

220397 - Giving Property to One Heir before Death: Allowed in Islam?

the question

It is not permissible for either parent to give a gift only to one of their children, to the exclusion of their brothers and sisters, unless there is a Shar‘i justification for doing so.

Detailed answer

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Gifting only one of the children

It is not permissible for either parent to [give a gift only to one of their children](#) , to the exclusion of their brothers and sisters, unless there is a Shar‘i justification for doing so. If they do that, they must either give the others an equitable gift, or take back the gift from this child.

If they die, the child who received the gift to which s/he was not entitled must return it to the estate, or subtract it from his/her share of the estate.

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said:

“The correct scholarly view is that the one who allocated some gifts to his daughters and excluded his unborn baby must take the gifts back during his lifetime, as the Prophet (blessings and peace of Allah be upon him) enjoined. If he dies without having taken them back, they must be taken back after his death, according to the more correct of the two scholarly opinions, in obedience to Allah and His Messenger, and seeking the justice that he enjoined, and following the example of Abu Bakr and ‘Umar (may Allah be pleased with them). It is not permissible for the one who was favoured to accept this favour; rather he must share all of the wealth with his siblings on the basis of justice as enjoined by Allah.” (Al-Fatawa al-Kubra, 4/184)

Ibn ‘Uthaymin (may Allah have mercy on him) said:

“The correct view is that if he dies – meaning the father who favoured one of his children over others – the one who was favoured must return to the estate what he was given. If he does not do that, then it must be subtracted from his share, if he has a share of inheritance, because when it was enjoined on the father who has died to treat his children equally, then he died before he could do that, he becomes like a debtor, and the debt must be repaid. Based on that, we say to the one who was favoured: If you want to honour your father, then return to the estate what he gave you.” (Ash-Sharh al-Mumti‘, 11/85)

Based on that, the three whom the mother favoured by [giving them properties](#) must return these three properties to the estate, then the entire estate must be shared out among the heirs.

As one of them sold the [property that his mother gave him](#) , the value thereof must be subtracted from his share of the estate.

What should the son do with the property given to him only?

Regarding the son who was favoured by being given a property then sold it, if he sold it because he was poor and needed the money, this property should not be regarded as part of his share when dividing the estate, because the parent may give to one of his children and not the others if that one is poor and in need.

But if this son was independent of means, then this property should be regarded as part of his share and should be subtracted from his share of the estate.

The same may be said regarding the two brothers who withdrew money from the mother’s bank account. If that was because they needed the money, and was done with the mother’s approval, then it should not be subtracted from their shares. But if they were not in need, or that was done without the mother’s knowledge or consent, then it is a debt that they owe to the mother and should be subtracted from their shares of the inheritance.

And Allah knows best.