47142 - Giving women gifts as a compensation for taking their inheritance

the question

What is your opinion on those who give women gifts as a compensation for taking their inheritance?.

Detailed answer

Praise be to Allah.

During the Jaahiliyyah, the wealth of the deceased would be given to his oldest son; if he had no son then it would go to his brother or paternal uncle. Children and women did not inherit, on the grounds that they could not protect that which should be protected (one’s family and one's honour), nor did they fight or earn booty in war.

All of these are jaahili ideas which have been revived in the hearts of some of those whose nature has become distorted in these times. Islam came to declare the Jaahili system of inheritance to be false in general terms, as Allaah says (interpretation of the meaning):

“There is a share for men and a share for women from what is left by parents and those nearest related, whether, the property be small or large — a legal share”

[al-Nisa’ 4:7]

Then the verses were revealed which explain how the estate is to be shared out among women and men, with justice and wisdom from the Wisest of rulers.

See al-Tahqeeqaat al-Mardiyyah fi’l-Mabaahith al-Fardiyyah, p. 17

From this it may be understood that depriving women of their inheritance with no legitimate shar’i reason is a serious crime and a transgression against the laws of Allaah and His sacred limits. Allaah says, following the verses on inheritance (interpretation of the meaning):

“These are the limits (set by) Allaah (or ordainments as regards laws of inheritance), and whosoever obeys Allaah and His Messenger (Muhammad) will be admitted to Gardens under which rivers flow (in Paradise), to abide therein, and that will be the great success.

14. And whosoever disobeys Allaah and His Messenger (Muhammad), and transgresses His limits, He will cast him into the Fire, to abide therein; and he shall have a disgraceful torment”

[al-Nisa’ 4:13-14]

and it was proven in the hadeeth of Abu Umaamah that the Messenger of Allaah (peace and blessings of Allaah be upon him) said: “Whoever appropriates the right of a Muslim by means of a (false) oath, Allaah would decree Hell-fire forhim and would forbid Paradise to him.” Aman said to him: “O Messenger of Allah, even if it issomething insignificant?” He said: “Even if it is the twig of the arak tree.”

With regard to giving women gifts to make up for not being given their inheritance etc, this does not do any good at all and does not absolve the sin of the one who does that, no matter what he gives, even if he were to give them gifts that are worth more than their inheritance, because he is giving them that as a gift and he is not giving them the share of inheritance that is theirs according to sharee’ah.

If he gives it to them on the basis that it is compensation for them, instead of their rights of inheritance, that will not do any good at all either, because a gift is one thing and sales and compensation are something else. Their rightful inheritance must be given to them, and they must be enabled to dispose of it by keeping it as it is, selling it, giving it away or whatever else an owner is entitled to do with his property.

With regard to keeping the inheritance under the control of men, forcing women to sell it to them or to give it up in return for some compensation, or with no compensation, this is not permitted, rather this is usurping and oppression. Allaah says (interpretation of the meaning):

“O you who believe! Eat not up your property among yourselves unjustly except it be a trade

amongst you, by mutual consent”

[al-Nisa’ 4:29]

And the Prophet (peace and blessings of Allaah be upon him) said: “Transactions can only take place by mutual consent.” Narrated by Ibn Maajah, 2185; classed as saheeh by al-Albaani in Saheeh Ibn Maajah.

And he (peace and blessings of Allaah be upon him) said: “It is not permissible (to take) a person’s property except with his consent.” Narrated by Ahmad, 20172; classed as saheeh by al-Albaani in Saheeh al-Jaami’, no. 7662.

The same applies if what makes a woman sell is her shyness in front of men and her eagerness to please them, because of the general meaning of the evidence quoted above.

Shaykh Ibn ‘Uthaymeen (may Allaah have mercy on him) said:

A sale is not valid if it is based on compulsion, except when there is a justifiable reason for that. If an unjust ruler forces a person to sell this product to someone and he sells it, that transaction is not valid, because it was not based on mutual consent. Similarly, if you know that this vendor is selling to you out of shyness or embarrassment, it is not permissible for you to buy from him so long as you know that if it were not for his shyness or embarrassment he would not be selling it to you.

Al-Sharh al-Mumti’, 8/121

The sin is compounded further if the women who is being deprived of her inheritance is an orphan, i.e., she has not yet reached the age of puberty and her father has died, and she has been deprived of her inheritance, because that is a transgression of the limits set by Allaah, and also comes under the heading of consuming orphans’ wealth. Allaah says (interpretation of the meaning):

“Verily, those who unjustly eat up the property of orphans, they eat up only fire into their bellies,

and they will be burnt in the blazing Fire!”

[al-Nisa’ 4:10]

And Allaah knows best.