4030 - Dividing one’s legacy and excluding a son who does not pray

the question

A person is living in a kaafir country, and one of his sons does not pray at all. We know that not praying is kufr and puts a person beyond the pale of Islam. The system in that country allows a father to say before he dies how his estate should be divided. Is it permissible for him, or is it obligatory for him, to write a will with a lawyer stating that if his son does not pray, the estate will be divided and he will be left out, and the estate will be shared out according to Islamic shareeah among the other heirs?

Detailed answer

Praise be to Allah.

We put this question to Shaykh Muhammad ibn Saalih al-Uthaymeen, may Allaah preserve him, who replied as follows:

There is nothing wrong with leaving instructions in one's will that if this son does not return to Islam before the father dies, he will have no share of the inheritance.

Question:

Can he write down specific shares with the lawyer?

Answer:

He should write it down according to Islamic law, because he does not know, some of the heirs may die before him.

So he can write in his will, kept with the lawyer, that his estate should be shared out according to Islamic law, and that if this son is not praying and has not returned to Islam before the father dies, he will not have any share of the inheritance.

And Allaah knows best.