374766 - What is the ruling on differentiating between children with regard to monthly allowances?

the question

I have a question that occurred to me about differentiating between children. My parents – may Allah preserve them – give me 200 riyals as a monthly allowance, because I am seventeen years old, and my little brother who is nine years old gets 100 riyals only. I have a few questions: 1. Is this money regarded as haraam for me? Is what I have spent regarded as unfair to my brother? 2. I spoke to my little brother and he said he is content with the difference, but he has not yet reached puberty; is his consent valid? 3. Finally, if my parents intend to give my brother the same as I get when he grows older like me, is this regarded as equal treatment?

Detailed answer

Praise be to Allah.

Firstly: Is it obligatory to spend equally on children's maintenance as is required in the case of gifts?

What is required is to treat children equally in terms of gifts, because of the report narrated by al-Bukhaari (2587) from 'Aamir who said: I heard an-Nu'maan ibn Basheer (may Allah be pleased with him) say on the minbar: My father gave a gift, and [my mother] 'Amrah bint Rawaahah said: I will not be pleased until you ask the Messenger of Allah (blessings and peace of Allah be upon him) to bear witness. So my father went to the Messenger of Allah (blessings and peace of Allah be upon him) and said: I gave a gift to my son from 'Amrah bint Rawaahah and she told me to ask you, O Messenger of Allah, to bear witness to it. He said: "Have you given something similar to all your children?" He said: No. He said: "Fear Allah and treat your children fairly." So he came back and took back his gift.

According to a report also narrated by al-Bukhaari: “I will not bear witness to injustice.”

However with regard to maintenance, each of them should be given what will suffice him. So spending on an older child is not like spending on a younger child, and spending on one who is studying in university is not like spending on one who is studying in elementary school, and one who has reached the age of marriage and needs to get married is not like one who has not reached that age, or who has reached puberty but does not need to get married.

It says in *Kashshaaf al-Qinaa‘* (3/309): It is obligatory for the father, the mother and other relatives to treat fairly those who are their heirs through ties of blood, such as his child and others, such as the father, mother, brother, brother’s son, paternal uncle, and paternal uncle’s son in what he gives to them … But it is not obligatory to treat them equally when giving something insignificant, because that may be overlooked and does not cause anyone to be upset. However, in the case of maintenance and clothing, one must give what is sufficient, but it does not have to be equal. End quote.

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said regarding the difference between gifts and maintenance:

The author (may Allah have mercy on him) told us, regarding what he gives to his heirs, that with regard to maintenance, it should not be given commensurate with their share of inheritance; rather it should be according to their need. So he must be fair in spending on his children according to need. If it so happens that the female is poor and the male is rich, in this case he should spend on the female and not give something equivalent to the male, because maintenance is for the purpose of meeting needs, so fairness between children in terms of maintenance means giving each of them what he needs. Therefore, if we assume that one of them is in school and needs school supplies such as books, notebooks, pens, ink and so on, and another one is not in school, and he is older and does not need these things, if he gives things to the first one, does he have to give something similar to the other one?

The answer is that he does not have to do that, because fairness with regard to maintenance

means giving each of them what he needs.

An example of that is if a male child needs a ghutrah (shemagh) and cap worth one hundred riyals, and a female child needs earrings worth one thousand riyals – what is fair in this case?

Answer: What is fair is to buy the ghutrah and cap for one hundred riyals for the male, and to buy for the female the earrings for one thousand riyals, which is ten times more than what is bought for the male. This is what is fair.

Another example is if one of them needs to get married and the other does not – what is fair?

Answer: he should give to the one who needs to get married and not to the other one. Hence it is regarded as wrong what some people do, who arrange marriages for their children who have reached the age of marriage, but they also have small children, so the father writes in his will: I bequeath to my children who have not yet got married money from one third of my estate with which to get married. This is not permissible, because marriage comes under the heading of meeting needs, and these children have not yet reached the age of marriage, so making a bequest for them is haraam and should not be executed. In fact it is not permissible for the heirs to execute this bequest except in the case of mature adults among them, if they agree to that; there is nothing wrong with an adult heir allowing it with regard to his own share of the estate. End quote from *ash-Sharh al-Mumti'* (4/599).

Based on that, if the entire amount that is spent all comes under the heading of maintenance, meaning that each of them is given according to what he needs of clothing, study materials and so on, then it is not required to give to them equally; rather each of them should be given what he needs. But if what is spent, or some of it, is more than what is needed, then the extra amount comes under the heading of a gift, and gifts must be fair and equal.

If we assume that you need 150 riyals for your food, drink, clothing or transportation to school, for example, and the fifty is extra, by way of kindness, then this fifty is a gift, and gifts must be fair and equal. So the same amount must be given to your brother, if we assume that the hundred that he receives is all spent on his needs.

An allowance is usually regarded as coming under the heading of maintenance, not a gift, so there is nothing wrong if it varies from one child to another.

Secondly: What counts as valid consent with regard to accepting differentiation in giving

It is permissible to differentiate in gifts if the one who is given less consents to that, but consent is only valid on the part of one who has the authority to dispose of his own property, namely an adult of sound mind and mature thinking. The one who is mature in his thinking is the one who can handle his wealth properly; this is the opposite of one who is incompetent, and the consent of a minor, one who is insane and one who is incompetent does not count.

It says in *Kashshaaf al-Qinaa'* (4/310): In the case of the father, mother and others allocating something specific to some of their relatives who are their heirs with the permission of the other heirs, that is because the reason for the prohibition on allocating things to some heirs and not others is that this generates enmity and leads to the severing of ties of kinship, but that will not happen if permission is given for it. But if a person allocates some gifts or some extra wealth to some of them without the permission of the others, then he is sinning, because of what was noted above. End quote.

It also says (4/299): With regard to giving gifts, it is valid on the part of one who is qualified to dispose of his own wealth, so it is not valid on the part of a minor, one who is incompetent, a slave and so on.

Based on that, the consent to this differentiation in gifts on the part of your brother who has not yet reached maturity does not count.

And Allah knows best.