

Section 1: Responsibilities of the Guardians of Orphans

Respect for the ties of relationship –Care of orphans' property

Conditional Polygamy Permitted –Warning against embezzlement of orphans' property.

Surah An-Nisa', Verse 1

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُم مِّنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَيَتَّثَرُ
مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ
عَلَيْكُمْ رَقِيبًا

In the Name of Allah, the Beneficent, the Merciful

1. "O' people! be in awe of your Lord, Who created you from a single soul and from it created its mate and spread from them (the couple) many men and women. And be in awe of Allah through Whom you demand one of another, as well as any ties of kinship; Surely Allah is watching over you."

Challenge against Unjust Discrimination

The first verse of this Surah addresses all human beings. The content of this verse is a message to mankind as a whole. It invites them to piety and being in awe of *Allah*. It says:

"O' people! be in awe of your Lord..."

Then, to introduce the Lord Who is aware of all deeds of human beings, it points to one of His attributes which is the origin of the unity of human race. It says:

"... Who created you from a single soul ..."

The phrase 'a single soul' refers to the first human being whom the Qur'an introduces as 'Adam', the father of all human beings. The application of the term /bani'adam/ 'the children of 'Adam' in the Qur'an refers to this meaning, too.

Then, in the next sentence, it says:

"...And from it created its mate ..."

This means that He created Adam's wife from his nature, not from the limbs of his body. Basing on a tradition from Imam Baqir (as) the creation of Eve from one of the ribs of Adam has intensely been rejected, and it has been stipulated that Eve was created from the rest of Adam's clay.

In the next verse, it continues saying:

"... and spread from them (the couple) many men and women..."

This idea leads to the comprehension that the multiplying of the race of the children of Adam has been performed only through Adam and his wife, and no other creature has had any hand in it.

Then, for the sake of the importance that piety has in the structure of the foundation of a safe and sound society, again it invites people to observing piety. It advises people to be in awe of *Allah*, the One Who is Great in their view, so that when they want to demand something from others, they apply His Name. It says:

"... And be in awe of Allah through Whom you demand one of another..."

And it adds that:

"... as well as any ties of kinship..."

Mentioning this subject here is a sign of an extraordinary importance that the Qur'an maintains for strengthening blood-kinship.

At the end of the verse, it says:

"... Surely Allah is watching over you."

That is, He sees all your deeds and intentions and, by the way, He protects you against unpleasant adventures.

Surah An-Nisa', Verse 2

وَآتُوا الْيَتَامَىٰ أَمْوَالَهُمْ وَلَا تَتَبَدَّلُوا الْخَيْثَرَ بِالْطَّيْبِ وَلَا تَأْكُلُوا أَمْوَالَهُمْ إِلَى أَمْوَالِكُمْ
إِنَّهُ كَانَ حُوَّاً كَبِيرًا

2. *"And give the orphans their property, and do not exchange something bad (of yours) for something good (of theirs), nor devour their property along with your own; (for) it is surely a great crime."*

Occasion of Revelation

At the time of the Prophet of Islam (S), one of the members of a tribe by the name of Bani-Qatfan had a rich brother, and it happened that the rich brother passed away.

Then, as a guardian of his brother's orphans, he took his property in his possession, but when his brother's son matured and demanded it, he denied returning his right to him. The subject was explained to the holy Prophet (S).

Then this verse was revealed, and when the man heard it, he repented and returned the property to its owner. Then the man said: *"I refuge with Allah from that I be polluted through the great sin."*

Treachery in Orphans' Property Is Forbidden!

In any society it happens that, as a result of some events and accidents, some parents die and there remain some little children from them.

There are three important instructions upon the property of orphans mentioned in this verse.

1. At first, it instructs as such:

"And give the orphans their property,.."

This ordinance means that your interference in these properties is in the rank of a trustee and as an inspector, not as a possessor.

2. The second instruction is to prevent guardians from devouring the property of orphans.

Sometimes it happens that some guardians of the orphans, under the pretext that changing the property of the orphan is benefit able for the orphan, or it makes no difference to change it, or if it remains it will be wasted, take the best and choice parts of the properties of the orphans and put their own bad and

undemanded properties in their places. The Qur'an says:

"... and do not exchange something bad (of yours) for something good (of theirs)... "

3. The third instruction has been added as follows:

"... nor devour their property along with your own..."

This sentence means that: do not mix the property of the orphans with your own property so that its result ends to the possession of the whole. Or, do not mix your undesirable property with their good property so that its result be treading the rights of the orphans.

At the end of the verse, to emphasize and prove the importance of the matter, –that this kind of transgression to the property of the orphans is a great sin, it says:

"... (for) it is surely a great crime."

Surah An-Nisa', Verse 3

وَإِنْ خِفْتُمْ أَلَا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكحُوهُمْ مَا طَابَ لَكُمْ مِّنَ النِّسَاءِ مَثْنَىٰ وَثُلَاثَةٍ
وَرُبَاعٌ فَإِنْ خِفْتُمْ أَلَا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكْتُمْ ذَلِكَ أَذْنَى أَلَا تَعُولُوا

3. **"And, if you fear that you cannot act equitably towards orphans, then marry those women who seem good to you, two, or three, or four; but if you (still) fear that you will not act justly (between them) then (marry) only one or someone your right hands have acquired. That is more proper, that you may not deviate from equity."**

Occasion of Revelation

Before Islam, it was customary in Arabia among many people that they took the orphan girls to their houses under the name of defraying and guardianship and then they married them and appropriated their property, too.

They assigned even their dowries less than what the ordinary amount was, since everything was in their own hand, and when they felt the least inconvenience from them, they would easily leave them off.

At that time the verse was revealed and instructed the guardians of the orphans that they could marry the girl orphans if they observed justice about them completely.

In this verse, another right, out of the rights of the orphans, is pointed out. It admonishes that at the time of marrying the girl orphans, if you fear that you cannot observe the right and justice about the conditions

of matrimony, as well as their property, relinquish marrying them and refer to other women. It says:

"And, if you fear that you cannot act equitably towards orphans, then marry those women who seem good to you..."

Then, it adds that you may choose from among them two or three or four to marry with. It says:

"... two, or three, or four..."

So, immediately after that it continues saying that this is in the case that you keep the perfect justice. But, if you fear that you do not observe justice unto those wives of yours, you must suffice to only one wife, so that you keep away from imposing cruelty and transgression against others. It says:

"... but if you (still) fear that you will not act justly (about them) then (marry) only one..."

Or, instead of taking a second wife, you may take advantage of the She-slave that you have, because their conditions are less heavy, although they must enjoy of their own rights, too. It says:

"... or someone your right hands have acquired..."

This action -choosing only one wife or your slave, better prevents you from cruelty and deviating from the path of equity. It says:

"... That is more proper that you may not deviate from equity."

Justice about Wives

What a man is enjoined to observe in justice about his wife is the observance of the equity in one's practical conditions and outward aspects of life, because applying justice in heartily affections is out of the ability of man.¹

Explanations

1. Islam is the supporter of the deprived class of the society, especially the orphans, and the girl orphans in particular, emphatically on the subject of chastity, matrimony, and misusing them.
2. It is not necessary to be assured of inequity of yourself to abandon marrying the orphans, but probability and fear from it of your own side, is enough either.
3. In choosing a wife, heartily willing is a principal.
4. On the whole, Islam agrees with conditioned polygamy for men.

Surah An-Nisa', Verse 4

وَأَتُوا النِّسَاء صَدَقَاتِهِنَّ حِلْلَةً فَإِن طِبَنَ لَكُمْ عَنْ شَيْءٍ مِّنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَّرِيئًا

4. **"And give women their dowries as a free gift, but if they, of themselves, be pleased to give up to you something of it, then consume it with pleasure and wholesomely."**

Concerning the above verse where this term has been applied, it can be explained that the Arabic term /nihlah/, as Raqib Esfahani has said, is derived from /nahl/ in the sense of '**bee**'. Since a bee gives honey to people and expects nothing, so, a present is also called /nihlah/.

An Islamic tradition indicates that the finest properties should be used in three occasions:

1. Dowry
2. Hajj pilgrimage
3. Shroud.

If you spend your best properties in paying dower, your offspring will be of the righteous.²

Explanations

1. Paying dower of the wife (**which is her right**) is obligatory.
2. Dower sum is not the rate of a lady, but it is a wedding gift and the sign of affection and friendship.

"And give women their dowries as a free gift..."

3. Dowry is the gift of man to the woman, and never it is her cost. However, we must know that dower is a financial support for the woman at the probable time of separation and as a compensation of her damage.
4. A woman has the right of possession of her dower. Thus, the parents and relatives of the lady have no right at all to take it for themselves.
5. A woman is free to take her dowry or donate it.

"... but if they, of themselves, be pleased to give up to you something of it..."

6. A wholesome wealth is that which whose owner bestows willingly and pleasantly.

"... but if they, of themselves, be pleased to give up to you something of it, then consume it with pleasure and wholesomely."

7. The extrinsic consent is not enough, but heartily consent is essential when the Qur'an says:
"of themselves".

Then, unwillingly given or compulsory remits are not valid.

Surah An-Nisa' Verse 5

وَلَا تُؤْتُوا السُّفَهَاءَ أَمْوَالَكُمُ الَّتِي جَعَلَ اللَّهُ لَكُمْ قِيَاماً وَارْزُقُوهُمْ فِيهَا وَأَكْسُوهُمْ
وَقُولُوا لَهُمْ قَوْلًا مَعْرُوفًا

5. *"And do not give the feeble-minded your property which Allah has made for you a (means of support, but feed them and clothe them therewith, and speak to them with kind words."*

In Islamic literature distrustful winebibbers, in Arabic, are called /safih/ **'feeble-minded'**. Therefore, personal properties and public properties should not be put under the authority of some unreliable persons.

Some Islamic traditions indicate that the vast sense of the term "**'feeble -minded'**" covers evil-doers, too. The secret that property should not be given unto their control is that '**property**' is the consistence of the society.

Thus, giving any position, responsibility and secret information, upon which the consistence of the society depends, to the persons who are habitually wrong-doers, is not right.

Explanations

1. Those who are feeble-minded, winebibbers, and unrestrained should not be authoritative in economy and wealth.
2. When the feeble-minded have authority over even their own property, it is economically harmful for your property, too.

(It is notable that the verse says: "**your property**" and it does not say: their property).

"And do not give the feeble-minded your property which Allah has made for you a (means of support..."

3. In daily affairs, economical expediencies of the society and mental development ought to be noted to.

"And do not give the feeble-minded your property"

4. The feeble-minded persons are not admissible to use their properties themselves.

5. The financial and economical authorities of the system should be chosen from among some upright and experienced persons.

"And do not give the feeble-minded ..."

6. The contractors of the economical agreements must not be some wrong-doers and sinners.

7. Wealth is a means of rising-up. Then, if wealth is not utilized as a means of rising-up in a country, the economical system there is ill and its executor is a feeble-minded person even if he has got P.H.D. in economics.

8. Wealth is for the consistence of life, economics, and the leaver of the system.

"... which Allah has made for you a (means of) support..."

9. Capitals must not remain stagnantly. The wealth of the orphans and the feeble-minded persons should also be applied in the current of production and profitableness, so that its income can be enough for their lives to run and nothing of their capital would be spent.

"... but feed them and clothe them therewith ..."

10. The spiritual status and personality of the deprived must be regarded to.

"... and speak to them with kind words."

Surah An-Nisa', Verse 6

وَابْتَلُوا الْيَتَامَى حَتَّى إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنْسَتُم مِنْهُم رُشْدًا فَادْفَعُوهُ إِلَيْهِمْ أَمْوَالَهُم وَلَا تَأْكُلُوهَا إِسْرَافًا وَبِدَارًا أَن يَكْبُرُوا وَمَن كَانَ غَنِيًّا فَلَيْسَ تَعْفُفْ وَمَن كَانَ فَقِيرًا فَلْيَاكُلْ بِالْمَعْرُوفِ فَإِذَا دَفَعْتُم إِلَيْهِمْ أَمْوَالَهُم فَأَشْهِدُوهُ عَلَيْهِمْ وَكَفَى بِاللَّهِ حَسِيبًا

6. **"And do test the orphans until they reach the age of marriage. Then, if you find in them maturity, make over to them their property and do not consume it wastefully and hastily lest they should grow up; and whoever (of the guardians) is rich, let him abstain (from taking something)**

(of the property of the orphans) and whoever is poor, let him devour reasonably. Then, when you make over to them their property, take witnesses over them; and Allah is enough as a Reckoner."

Another instruction has been given in this verse about the orphans and the fate of their property. It begins thus:

"And do test the orphans until they reach the age of marriage.."

Then, it continues saying that, at this time; if you find enough maturity in them that they are able to run their affairs upon their own property, return it to them. It says:

"... Then, if you find in them maturity, make over to them their property..."

Here, it remarks to the guardians again that they should not devour the property belonging to the orphans wastefully before the orphans grow up. It says:

"... and do not consume it wastefully and hastily lest they should grow up..."

Another matter is that if the guardians of the orphans are rich, they must never take anything, under any plea, from the property of the orphans.

But if they are poor, for the labours they bear to protect orphans' properties' they, observing justice, can only take their recompenses from those properties. Here is the concerning statement:

"... and whoever (of the guardians) is rich, let him abstain (from taking something of the property of the orphans) and whoever is poor, let him devour reasonably...."

Then, it refers to the last ordinance of this group of ordinances about the guardians of the orphans. It orders that when you want to deliver their property to them, to avoid any accusation or any conflict, take witnesses. It says thus:

"... Then, when you make over to them their property, take witnesses over them..."

At the end of the verse it remarks that you must know that the real reckoner is *Allah* and the most important thing is this fact that your account is clear with Him. So, if you commit any treachery, which is concealed to the witnesses, He will reckon it. Therefore, it says:

"... and Allah is enough as a Reckoner."

Surah An-Nisa', Verse 7

لِلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ

وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ نَصِيبًا مَفْرُوضًا

7. "Men shall have a portion of whatever the parents and the near relatives leave, and women shall have a portion of whatever the parents and the near relatives leave, be it little or much, (it is) a decreed portion."

Occasion of Revelation

One of the companions of the Prophet (S) passed away. His cousins divided his wealth among themselves though he had left some small children, and they gave nothing of it to his wife and children.

According to their custom, affected from the Age of Ignorance, they believed that only those were inheritors who had the power of fighting.

Then, responding to the grievance of the wife of that man and receiving the Divine revelation of the above verse, the Messenger of Allah (S) called the above mentioned cousins and told them to return the properties to the principle inheritors.

1. In the law of Islam, not only men but also women have the right of inheritance, and the religion of Islam is the protector of the rights of women, too.

"Men shall have a portion of whatever the parents and the near relatives leave, and women shall have a portion of whatever the parents and the near relatives leave ..."

2. In this religion, division of inheritance basing on the power and ability of fighting is forbidden.
3. The principal is the justly division of inheritance, not its amount.

"... be it little or much ..."

4. The standard of the portion of inheritance is invariable. "

".....(it is) a decreed portion."

Surah An-Nisa', Verse 8

وَإِذَا حَضَرَ الْقِسْمَةَ أُولُوا الْقُرْبَى وَالْيَتَامَى وَالْمَسَاكِينُ فَارْزُقُوهُمْ مِنْهُ وَقُولُوا لَهُمْ
قَوْلًا مَعْرُوفًا

8. "And when the relatives and orphans and the needy are present at the division (of heritage),

give them (something) out of it and speak to them kind words."

An Ethical Ordinance

Certainly this verse has been revealed after the law of division of heritage, because it says:

"And when the relatives and orphans and the needy are present at the division (of heritage), give them (something) ..."

Though the terms '**orphans**' and '**the needy**' are mentioned in the abstract form, the purpose of it is the orphans and the needy of the relatives.

Then, at the end of the verse, it says:

"... and speak to them kind words."

Surah An-Nisa', Verse 9

وَلْيَخْشَ الَّذِينَ لَوْ تَرَكُوا مِنْ خَلْفِهِمْ ذُرَيْةً ضِعَافًا خَافُوا عَلَيْهِمْ فَلَيَتَقْوَى اللَّهُ
وَلْيَقُولُوا قَوْلًا سَدِيدًا

9. "And let those fear who, if they left behind them weakly children, would fear on their account, so let them be in awe of Allah, and let them speak right words."

As the Islamic literature denotes, devouring the wealth of orphans has reflections both in this world and in the coming world. In this world, as the verse indicates, the damage reaches to the offsprings, and in the Hereafter, there will be the Hell Fire (which is referred to in the next verse).³

The meaning of the verse may refer to the prohibition of abnormal donations and bequests that they bequeath or remit the whole property they have lest their small and weak children be left in poverty and misfortune after their death.⁴

Again, the verse may work as a recommendation to those who have handicapped offspring in order that, by proper planning, they would provide for their future.⁵

Explanations

1. We must substitute the conditions of others with those of ours, to recognize the pains and difficulties better.

We ought to treat the orphans with a manner that we like our orphans to be treated with it.

"And let those fear who, if they left behind them weakly children, would fear on their account ... "

2. Whoever does a wrong action, he himself will receive its fruit.

Transgression against the orphans of other people today will appear in the form of a custom in the society tomorrow, and it will involve our own orphans, too.

3. In methods of propagation, affections and innate dispositions should be utilized, too.

"... if they left behind them weakly children..."

4. Beside providing food and clothing, the orphans are in need of love, affection, and guidance.

"... and let them speak right words."

5. There should be neither treachery in the property of the orphans, nor shortcoming in their training, nor harshness in speech to them.

"... so let them be in awe of Allah ..."

Surah An-Nisa', Verse 10

إِنَّ الَّذِينَ يَأْكُلُونَ أَمْوَالَ الْيَتَامَىٰ ظُلْمًا إِنَّمَا يَأْكُلُونَ فِي بُطُونِهِمْ نَارًا وَسَيَحْلُفُونَ
سَعِيرًا

10. "Verily; those who devour the properties of the orphans unjustly, certainly they swallow Fire into their bellies, and they shall enter the burning Fire."

In Tafsir Al-Mizan, this verse has been taken as an evidence for the embodiment of deeds in Hereafter.⁶ Devouring the property of the orphan will turn to Fire on Resurrection Day.

Devouring the property of the orphan is unlawful when it is done unjustly and with transgression. Else, the usual holding familiar intercourse, which does not cause a loss or damage to the orphans and there is not any evil intention towards devouring their property, is admissible. The Qur'an says: ⁷

"... they are your brothers. And Allah knows well the mischief-maker from the peace-maker..."

Explanation

The apparent shape, here, is devouring the property of the orphan, but the real feature of it will be made manifest in the form of Fire in the Hereafter.

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1. It can be said that the wisdom of polygamy lies in the following:
 1. The number of death for men in wars and accidents is larger than that of women and, therefore, some women become widows.
 2. Women have monthly periods when no association occurs.
 3. Few of the young men are willing to marry a widow woman.
 4. Not all of the husbandless widows are pious or have the power to control them. Therefore, either, for the consent of the first husband, the rights of the widows should be ignored, or the problem must be solved by a project. Thus, basing on some conditions, men can marry a second wife in order to solve the difficulty of the both parties.
2. Atyab-ul-Bayan, commentary, vol. 4, p. 12
 3. Tafsir-Nur -uth- Thaqalayn, vol. 1, p. 370
 4. Majma'ul-Bayan, Vol. 3, p.
 5. Tafsir-ul-Kabir, by Fakhr Razi, explanation of the verse
 6. Al-Mizan, commentary, vol. 4, p. 336 (Persian version)
 7. Surah Al-Baqarah, No.2, verse 220

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