

Chapter – 25

Wills

(وصيت)

Quran:

كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنْ تَرَكَ خَيْرًا الْوَصِيَّةَ لِلْوَالِدَيْنِ وَالْأَقْرَبِينَ بِالْمَعْرُوفِ
حَقًّا عَلَى الْمُتَّقِينَ

{It is bound for you that when death approaches one of you, and he leaves behind wealth, he must will it to parents and near relatives in accordance with tradition; this is a duty upon the pious. (02:180)}

فَمَنْ بَدَّلَهُ بَعْدَ مَا سَمِعَهُ فَإِنَّمَا إِثْمُهُ عَلَى الَّذِينَ يُبَدِّلُونَهُ إِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ

{So whoever changes the will after he has heard it, its sin is only upon those who change it; indeed Allah is the All-Hearing, the All-knowing. (02:181)}

Hadith:

Narrated Abdullah bin Umar:

Allah's Prophet said, "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." (Sahih Bukhari: 2555)

Narrated Talha bin Musarrif:

I asked 'Abdullah bin Abu Aufa "Did the Prophet make a will?" He replied, "No," I asked him, "How is it then that the making of a will has been ordered on people?" He replied, "The Prophet gave his will to follow Allah's Book, i.e. Quran." (Sahih Bukhari: 2557)

Narrated Abu Hurairah:

A man asked the Prophet, "O Allah's Prophet! What kind of charity is the best?" He replied. "To give in charity when you are healthy and greedy hoping to be wealthy and afraid of becoming poor. Don't delay giving in charity till the time when you are on the death bed when you say, 'Give so much to so-and-so and so much to so-and so,' --- because at that time the property is not yours but it belongs to the inheritors." (Sahih Bukhari: 2565)

Important Aspects of Islamic Doctrine

Obligatory (فرض) / Essential (واجب):

(1) If a man is rich and has money and properties, then for him writing of a will is essential. This is an order from Allah SWT and His Messenger.

Sunnah (سنة):

(1) Allah's Prophet said, "Not even a single Dinar of my property should be distributed, but whatever I leave excluding the provision for my wives and my servants, should be spent in charity." (refer Sahih Bukhari: 6298). Therefore writing will is Sunnah as well.

Miscellaneous (متفرق)

(1) The literary meanings of وصية (or Testament) is said to all those advices, counsels, and recommendations which are given or ordered by somebody to execute, whether in his life or after death. But, commonly it is taken as a 'will' to be executed after death.

(2) Will can be conveyed verbally and may be given in writing as well. For legal matters or for properties, will is given in writing. However, while preparing will, it is essential to take all the principles in consideration which are given by Quran and Hadith.

(3) Execution of some wills fall into the category of "Essential" (واجب), like payments of Zakat, imposed punishments for regretting or for mistakes, and payments of debts & fidelity.

(4) Execution of some wills fall into the category of "Desirable" (مستحب), like giving instructions to give charity or give some share from the inheritance to any far relative.

(5) Execution of some wills fall into the category of "Permissible" (مباح), like giving instructions for doing permissible good works.

(6) Some wills are called "Hold up" (موقوف). Its execution is conditional, like writing for more than one third share in inheritance, which is against Quranic orders.

(7) Moreover, some wills are such that its execution should not take place, like writing inheritance for atheist or disbeliever. Such wills should be treated as banned.

