

إِنَّ الدِّينَ عِنْدَ اللَّهِ الْإِسْلَامُ



لَا إِلَهَ إِلَّا اللَّهُ مُحَمَّدٌ رَّسُولُ اللَّهِ

Friday Sermon

HADHRAT MUHYI-UD-DIN AL-KHALIFATULLAH

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After greeting all his disciples (and all Muslims) worldwide with the greeting of peace Hadhrat Khalifatullah (atba) read the Tashahhud, Ta'uz, Surah Al Fatiha, and then he delivered his sermon on: "Inheritance Succession".

According to Quran and Hadith, according to *Shariah*, it is incumbent on a Muslim to distribute his wealth among his heirs. It is thus his duty to make all necessary procedures so that after his demise, his wealth is distributed as per the commandments of Allah and His Messenger (pbuh).

The share (fraction/ percentage) that a wife or a husband or a mother or a sister receive is obligatory (*Farz*) just like *Salaat/ Namaz, Sawm/ Roza, Zakaat* are *Farz*. The proportion that we have to distribute in inheritance comes essentially from the Quran. The Holy Prophet Muhammad (pbuh) has said: "*Learn the laws of inheritance and teach them to others as they are half of knowledge...*" (Mustadrak Al Saheehain).

Upon the demise of a person, a part of his wealth shall be used to finance his funeral – to bathe his dead body, his shroud (*Kafn*) and burial. And there should be no futile expenses or waste in these undertakings. Today unfortunately, Muslims hold great feasts in connection with the funeral of someone, on the 3rd, 10th and 40th day after burial. This practice is not *Sunnah* (i.e. it was not the

practice of the Holy Prophet Muhammad (pbuh)) and thus not right. These kinds of expenses (i.e. holding such great feasts) weigh heavy on the shoulders of the bereaved family, who is already saddened by the loss of one of its members. What is mentioned in Hadith is the help and consolation from the near relatives as well as the neighbours who come forward to give some food to the bereaved family. We should not burden those who are already grieved by a person's death. We should on the contrary help them. And if we are not going to the bereaved family's home to help them, then it is preferable not to go there. If you need to go there, then it should be a visit of sympathy and you should invoke Allah and pray (*dua*) for that family and the dead person. You should moreover not stay there for long, and not trouble the bereaved family and complicate the situation in such a way that they see that they have to serve you something – food and drink – because of your long stay at their place.

After the funeral expenses – the shroud (*Kafn*) and other expenses in connection with the burial of the dead person – if the dead had left some debts, then part of his wealth should be used to reimburse all those debts first and foremost. If his debts are way beyond what he possesses of wealth (money, jewelleries, properties etc.), then all his wealth should be used to pay back his debts, and in this case the heirs shall get nothing of this wealth.

THE IMPORTANCE OF WASSIYAT

If some wealth has remained after paying back all the deceased person's debts, and if he had the intention to give other specific people (of his choice) or his Jamaat/ Mosque/ Islam a share of his inheritance, therefore he should have prepared beforehand a Will/ Testament (*Wassiyat*). And in the context that a person wants to give something in the path of Allah, then this word, the *Wassiyat* retains all its importance. And thus a maximum of 1/3 (one-third) of his wealth (after clearing all his debts) shall be applied for this *Wassiyat*. Therefore, what is *Wassiyat* in this context?

Wasiyyat is a written or verbal will that a person writes down or speaks of, to bequeath a share of his wealth in the path of Allah (e.g. a Jamaat who shall use this wealth only for the cause of Allah, such as, if the person has a house or building, this shall come in the possession of the Jamaat and this can be used as a place of worship (*Ibaadat Khana*), or a *Dawa* centre or even an Islamic school etc.).

That declaration, i.e. the *Wassiyat* is only valid when the person is in good health and has full conscience of what he is doing. I need to precise here that this *Wassiyat* shall not come completely in the possession of the Jamaat (and/or Mosque, an Islamic institution etc.) if the one preparing his Will (or the now deceased person) has an heir or heirs. Only 1/3 shall be applied to the *Wassiyat* for the specified person or Islamic institution/ community and the rest shall be shared among the heirs.

Now, if the deceased person does not have children and he has debts and has made a Will, then first of all, all his debts should be cleared/ reimbursed and then afterwards 1/3 (of his wealth) shall go Masjid/ Jamaat/ Islam (as per his Will). A person also can also prepare a Will (*Wassiyat*) to bequeath his wealth to a person of his choice. And this shall be valid only after clearing all his debts (after his death) and only 1/3 of all his wealth shall be applied for that specific person. **If he does not have any debt and child (and heir*), then all his wealth shall be distributed as per his Will and therefore his wealth as a whole shall go to the specified persons and/ or Jamaat/ Islamic institutions he has mentioned in his Will.** But this *Wassiyat* shall be valid only when he is in good health and has all his mental capacities; he should be clearly conscious of what he is doing. If he is near death and is suffering from such illness which bars his mental abilities to take decisions; he is not in possession of his full conscience, the *Wassiyat* shall not be valid.

Therefore, inheritance is a very delicate subject-matter and we should know how to deal with it properly. It must NOT be that a person contracts debts everywhere and he has heirs and he says: '*I make a will to give my wealth to Jamaat.*' But then, how about his debts (who shall pay his debts)? And what shall become of his children; children he has produced?

When facing such cases, the responsible of the Jamaat should study each case carefully before accepting such wealth. It should not be that a person has debts everywhere and he does not pay back the people with whom he took money, and on top of that he neglects his heirs and gives all his wealth to the Mosque or Jamaat. He thinks that if he does so, he shall be spared from the punishment of Allah on the Day he shall present before Him. But this is not done! Allah (swt) shall not accept such *Wassiyat* when he has made the hearts of people suffer concerning the money he owed them and he broke the hearts of his heirs (direct heirs – biological children). He should beware and be mindful of the laws of

inheritance as commanded by Allah (swt) in the Holy Quran, wherein Allah has explained on his subject in great detail. The Holy Prophet (pbuh) has recommended for those people who have too many heirs (children) to not even contemplate giving others (e.g. Jamaat etc.) by way of *Wassiyat*. Hazrat Muhammad (pbuh) has stated for those people who have many heirs that “*the 1/3 (i.e. reserved for Wassiyat)... is (in a manner of speaking) way too much.*” (Bukhari).

I have seen that in Mauritius that there lots of *Waqf* which rich families bequeath (in the way of Allah) and which remains unused, neglected and this very often create discord in the family (of the deceased person). My advice to the Muslims is that instead of giving lands as *Waqf* (in the way of Allah), it would be best if during the lifetime of the person, he constructs a building from which rent can be derived which shall benefit the Islamic institutions.

Therefore, (1) after having paid for the *Kafn* (and all funeral expenses) of the deceased person, and (2) clearing all his debts, and (3) applying his *Wassiyat* (if any), (4) that which remains is distributed among his heirs.

TYPES OF HEIRS

There are two types of heirs :

1. Heirs whose shares are fixed by the Quran; those are called the ***Faraa'iz***.
2. The heirs who take the rest of the wealth after the *Faraa'iz* have taken their shares. Those kinds of heirs are called *Asabah*. The direct *Asabah* are the males in the family line of the deceased person ; no female share in it.

The distribution of wealth among the heirs start with giving the fixed parts to the *Faraa'iz*, and afterwards the rest shall go to the *Asabah*. If there is no *Faraa'iz*, it is the *Asabah* who takes all (the now available) wealth. If there is no *Asabah* and only the *Faraa'iz*, therefore the wealth shall go for the *Faraa'iz* as per the shares allocated to them.

If there is no *Faraa'iz*, and *Asabah*, then it is the *Zawil Arhaam* who shall have a share of the wealth. The *Zawil Arhaam* are the near relatives of the deceased person who neither form part of the *Faraa'iz*, nor *Asabah*. E.g. Maternal uncle (*Mamu*).

***If there is no *Faraa'iz*, *Asabah*, and *Zawil Arhaam* (i.e. his heirs), if there is none of the people mentioned, then if the person makes a Will/ Testament to distribute ALL his wealth for Jamaat or *Masjid* , it is then that his *Wassiyat* shall be applied for ALL his wealth.**

If he had not prepared any *Wassiyat* on a part of his wealth and if there is no heir as I have mentioned (i.e. the *Faraa'iz*, *Asabah* & *Zawil Arham*), then all his wealth shall go in the possession of the **Bait-ul-Maal** [By *Bait-ul-Maal*, it is understood for the Jamaat or if the person is found in an Islamic country (based on *Taqwa*), it refers also to the Islamic Government in place – and not a non-Islamic Government for the Muslim's Will should be regulated as per the Quran and *Sunnah*] or an Islamic institution which shall spend this wealth for the progress of Islam, the religion which has been perfected by Allah (swt).

SHARING OF THE INHERITANCE

Let us now see the shares which have been fixed by the Quran - *Faraa'iz* :

1. Father :

- (a) The father of the deceased person receives 1/6 (one-sixth) when there is the presence of the son or the son's son (i.e. the male grandchild of the deceased person), or the presence of the great-grandson of the deceased (the son of his son's son).
- (b) The father shall receive 1/6 and shall moreover become *Asabah* in the presence of the daughter (of the deceased) or the daughter of his son or even the great-grand-daughter through the loins of his son).
- (c) The father becomes *Asabah* when there is no child (of the deceased) and no grandchild through the loins of his son.

2. Paternal Grandfather (*The Father of his father*) : The paternal Grandfather shall receive part of the inheritance if the father of the deceased had already died at the time of his own death. In that case, the Paternal Grandfather shall receive the same share - like in the three situations which I have elaborated in 1. (a), (b) & (c) - as that of the father. Therefore, if the father is alive, then the paternal Grandfather does not receive anything.

3. Uterine Half Brothers & sisters sharing one same mother (i.e. brothers and sisters having one same mother but different fathers).

- (a) When there is only one such brother or one such sister, they receive $\frac{1}{6}$. When there are two of them or more, then they all share in $\frac{1}{3}$, but it must be noted down that such half-brothers and sisters have equal shares in the $\frac{1}{3}$ part of the inheritance.
- (b) Uterine half-brothers and sisters shall receive nothing in the presence of the child or grandchild of the deceased through the loins of his son.
- (c) Uterine half-brothers and sisters shall receive nothing in the presence of the father or paternal Grandfather of the deceased.

4. Husband :

- (a) The husband shall inherit $\frac{1}{2}$ of the wealth of his wife when there is no child (son or daughter with the deceased wife) or the grandchild (her son's son) or great-grandchild of the deceased (the son of her son's son).
- (b) The husband shall inherit $\frac{1}{4}$ when there is a child (boy or girl) or the grandchild (her son's son) or great-grandchild of the deceased (the son of her son's son).

5. Wife/ Wives :

- (a) When there is a wife or several wives and there is no child or grandchild or great-grandchild (the children of the deceased's son), they (i.e. the wives) receive $\frac{1}{4}$ of the wealth.
- (b) In the presence of his children or grandchildren or great-grandchildren, the wife or wives receive $\frac{1}{8}$.

6. Full Daughter (from same father and mother) :

- (a) A unique daughter shall receive $\frac{1}{2}$ (half) of the wealth.
- (b) When there are two or more daughters, they all receive $\frac{2}{3}$ (they all share in $\frac{2}{3}$).
- (c) If there is a son along with the daughter, therefore the son shall make the daughter become *Asabah*, and the daughter shall receive $\frac{1}{2}$ the share of the son, i.e. the son gets twice the share of a daughter (2:1).

7. Daughter's Son (Grandchild):

- (a) He receives $\frac{1}{2}$ of the wealth when he is alone.
- (b) He gets $\frac{2}{3}$ when there are two or more of them in the absence of a full daughter (of the deceased).
- (c) They receive $\frac{1}{6}$ as shares when there is only one full daughter. In that case, the grandchild and full daughter shall complete $\frac{2}{3}$ of the wealth.
- (d) They do not inherit anything if there are two full daughters or more, unless there are males in their generation or further down in the family line, and thus the male shall make them (i.e. the females) become *Asabah*. And, the females shall receive $\frac{1}{2}$ of the shares of the males (2:1).

(e) If there is a son (the deceased's son), therefore grandchildren shall not receive anything.

8. Full sister (from one same mother and father) :

(a) When there is only one sister (in absence of all other direct heirs), she shall receive $\frac{1}{2}$ of the wealth.

(b) When there are two or more, they shall receive $\frac{2}{3}$ of the wealth.

(c) When there is a brother or brothers along with the sisters, therefore he/ they shall make them become *Asabah* and the sisters shall receive $\frac{1}{2}$ of the shares of the brothers (2:1).

(d) When there is a daughter or the daughter's son (grandchild of the deceased), therefore they shall become *Asabah* along with them.

(e) Full sisters shall receive nothing in the presence of the deceased's son's son or grandson's son (grandsons or great-grandsons from the loins of his son).

9. Paternal Half-sisters (Agnate/ Consanguine Female Sibling) – same father but different mothers:

(a) She receives $\frac{1}{2}$ of the wealth when she is alone (no other heir).

(b) When there are two or more of them, they shall receive $\frac{2}{3}$ in the absence of a Full Sister.

(c) She receives $\frac{1}{6}$ when there is only one full sister to complete the $\frac{2}{3}$.

(d) They usually do not inherit anything when there are two full sisters unless there is a Consanguine/ Agnate brother along with them, and therefore they shall become *Asabah* and the sisters shall receive $\frac{1}{2}$ the shares of the brothers (2:1).

(e) They become *Asabah* if there are daughters or grandsons (daughter's sons) like I mentioned in 8. (d).

(f) Full siblings or Agnate/ Paternal Half-siblings shall receive nothing in the presence of son/s, grandsons (sons' sons), great-grandsons (the sons of his sons' sons), the father (of the deceased) and paternal grandfather (father's father).

(g) Agnate siblings shall receive nothing when there is a full brother and, full sister who then becomes *Asabah*.

10. Mother:

(a) The Mother shall receive $\frac{1}{6}$ when there are children (boy or girl) or grandchildren (of any gender/ bloodline – from either his sons or daughters), or when there are 2 brothers or 2 sisters.

(b) She shall receive $\frac{1}{3}$ of the wealth in the absence of those people whom I just mentioned.

(c) She shall get $\frac{1}{3}$ from the remaining wealth after distribution of the wealth to the deceased's husband (if the deceased is a woman) or the deceased's wife (if the deceased is a man), and this shall be possible if there is father and mother along with the husband, or father and mother along with the wife. And if the deceased has no father (he already died), but there is his paternal grandfather who is alive, therefore the mother of the deceased shall receive $\frac{1}{3}$ of the entire wealth (*It is unfortunate that nowadays in matters concerning the distribution of inheritance, the shares of the mother and father are not taking into consideration*).

11. Paternal Grandmother (The mother of his father) and Maternal Grandmother (the mother of his mother):

(a) Both types of grandmothers in one same generation shall receive $\frac{1}{6}$ of the wealth.

(b) They shall not receive anything if the mother is alive.

(c) The paternal Grandmother shall get nothing if the father is alive or if the Paternal grandfather (i.e. her own husband) is alive. But she (paternal grandmother) as well as her mother (paternal grandmother's mother) or her grandmother (paternal grandmother's grandmother) can inherit even when the paternal grandfather is alive (and shall not inherit if the deceased's father is alive).

Note : Close/ direct family relations restrict distanced relatives from inheriting. The close ones have precedence over those who come after in the family bloodline.

IF INHERITANCE HAD NOT BEEN DISTRIBUTED ACCORDING TO THE SHARIAH IN THE PAST

If our grandparents had not distributed their inheritance according to the *Shariah* in the past, then it is our duty to correct that and redistribute it according to *Shariah*. If those past errors are not corrected, then we shall be accountable for this before Allah (swt) and it may be that we are unfortunately consuming wealth which are not ours. E.g. Had daughters (i.e. our mothers) received the same share as their brothers in the past, therefore, this should be corrected, for then those daughters would be living on such wealth which are partly not theirs and thus, they are partly consuming what is *Haram* (illicit).

If the mother was alive at the time of her son's death but she did not receive the share of her inheritance, therefore, her share should be restored to her before the Day of Judgement comes when she will claim her right/ share.

THE WIFE'S CHILDREN FROM A PREVIOUS MARRIAGE

If a woman had children with another husband, and after divorce, *Talaq*, she contracts *Nikah* with another man, then the children of this woman from her previous marriage are not eligible to receive anything from the inheritance of their mother's new husband.

INHERITANCE OF A LEGITIMATE CHILD

According to *Shariah*, a child born in the *Nikah* of his parents is a legitimate child and thus he shall inherit from his mother and father. *Shariah* acknowledges the legitimate pregnancy of a woman whose biological child is born between 6 months and two years.

Explanation : If a child is born five months after the date of the *Nikah* or more than two years after the death of the father (its mother's husband), then the child shall not be legitimate for the father and thus shall not inherit from him.

[But Allah knows best.] It may be that Allah manifests exceptions and extraordinary miracles.

There is an anecdote of the legal judgement which was passed in the time of the caliphate of Hazrat Umar ibn Al-Khattab (ra) whereby a woman was brought for judgement because she had given birth to a child after six months. Hazrat Umar (ra) ordained to have her stoned [thinking that the woman must have committed adultery]. Therefore, the woman was taken away to receive her punishment. In the meantime, that case reached the ears of Hazrat Ali ibn Abu Talib (ra) and thus he came forward to meet Hazrat Umar (ra) and told him: "*She does not deserve that. Allah, the Blessed, the Exalted, says in His Book, **“Their carrying and weaning is thirty months,”** (Al-Ahqaf 46: 16) and he said, **“Mothers suckle their children for two full years for whoever wishes to complete the suckling.”** (Al-Baqara 2: 234). Pregnancy can then be six months, so she does not deserve to be stoned.”* (Muwatta Imam Malik). – When he heard this, Hazrat Umar (ra) acknowledged that he had made a wrong judgement.

Therefore, through this anecdote and the deduction and knowledge of Hazrat Ali ibn Abu Talib (ra) and the Quranic verses backing all this, it is clear that the minimum length of pregnancy is 6 months.

There are other opinions like those of Hazrat Aisha (2 years), among others, and the opinions of the four Imams: According to Imam Abu Hanifa of Kufa (2 years), Imam Malik bin Anas of Madina (4-5 years), Imam Muhammad Al-Shafi of Madina (4 years) and Imam Ahmad ibn Hanbal of Bagdad (4 years) along with their school of thoughts in Islam which shows that the pregnancy of a woman can vary from **six months** – the minimum length of pregnancy like indicated in the Quran (Al-Baqara 2 : 234, Luqman 31 : 14 & Al-Ahqaf 46 : 16) – and **2 to 6 years** (as the limit of a pregnancy for legal reasons). In other words, 6 months to 6 years, like Allah created the heavens and earth and the creation of man in six days, as per the days of Allah (the way Allah counts days). Besides, we see that Allah has mentioned in the Quran : *“Allah knows what every female bears; and what the wombs fall short of (in gestation), and what they may add (or exceed more than the ordinary). With Him everything is in a fixed measure.”* (Ar-Raad 13 : 9).

But like I have told you, all these are exceptions, out of the ordinary occurrences, not the gestation of 9-10 months of gestation which is normal, and also essentially for legal purpose. And Allah verily encompasses all in His knowledge].

A child who is born in the *Nikah* of a man and a woman is legitimate and he shall inherit from his father unless the father denies paternity at the time of the birth of the child or the first times he sees him. If he says that the child is not his **(and if he has proofs such as witnesses that the child is not his but that of his wife's ex-husband or deceased husband before her *Nikah* with him, or if the child is a product of adultery, and like we have today, through new technologies such as the DNA which proves that the child is not his)** then the child shall not inherit from him and shall inherit only from his mother only.

MARRIAGE ACCORDING TO THE CODE NAPOLEON CIVIL LAWS

According to the Napoleonic code, there are 2 types of civil marriages.

1. The system of legal community of goods and property
2. The system of legal separation of goods

Marriage under the system of legal community of goods and property means that all the goods that the husband has accumulated during his marriage (with the exception of inheritance) shall be divided equally between husband and wife (50:50). This complicates the life of a Muslim in terms of *Shariah*. According to *Shariah*, the wealth of a person cannot automatically go in the ownership of someone else with his prior consent. Marriage under the system of legal community of goods and property complicates the distribution of inheritance according to Quran and Hadiths. Even in the system of legal separation of goods, distribution of inheritance is not as per the laws of the *Shariah*. But in the system of legal separation of goods, the wealth of the husband remains for himself and the wealth of the wife remains in her custody. The laws of Allah is different from the mundane laws regulating marriages and inheritance, and the believers should act as per the laws of Allah and His Messenger (pbuh). Despite the complications of the mundane system, believers should obey Allah and His Messenger (pbuh) in respect to inheritance.

Therefore, if someone has contracted a civil marriage, he should therefore prepare a legal Will at a notary's office for the distribution of his wealth (as per Quran and Hadiths). The distribution of inheritance is more (complicated and) detailed, but I have given you the essentials of it, that which is most important.

GIFTS GIVEN DURING ONE'S LIFETIME

A share of wealth given to someone whom you have deep regards for and whom you know since long is a gift and not a share of inheritance. If you have given a share of your wealth/ property to one of your children during your lifetime, you should therefore give all your children **an equal share** of the gift and correct any injustice. **In the distribution of gifts**, all children, whether male or female receive equal shares. There is no difference between any one of them. **They all receive equal share of gifts.**

If one child had received more than his other siblings through your financing of his study and you have given him a piece of land or built his house, you should therefore compensate this by giving the other children the same quantity spent on the other child before death overtakes you. If someone has already died before correcting this (distribution of gifts), then the heirs cannot claim anything anymore. Now, nothing of what he had done during his lifetime shall be taken

into consideration, except for the commandments of Allah in respect to the distribution of his inheritance whereby it shall be divided and given to the heirs in the proportions established in the Quran. There is only one exception in respect to a living parent who can prefer a child over another child by giving him/ her a gift which he has not given to his other children: this happens when this child has spent his life to dedicate himself more to *Deen* (religion – *of Islam*) or in the teachings of *Deen-i-Islam* (to others). Hazrat Abu Bakr (ra) had given his daughter Aisha (ra) a gift which he had not given to any of his other children. (Muwatta of Imam Malik).

DISHONESTY OF AN HEIR AGAINST HIS OWN SISTER OR VICE-VERSA

Very often there are cases where a poor parent having a small plot of land does not know how to distribute it among his heirs, because heirs outnumber the wealth available. The great error/ wrong which a parent can commit if he/ she has one or more sons and one or more daughters, therefore he tries to convince his daughters without any written legal document to sign off their claim on the land and to give their shares to their brothers with only the verbal “assurance” that those brothers shall at a later date give them money in exchange. And the reason given for such (wrong) distribution of inheritance is that the girls shall get married and go their husbands (partaking in the goods of their husbands). This kind of settlement is done verbally and when the brothers needed the signatures of their sisters to acquire property on their names, they tried to convince sweetly their sisters to do so, and when signatures have been put on the legal documents in the notary’s office, and the boys have got their contracts and become proprietors of the land, they now make the deaf when it comes to reimburse their debts towards their sisters. This situation can apply vice-versa (i.e. when a brother signs to give property to his sisters (in exchange for money/ his rights). The victims of this kind of “settlement” expect to receive their shares in money form but alas, the brothers act treacherous towards them or vice-versa.

Unfortunately, when the sister or sisters ask for their *Haqq* (rights), the money which their brothers owed them, therefore the situation deteriorates and those brothers insult their sisters. These kinds of siblings know only their problems, and only want to acquire wealth for themselves and their children, as if it is only them who have to gain and shape up the future of their children. Verily these kinds of stolen inheritance does not last long! It shall be reduced to dust and those in the wrong shall have to present before Allah (swt) one day for all that they have done

(injustices committed). This is indeed great dishonesty which a brother does to his sister or vice-versa (if ever a brother signs to give to his sister). This is what is called theft, stealing the rights of their sisters who are also heirs of the same parents. In that case, these brothers should write their wills and prepare legal papers to clear their debts vis-à-vis their sisters, to pay them back their due/ right. And if in the situation that they do not readily have the money, then they must precise a final time-limit to reimburse their sister/s. Otherwise, if they have the money, the other heirs should not sign any document (prepared at the notary's) unless the money is given cash to those sisters. Those sisters should receive payment of their rights.

There are lots of such cases in Mauritius and also in other countries. The consequences of the wrongdoers, those who steal the rights of their sisters or vice-versa, shall be grievous before the sight of Allah (swt). I put a Hadith before you which is found in Bukhari Shareef:

Narrated Muhammad bin Ibrahim bin Al-Harith: from Abu Salama bin Abdur-Rahman who had a dispute with some people on a piece of land, and so he went to Aisha (ra) and told her about it. She said, *"O Abu Salama, avoid the land, for Allah's Messenger (pbuh) said, 'Any person who takes even a span of land unjustly, his neck shall be encircled with it down seven earths'."*

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[All that I am saying in my Friday Sermon today are replies to the questions which I often receive through emails, phone messages or calls. That is why by the grace of Allah I find it necessary to expound on this subject – replying those questions – so that humanity as a whole, and the Muslims in particular, can benefit from it and can know how to distribute their wealth as their inheritance, if ever they did not know how to go about it or if they did not think about it before or made some errors in writing their Will, etc.]

Therefore, this Friday Sermon can help you to know the subject more in detail and (when acting upon it) shall derive the love of Allah, not His wrath, for one day we all shall have to account before Him for all these things. We need to bear in mind that all these wealth are really the property of Allah alone; nothing really belongs to us in this temporal life. In this world, we are temporary. We shall leave all these tomorrow. Only a few metres of cloth shall be used to cover us; nothing of what

we used to enjoy on earth shall accompany us. It is only our good and bad deeds which shall accompany us. The rest shall remain on earth. Therefore, why act dishonestly? Why fight/ dispute etc.? All these disputes and display of dishonesty are futile because we are only fuelling the wrath of Allah upon us in this temporal life and in the life to come.]

THE INHERITANCE OF A RUNNING BUSINESS

Upon the death of someone, his heirs take ownership of his wealth/ goods/ properties etc., meaning that in each thing that he has left behind, his heirs have definite shares in it (e.g. 12.5% of his house, business etc.).

But if the heirs come to an agreement, they can therefore distribute this wealth mutually as per their wishes. But it is important that they take ownership of their shares. It shall be unjust to keep a wealth without distributing it when the heirs are asking for their shares in it. That is why wealth of the deceased must be distributed to all those who deserve their shares and to make them take ownership of their wealth – to make them become owners in the real sense.

If there is no consensus (mutual understanding) among the heirs, therefore the overall wealth should be evaluated and they be given their money as per the shares/ fraction they hold. If a property is indivisible (which cannot concretely be divided), therefore, it must be sold and the money be divided among the heirs.

When the owner of a business has died, an inventory of the value of his stocks, and the day-to-day running of the business and the value of the fixed assets such as the business' building etc. be taken into account.

And thus the heirs can decide to hire someone who shall act as their representative and run the business of their behalf and keep accounts of the business transactions. But after a family meeting, each heir must be given his proper share without fault. The business can be transformed into a company where each heir can partake of his shares in it. The one who works for the business/ company from among the heirs can receive a salary in addition to his dividend or profit and the one who does not work for the business/ company shall only receive his share of profit or dividend at the end of each month or each year.
Insha-Allah.

THE INHERITANCE OF AN ORPHAN

If a child is orphaned, therefore it is the duty of an elder who is well-versed in religion (Islam) to preserve his wealth (inheritance) till he reaches his maturity (around 21 years old). If the wealth is in cash, it would then be preferable to buy a plot of land on the name of the child so that depreciation may not affect his wealth.

When he becomes mature enough to manage his money and property, then his wealth must be handed over to him. The guardian of the child can take part of that money for the expenses of the child (while he is still in his guardianship). There is no *Zakaat* on that money/ property till he becomes *baaligh* (mature/ adult).

THE INHERITANCE OF AN ADOPTED CHILD

An adopted child is not the heir of his adoptive parents according to *Shariah*. Therefore, the adopted child has no rights on the inheritance of his family of adoption. But the adoptive parents can give him a gift during their lifetime or make a Will bequeathing him to a maximum of 1/3 of their wealth (in their respective wills). According to *Shariah*, when adopting a child, it is best to adopt him when he is still a baby, for in this way he shall grow up as a *Mahram* in the house. But if one adopts a child when he is already grown-up, that child shall be like a stranger in the house.

THE IMPORTANCE OF WRITING A WILL BEFORE IT IS TOO LATE (I.E. BEFORE DEATH)

In a Hadith transmitted in Tirmidhi Shareef, Hazrat Abdullah ibn Umar (ra) narrated that the Messenger of Allah (pbuh) has said: *"It is not right for a Muslim man to spend two nights, having what he would will, without having his Will written with him."* [This Hadith has also been recorded by Imam Bukhari & Muslim].

Some *Muhaddithins* have applied this emphasis on writing Wills when there is a danger, a high probability that there shall be hot disputes concerning inheritance after a person's death. Others have taken it as a recommendation and a precaution to be taken (before death overcomes someone). If you know there

shall be disputes on inheritance after your death, then it is very important that you write down your Will to avoid such disputes. And you would have moreover discharged your duty. And it is obligatory to write a Will as per the designated shared as mentioned in the Quran.

Therefore, it is important to put the distribution of inheritance in writing to avoid discord in the family after one's death. It is very sad to see how many families have broken ties with one another due to a wrong distribution of inheritance.

Insha-Allah, I hope that with this Friday Sermon on the distribution of inheritance, all brothers and sisters shall have an idea on the way that they should distribute their wealth (for inheritance). It is not easy to delve more profoundly on the subject in this Friday Sermon. It is indeed a very delicate subject, and not at all easy to expound except with the help of Allah (swt), and indeed this subject is very vast.

Thus, *Insha-Allah*, it is obligatory for each Muslim that he distributes his wealth among his heirs according to the Holy Quran and Hadiths. *Insha-Allah*, may Allah help us to accomplish our duties with honesty and *Taqwa*. *Insha-Allah, Ameen*.