

Tafseer Al-Baqarah (2: 180-182)

From the Book, Introduction to the Tafseer of the Quran,

by the Ameer of Hizb ut Tahrir, the eminent jurist and statesman, Ata Bin Khalil Abu Al-Rashtah:

﴿كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنْ تَرَكَ خَيْرًا الْوَصِيَّةَ لِلْوَالِدَيْنِ وَالْأَقْرَبِينَ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ * فَمَنْ بَدَّلَهُ بَعْدَمَا سَمِعَهُ فَإِنَّمَا إِثْمُهُ عَلَى الَّذِينَ يُبَدِّلُونَهُ إِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ * فَمَنْ خَافَ مِنْ مَوْصٍ جَنَفًا أَوْ إِثْمًا فَأَصْلَحَ بَيْنَهُمْ فَلَا إِثْمَ عَلَيْهِ إِنَّ اللَّهَ غَفُورٌ رَحِيمٌ﴾ [البقرة: 180-182]

“Prescribed for you when death approaches [any] one of you, if he leaves abundant wealth, is that he should make a *Wasiyah* (وصية Bequest) for the parents and near relatives according to *Bil Maroof* (بالمعروف What is Acceptable) - a duty upon the righteous. (180) Then whoever alters the bequest after he has heard it - the sin is only upon those who have altered it. Indeed, Allah is Hearing and Knowing. (181) But if one fears from the bequeather [some] error or sin and corrects that which is between them, there is no sin upon him. Indeed, Allah is Forgiving and Merciful. (182)” [Surah al-Baqarah 180-182]

Allah (swt) clarifies the following in these two verses, the following:

1. It was prescribed in the beginning of Islam that the one who is visited by death to make a Waseeyah (وصية Bequest/Will) for the parents and relatives, if he leaves “good” i.e. abundant wealth. The word ﴿خَيْرًا﴾ “good” is a description with the meaning of abundance. It is not said regarding wealth, ﴿خَيْرًا﴾ “good” except if it is in abundance. This is similar to when it is said, such and such “has money”, which is only said if he has abundant wealth.

And the discipline behind this stipulation for abundance is that after the Bequest there must be enough to meet the customary needs of the family of the dead. Therefore the determination of Kathara (كثرة Abundance) needs Tahqeeq Manaat (تحقيق مناط Evaluation of the Situation).

A number of Companions ra affirmed so. Ali (ra) entered upon his freedman as he was approaching death and he had six or seven hundred dirham and he asked, "Should I not make a Bequest" Ali (ra) said, "No, for indeed Allah swt said, ﴿إِنْ تَرَكَ خَيْرًا﴾ “If you leave in abundance” You do not have much wealth, so leave your wealth to your heirs. And Aisha (ra) said that a man said to her. "I want to make a Bequest." She (ra) said, "How much is your wealth?" He said, "Three thousand." She (ra) said, "How many children do you have?" He said: "Four." She (ra) said, “Allah (swt) said, ﴿إِنْ تَرَكَ خَيْرًا﴾ “If you leave in abundance.” This is such an amount that if you leave it to your inheritors, it is better.”

Therefore, the abundance is not determined as a specific amount, but varies, depending on the situation of the individual.

2. The verse confirms that Allah (swt) Requests that those who approach death make a Waseeyah (وصية Bequest/Will) with the Dalalah (دلالة Evidencing) ﴿كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنْ﴾ “Prescribed for you when death approaches [any] one of you, if he leaves abundant wealth, is that he should make a *Wasiyah* (وصية Bequest).” So it is the Khabar (خبر News) of the writing of a Bequest upon you, but it is a Khabar in the meaning of the Talab (طلب Request) according to the linguistic styles of the Arabs in their speech i.e. “Let the one whom death approaches make a Bequest.”

However, this Request is a Talab Jaazim (طلب جازم Decisive Request) because of the Qareenah (قرينة Contextualization), ﴿حَقًّا عَلَى الْمُتَّقِينَ﴾ “a duty upon the righteous” [Surah Al-Baqarah 2: 180]. This characterizes an indication that declares Al-Jazm (الجزم Decisiveness, Jussive Case) in the manner of His Saying, ﴿وَالْمُطَلَّاتِ مَتَاعًا بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ﴾ “**And for divorced women is a Mataa’a (متاع Provision) according to what is acceptable - a duty upon the righteous.**” [Surah al-Baqarah 2:241] It is this which makes evident the Obligation of Mataa’a (متاع Provision) for the divorced women, before Dakhool (دخل Intromission/Consummation), for those who did not have assigned for them a specified Mahr (مهر Dowry). So, consequently, the Bequest is Obligated in the manner made evident. And Allah (swt) has mentioned, ﴿بِالْمَعْرُوفِ﴾ “according to what is acceptable” i.e. with justice, kindness and beneficence.

3. The Nasakh (نسخ Abrogation) of the Obligation of Bequest contained in this verse, is by the Verses of Muwaareeth (مواريث Inheritance). These were revealed after it, in accordance to the words of Allah (swt) ﴿يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ﴾ “**Allah instructs you concerning your children.**” [Surah an-Nisa’a 4:11]. Then Allah (swt) made evident the details.

So, initially the Waseeyah (وصية Bequest/Will) had been Obligated for the both the heirs and the relatives, the man making Bequest when death approached. Then Allah (swt) abrogated the Bequest and lifted that Ruling. He (swt) established instead the Obligation of Inheritance and the Recommendation of Bequest to other than the inheritors and that is in the Ayah of inheritance. Allah (swt) said, ﴿يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ فَإِنْ كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ وَإِنْ كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُ وَلَدٌ فَإِنْ لَمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَهُ آبَاؤُهُ فَلِلَّذَّكَرِ ثُلُثُ الْوَارِثَةِ وَلِلنِّسَاءِ السُّدُسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُنَّ وَلَدٌ فَإِنْ لَمْ يَكُنْ لَهُنَّ وَلَدٌ فَللرَّبِّيعِ مِمَّا تَرَكَنَّ مِنْ بَعْدِ وَصِيَّةٍ يُوصِيَنَّ بِهَا أَوْ دَيْنٍ وَلِلنِّسَاءِ الرُّبْعُ مِمَّا تَرَكَنَّ مِنْ بَعْدِ وَصِيَّةٍ يُوصِيَنَّ بِهَا أَوْ دَيْنٍ وَإِنْ كَانَ رَجُلٌ يُورِثُ كَلَالَةً أَوْ امْرَأَةٌ وَلَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ مِنْ بَعْدِ وَصِيَّةٍ يُوصَى بِهَا أَوْ دَيْنٍ غَيْرِ مُضَارٍّ وَصِيَّةً مِنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَلِيمٌ﴾ **Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are [only] daughters, two or more, for them is two thirds of one's estate. And if there is only one, for her is half. And for one's parents, to each one of them is a sixth of his estate if he left children. But if he had no children and the parents [alone] inherit from him, then for his mother is one third. And if he had brothers [or sisters], for his mother is a sixth, after any bequest he [may have] made or debt. Your parents or your children - you know not which of them are nearest to you in benefit. [These shares are] an obligation [imposed] by Allah. Indeed, Allah is ever Knowing and Wise. * And for you is half of what your wives leave if they have no child. But if they have a child, for you is one fourth of what they leave, after any bequest they [may have] made or debt. And for the wives is one fourth if you leave no child. But if you leave a child, then for them is an eighth of what you leave, after any bequest you [may have] made or debt. And if a man or woman leaves neither ascendants nor descendants but has a brother or a sister, then for each one of them is a sixth. But if they are more than two, they share a third, after any bequest which was made or debt, as long as there is no detriment [caused]. [This is] an ordinance from Allah, and Allah is Knowing and Forbearing.” [An-Nisa’a 4:11-12] So Allah (swt) had Obligated the Bequest and made its division for the Muslims to bequest as they wanted to the heirs and relatives And then He (swt) lifted it from them and then restricted its division to the heirs and made the Bequest Mandub (مندوب Recommended) for other than the heirs.**

As for why Inheritance was Obligated, Allah (swt) specified its division. So He (swt) clarified through the verses of inheritance regarding the assignment of Obligations to the heirs, because the end of the verse is ﴿فَرِيضَةٌ مِنَ اللَّهِ﴾ “**an obligation [imposed] by Allah**” [Surah An-Nisa’a 4:11]. As for leaving the Bequest for other than the heirs, it is Recommended because Allah (swt) has mentioned the Bequest entrusted to them in the

verses of inheritance, ﴿وَصِيَّةٌ يُوصَىٰ بِهَا أَوْ دَيْنٍ﴾ “after any bequest which was made or debt” [Surah An-Nisa’a 4:12].

The Bequest/Will here is Mutlaq (مطلق Absolute), however, the Sunnah Restricted it to non-heirs, «إِنَّ اللَّهَ قَدْ قَسَمَ لِكُلِّ إِنْسَانٍ نَّصِيبَهُ فِي الْمِيرَاثِ فَلَا تَجُوزُ لَوَارِثٍ وَصِيَّةٌ» “Allah has divided each person's share in inheritance, so it is not permissible to inherit the Bequest.” [At-Tirmidhi 2046, An-Nisaa’i 3581, Abu Daud 2486, Ibn Majah 273]

This is in terms of Restricting the Bequest in the verse to non-heirs, but it is Mandub (مندوب Recommended) because the meaning is of Qurbah (قربة Drawing Closeness (to Allah)) without a Qareenah (قرينة Contextualization) that Specifies the Talab Jaazim (طلب جازم Decisive Request) and so it is Mandub.

4. Allah swt made clear that those who alter the Bequest, whether those who record or those who witness or those whom were not bequeathed within it, incur great Sin because the hidden is not hidden from Him, for He is all Hearing. When the Bequeather makes a Bequest, He (swt) has all Knowledge of every alteration that is made secretly or openly. It will be accounted against them and they will be punished accordingly.

5. Allah (swt) said, ﴿فَمَنْ خَافَ مِنْ مَوْصٍ جَنَفًا أَوْ إِثْمًا فَأَصْلَحَ بَيْنَهُمْ فَلَا إِثْمَ عَلَيْهِ إِنَّ اللَّهَ عَفُورٌ رَحِيمٌ﴾ “But if one fears from the Bequeather [some] error or sin and corrects that which is between them, there is no sin upon him. Indeed, Allah is Forgiving and Merciful.” [Surah Al-Baqarah 2:182].

﴿فَمَنْ خَافَ﴾ “But if one fears” i.e. it is expectation and knowledge, from the saying, أخاف أن “I fear that sky will rain” i.e. I expect the sky to rain.

In this verse, Allah (swt) clarifies regarding if someone knew or expected that the Bequeather would deviate in his Bequest/Will, which would lead to discord between the Bequeather and them, the parents and relatives. This is whether the deviation is an unintentional mistake, جَنَفًا “error,” such as if he were moved by pity towards one of his weak children and so he would increase that child’s Bequest from his brothers, thinking that this would remedy the situation of the weak one. So this deviation in the Bequest has occurred in error i.e. with good intention, which is misplaced. In contrast the deliberate deviation is a sinful act, such as when the Bequeather is annoyed by one of his children or relatives. So he does not bequeath anything to them, due to an issue within himself towards them.

It is expected that this deviation in the Bequest by the Bequeathers to their heirs results in intervention for Islaah (إصلاح Reform). This intervention is so that the Bequeather does not fall in sin through his Bequest and does not cause a split within the family of the Bequeather. This intervention and the attempt of Islaah (إصلاح Reform) is not a sin. It does not enter into the realm of changing the Bequest of the Bequeather because the change here is through the method of Islaah (إصلاح Reform) between the Bequeathers and their heirs. So such intervention brings about harmony between them, through the amendment of the Bequest, with the consent of the Bequeathers and their heirs.

This intervention is not like the change in the previous verse for that is the change by Tazweer (تزوير Fraudulent Falsification) of the Bequest/Will. It is without the knowledge of the Bequeathers and their heirs and so Sin has occurred. As for what has been mentioned in this Ayah, it is the Reform and amendment of the Bequest with the consent of the Bequeathers and their heirs, in the situation of knowledge or expectation of deviation in the Bequest. So in this situation, there is no sin in this attempt to Reform through amendment the Bequest. Allah (swt) is Forgiving of the deviation of the Bequeather in his Bequest/ Will before its amendment, as long as there has been Reform and amendment. And similarly, Allah (swt) is Merciful of the Bequeathers and their heirs and the one who intervened for Reform between them. This is because they have done good to accept Reform and amend the Bequest/ Will in accordance with the Legal rulings. And the mercy of Allah is near to the doers of good.