

'Abdullāh ibn 'Umar narrated:



that God's Messenger (peace be upon him) said: It is not right for a Muslim person who has something he wishes to give as a bequest to stay two nights without having his will already written. ⁽¹⁾

1 Related by al-Bukhari, 2738; Muslim, 1627.

From the Qur'an

- ﴿It is prescribed for you, when death approaches any of you and he is leaving behind some property, to make bequests in favour of his parents and other near of kin in fairness. This is a duty incumbent on the God-fearing.﴾ (2: 180)
- ﴿[Shares of inheritance shall apply] after any bequest he may have made, or any outstanding debt [has been deducted from the total estate].﴾ (4: 11)
- ﴿Believers, let there be witnesses to what you do when death approaches you and you are about to make bequests: two people of probity from among your own people, or two others from outside, if the pangs of death come to you when you are travelling through the land. Detain them both after prayer, and if you have any doubt in mind, let them swear by God, 'We shall not sell this [our word] for any price, even though it were for a near kinsman; and neither shall we conceal anything of what we have witnessed before God; for then we should be among the sinful'.﴾ (5: 106)

The Narrator

Abu 'Abd al-Raḥmān 'Abdullāh ibn 'Umar ibn al-Khaṭṭāb ibn Nufayl belonged to the 'Adiy branch of the Quraysh. He embraced Islam when he was young. At the time of the Battle of Uḥud, he was too young to fight. His first military effort was the Encounter of the Moat, i.e. al-Khandaq. He also participated in the pledge under the tree. He narrated much useful information and numerous hadiths from the Prophet, and issued many fatwas. He died in Year 74 AH 694 CE.

Summary

The Prophet (peace be upon him) makes it clear that whoever has something which he wants to bequeath to someone should not delay in writing his will. He should do it as soon as possible, because death may come at any time.



Message and Meaning



It is permissible for Muslims to make bequests out of their estates, provided that such bequests do not exceed one-third of the total estate, and that no such bequest is made to an heir. The Prophet (peace be upon him) said: 'God has gifted you one-third of your property to use at the time of your death, so as to increase your good deeds'. He also said: 'God, Blessed and Exalted, has given their dues to everyone who has a claim. No bequest may be made for an heir'. However, a Muslim may wish to bequeath a portion of his or her property to relatives who are not heirs, or they may wish to give something to charity.



2 Therefore, the Prophet (peace be upon him) recommends everyone who has something to bequeath not to delay writing their wills. It is better not to let one or two nights pass without having a will written. No one knows whether death comes all of a sudden, and then it would be too late. Early scholars considered that this recommendation of prompt writing of one's will applied to one who is ill or approaching death. The Prophet did not make this specification in the hadith, because this was the normal thing people did.⁽¹⁾



The ruling concerning a will differs in relation to what is being bequeathed. It may be a duty, as in the case of stating a debt a person owes and which is unknown to his heirs, particularly if the creditor does not have evidence proving it. Unless the debtor specifies it in his will, the creditor may lose what is owed to him. A will may be forbidden, if it involves something forbidden, such as a will requiring an act of disobeying God, or a will in favour of an heir. It may be recommended, if it is to donate for a good purpose serving God's cause, or in favour of relatives who are not heirs.



1 Ibn Hajar, *Fath al-Bārī*. Vol. 5, p. 360.

Implementation



A Muslim should always be mindful of death, thinking of it and doing what is good for himself. A Muslim should not be distracted by the pleasures of this life. Al-Ḥasan said: 'Death is inevitable for everyone, and life is being folded behind you'.⁽¹⁾



God has undertaken to divide the inheritance Himself. It is not permissible for a Muslim to contend with God for its division, or to think that the way he divides it is better than God's way.



God has gifted His servants with one-third of their estates to choose how they want to spend it by will. A wise person will make use of this by ensuring that what he does meets with God's pleasure and expresses obedience to Him. He will spend this portion in what serves God's cause.



A Muslim should not delay writing his will, if he has something to bequeath, before life's problems or illness cause him to forget, or he is suddenly overtaken by death. Ibn 'Umar, the narrator of this hadith, said: 'Ever since I heard God's Messenger (peace be upon him) say this, I never spent a night without having my will ready with me'.⁽²⁾



The fact that a will may be made with one-third of one's estate does not mean that this is the only thing permitted or that it is the best amount of the will. Rather, it is better for a Muslim to leave his heirs self-sufficient, needing no help from other people. When Sa'd ibn Abi Waqqāṣ asked the Prophet to allow him to bequeath one-half of his estate, the Prophet refused. He said to him: 'No; one-third. Even one-third is much. To leave your heirs in funds is better than you leaving them poor, seeking people's help'.⁽³⁾ For this reason, Ibn 'Abbās expressed his view, suggesting that people should limit what they give by will to one-quarter. Abu Bakr bequeathed one-fifth, saying: 'I accept for myself what God has allocated for Himself'. He was referring to the verse that mentions the division of war gains: 'Know that one-fifth of whatever booty you may acquire in war is for God and the Messenger, and for the near of kin, the orphans, the needy and the traveller in need'. (8: 41)



Scholars and those who write other people's wills must explain to them that the question of a will varies according to people's circumstances. If the heirs are poor and they need the money, then it is better not to bequeath anything by will. If the heirs are well off, then a will is recommended, amounting to one-third of the estate, or less, according to the status of the heirs.

1 Ibn Rajab, *Jāmi' al-'Ulūm wal-Ḥikam*, Vol. 2, p. 382.

2 Related by Muslim, 1627.

3 Related by al-Bukhari, 2742; Muslim, 1628.

