

# بغية الباعث

عن جمل الموارث

المعروف ب:

## متن الرحبية

# The Text Of 'Ar-Rahbiyyah' Concerning The Laws of Islamic Inheritance

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## Introduction

أَوَّلُ مَا نَسْتَفْتِحُ الْمَقَالَا

The first thing we will open our statement with

بِذِكْرِ حَمْدِ رَبِّنَا تَعَالَى

Is the mention of the praise of our exalted lord

فَالْحَمْدُ لِلَّهِ عَلَى مَا أَنْعَمَا

So praise be to Allah for what he has bestowed (upon us),

حَمْدًا بِهِ يَجْلُو عَنِ الْقَلْبِ الْعَمَى

Praise that removes blindness from the hearts.

ثُمَّ الصَّلَاةُ بَعْدُ وَالسَّلَامُ

Then we send prayers and peace

عَلَى نَبِيِّ دِينِهِ الْإِسْلَامُ

Upon the prophet whose religion is Islām

مُحَمَّدٍ خَاتِمِ رُسُلِ رَبِّهِ

Muhammad (ﷺ), the seal of the Messengers of his lord

وَأَلِهِ مِنْ بَعْدِهِ وَصَحْبِهِ

And (may peace and prayers be) upon his family after (praising) him and his companions

وَنَسْأَلُ اللَّهَ لَنَا الْإِعَانَةَ

So we ask Allah for aid for ourselves

فِيمَا تَوَخَّيْنَا مِنَ الْإِبَانَةِ

For that which we have embarked upon from clarification,

عَنْ مَذْهَبِ الْإِمَامِ زَيْدِ الْفَرَضِيِّ

Of the school of thought of Imām Zaid (ibn Thābit), the scholar of inheritance

إِذْ كَانَ ذَلِكَ مِنْ أَهَمِّ الْغُرُصِ

Since that is from the most important of goals

عِلْمًا بَأَنَّ الْعِلْمَ خَيْرٌ مَا سُعِيَ

Bearing in mind that knowledge is the greatest thing a servant can strive for

فِيهِ وَأَوَّلَى مَا لَهُ الْعَبْدُ دُعِي

And the best thing a servant can be called to

وَأَنَّ هَذَا الْعِلْمَ مَخْصُوصٌ بِمَا

And that this knowledge (of inheritance) specifically,

قَدْ شَاعَ فِيهِ عِنْدَ كُلِّ الْعُلَمَاءِ

As is well known concerning it among the scholars,

بَأَنَّهُ أَوَّلُ عِلْمٍ يُفْقَدُ

That it will be the first (branch of knowledge) to be lost

فِي الْأَرْضِ حَتَّى لَا يَكَادُ يُوجَدُ

On earth, to the extent it will nearly not exist

وَأَنَّ زَيْدًا خُصَّ لَا مَحَالَةَ

And that Zaid has undoubtedly been specified,

بِمَا حَبَاهُ خَاتَمُ الرَّسَالَةِ

With that which the seal of prophet hood (i.e. Muhammad (عليه وسلم)) mentioned concerning him

Specifically

مِنْ قَوْلِهِ فِي فَضْلِهِ مُنْبَهًا

From his statement concerning his virtue drawing attention to (the fact that)

أَفْرَضْتُكُمْ زَيْدًا وَنَاهَيْتُكُمْ بِهَا

“*The best of you with (the knowledge) of the laws of inheritance is Zaid*” and this (testimony) is sufficient for you

فَكَانَ أَوْلَىٰ بِاتِّبَاعِ التَّابِعِ

So he (therefore) has most right to be followed (in this regard)

لَا سِيَّمَا وَقَدْ نَحَاهُ الشَّافِعِيُّ

Especially since this was the way of (Imām) Ash-Shāfi‘e’

فَهَاكَ فِيهِ الْقَوْلُ عَنِ إِجْازِ

So here we begin our concise discourse

مُبَرَّرًا عَنِ وَصْمَةِ الْإِلْعَازِ

(a discourse) free of any confusion blemishing (this work)

## Chapter: Reasons one may inherit

أَسْبَابُ مِيرَاثِ الْوَرَى ثَلَاثَةٌ

The reasons one may inherit are three

كُلُّ يُفِيدُ رَبَّهُ الْوَرَاثَةَ

An individual described with any of these is a (possible)<sup>1</sup> inheritor

وَهِيَ نِكَاحٌ وَوَلَاءٌ وَنَسَبٌ

They are: 1. Marriage, 2. Relation due to emancipation (of a slave)<sup>2</sup>, and 3. Kinship<sup>3</sup>

مَا بَعْدَهُنَّ لِلْمَوَارِيثِ سَبَبٌ

After these there is no other means of receiving inheritance.

<sup>1</sup> Due to the fact there may be a factor preventing an individual described with any of the three from inheriting

<sup>2</sup> In the case of emancipation, only the emancipator inherits from the emancipated and not the opposite

<sup>3</sup> In the case of kinship the inheritors are of three main types: 1. **Usūl** (lit: Root or foundation) referring here to those relatives who are the cause of his existence after Allah, namely his parents and grandparents etc. 2. **Furū'** (lit: a derivative or subsidiary branch of) here referring to those who you have been the cause of their existence, namely ones children and grandchildren and 3. **Hawāshi**, referring to relatives who are connected to the deceased through their Usūl or their furū' (brothers, sisters, uncles, nephews etc.)

## Chapter: Prevention from Inheritance

وَيَمْنَعُ الشَّخْصَ مِنَ الْمِيرَاثِ

An individual is prevented from inheriting

وَاحِدَةٌ مِنْ عِلَلٍ ثَلَاثٍ

Due to one of three reasons

رِقٌّ وَقَتْلٌ وَاخْتِلَافٌ دِينٍ

1. Slavery<sup>4</sup>, 2. Killing<sup>5</sup> and 3. Being of different religions<sup>6</sup>

فَأَفْهَمَ فَلَيْسَ الشَّكُّ كَالْيَقِينِ

So understand (this), since having doubt is not like certainty

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<sup>4</sup> The slave cannot be an inheritor since his wealth belongs to his master

<sup>5</sup> Upon the most correct position the killer is prevented from inheriting from the one he killed whether the killing is Murder, manslaughter or accidental

<sup>6</sup> The prophet (ﷺ) prohibited the Muslim from inheriting from the non-Muslim and vice versa

**Chapter: Male inheritors**

وَالْوَارِثُونَ مِنَ الرِّجَالِ عَشْرَةٌ

The inheritors from the men are ten (in number)<sup>7</sup>

أَسْمَاءُهُمْ مَعْرُوفَةٌ مُشْتَهَرَةٌ

They are well known and popular

الابن وابنُ الابنِ مَهْمَا نَزَلَا

(They are:) Sons, Sons' sons (I.e. grandsons through ones sons only) regardless of the generational gap (between them)

وَالْأَبُ وَالْجَدُّ لَهُ وَإِنْ عَلَا

Ones' father and grandfather even if they ascend generationally (i.e. regardless of the generational gap between them, great grandfather, great great grandfather and so on)

وَالْأَخُ مِنْ أُمَّيِّ الْجِهَاتِ كَانَا

The brother from whichever direction he comes (i.e. from both parents or from ones fathers side or ones mothers side)

قَدْ أَنْزَلَ اللَّهُ بِهِ الْقُرْآنَا

Indeed Allah has revealed (verses in) the qur'ān concerning this

<sup>7</sup> The ten inheritors are broken down into fifteen categories as follows

1. Son
2. Grandson (referring to ones' sons' sons and not the daughters sons) even if he descends: i.e. sons' sons' son (son, grandson, great grandson and so on) with the condition they are connected through males
3. Father
4. Grandfather (through ones father)
5. Full brother
6. Half-brother (through ones father)
7. Half-brother (through ones mother)
8. Full brothers' son (nephew)
9. Son of ones' half-brother through ones father (nephew)
10. One paternal uncle (ones fathers full brother)
11. One's Paternal Uncle (ones fathers half-brother through their father)
12. Ones male cousin (i.e. the son of ones fathers full brother)
13. Ones male cousin (the son of ones fathers half-brother through his father)
14. The husband
15. The slaves emancipator

وَابْنُ الْأَخِ الْمُدِّيِّ إِلَيْهِ بِالْأَبِ

And the son of ones' brother who is related (the deceased) through ones' father<sup>8</sup>

فَاسْمِعْ مَقَالًا لَيْسَ بِالْمَكْذَبِ

So listen to a statement that is not false

وَالْعَمُّ وَابْنُ الْعَمِّ مِنْ أَبِيهِ

And the paternal uncle (who is related to the deceased through his father) and his son (i.e. ones male cousin through ones paternal Uncle)

فَاشْكُرْ لِمَنْ لَدَى الْإِيجَازِ وَالتَّنْبِيهِ

So thank the one who has made it concise and has drawn it to your attention

وَالزَّوْجُ وَالْمُعْتِقُ ذُو الْوَلَاءِ

One's husband and (finally) he who frees a slave and thus is related due to emancipation

فَجُمْلَةُ الذُّكُورِ هَؤُلَاءِ

So these then, in general<sup>9</sup>, are the male (inheritors)

## Chapter: Female inheritors

وَالْوَارِثَاتُ مِنَ النِّسَاءِ سَبْعُ

The inheritors from the females are seven

لَمْ يُعْطِ أَنْتَى غَيْرَهُنَّ الشَّرْعُ

The Shariah has granted it (inheritance) to no other female other than them

بِنْتُ وَبِنْتُ ابْنِ وَأُمُّ مُشْفِقَةٌ

Ones' daughter, ones' sons' daughter, the compassionate mother

وَزَوْجَةٌ وَجَدَّةٌ وَمُعْتِقَةٌ

The wife, the grandmother, the female who frees a slave

<sup>8</sup> I.e. nephews through ones full brother, or through ones' half-brother through their father. In this case they must be related through the father.

<sup>9</sup> He said 'In general' because as we mentioned earlier these ten are broken done into fifteen individuals

## وَالْأُخْتُ مِنْ أَيِّْ الْجِهَاتِ كَانَتْ

The sister who is related in anyway (i.e. through the mother, father or both)

## فَهَذِهِ عِدَّتُهُنَّ بَانَتْ

The number of these (women) has (now) been made clear<sup>10</sup>

<sup>10</sup> The seven female inheritors are broken down into eleven as follows:

1. Daughter
2. Son's daughter
3. Mother
4. Grandmother (mothers mother even if they ascend with the condition they are connected through females i.e. mothers' mothers' mothers' mother)
5. Grandmother (Fathers' mothers' mother even if they ascend, with the condition they are connected through females i.e. fathers' mothers' mothers' mother)
6. Great grandmother through ones grandfathers (on ones' fathers side) mothers mother even if they ascend, with the condition they are connected through females
7. Full sister
8. Half-sister (through ones father)
9. Half-sister (through ones mother)
10. Wife
11. The slaves female emancipator

**Some of the Relatives who do not inherit are:**

1. Daughters son
2. Great Grandson through ones daughters son
3. Great Grandson through ones daughters daughter
4. Daughters daughter
5. Daughter of ones sons daughters
6. Mothers father
7. Father of ones mothers mother (i.e. great grandfather through ones mothers mother)
8. Father of ones fathers mother (i.e. the great grandfather through ones fathers mother)
9. Mother of ones' great grandfather (fathers' fathers' father)
10. Grandfather (on ones mothers' sides) mother
11. The daughter of one's full brother (niece)
12. Daughter of ones half-brother through ones father
13. Child (male or female) of ones half-brother through ones mother
14. Full sisters children (male or female)
15. Children (male or female) of half-sister through father
16. Children (male or female) of ones half-sister through mother
17. Daughter of paternal uncle (female cousin)
18. Daughter of paternal uncles (through fathers side)
19. Paternal uncle through mother (i.e. fathers half-brother through mother)
20. Cousin (male or female) through Paternal uncle through mother (i.e. fathers' half-brother through mother)
21. Maternal uncle
22. Maternal uncles children (male or female)
23. Maternal aunt
24. Maternal aunts children (male or female)

The general rule is that the inheritor should be related to the deceased through a male relative