى ذُكُورِهَا» **“Gold and silk have been permitted for the females of my Ummah, and forbidden to the males.”**

So, follow the one whose opinion you are comfortable with, and Allah is with you.

Your Brother,

Ata Bin Khalil Abu Al-Rashtah

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The link to the answer from the Ameer's Facebook page:

<https://www.facebook.com/HT.AtaabuAlrashtah/posts/855692366118134>