

An Introduction

- **The theme: Laws of inheritance (الميراث) and making of a will (الوصية) in the Qur'ān and hadīth.**
- **We will study the Qur'ānic verses on *mirāth* and *wasiyyah*, with the relevant ahādith of the Ahlul Bayt.**
- **These lectures are not same as my book "*Writing An Islamic Will.*" This is a level above it.**

1

Importance of Divine Laws 1

- ^{5:44}Surely We revealed the **Tawrāt** wherein is guidance and light. By this Book the prophets (who had submitted *themselves to Allāh*) gave judgement for the Jews, *as did the masters and the rabbis* by that portion of Allāh's Book which that were required to guard, and *they also* were witnesses thereof.
- So, do not fear the people, but fear Me; and do not sell My revelations at a low price. Whoever **does not judge** according to what Allāh has revealed, **they are the unbelievers.**

2

Importance of Divine Laws 2

- ^{5:45}We prescribed for them in it (*i.e., the Tawrāt*): "A life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth, and there is a retaliation for wounds."
- But, *O believers, before you demand your right of retaliation, remember that whoever forgoes his right of retaliation as an offering, it shall be an expiation for him for his own sins.* Whoever **does not judge** according to what Allāh has revealed, **they are the unjust ones.**

3

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Importance of Divine Laws 3

- ^{5:46}And on their tracks, We sent 'Isa ibn Maryam as a confirmer of the Tawrāt which was before him, and We gave him the Injil wherein is guidance, light and verification of the Tawrāt which was before it. It is a guidance and admonition for the pious one.
- ^{5:47}So the people of the Injil (i.e., the Christians) should judge according to what Allāh revealed in it (as verified by 'Isa). Whoever **does not judge** according to what Allāh revealed, **they are the sinful ones**.

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4

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Importance of Divine Laws 4

Whoever does not judge according to what Allāh has revealed,

^{5:44}...**they are the unbelievers (kāfir)**.

^{5:46}...**they are the unjust ones (dhālim)**.

^{5:47}...**they are the sinful ones (fāsiq)**.

In relation to Allāh = its *kufr*

In relation to the judge = *fisq*

not judging according to Divine laws

In relation to the victim = its *dhulm*

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5

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Importance of Divine Laws 5

- ^{5:48}Then We revealed to you, O **Muhammad**, the **Book** (the Qur'ān) with the truth as a confirmer of the Book that was before it and as its guardian (to preserve the original message of Allāh). So **judge** between them according to what Allāh has revealed and do **not follow** their evil inclinations against the truth that has come to you.

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6

Importance of Divine Laws 6

- We have **appointed** a *system of law* and a *way of life* for each of you. If Allāh had willed, He would have made you *all* a single community, but *He didn't do that* so that He may test you in *the laws* that He has given to you—so compete with one *another* in hastening to good deeds. Always remember that to Allāh shall be the *eventual* return of all of you, and then He will inform you of the matter in which you differed *with each other*.

7

Importance of Divine Laws 7

- ^{5:49}You should **judge** between them according to what Allāh has revealed & **do not follow** their evil inclinations & be cautious of them lest they tempt you away from some of that Allāh has revealed to you. But if they turn their backs, then know that Allāh desires to afflict them for some of their sins; surely many people are sinners. ^{5:50}Is it the **judgement of ignorance (jāhiliyyah)** that they are seeking? Who can be **fairer in judgement than Allāh** for the people who are sure *of their faith*.

8

Wasiyyah (الوصية) – Irth (الإرث)

- Wasiyyah** means a will while **irth (الإرث)** refers to inheritance.
- From Islam, **wasiyyah** only refers to the one-third of your estate. The division of the two-thirds is already there in the Qur'ān and the hadith – those shares must be divided accordingly whether the deceased had made a will or not.
- In the West, we do so to ensure the implementation of the shari'a laws.

9

Our control on the estate

Three possibilities:

- ☺ Full control
- ☹ Absolutely no control
- ☺ Partial control through a will

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10

Partial Control

☺ Islam allows you the absolute right to distribute up to one-third of your estate *provided* you make a will (*wasīyyat*).

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11

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Find Wasīyyah in these Verses 1

- ^{4:11}Allah enjoins you concerning *the shares of your children*: the male shall have the equal of the shares of two females;
- if two or more females, then they shall have two-thirds of what the deceased has left;
- if one female, then she gets half;
- for his parents, each of them shall have one-sixth, from whatever he has left, if he has a child,
- if he has no child and his parents inherit him, then the mother has a share of one-third.

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12

Find Wasiyyah in these Verses 2

- if he has some brothers, then his mother shall have a share of one-sixth each after any will that has been made or a debt *to be paid*.
- Your parent or your children—you do not know which of them are closer to you as far as benefit is concerned.
- This is the ordinance from Allāh, surely Allāh is Knowing, Wise.

13

Find Wasiyyah in these Verses 3

- ^{4:12}You shall have half of whatever your wives leave if they have no child.
- If they have child, then you shall have ¼ from a portion of what your wives leaves after any will that has been made or a debt *to be paid*.
- The wives shall have one-fourth from a portion of what you leave if you do not have a child;
- but if you have child, then the wives shall have one-eighth from a portion of what you leave after any will you may have made or a debt *to be paid*.

14

Find Wasiyyah in these Verses 4

- If a man or a woman is inherited *by a half-sibling from mother's side*, then each of them shall have one-sixth.
- If they are more than one, then all of them are partners in on-third—after the will that may have been made and a debt *to be paid*, without any harm.
- This is an ordinance from Allāh. Allāh is Knowing, Forbearing.

15

Wasiyyah in these Verses

- Three place in verse 4:11-12, it says:
- "...after any **will** that has been made or a debt *to be paid*."
- The words "after" indicates that the will (wasiyyah) regarding the 1/3 should be administered first and then the remaining estate has to be distributed among the heirs.
- In the third instance, the words "without any harm" means that giving more than 1/3 or incurring debts just to punish the heirs is not right.

16

Some Relevant Ahādīth

- Imām as-Sādiq (a): "The first to be done [regarding] the estate is the shroud, then the debt, then the will, then the inheritance."
- Imām 'Ali (a): "The debt comes before the will, then the will after the debt, then the inheritance after the will. Verily the best of judgement is the Book of Allah, the great and majestic."

17

Importance of Divine Laws of *Irth*

- ^{4:13}These are Allāh's limits.
- Whoever **obeys** Allāh and His messenger, **Allāh will admit him in the gardens** beneath which rivers flow, they shall abide therein—this is surely the great achievement.
- ^{4:14}But whoever **disobeys** Allāh and His messenger by going beyond His limits, **He will admit him into enter the Fire**, in it he shall abide, and he shall have an abasing chastisement.

18

Importance of Divine Laws of Irth 2

- Moreover, the last sentences of 4:11 and 4:12 and the first sentence of 4:13 are crucial:

فَرِيضَةٌ مِنَ اللَّهِ

a duty from Allah

وَصِيَّةٌ مِنَ اللَّهِ

an ordinance from Allah

حُدُودَ اللَّهِ

Allah's limits

- So take these laws of inheritance seriously. After all Allah is Knowing, Wise and Forbearing.

19

Importance of Divine Laws of Irth 3

Surah al-Hāqqah (#69), verses 40-52

- ⁴⁰It is indeed the speech of a noble apostle, ⁴¹and it is not the speech of a poet. Little do you believe! ⁴²Nor is it the speech of a sorcerer. Little is the admonition that you take! ⁴³(It was) gradually sent down from the Lord of the universe.

- ⁴⁴Had he faked any sayings in Our name, ⁴⁵We would have surely seized him by the right hand ⁴⁶and then cut off his aorta, ⁴⁷and none of you could have held Us off from him.

20

Importance of Divine Laws of Irth 3

- ⁴⁸Indeed it is a reminder for the pious. ⁴⁹Indeed We know that there are some among you who deny (it). ⁵⁰And indeed it will be a (matter of) regret for the unbelievers.
- ⁵¹It is indeed certain truth. ⁵²So celebrate the name of your Great Lord.

21
