

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allah, Most Gracious, Most Merciful

Surah Baqarah

كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنْ تَرَكَ خَيْرًا لِّلْوَالِدَيْنِ وَ لِّلْأَقْرَبِينَ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ ١٨٠

180. It is prescribed, when death approaches any of you, if he leave any goods that he make a bequest to parents and next of kin, according to reasonable usage; this is due from the Allah fearing.

...it is a good thing that a dying man or woman should, of his own free will, think of his parents and his next of kin, not in a spirit of injustice to others, but in a spirit of love and reverence for those who have cherished him. He must, however, do it "according to reasonable usage": the limitations will be seen further on.

The Noble Quran/Yusuf Ali

...justly, not giving more than the allotted share of a third, nor preferring the richer person - an obligation (haqqan here emphasises the import of what has preceded) on those that fear, God (this verse has been abrogated by the 'inheritance' verse [āyat al-mīrāth, see Q. 4:11] and by the hadīth: 'Do not make testament for one [already] inheriting', as reported by al-Tirmidhī).

Tafsir Jalalayn

The word khayr occurring in this sentence denotes "much wealth" and not simply "property": and this explains the injunction that one who leaves much wealth behind should make bequests to particularly deserving members of his family in addition to - and preceding the distribution of - the legally - fixed shares mentioned in 4:11-12. This interpretation of khayr is supported by sayings of 'A'ishah and 'Ali ibn Abi Talib, both of them referring to this particular verse (cf. Zamakhshari and Baydawi).

Muhammad Asad, The Message of the Quran

This Ayah contains the command to include parents and relatives in the will, which was obligatory, according to the most correct view, before the Ayah about inheritance was revealed. When the Ayah of inheritance was revealed, this Ayah was abrogated, so fixed shares of the inheritance for deserving recipients were legislated by Allah. Therefore, deserving inheritors take their fixed inheritance without the need to be included in the will or to be reminded of the favor of the inherited person. For this reason we see the Hadith narrated in the Sunan and other books that

Amr bin Kharijah said: I heard Allah's Messenger saying in a speech: إِنَّ اللَّهَ قَدْ أَعْطَى كُلَّ ذِي حَقٍّ حَقَّهُ،

فَلَا وَصِيَّةَ لِمَوَارِثَ (Allah has given each heir his fixed share. So there is no will for a deserving heir.)

It is recommended that the remaining relatives who do not have a designated fixed share of the inheritance, be willed up to a third, due to the general meaning of the Ayah about the will. It is recorded in the Sahihayn that Ibn `Umar said that Allah's Messenger said: مَا حَقُّ أَمْرِيءٍ مُسْلِمٍ لَهُ شَيْءٌ يُوصِي فِيهِ يَبِيتُ لَيْلَتَيْنِ إِلَّا وَوَصِيَّتُهُ مَكْتُوبَةٌ عِنْدَهُ (It is not permissible for any Muslim who has something to will to stay for two nights without having his last will and testament written and kept ready with him.)

The will should be fair, in that one designates a part of the inheritance to his relatives without committing injustice against his qualified inheritors and without extravagance or stinginess. It is recorded in the Sahihayn that Sa`d bin Abu Waqqas said, "O Allah's Messenger! I have some money and only a daughter inherits from me, should I will all my remaining property (to others)" He said, "No." Sa`d said, "Then may I will half of it" He said, "No." Sa`d said, "One-third" He said, "Yes, one-third, yet even one-third is too much. It is better for you to leave your inheritors wealthy than to leave them poor, begging from others." Al-Bukhari mentioned in his Sahih that Ibn `Abbas said, "I recommend that people reduce the proportion of what they bequeath by will to a fourth (of the whole legacy) rather than a third, for Allah's Messenger صلی اللہ علیہ وسلم said: **الثُّلُثُ وَالثُّلُثُ** (One-third, yet even one-third is too much.)"

Tafsir Ibn Kathir

...Scholars disagree about whether it is obligatory for those who leave property to make a will, although they agree that it is mandatory for those who hold deposits and have debts. Most scholars believe that a will is not mandatory for those who have neither of these. That is the position of Malik, ash-Shafi'i and ath-Thawri, whether a person is rich or poor. Another group including az-Zuhri and Abu Mijlaz say that making a will is mandatory, judging by the literal text of the Qur'an, whether a person has a little or a lot of wealth. Abu Thawr said that a will is only mandatory for a man who has a debt or wealth belonging to others and then it is obligatory for him to write a will, saying what he owes. As for someone who has no debts or deposits, it is not mandatory for him to make one unless he wishes to do so...Ibn al-Mundhir said, "This is good because Allah has made it obligatory to return trusts to their owners but it is not mandatory for someone who holds goods on trust to make a will." The people with the first view use what is related from Ibn 'Umar as evidence. He said that the Messenger of Allah صلی اللہ علیہ وسلم said, "It is not right for a Muslim man who owes something which he should specify in a will to spend two nights without making a written will." One variant says three nights. Those who argue the opposite say that, if it was mandatory, it would not have been left to the discretion of the one making the will....

Tafsir Qurtubi

...The majority of scholars believe that it is not permitted for anyone to will away more than a third of his property, except for Abu Hanifa and his followers who said: "If a person does not have any statutory heirs, he is permitted to will away all his wealth." They said that on the basis that limiting the legacy to a third is in order to leave the statutory heirs with sufficient property since the Prophet صلی اللہ علیہ وسلم said, "It is better for you to leave your heirs well provided for than to leave them needy, begging from other people."...

Tafsir Qurtubi

...It is said that the ayats specifying the statutory shares of inheritance are not the only thing which abrogates this ayat and are supplemented by the words of the Prophet ﷺ "Allah has given everyone entitled to a right his right, and so there is no legacy in favour of an heir." (at-Tirmidhl)....

It is related that 'A'isha willed her household utensils to a freed slave of hers. Various scholars hold that bequests to non-relatives should be rescinded and made over to his relatives. Malik, ash-Shafi'i, Abu Hanifa al-Awza'i, and Ahmad ibn Hanbal said that, if someone leaves a bequest to non-relatives and leaves his relatives in need, he has committed a wrong action. If he does that, however, his bequest stands and is carried out. The majority of scholars believe that a very sick person is legally barred from disposing of his property. Sa'd said, "The Messenger of Allah ﷺ visited me during the Farewell Hajj when I was ill and expecting to die and I said, 'Messenger of Allah, my illness has reached what you see. I have wealth but only have one daughter as an heir. Can I give two-thirds of my wealth away as Sadaqa?' 'No,' he said. I said, 'A half?' and he said, 'No.' He then added, 'No, but (give) a third, and a third is a lot. It is better for you to leave your heirs wealthy than to leave them in need, begging from people.'"

...making a will is recommended because if it were obligatory, Allah would have said that it was a duty for all Muslims, not just the godfearing...Anas ibn Malik said, "They used to write at the beginning of their wills, 'This is the will of so-and-so son of so-and-so who testifies that there is no god but Allah alone with no partner and that Muhammad is His slave and Messenger. The Hour is coming. There is no doubt about it and Allah will raise up those in the graves.'" A man would command those who survived him to fear Allah as He should be feared, act correctly towards one another and to obey Allah and His Messenger, and would advise them as Ibrahim and Ya'qub had advised their sons: *يَبْنَئِ إِنَّ اللَّهَ اصْطَفَى لَكُمْ الدِّينَ فَلَا تَمُوتُنَّ إِلَّا وَأَنْتُمْ مُسْلِمُونَ* ُ. "My sons! Allah has chosen this din for you, so do not die except as Muslims." (2:132).

Tafsir Qurtubi

Allah has Himself given everyone, who has a right, his right. So, there is no will for any inheritor. (Tirmidhi ;)...Sayyidna ibn 'Abbas has the following additional words: There is no will for any inheritor unless all inheritors permit. The essence of the hadith is that Allah Almighty has Himself fixed the shares of the inheritors, therefore, the executor need not make a will anymore, in fact, he does not even have the permission to make a will in favour of an heir; however, should other inheritors allow the enforcement of such a will, it will then be permissible...

Mariful Quran

Compilers' notes:

- It is imperative to ensure a valid Islamic 'Will' is in place by those who possess wealth or assets and are living in non-Muslim countries or countries where inheritance may not be distributed in accordance with the Islamic Law of inheritance.

