

property he has so that they may give it to his relatives who are not present. This applies when the person concerned is in his hometown. If he is travelling and does not find two Muslim witnesses to entrust his property to, then it is permissible to have two non-Muslim witnesses.

Should the Muslim community, or the family of the deceased, doubt the honesty of what the witnesses hand over, or they have reason to suspect that the witnesses have been unfaithful to their trust, then the following procedure applies. The witnesses are brought forward after having offered prayers, according to their faith, and they are asked to testify by God that they would not swear to make any gain for themselves or for anyone else, even a close relative, and that they would not conceal anything entrusted to them. Should they do so, they acknowledge that they would be guilty of committing a sin. Thus, their testimony is approved.

However, if it later appears that the witnesses have been guilty of a breach of trust, giving false testimony under oath, another procedure takes place. The two closest heirs of the deceased who have suffered as a result of the false testimony come forward and swear that their own testimony is truer than that of the two witnesses, and that by stating this fact, they are guilty of no iniquity. Should this take place, then the statement of the first two witnesses is considered null and void, while the statement of the second two witnesses is upheld.

The Qur'anic verses state that these procedures ensure that witnesses remain true in their testimony, fearing that the first witnesses are rejected. Hence, they try hard to be true to their trust. "Thus it will be more likely that people will offer testimony in accordance with the truth; or else they will fear that the oaths of others may be taken after their oaths. ..." (108) These verses are concluded with a reminder to all people to remain God-fearing, and to watch God and obey His commandments. They are further reminded that God will not give His guidance to anyone who turns away from His path. "I have fear of God and hearken [to Him]. God does not guide those who are iniquitous." (108)

Al-Qurṭubī, a leading commentator on the Qur'an, relates the occasion that led to the revelation of these three verses:

... "I do not know of any disagreement among scholars that these three verses were revealed in connection with Tamim al-Dari and `Adi ibn Badda. Al-Bukhari, al-Daraqutni and others quote this report by Ibn `Abbas: Tamim al-Dari and `Adi ibn Badda used to go frequently to Makkah. Once a young man from the Sahm clan went with them and he died in a place where there was no Muslim. Just before his death, he put them in charge of his property, which they

themselves in some emergency situation when they could rely on the simplicity and comprehensiveness of Islamic law. We must not forget that the tools employed by the Islamic faith have been devised so that they are effective in all environments, applicable to all cases, in bedouin and urban communities, in the desert and the jungle, as well as in the town and city. It is a faith for mankind in all ages and societies. Again, this is one of its great miracles.

We are even more grossly misguided when we think that we, human beings, know what suits us better than God, our Creator. But we are often reminded by the realities that we should be more humble in our approach. We should better remember before we face the shock of His reality. We should know what manners we should adopt when we refer to God. We should behave like the obedient servants of God, the Master of all.

Part 7 Surah 6 Al-Ma'ida Verses 106-108

Believers, let there be witnesses to what you do when death approaches you and you are about to make bequests: two persons 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." (106) But if afterwards it should come to light that the two [witnesses] have been guilty of [this very] sin, then two others should replace them from among those immediately concerned. Both shall swear by God, "Our testimony is indeed truer than that of these two. We have not transgressed the bounds of what is right; for then we should be among the evil-doers." (107)

Thus it will be more likely that people will offer testimony in accordance with the truth; or else they will fear that the oaths of others may be taken after their oaths. Have fear of God and hearken [to Him]. God does not guide those who are iniquitous. (108)

Witnesses at the Time of Death

The passage is concluded with an outline of the rulings applicable to witnesses to a will, when the testator is away from home and from his society. These are the final rulings given in this *surah* on certain transactions in Islamic society. They provide guarantees to ensure that people receive what is rightly theirs.

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God does not guide those who are iniquitous. (108)

The process outlined in these three verses indicates that a person who feels the end to be near and wants to make bequests assigning any money he has to his relatives should call in two Muslim witnesses of probity and give them what

delivered to his family, but they retained a silver article with a gold covering. God's Messenger (peace be upon him) asked them by God whether they had withheld or concealed anything. Later on, that silver article was found in Makkah. People there said that they bought it from `Adi and Tamim. Two men who were heirs of the man from Sahm stated under oath that the article belonged to their relative and that their testimony was truer than that of the two witnesses. They also confirmed that they had not transgressed. [The Prophet] then took the silver article [to give to the deceased man's relatives]. It was in relation to those people that these verses were revealed... [The text quoted here is the one related by al-Daraqutni.]

It is clear that the nature of the society in which these rulings were laid down has a bearing on the procedures outlined. The calling of witnesses and entrusting things to their care, the taking of an oath in public after offering prayers to enhance one's religious consciousness, the fear of being found out, should one be tempted to lie or to act dishonestly, are all measures which suggest their effectiveness in a particular type of society.

Modern societies may have different methods and measures of proof, such as documentation, registration, and bank deposits, etc.

The question then which can be posed here is: has this text lost its operational validity in today's society?

The fact is that we may often be misguided by the circumstances that prevail in a particular society. We may think that some recommended measures may have lost their validity or effectiveness, or that they have become unnecessary, or that they were more suited to past communities. Such thoughts may be the result of developments that have taken place in society.

When we are so misguided, we simply forget that this religion of Islam is meant for all mankind, in all places and for all generations. We also forget that a huge number of people today still live in semi-primitive or underdeveloped conditions. Such communities are in need of legal provisions and procedures to suit their needs in all their forms and stages of development. They find in this religion of Islam what suits their needs in all situations. When they move up along the ladder of development and progress, they will still find in it what satisfies their needs in the same way. They also find that its legal provisions satisfy their present needs and the needs of their development. This is one miracle of this religion and its law. It is a proof that it is laid down by God who knows all.

We may also be misguided when we forget that individuals today living in societies that have attained a high standard of development may find