

Fiqh Issues in Which There Are Three Aspects According to The Shafi'is in The Al-Bayan Book by Al-Omrani (558 AH) Related to The Option of The Sellers: A Comparative Study

By

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Abstract

This research aims to collect a number of Fiqh issues in which there are many aspects to three in the same doctrine related to the option of the sellers, in the book of Al-Bayan by Imam Al-Omrani, which is one of the books that had the lead and leadership in transferring these multiple aspects by a comparative Fiqh study With other schools of thought while mentioning their impact on contemporary fatwas to be an open door for the muftis of the age to keep pace with the issues of the age to reach the appropriate judgment for the appropriate time and place and to keep pace with developments, the difference in opinions and aspects is nothing but an expansion of the perceptions of ijtiḥād and a tributary of the great heritage of Al-Fiqh in one school of Fiqh, and after that this research was divided into an introduction, two chapters and a conclusion.

Keywords: (Fiqh Issues, Three Aspects, Al-Bayan's Book, Al-Omrani, Option of The Sellers, Council of The Contract, Al-Fatwas).

Introduction

Praise be to Allah, Lord of the Worlds, and the best prayer and peace be upon our Prophet Muhammad and all his family and companions.

the book of Al-Bayan by Imam Al-Omrani is one of the books that had the lead and leadership in transmitting these multiple aspects, So I chose to write my research on Fiqh issues in which there are three aspects in Al-Bayan Al-Omrani book (558 AH) related to the option of the sellers and its impact on contemporary fatwas. The reasons that prompted me to write on this subject were that it had not been written on it before, and to make it clear to us through the study of the aspects, a comparative Fiqh study, those who agreed with it from other schools of thought and those who disagreed with it, while mentioning its impact on the fatwas of the contemporaries to be an open door for the muftis of the age in keeping pace with the issues of the age to reach the appropriate ruling for the right time and place and to keep abreast of developments, I divided my research into

The first topic: a brief translation of the life of Imam Al-Omrani and the definition of Al-Bayan's book by Al-Omrani and an explanation of the concept of aspects, and it has two requirements:

The first requirement: a brief translation of the life of Imam Al-Omrani

The second requirement: Introducing Al-Bayan Al-Omrani's book and clarifying the concept of the aspects

The second topic: Fiqh issues that have three aspects related to the option of the council

It has two requirements:

The first requirement: the option of the sellers if the guardian takes over the two parties to the sale contract.

The second requirement: the conditioning to cut off the seller's option.

Conclusion

References

In conclusion, I ask Allah to make this work purely for his noble face and may Allah's prayers be upon our prophet Muhammad and his family and companions all.

The first topic: a brief translation of the life of Imam Al-Omrani and the definition of Al-Bayan's book by Al-Omrani and an explanation of the concept of aspects, and it has two requirements:

The first requirement: a brief translation of the life of Imam Al-Omrani

I did not expand on the translation of Imam Al-Omrani due to the large number of books written in it of those who preceded me from the researchers.

First: Al-Omrani's personal life

- **His birth:**

The Sheikh of the Shafi'is was born in Yemen, Imam Abu Al-Hussein Yahya bin Abi Al-Khair Al-Omrani in the year (489 AH) in a town in Yemen called "Sana'a Sir" (Al-Hamawi, 1995). There is no disagreement among scholars regarding the date of his birth except what Sheikh Ismail Muhammad Amin al-Baghdadi mentioned that Imam al-Omrani was born in the year (487 AH) and that what the scholars unanimously agreed upon is correct. (Al-Jundi, 1995).

- **His name:** He is Imam Abu Al-Hussein Yahya bin Abi Al-Khair bin Salem bin Asaad (Al-Subki, 1992) bin Abdullah (Al-Nawawi A. Z., 2002) bin Muhammad bin Musa bin Imran Al-Omrani (Al-Jundi, 1995).

- **His lineage and surname:**

Imam Al-Omrani belongs to "Imran bin Rabia bin Abs bin Zahra bin Ghalib bin Abdullah bin Aak bin Adnan" (Al-Jaadi, 2001), and Yaqut Al-Hamawi attributed him to the town in which he was born, so he said "Al-Siri then Al-Omrani" (Al-Hamawi, 1995) and some of them attributed it to Maad bin Adnan (Al-Shafi'i, 2008).

The translators differed in his nickname, some of them called him Abu al-Husayn (Al-Subki, 1992), which is the famous, and some of them called him Abu al-Khair (Al-Nawawi A. Z., 2002) and some of them called him Abu Zakaria (Al-Shafi'i, 2008).

- **His death.**

Imam al-Omrani passed away in the year 558 AH in Dhul-Saffal (Al-Hamawi, 1995) in Rabi' al-Akhir, just before dawn on Sunday night, a martyr, he never left a prayer during his illness, and he took it off during his illness for two nights and a day in between, and he asks about the time of each prayer by gesturing because he caught his tongue and he was a lot of Tahlil (Al-Nawawi A. Z., 2002)

Second: Al-Omrani's scientific life

- **His most famous sheikhs**

Imam Al-Omrani, received knowledge from the most prominent Scientists of his time, and I

will limit myself here to mentioning some of them.

1. Zaid bin Al-Hussein bin Muhammad bin Ahmed bin Maimun Al-Yamani Al-Fa'ishi (Al-Jaadi, 2001) born in the year (458 AH) is one of the most prominent Shafi'i Scientists and one of the most prominent of them. Rather, the Shafi'i sheikh in the country of Yemen in his time. He made contributions in spreading Shafi'i's Fiqh and among his works is Al-Tahdheeb book. He sat for teaching and was taken from him A group of scholars, including Imam Al-Omrani and others, read on him Al-Muhadhab and Al-Mukhtassif at Al-Fiqh and Al-Usul by Shirazi and other works (DOB: 528 AH) (Al-Jaadi, 2001).
2. Zaid bin Abdullah bin Jaafar bin Ibrahim Al-Yafa'i (Al-Hamawi, 1995) is one of the prominent Shafi'is. Imam Al-Omrani took from him the book "Al-Nukt" by Al-Shirazi. Ibn Samra Al-Jaadi said about him: "None of the companions of Al-Shafi'i in the Haram was a teacher or a mufti of a higher rank or degree than him" (DOB: 514 AH) and it was said 515 AH) (Jamal Al-Din, 2002).
3. Sheikh Abu Muhammad Abdullah bin Umair Al-Areeqi (Al-Jaadi, 2001), understanding on Imam Zaid Al-Yafi'i. Imam Al-Omrani took from him the book Al-Mu'tamid in the Dispute which he took from Imam Abu Nasr Al-Bandaniji when he met him during the Hajj. He was a great scholar and one of the famous Scientists with piety (Al-Jaadi, 2001).

- ***His most famous disciples***

There are many scholars who teach on Imam al-Omrani, and I will limit myself here to mentioning some of them:

1. Abu Al-Saud bin Khairan: He was born in the year (518 AH) and was taken from Imam Al-Omrani and taught by Abdullah Al-Sa'bi, He was an expert in readings, Fiqh, grammar and language, and he was one of the sheikhs of Ibn Samra al-Jaadi (Al-Jundi, 1995).
2. Abu Al-Tayyib Taher bin Yahya bin Abi Al-Khair Al-Omrani, the scholarly scholar Ibn Sahib Al-Bayan was born in the year 518 AH. He was an eloquent Scientists, taught by his father that died in the year (587 AH) (Al-Masri, 1997).
3. Abu Bakr ibn al-Faqih Abdullah ibn Abd al-Razzaq: He was born in the year 522 AH. He learned from Imam al-Omrani and on the authority of Abu Bakr ibn Salem who died in the year 572 AH (Al-Jundi, 1995).

- ***His works.***

1. The Book of Al-Bayan at Al-Imam Al-Shafi'i School, One of his best books written in the Shafi'i school, compiled it in the year (528 AH), and completed it in the year (533 AH) and became famous for it. They say the author of Al-Bayan is one of the most important Shafi'i works (Al-Nawawi A. Z., 2002).
2. Al-Zawa'id book on Al-Muhadhab book by Shirazi, Imam al-Omrani began writing it in the year (517 AH) and completed it in the year (520 AH) (Al-Jaadi, 2001).
3. The question or problem book about the problematic in Al-Muhadhab (Ibn Qazi Shahba, 1986).
4. A summary of the Revival of Religious Sciences by Imam Al-Ghazali (Al-Jaadi, 2001).
5. Gharayib Alwasit (Al-Baghdadi, 2000).
6. Maqasid Allamae (Al-Baghdadi, 2000).
7. Explanation of the means to Al-Ghazali (Al-Baghdadi, 2000).
8. Fatwas (Ibn Qazi Shahba, 1986).
9. Aldawr book (Al-Jundi, 1995)
10. The virtues of Imam al-Shafi'i and Ahmad Ibn Hanbal (Al-Baghdadi, 2000).

- ***The Scientists praised him.***

Imam al-Subki said about him in his *Tabaqat*: (The Sheikh of the Shafi'is in the province of Yemen, the author of *Al-Bayan*... He was an ascetic, pious imam, a good scholar, well-known, well-known, well-known for Fiqh, Usul, speech and grammar, He was the most knowledgeable of the people of the earth about Abu Ishaq al-Shirazi's books of Fiqh, Usul and disagreement. He memorized *al-Muhadhab* by heart, and it was said that he would recite it in one night (Al-Subki, 1992).

And Ibn Samra al-Ja'di, who lived in his time, said about him in Imam al-Omrani: "The one from whom Fiqh spread in the countries, and his knowledge crossed the sea with the Sudan, and his books traveled by the riders, in Yemen and the Levant, and he is the Scientist Imam Jamal al-Islam Shams al-Sharia Yahya ibn Abi al-Khair" (Al-Jaadi, 2001).

And Imam Al-Nawawi said about him: "He memorizes *Al-Muhadhab*, performs it at night, explains it with *Al-Bayan*, and spreads knowledge in the country of Yemen" (Al-Nawawi A. Z., 2002).

The second requirement: Introducing *Al-Bayan* Al-Omrani's book and clarifying the concept of the aspects

First: The name of the book, the correctness of its attribution to Imam Al-Omrani and the Scientists praise for him

Everyone who translated Imam Al-Omrani agreed to give the name *Al-Bayan* to his book, which he compiled, so he was known as "The Companion of *Al-Bayan*" (Al-Nawawi A. Z., 2002), No one questioned the attribution of "*Al-Bayan*" to Imam al-Amrani. Many of those who translated from him mentioned evidence of its attribution to him, including:

1. Al-Hafiz Al-Dhahabi mentioned "*Al-Bayan fi Madhhab*" (Al-Dhahabi S. a.-D., 2006).
2. Imam al-Nawawi mentioned in his translation of "classify *al-Bayan*" (Al-Nawawi A. Z., 2002)
3. Ibn Khalkan al-Barmaki al-Arbli mentioned, "Abu al-Husayn Al-Omrani, author of *al-Bayan* book".
4. Imam Al-Suyuti mentioned "Al-Omrani author of *Al-Bayan*" (Al-Suyuti, 2005).
5. Al-Zarkali mentioned in his translation, "He has classifications, including *Al-Bayan*" (Al-Zirkliu, 2002).

Many Scientists have praised him, including:

1. Ibn Samra al-Jaadi said, "His book was *al-Bayan* as its name for the Shari'a as a clarification, and for scholars, guidance and clarification..." (Al-Jaadi, 2001).
2. Aljundiu said: "And when he came after a Baghdad, he was made in the dishes of gold, then when he came to him in the line of Alwan, he said a group of the people of Iraq: We did not think of a human being in Yemen until *Al-Bayan* was presented to us in the line of Alwan, which was well-received by the investigative Scientists, and the class of teachers benefited from it, and the authors transmitted it from him" (Al-Jundi, 1995).
3. Abu al-Hasan Ahmad al-Barihi, known as Saif al-Sunnah, one of Imam al-Omrani's students, said in praising *Al-Bayan* book:

Allah watered Yahya Salsabila and gave him a palace of sapphires, the heights of Janan, For his classification of this book, which contains the classifications of the people of Fiqh, far and near. And He named him by the name that is qualify as *Al-Bayan*, and whatever is on earth is like a statement (Al-Jundi, 1995).

Second: Defining the aspects in language and terminology

1. Aspects in language:

Aspects is the plural of Aspect, Aspect and direction is a same meaning, and haa letter is substituted for waw letter, and this is said to be the Aspect of opinion, i.e. it is the opinion itself, and the Aspect: (the receiver of everything) and from it the Allah's saying: (Wherever you turn, you are facing towards Allah) ([Quran](#)). ([Al-Farabi, 1987](#)).

2. Aspects idiomatically:

They are the "opinions that Shafi'i Scientists derive from the words of al-Shafi'i and bring them out on its foundations and principles. These aspects are considered from the Shafi'i school of thought without disagreement, even if there is no text on the authority of the imam; Sometimes it may be their own ijtiḥād that is not based on its foundations and principles, and this is not from the madhhab, but rather is attributed to its owner" ([Al-Salami, 2016](#)).

And Imam Al-Nawawi said: "It is for his companions who are affiliated with his madhhab, they take it out according to its principles, and they deduce it from its foundations, and they strive in some of them, even if they do not take it from its principles" ([Al-Nawawi A. Z.-D., 2006](#)).

The second topic: Fiqh issues that have three aspects related to the option of the sellers

It has two requirements:

The first requirement: the option of the sellers if the guardian takes over the two parties to the sale contract.

The second requirement: the conditioning to cut off the seller's option.

The first requirement

The option of the sellers ([Hammad, 2008](#)) if the guardian takes over the two parties to the sale contract

If the guardian, such as the father or grandfather, buys something from his young son's money, or sells it and takes over the two parties to the contract, is the option of the sellers established for him as it is proven to the different contracting parties? ([Al-Omrani, 2000](#))

Imam Al-Omrani mentioned to the Shafi'is on this issue three aspects:

The first aspect: The option of the sellers is proven, and the contract is not required except by the separation of the contract council, or the choice of signature, which is the well-known aspect according to the Shafi'is ([Al-Omrani, 2000](#)) and a narration according to the Hanbalis (Ibn Qudamah Al-Maqdisi M. a.-D., 1968), and with it the Imami Shiites said ([Muhāqiq Al-Hilli, 1988](#)).

Their argument:

1. True separation in such a case is impossible; Because the seller is the buyer, he is held to separate from the council of the contract and with it the contract is obligatory, because the Prophet ﷺ suspended the option to separate by saying (unless they separate) ([Al-Bukhari, 2001](#)), and it was found in the paradox of the contract council ([Ibn Qudamah Al-Maqdisi M. a.-D., 1968](#)).

2. When the guardian takes the place of the son in the two parties to the contract, he takes his place in the option of the sellers, as if he were two persons ([Al-Omrani, 2000](#)).

The second aspect: the option of the sellers is not proven, and it is a view according to the Shafi'is ([Al-Omrani, 2000](#)) narrated by Abu Ali al-Tabari ([Al-Subki, 1992](#)), and a narration according to the Hanbalis ([Ibn Qudamah Al-Maqdisi M. a.-D., 1968](#)).

Their argument:

1. The guardian is one party, and there is no second party to separate from him (Al-Omrani, 2000).
2. The guardian is the one who takes over the two parties to the contract, so no option is established for him, by analogy with the intercessor (Ibn Qudamah Al-Maqdisi M. a.-D., 1968).

The third aspect: proves the option of the sellers, but the contract is not required except by choice by word, and it is not necessary to separate from the council of the contract, and it is a view according to the Shafi'is (Al-Omrani, 2000) narrated by Abu Ali Al-Sanji.

Their argument:

Since he was the only one who made the contract, he was like the one who sold each other if they stand up from their council to another council, and were escorted to a far place, so their option would not be invalidated unless they separated, except by choice (Al-Omrani, 2000).

preponderance:

After examining the aspects of this issue and its evidence, what I tend to favor from these aspects is the second aspect, that he has no option in that; Because the Prophet ﷺ, suspended the option to two people, so he said: "The two who sold each of them with the option" (Al-Bukhari, 2001).

The impact of the issue on contemporary fatwas:

Contemporaries went to the view that the option of the sellers is not proven if the two parties to the contract take over one and all other forms of sale, if the two parties take over one in which there is no option, because he is alone in the contract, such as this commodity with such, I bought it from Zaid to Amr with such, it cannot be annulled in the council, but the contract is completed due to necessity That there is no council in which it is separated, as it is one person, it cannot be separated, so it was implemented and there was no option (Al-Najdi, 1977). And they say this is OK for the second aspect (Adnan et al., 2021; Al-masaeed et al., 2021; Alawi, 2021).

The second requirement

The conditioning to cut off the seller's option

If the sale takes place between the seller and the buyer on the condition that the option of the sellers is cut off, such as if he says: I sold you on the condition that we do not have the option of the sellers, and the buyer said: I accepted, what is the ruling on selling? (Al-Omrani, 2000)

Imam al-Omrani mentioned to the Shafi'is in this matter three aspects that Abu Ishaq al-Shirazi said (Ibn Qazi Shahba, 1986):

The first aspect: invalidates the sale and the condition, which is the view of the Shafi'is (Al-Omrani, 2000).

Their argument:

1. "The sale is invalidated, because it is a condition that contradicts the contract, so invalidate it, as if he said: I sold you on the condition that I do not deliver the thing sold" (Al-Mawardi, 1999).
2. "The condition is invalid because it violates the requirements of Sharia, then if the condition is invalid, the sale is invalid" (Al-Omrani, 2000).

The second aspect: The sale and condition are valid, and it is a view according to the

Shafi'is (Al-Mawardi, 1999) and a narration according to the Hanbalis (Ibn Qudamah Al-Maqdisi M. a.-D., 1994), and according to it the Imami Shiites said (Al-Tusi, 2004).

Their argument:

1. "Because the option is deceitful, so its forfeiting was more valid, and he called it the sale of the option because of the condition in it of dropping the option and the interpretation of the saying of the Prophet ﷺ (The sellers are by option, unless they separate, except by selling on the condition of the option) (Al-Bukhari, 2001) on this conditional sale in which the option was forfeited, and he carried the saying of Al-Shafi'i: So he sold him a sale that is not an option sale "on this sale, because the content of his words requires if the sale on the condition of an option is that he is not freed, so The sale is acceptable and the option is cancelled, and the slave is not freed from him because the option falls into him" (Al-Mawardi, 1999).
2. What was narrated on the authority of the Prophet ﷺ that he said: (If the two men pledged on sell, then each one of them is free to choose, unless they separate, and they were all together, or one of them gave the other option, then pledged on sell to the other, then the sale is obligatory, and if they separate after the pledge and not one of them left the sale, it has to be sold) (Al-Bukhari, 2001).

Indication:

taking of the increase is more suited, and it is explicit in the ruling, and the choice at the beginning of the contract and after it in the assembly is one, so the choice in its beginning is to say: I sold you and there is no choice between us and the other accepts that, so they have no choice (Shams Al-Din, 1999).

3. "If the two contracting parties had an option in the council, and they obliged the contract, it was necessary. If they condition to cuts off the option of the sellers, it is as if they hastened the choice and obligating the state of the contract. Thus, Al-Shafi'i, interpreted the saying of the Prophet ﷺ (except by selling on the condition of the option) (Al-Bukhari, 2001) to deny the option and make him deny the option." (Al-Omrani, 2000).

The third aspect: The sale is valid, and the condition is invalid, which is a view according to the Shafi'is (Al-Omrani, 2000) and a narration according to the Hanbalis (Ibn Qudamah Al-Maqdisi M. a.-D., 1994).

Their argument:

1. His saying, peace be upon him: "The two sellers have the option as long as they do not separate" (Al-Bukhari, 2001) It was reported without restriction or specification, in the narration of Hakim bin Hizam, Abu Barza, and Abdullah bin Amro. And the restriction is only in the hadith of Ibn Umar, and when some narrators are singled out with an addition, he presented the saying of the most (Shams Al-Din, 1999).
2. The saying of the Prophet, peace be upon him: (The sellers have the option, as long as they do not separate, or make a choice) (Al-Bukhari, 2001) and the choice does not take place until after the sale; Because they are before the completion of the contract, they are not said to have sold, with evidence: that whoever swears that does not sell and does not break the oath until after the offer and acceptance (Al-Omrani, 2000).
3. Because the condition does not lead to ignorance of the consideration and compensation, the contract was not invalidated for it, but rather invalidated itself for dropping the seller's option before it was due, so the course of dropping the pre-emption before it was due by selling took place, and the sale is valid with dropping the condition, because he did not take from the price a premium (Al-Omrani, 2000).
4. Because this is an option that is proven after the sale has been completed, it is not

permissible to drop it before that, as the pre-emption option (Al-Mawardi, 1999).

Preponderance:

After looking at the three aspects and their evidence, what I tend to prefer from these aspects is the second aspect due to his saying ﷺ “except for the option sale” and its reality is that the option was dropped before and after the contract, and whoever carried it after sale rather than before sale, then he must have evidence, and in addition to that, the hadiths they used as evidence are general, and this hadith is specific and the specific takes precedence over the general And Allah knows best.

The impact of the issue on contemporary fatwas:

Contemporaries went to the fact that the two men pledged on sell if it is stipulated that they do not have the option in the sellers.

“Selling is obligatory and the option nullifies, because the Prophet, peace and blessings be upon him, said in the hadith of Ibn Umar: (If one of them give the option to his companion, then they pledge on that, then the sale is obligatory) (Al-Bukhari, 2001) meaning it is necessary, he said in the explanation, and this is the Shafi’i school of thought and it is correct, God willing, for the hadith of Ibn Umar” (Al-Hanbali, 1978) and their saying this is in agreement for the second face.

Conclusion

Praise be to Allah, Lord of the worlds, and the best prayer and peace be upon our prophet Muhammad and his family and companions all:

After that, the three aspects of the Fiqh issues related to the deposit have been collected by me, extracted from Al-Bayan book by Imam Al-Omrani, and I will mention here the results that I reached, which are as follows:

1. Imam Al-Omrani had a prominent role in spreading the Shafi’i school of thought in the country of Yemen until he was called the Shafi’i sheikh.
2. Imam Al-Omrani, was an encyclopedia of Fiqh, including his extensive knowledge of the aspects in terms of attributing them sometimes to those who say about them, or giving preference to one of them by saying, which is the school of thought, the well-known, the most correct and correct, or the ruling on it as weak or strange.
3. The Companions of aspects are the Shafi’i Scientists who had their own Fiqh, which they deduced from the words of Imam al-Shafi’i, and bring them out on his foundations, and in that they are attributed to Imam al-Shafi’i and his doctrine.
4. On some issues, there were sayings of some schools of thought that did not agree with the three aspects of the Shafi’is.
5. On the issue: (The option of the sellers, if the guardian takes over the two parties to the contract of sale, is the option of the sellers established for him as it is proven for the different contracting parties?) The most correct opinion is that the option of the sellers is not proven, which is what contemporary Scientists have issued a fatwa.
6. On the issue: (The conditioning to cut off the option of the sellers, such as saying: I sold you on the condition that we do not have the option of the sellers, so the buyer said: I accepted, so what is the ruling on selling?) So, the most correct opinion is that the sale and the condition are correct, which is what the contemporary Scientists have issued a fatwa.

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