

يَتَأْتِيهَا الَّذِينَ ءَامَنُوا شَهَدَةٌ بَيْنَكُمْ إِذَا حَضَرَ أَحَدَكُمْ  
 الْمَوْتُ حِينَ الْوَصِيَّةِ اثْنَانِ ذَوَا عَدْلٍ مِّنكُمْ أَوْ ءَاخِرَانِ مِّنْ غَيْرِكُمْ إِنْ  
 أَنْتُمْ ضَرَبْتُمْ فِي الْأَرْضِ فَأَصَبْتَكُمْ مُصِيبَةُ الْمَوْتِ تَحْبِسُونَهُمَا  
 مِنْ بَعْدِ الصَّلَاةِ فَيُقْسِمَانِ بِاللَّهِ إِنْ أَرْتَبْتُمْ لَا نَشْتَرِي بِهِ  
 ثَمَنًا وَلَوْ كَانَ ذَا قُرْبَىٰ وَلَا نَكْتُمُ شَهَادَةَ اللَّهِ إِنَّا إِذًا لَّمِنَ الْآثِمِينَ ﴿١٠٦﴾

*Al-Ma'idah (The Table Spread) 5:106*

**O You Who Believe!**

- When death approaches any of you.
- (Take) witnesses among yourselves when making bequests - two just men of your own (brotherhood) or others from outside if you are journeying through the earth, and the chance of death befalls you (thus).
- If you doubt (their truth), detain them both after prayer, and let them both swear by Allah. "We wish not in this for any worldly gain, even though the (beneficiary) be our near relation.
- We shall hide not the evidence before Allah.
- If we do, then behold! the sin be upon us!"

**Commentary**

Allamah Taba Tabai (AR)

The message of first two Ayats is that if any one of you is on a journey and death approaches him, then he should appoint two believers as witnesses. But if two Muslim witnesses are not available then appoint two from among the people of the book. If the heirs of the deceased have any suspicions about the witness of the "Will" then they should detain both the witnesses and they should swear by God that they have spoken the truth. The issue will be closed once they have done so. But if it is later found that the first two witnesses had lied then two new witnesses will be appointed.

This ayah is connected with the previous ones because if the person had died at a place close to Muslim settlements then there would be no need for non-Muslim witnesses. If the death has occurred during the journey then the witness of the two non-Muslims will be regarded as acceptable and authentic. Non-Muslim here means the people of the book and not the polytheists. God has not given any status and respect to the polytheist. God then asks to detain the two witnesses after the prayers.

And then make them swear in the name of God when you doubt their witness about not delivering the full amount of goods that the deceased had entrusted to them according to his “will” or that they may have made change in it. Those who give witness will say, *We will not sell our evidence (or witness) for a low price when we give witness though he (the deceased) may be a relative.*

### **A discussion under the light of Hadith**

Ali bin Ibrahim narrates a tradition in Kafi:

A companion of the Prophet, Tamim Darimi went on a trade journey with Ibn Bandi and Ibn Abi Maria. Included among the goods that he carried were some engraved gold utensils and necklaces. He fell ill and died while on his journey. He entrusted these two Christian companions with all his goods including the gold utensil and necklaces. On returning to Madina these two returned his goods to his successors after taking away the gold utensils and necklaces. His inheritors asked them, “Was he sick for a long time that a considerable expense was made for it?” They replied, “No he was sick for a short time.”

The successors asked them, “Were his goods stolen during the journey?” They said “No” The further asked, “Was there a loss in the business?”. Again they said, “No”. They then asked, “What happened then to the costly goods like the gold utensils and the necklaces?” They answered, “We have handed over the goods that he entrusted to us.”

The matter was brought before the Messenger of Allah who asked them to swear on God, which they did. The Messenger of God let them go free after they had taken the oath. Some time later, however, the goods were recovered from these two people and the successors of Tamim Darimi came to the Messenger to tell him about it. He waited for the order of God in this context. God then revealed the verse.

God has, therefore, accepted the witness of two persons from the people of the book in such cases when there is no Muslim present or available.

In my view the Salat referred to is the Asr Prayers. The word “the earlier” means those that had given witness earlier and Tafsir Durre Manthur states that there are many explanations for the word “O You Who Believe!” and Tirmizi has mentioned one such tradition while considering it to be weak. Ibn Abi Haitum has also mentioned it; Nahas has mentioned it in his book Nasiq.

Abu Shaykh Ibn Marduya, Hakim, and Abu Nayim, Abi Nazar has quoted Kuleni, who has quoted Kalbi, who in turn has quoted the slave of Umm Hani Bazan who quoted Ibn Abbas who quoted Tamim Darimi about the background of the words “O You Who Believe! When death approaches any of you.” Tamim Darimi explained:

This ayah exonerates everyone excepting me and A’di Ibn Huda. Both Tamim and A’di were Christians before they accepted Islam and often used to go on business trips to Syria. Once the slave of Bani Seham Badeel bin Abi Mariyam joined them for business purpose. He had a glass made of silver, which his master had given him to sell at a good price. When he fell fatally ill on the way he made a will and asked to return the goods after his death to his successors.

Tamim further adds:

We sold that particular glass made of silver for 1000 Dirhams and shared the proceeds between ourselves. We gave his successors all the goods they asked us about this particular glass. We replied, “He entrusted us with nothing else but the goods we have given.” Time passed. Tamim said, “Later when we had accepted Islam and the Holy Messenger came to Madina. I went to him and repented for my sin. I then called the man’s successors, told them the truth and handed them my share of 500 Dirhams. When I told them about my friend Adi, he was called and asked to swear. This was the moment this particular ayah was revealed. Umru bin Aas and another person stood witness and Adi was forced to return his share of 500 Dirhams.”

Imam as-Sadiq (AS) says,

If a person dies at a place where there are no Muslims then it is permissible to allow a non-Muslim to be witness.

### *Comment*

I feel that the meaning of this tradition has been discerned or evolved from the ayah itself. The authority of Yahya bin Muhammad has been cited in Kafi as saying, “I asked Imam Jafar Sadiq (AS) about this ayah ‘O You Who Believe! When death approaches any of you. (Take) witnesses among yourselves when making bequests - two just men of your own (brotherhood) or others from outside if you are journeying through the earth, and the chance of death befalls you (thus).’

The Imam said, “those of you” means two Muslims from amongst you; and “those other than you” refers to persons from the people of the book; but if no one of them is available, then you can take two witnesses from the Sabaens; because the Holy Messenger used to accept Jizya from the Sabaens like he did from the people of the book.

The Imam says, *When the successor of the deceased has doubts about the witness given by the two witnesses and till such time that two new witnesses do not replace the old ones, their witnesses will not be deemed obsolete.*

There are many traditions that explain the abovementioned ayahs. Usul Kafi and Tafsir Ayyashi have quoted Imam Jafar Sadiq (AS) and Imam Ridha (AS). Some traditions have explained that the words “others” in the ayah “others from outside” to mean the polytheists because the polytheists are more common than the people of the book. Since Kafi has quoted the traditions through Abi Sabah Alkanani who has quoted Imam Jafar Sadiq (AS).

I am of the view that the comment of the Imam about the above ayah which has been recorded by Shaykh Suduq that *Qur’an consists of two kinds of Ayats; one that gives good news and the other that admonishes and warns us* is not based on the sayings of this Imam because it does not correlate with the beginning that the Prophets replied to God’s query by saying that they do not know and God knows best. The idea that Qur’an is based on these two kinds of Ayats does not stand. We cannot understand it to be so if we look at the last portion of the Hadith.

The words literally mean that the Qur’an consists of both the manifest Ayats that are easy and the hidden ones that are difficult. This will create a controversy because Qur’an does not consist of only two kinds of ayah. There are Ayats that admonish, that speak of forgiveness and those that mention God’s mercies. When we study the explanation given by the Imam we learn that their meaning of Taqrih here will stand in contrast to the meaning of Taqrib and that is Tabi’d.

Qur'an is the complete explanation of the meanings of truth. Since every one cannot understand it in depth, we should take it as certain Ayats of Qur'an bring us close to the God by symbolizing many meanings for one reality e.g. "soul" wherein God says, "This Qur'an is a book the Ayats of which has been revealed with proof to the learned and then explained in details." Surah Hud-1.

In this situation the beginning of the Hadith wherein the Imam had referred to the saying of the Messenger - We do not know and you are all wise - proves that the knowledge of man is not personally attained, but the knowledge of God is entirely His Own. In other words we can say when knowledge comes into contact with any being, that being first comes into contact with God and then God gives him the knowledge that he is capable of. God has the knowledge of everything and he bestows parts of it upon his subjects when he chooses them. Qur'an says, "*They cannot comprehend any part of his knowledge except what he pleases; His chair (knowledge) extends over the heavens and the earth.*"

Mir Ahmed Ali (AR) and Aqa Mahdi Puya (AR)

Witnesses should be men of honour and integrity; they can be non-Muslims if Muslims are not available.

The object of the procedure mentioned in these verses is to eliminate the chances of false evidence. This procedure was followed in an actual case in the Holy Prophet's life-time.

Tamin Dari, a companion of the Holy Prophet died abroad, having made over his goods to two Christian fellow travellers, to be delivered to his designated heirs in Madina. They, however, kept back some valuable articles. When this was found out, oaths were taken from those who knew, and justice was done by the Holy Prophet.

What one leaves behind should be clearly defined, according to the law of inheritance as well as one's own wishes. No vagueness is allowed in Islam, because the path is that of awareness, discrimination, and knowledge.

In verse 8 of *al-Adiyat* also *khayr* refers to wealth, as in this verse. *Khayr* according to most commentators means abundant wealth or large property.

Aqa Mahdi Puya says:

Although the Sunni school thinks that this verse has been abrogated by verse 11 of *al-Nisa*, but its proper study makes it clear that the distribution of wealth among the heirs is to be effected after taking the will (bequest) of the deceased into consideration. The Holy Prophet and Imam Ali had clearly, in many instances, advised those, who sought their guidance, to bequeath or not to bequeath according to the merits and circumstances of the seekers of guidance.

Here the word kutiba means "laid down". It can be compulsory or optional according to the merits and circumstances of the case.

To alter or to misinterpret the word of Allah is a major sin. Beware. He is hearing, knowing. The wishes of a departed being should not be altered. In case of disagreement, proper settlement, within shari-ah, should be made so as not to deprive the rightful heirs, nor let those, in whose favour the bequest has been made, suffer any undue loss.

#### Ayatullah Sayyid Kamal Faqih Imani and a Group of Muslim Scholars

Upon the revelation of the above holy verse, as well as its two successive ones, it has been narrated that: a Muslim believer, called Ibn Abi-Mariyah, accompanied with two christian Arabs, by the names of Tamim and Uday, came out of Madina with the intention of trade. During the time they were travelling, Ibn Abi-Mariyah, who was a Muslim, became sick. He wrote his testament and hid it inside his properties. Then he trusted those properties with his Christian fellow-travellers.

Before his death, he bequeathed that those two christians would deliver them to his family. After his death, those two fellow-travellers untied his furniture and took its worthy and interesting parts, and then they returned the rest to the inheritors of the man.

When the inheritors opened the parcel of the properties, they did not find some parts of what Ibn Abi-Mariyah had brought with him. But suddenly they saw the testament he had left. They found that the list of all the stolen things were recorded in that testament. They detailed the matter for those two Christian fellow-travellers, but they denied and said that they delivered them what he had given them. Then, they could not help complaining the Prophet (S) . So, the verse was revealed and stated its ordinance.

One of the most important matters which Islam emphasizes on is the subject of observing and protecting the rights and properties of people, and, in general, the execution of social justice.

At first, in order that the inheritors' rights in the properties of the diseased not to be spoilt, and that the rights of those members remained behind, including orphans and minors, not to be violated, the Qur'an instructs the believers, saying: "*O you who have Faith ! call to witness between you when death approaches any of you, while making a bequest, two just persons from among you, ...*"

Here, the expression of bearing witness, of course, is accompanied with the accomplishment of testament. In other words, these two persons are witnesses to both the testament and the executors of the testament. Thus, the verse indicates that if you are on a journey and one of you is going to die and you cannot find any executors of testament and witnesses, then you may take two persons from non-Muslims for the purpose. The verse continues saying:

*"... or two others from other than you, if you are travelling in the land and the affliction of death befalls you, ..."*

The objective meaning of 'other than you' (non-Muslims) is only the people of the Book, viz. the Jews and the Christians, because nowhere Islam has attached importance to pagans and idolators.

Then the verse says:

*"... detain the two after the prayer, then if you doubt them, they shall swear by Allah (saying) : ' We will not sell it for any gain, even if it were a relative, ..."*

And also they should add:

*"... and we will not conceal the testimony of Allah; for then we would indeed be among the sinners'."*

It is cited in Qur'ar-ul-Hikam, vol. 1, p. 185 that Hadhrat Imam Amir-ul-Mu'mineen Ali (AS) said:

The quickest retribution is the retribution of a false oath.