

## Inheritance in Islam

The issue of inheritance is of fundamental importance. If it is applied correctly all heirs receive their just and legitimate shares resulting in clean-heartedness, happiness and *barkat* (blessings). If it is not applied at all or not correctly, bitterness, hatred, in-fighting and loss of *barkat* prevails for ever.

This branch of Islamic Law is so important that it has been given its own status. Rasulullah sallallahu alaihi wasallam says: "Learn the laws of inheritance and teach it to people, for it is half of knowledge".

The laws of inheritance have probably been referred to as half of knowledge because it has to do with the correct distribution of the wealth of a deceased person and money associated with all forms of worship, directly or indirectly, in fact with our very existence, if this is *halaal*, our food, clothing, shelter, transport, etc will be *halaal* and our *ibaadat* will be in a position to be accepted. If this is not *halaal*, all our *ibaadat*, etc. is rejected by Allah. Therefore, together with it being half of knowledge and being studied as a subject of its own and having its own independent status, it is linked to all *ibaadat* as well.

If one is righteous and keeps his financial matters clean, the *barakah* of his wealth is enjoyed by generations after him. The Quraan relates the event of Khidhar alaihis salaam putting a wall right on the objection of Moosa alaihis salaam that the people of that town did not host them. Khidhar alaihis salaam should not have served them especially without remuneration. Khidhar alaihis salaam explained that the inheritance of some orphans was buried there and had to be protected because their parents were righteous.

### Preparation of the Will

For the proportions set out by the Quraan to be appreciated one must put his financial matters straight. For example there was a person running a little business from which he was maintaining his whole family. He grew old and his eldest son came into the business at a young age. Gradually his brothers also came into the business. The sons worked hard and expanded the business greatly building up an empire. One brother, for example, became a doctor. All his expenses for studies came from the business. Another brother became a lawyer. All his expenses also came from the business. Though the sons who came into the business built the whole empire in respect and honour of the father, they left everything in his name. One of the sons suggested that everyone must be given his share or a proper salary be fixed for everyone. He is told : "It all belongs to you." Why do you want to take a salary? Just carry on taking your allowance. Everything is hushed up. The father keeps on signing all cheques, etc,

allocates money to the brothers for building houses, to buy cars, to go for haj, etc. The sisters eventually get married and settle in wealthy homes. Everything is rosy. The father passes away. Since everything belonged to the father till the time of his death, the daughters get their full shares, as well as the doctor and lawyer, who have not contributed in the building of the empire but have already in fact collected so much on the occasions of their weddings and studies. The sons who built up the empire feel very hurt in that they are receiving a very raw deal. They never collected a salary. They only obtained their requirements from the business and a meagre allowance. They slogged for the business for years and years. The sister, the doctor and lawyer are getting their full share, like those who worked so hard, without working at all.

Respect and honour of the father is compulsory but *hisaab kitaab* (accounts of financial dealings) must be put right. This is the foundation for lasting love and support in the family. The above example illustrates what bitterness and hatred is created by not sorting out things Islamically. We still live with an "Indian" (or any other) mentality and feel that it is a norm of our social structure to live together and share everything - a "communist" type of life and regard it as unity and Islamic. If anyone wants to put things right or even just suggest it, he is regarded as trying to break up the home or unity. The father and the rest of the family become very suspicious of him, they will accuse his in-laws of "putting him up" to take his share so that their daughter can "live it up", etc.

Another example is where a husband and wife work together in a business. Firstly, it is totally wrong and against Islam to expose a woman in this manner. Secondly it is morally against the physical nature of a woman. She is meant to be a queen and enjoy the comforts and security of her home, no matter how humble they may be. She is meant to be a mother, a wife, a housewife - how can this be possible when she is away from her home and children? By exposing her physically and by exposing her feminine nature she loses all her femininity. Thirdly, and this is of relevance to our subject, she is used as a manageress in the business, a sales lady, a supervisor, she has to do the banking, driving, sometimes accounting. Together with all this she must maintain her home spotlessly, cook the best food and be on time with it, she must be the best mother and most responsive wife. Perhaps this is exaggerated a bit, perhaps not. Sometimes all this is expected of her and even more, sometimes less. What does she get for all this? Hardly peanuts! She dare be late with the food one time! Or the salt be less or the food burnt a bit, or the house or children are not clean to the satisfaction of the "boss", or they have been up to mischief and see the man coming down upon her, stopping at no limits abusing her verbally and even physically. This type of attitude gives Islam and Muslims a bad name.

If the husband had to employ people for all these jobs, how much should he have to pay? So why does he not compensate her for what she is doing. A person said there must be team work in building the business. I said then there must be team work in

sharing the profits as well. All the profits are kept by the husband and she gets one-eighth of it on his demise. She gets a raw deal - not by Islam, but by her unfair husband who used her for his material gain and never thought of paying her for her services. He worries of securing her when he is no more and feels that her one-eighth share is too little, but he does not think of remunerating her for her services in his lifetime. After all it is her benevolence and kindness and norms of our society that she cooks for her husband, maintains his house and brings up his children. Are we or the enemies of Islam oppressing our women?

Ownership of household goods "personal belongings" etc, must be specified. A newly married couple usually receive presents of household items. These are then used "commonly" in the the home. Who received what and what belongs to whom is surely forgotten. Eventually in the case of death, the distribution of the estate becomes difficult because it is not known exactly what belongs to the deceased. Maulana Thanwi (RA) used to say that if I brought a teaspoon into the house, I would say clearly to whom it belongs. The household items a wife brings to the husband's home could perhaps be bought over by him at a resonable price and he could pay for it over a period of time. If she wishes she could give them to him of her own free will. This is suggested in order to keep track of what belongs to whom, because eventually it becomes practically impossible to ascertain what belongs to whom. Certain items may still belong specifically to the wife, like a sewing machine, knitting machine etc. which was given to her or she bought, or her husband gave it to her.

Another venture which we must correct, though not directly related to this subject is partnership business between brothers or the larger family. Generally one person controls and only he knows the financial matter of the partnership. There are no annual financial statements given to anyone. Nobody's share is given. If a brother has to leave the partnership or dies, he is not paid out. His family maybe maintained but they never know or receive their true share. If anyone asks for his share or an account of matters he is made to look like the evil one and is discarded in the name of religion! What a topsy turvy world! What a change of Islamic values and lifestyle!

These are just a few examples of things we must correct to appreciate and understand the share set out by the Quran for the heirs. Allah has already made our will. Let us now turn to the actual making of the will. But just before that let us understand that Allah is the sole inheritor of all things in the skies and on the earth because "All things belong solely to Allah". Thus when nothing belongs to us what will are we going to make? We are mere custodians and trustees of an *amanat* (trust) which Allah has put in our care for a little while. We cannot disown one son or daughter and give another more. Allah himself has fixed the shares of the immediate family and heirs. Before the shares of heirs was revealed by Allah, it was compulsory to make a will and stipulate each one's shares.

Aus bin Thaabit (RA) passed away leaving his wife, two daughters and a minor son. According to a previous Arab custom, two male nephews came and took all the possessions of their deceased uncle. The wife of Aus bin Thaabit (RA) said that since you are taking all the property, then at least marry these two girls so that I could be relieved of their maintenance. They refused. In her distress she came to Rasulallah sallallahu alaihi wasallam) and complained. May we give our lives for Allah and the Quraan and His Rasul sallallahu alaihi wasallam. Allah revealed the aayats in the Quraan defining every rightful heir's share. Consequently Rasulallah sallallahu alaihi wasallam called for all the property and divided it between the wife and her children. The wife received one-eighth and in the remainder, the son received double of what each daughter received i.e. the remaining was divided into four parts - the son received two parts and the daughters one part each.

Thus Allah has defined every rightful heir's share. So the will that we have to make is not to define the shares of the inheritors and who they will be, that is already done by Allah.

Let us first look at the importance and virtues of making a will and warnings of not making one.

## Importance of Making a Will

"It is not right for a Muslim that two nights, and in one narration, three nights pass on him, but that his will be written, if he has something to make a will for."

His rightful heirs and their proportions have been fixed already by Allah. The financial rights of others which he is holding or his financial rights which others are holding must be recorded. His debtors and creditors must be listed clearly and even what he owes to Allah. This hadith also teaches us that we must make our will and update it regularly. Whenever any changes come about in our matters, we must note it.

## The Virtues of Making a Will

"He who dies on his *wasiyat* (having made a will) dies on a (clear) path (i.e a clear path, leaving no disputes or unresolved issues for his family and making the distribution of the estate easy), he dies on *sunnat*, on the fear of Allah, martyrdom and he dies forgiven.

Subhanallah! What great virtues for making and keeping one's will ready. Five great boons are promised:

1. He dies on a clear path, how nice to depart, leaving no disputes behind.
2. On sunnat - could there be something greater to ask for.
3. He dies on *taqwa* - On *taqwa* Allah promises a way out from every difficulty. What greater difficulty can there be than death. By having one's will ready, one is promised freedom from this difficulty.
4. And on *Shahaadat* - Rasulullah (Sallahu alaihi Wasallam) constantly desired to return to the dunia to become a shaheed (martyr) again and again. Sayyedina Umar (RA) made dua for shahaadat. By having made a will, a person acquires this great stage. Or "on shahaadat" means dying having given evidence of all his financial matters.
5. And he dies forgiven - To die free of sin ensures direct entry into jannat.

### Warning for Not Having Made a Will

"A person denied of reward (i.e. that great reward as mentioned in the previous hadith) is he who has been denied (the *toufieq*) of making his will".

### Punishment for Not Having Made a Will

"Not making a will is a fault in the world. If a person did not clarify all his matters in his will, people will curse him and find fault in him that he did not write down that he was owing us, or that he was holding our *amaanat*, etc. In the hereafter he will be in the fire and disgrace for not having revealed and or clarified all his financial matters and thereby causing harm to the rights of the people.

Allaamah Damierie rahmatullah alaihi says that I saw in the writing of Ibn Salah rahmatullah alaihi that a person who dies without making a *wasiyat* (will), is not spoken to during the life of the *qabr* (*barzakh*) while the people of the graves go about meeting each other. One of them asks: "What is the matter with him?" (He is alone, nobody is speaking to him). It is said that he died without making a will.

Having understood the importance of preparing a will, its virtues and warnings and punishments of not making one, let us now understand the purpose of making a will.

### The Purpose of Making a Will

In Islam a will is not made to give whom one wants how much, or not to give one or to give less to whom one wants to. It is narrated in a hadith:

"Allah has given every rightful person his right, so there is no wasiyat for him."

All those who are going to inherit, and how much, is defined by Allah. This is an intricate subject on its own known as "Ilmul Faraaidh" and experts in this field will inform one of the details as and when required.

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