

Divine inheritance laws and social integration of the disadvantaged

In this part of his tafsir, Imam Mohammad al-Asi continues his analysis of Surah al-Nisa', the fourth surah of the Qur'an.



The financial obligation of inheritance that gets entangled with family feelings is not left up to man's better judgment, which is generally subject to being subverted by the power interpretation and power structure of a particular culture or society. In these cases, and particularly in our times, a legal will suffices to delineate how a person wishes his/her property to be disposed of after death. It also appoints administrators of the estate and may contain wishes on other matters, such as place of burial or donation of organs for transplant. These wills must comply with the formal legal requirements of the local jurisdiction.

In some portions of the secular renegade society the executor, a person appointed in the will to carry out the instructions of the deceased, becomes a significant part of this family affair. A person so named has the right to refuse to act; he also has the duty to bury the deceased, prove the will, and obtain a grant of probate, that is, establish that the will is genuine so that all his subsequent actions have the stamp of official approval. Finally, the executor must also pay the liens, fees, and taxes on the estate before distributing the estate property to the heirs.

In a family and society subject to the incontrovertible guidance of Allah (ﷻ) as expressed in His Book, the mechanism of *irith* (inheritance) is spelled out in general terms. And the complying Muslims need not throw into the process the financial diktats or power priorities that will clash with family priorities and ultimately fraction the family unit, a unit that is central to societal stability in the Islamic frame of reference. Socially conscious individuals in human society who yield to Allah's (ﷻ) infinite knowledge and everlasting love do realize that these scriptural laws are meant to uplift the human condition. And, for that reason, these inheritance regulations fit into the larger scheme of divinely organized social justice and human welfare on earth.

If forward-looking humans expect to organize themselves within a legal system meeting with their approval, they should realize that the legal statutes of such a governing authority, whatever its level of centrality in that society, should never contradict man's God-given human nature. Human beings engaging in a process to understand their own human nature has proven to be an irreconcilable endeavor at best. Some social science philosophers say human beings are basically inclined toward what is good and virtuous; while others say

just the opposite, that human beings are driven by what is bad and wicked in life. The only reliable source of information on human nature is Allah (ﷻ) Himself, as He is the One who has created, molded, and fashioned this human nature, which we humans continue to disagree about. This common human nature that is shared by primitive dwellers of rural areas as well as sophisticated city dwellers has its inclinations, propensities, and attractions. And these latent yearnings were not configured into human psychological life "just for the hell of it." They were deeply embedded into man for a higher purpose, for him to behave and cooperate for the upliftment and progress of his shared human existence here and now.

The positive expansion of human nature finds its beginnings in the strong composition of families, family ties, and family solidarity. This family dynamic is ingrained in the constant and consistent human nature. It is not one of those social dynamics that is engineered by a legislative process, or an executive order, or through the process of evolution. The family with all its pool of love, feelings, sympathies, and closeness is "an act of God." Any intellectual arguments or academic philosophies that try to dilute this family reality are in a clash with human nature, are an obvious fabrication of assumptions, and hence are a waste of time. With all the effusive elements that go into cementing close family ties and with all the natural ingredients of family togetherness, it is only to be expected that Allah (ﷻ) has spoken to these facts. Besides, the family is the bedrock unit of society; and if a family is void of social justice and equilibrium it just sets the stage for the demise of the greater human society at large. To this end, the terms of inheritance within the family unit have been outlined for all to consider and carry out. This will not only serve the limited family around the parents but also the extended family within society.

Families are central, critical, and potent in shaping the social order that man deserves and that he can gain by adhering to what Allah (ﷻ) says. Put another way, a family has to take care of its own. If it is not able to do so, then the immediate community around that family should feel responsible for its well-being and welfare. And then if the community itself is not in a position to help a "failing family" then the issue

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reverts to the Islamic authority to do what it can to solidify such a faltering family. As this demonstrates, families in need are not expected to go to the social welfare services of the state to apply for food stamps, family assistance, shelter, and other government "entitlement" programs when they are hit by "hard times." The state budget should not be the first recourse when a particular family feels the crunch of hardship.

This social "safety net" in which families are located is consolidated by a community air of fraternal ties and intimate acquaintances that come from the *masjid* hub. Parents are to families what *masjids* are to communities. There has to be in a God-centered society on earth a "hotbed" of affections and activities that revolve around the *masjid*. In this manner and through confidential and personal familiarities people begin to feel and care for each other. They "naturally" respond to the needs or deficiencies within their fellowships and communities. This crucial exchange of human feelings is needed to make the human exchange of resources viable, sustainable, and durable. And can anyone suggest there is something wrong with companions and neighbors looking out for each other in an atmosphere of brotherly love and social solidarity? No one, in this scenario, is doing anyone else a favor; they are all cooperating and collaborating for the general good. And if this is desirable in society, it is more desirable within a family. It is one of those subliminal human feelings that drives a man to work harder in life when he knows that his efforts will be nurturing his family members and not spilling into an "unknown" social void. This attachment to hard work for the benefit of immediate and extended family, in an indirect way contributes to the well-being of society at large. And it becomes another way of voluntarily and energetically blurring the lines between the family and the social affinities of individuals. In the final analysis, what belongs to individuals belongs to society; and vice versa.

There may be some theorists who would counter with a "labor and labor-value" argument here, saying that an idle person should not acquire any wealth, which he has no labor investment in, just because he or she is the son or daughter of a wealthy person. The rebuttal to this type of assertion is that there is a mutual social bond in which all members are collectively responsible for each individual's well-being; therefore, if it was the other way around and the ancestor or antecedent, the source of inheritance, was in need, it would fall on the potential heirs to provide money, resources, or whatever is needed for the well-being of an "emotional member" of theirs. And once again, when the family circle is extended beyond bloodlines, the resources are due to society if society itself is in need and the nuclear family is not in need.

Another essential feature to keep in mind is that these relationships are not identified by money; money is an aftereffect. Direct blood lineage should never be cast in terms of money or wealth. When all financial considerations are set aside, the other ties — love, respect, sympathy, passion, and grace — are still there, strong and vibrant. This is one reason why it is important to redefine financial relationships in light of these

ties instead of destroying these relationships for the purpose of acquiring and multiplying wealth, as is the case in many materialistically tainted societies and cultures.

Parents, grandparents, and immediate relatives do not pass on to their offspring money alone. They also pass on to them aptitudes for virtue or vice, genetic dispositions toward health or ailment, and a family temperament to do good or to do wrong. Some mental or psychological features tend to have family origins. These inclinations tend to accompany future generations. It is only common sense to equip these future generations with the "supply" of money that breaks down into inheritance channels to "help them out." If the forefathers are not able to protect their progeny from some genetic or "inherited" disorder, it would seem that the least they can do is to provide them with some inherited wherewithal to assist in overcoming deleterious or debilitating hereditary traits. When it comes to genetically transmitted conditions, the first line of responsibility for taking care of such victims is the family. Family resources have to be invested in caring for the family's own. Obviously, a state authority will be unable to interfere in this genetic or family affair.

When the human condition as a whole and the collateral family issues that come along with it are more closely examined, a better understanding emerges about why the dispersion of emotions in a family needs its parallel distribution of resources. And in light of this, those who comply with Allah's (ﷻ) guidance gain a better understanding of the issue of *irth*. Once the conscience is properly positioned into the context of family relationships and their impact on the stability of the more complex society at large, the following *ayah* provides structure for the particular human behaviors that lead to these ends,

Men shall have a share in what parents and kinsfolk leave behind, and women shall have a

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share in what parents and kinsfolk leave behind, whether it be little or much — a share ordained [by Allah] (4:7).

Thus, the general rule has been set: men and women have a percentage of any acquisitions from past generations or from deceased relatives. Those orientalist and their acolytes who accuse Islam of gender bias will have to be reminded that this right to inheritance was given to women 14 centuries ago when women were abused and misused by men and the cultures of the time. At least to begin with, in theory, women due to the words of this enduring Qur'an had an established right to estates, endowments, and gifts that were left by a deceased family member. This *ayah* also establishes the rights of minors to acquire whatever wealth is due to them via their inheritance rights. These minors, especially young females who are entitled to their inheritance share, become victims of the power structure, as is the case in all societies that deviate from scripture. Power centered *jahiliyahs* acknowledge only the rights of those who have productive status or military contributions to society. Allah's (ﷻ) Book and Prophet (ﷺ) though came to honor the humanity of man and to raise his dignity. Human beings, regardless of their gender, are born equal and should live that way. Within this frame of equality, human individuals are required to cooperate and reciprocate to make life better for self and others. And the laws of inheritance in this word-perfect Book are meant to help man and woman share, distribute, and disperse both emotions and wealth *together* in a way that energizes society and brings out the best in human relations.

Inherited money and possessions are allotted in the Islamic mode of life such that certain relatives who are closer to the deceased acquire inheritance in certain proportions. However, there are relatives, further from the deceased, who do not inherit. The reason is that there are other immediate relatives who are more entitled to the deceased's material possessions and holdings; so by the former's acquisition the latter is precluded. These "distant relatives" who are debarred from the inheritance process as a matter of "normal procedure" are still entitled, in other ways, to a portion of the deceased's holdings to assuage their feelings. This opportunity was meant to give distant family members immunity from the possible "creeping feeling" that money allotment defines family relations. Distribution of money within family circles is intended to bolster family ties, not diminish them. Orphans and people of poverty who fall within family circles also receive special consideration in the disbursement of a deceased person's holdings. With this in mind, the following is to be expected,

And when [other] near of kin and orphans and destitute persons are present at the dispersal [of inheritance], give them something thereof for their sustenance, and speak to them in a kindly way (4:8).

The gentle Qur'an is truly the Book for powerless people. The issue of orphans, abandoned infants, and children deprived of their parent(s) is not just a legal issue; it is a humanitarian and compassionate affair. And, therefore, the Qur'an once again returns to remind and prompt us concerning these weak individuals in society. We are put on notice, yet again, not to partake of any possessions belonging to such infirm and delicate members of society. If such children are deprived of parental love and care, a close-knit human society should move in and offer these lonely souls the compassion and sympathy they need but cannot solicit. If those who are able to afford the burden of emotional and financial support for these orphans refuse to do so, then they can expect the worst in the life to come,

And let them stand in awe [of Allah], those [legal heirs] — who, if they [themselves] had to leave behind weak offspring, would feel fear on their account — and let them remain vigilant of Allah [and His power deterrent in human affairs], and let them speak [to the poor] in a just manner. Behold, those who wrongfully devour the possessions of orphans only fill their abdomens with fire: for [in the life to come] they will have to endure a blazing flame! (4:9–10).

In other words, the *ayah* is telling fathers and parents who are in a comfortable material position to think about these orphans and abandoned infants as if they were their own children. How would they feel if their own children were to become orphans? Would they not favor other fathers and mothers caring for their fatherless, motherless, or parentless children? Of course, any human being who has not perverted his God-given sensitivities, inclinations, and kindness would want this type of human feeling to be translated into a social value and a financial responsibility. So, it is only fair to implore affluent fathers and parents to assume the responsibility for the care of unfortunate orphans and destitutes because the shoe may be placed on the other foot in the future. For the children or grandchildren of the affluent may switch positions with the unfortunate and they would be in a position that "begs" for understanding, tenderness, and generosity. ■

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