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GIVING WASIAT MORE THAN 1/3 TO THE WEALTH

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STUDENT DECLARATION

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

We hereby acknowledge that in fact all of the work in the preparation of this academic work is the result of our own efforts and works except as expressly stated.

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1.0 INTRODUCTION

A wasiat, also known as a will or testament, is a legal document that allows an individual to dictate how their assets and possessions should be distributed after their death. It serves as a means to ensure that one's wishes are respected, and their loved ones are provided for according to their desires and Islamic principles. (Abdul-Razzaq, 2021)

In Islam, making a wasiat is encouraged as a responsible act to protect the rights of family members and ensure the fair distribution of wealth. By creating a clear and legally binding will, individuals can specify who will inherit their assets, the portion allocated to each beneficiary, and any specific conditions or instructions they wish to include.

Wasiat allows individuals to distribute their wealth beyond the compulsory inheritance laws (Faraid) outlined in Islamic teachings, giving them the freedom to allocate a portion of their assets to beneficiaries who may not be entitled to a share under those laws. It provides an opportunity to express gratitude, extend support, or fulfill charitable objectives, all while adhering to the principles of fairness and justice.

Creating a wasiat requires careful consideration, consultation with Islamic scholars or legal experts familiar with Islamic inheritance laws, and compliance with the legal requirements of the jurisdiction in which the will is being made. It is an important step towards ensuring that one's assets are distributed in accordance with their beliefs and values, providing peace of mind and preserving familial harmony even after one's passing.

2.0 MEANING OF WASIAT

The term "wasiat" has its roots in Arabic and is commonly used in Islamic contexts. "Wasiat" can be translated as "will" or "testament" in English. In the Islamic context, it refers to a legal document or declaration made by an individual before their death, specifying how their assets, possessions, and responsibilities should be handled after their demise (Ali, 2013)

Wasiat serves as a means for individuals to express their wishes regarding the distribution of their wealth, the appointment of guardians for their children, the settlement of debts, and other

matters that require attention upon their passing. It allows individuals to have control over the disposition of their assets and ensures that their desires and intentions are carried out.

Making a wasiat is encouraged in Islam as a responsible act to safeguard the rights of family members, provide for their welfare, and maintain harmony within the family. It also allows individuals to allocate a portion of their wealth for charitable causes, furthering their commitment to giving and supporting the less fortunate.

Creating a wasiat involves careful consideration, adherence to Islamic inheritance laws (Faraid), consultation with knowledgeable Islamic scholars or legal experts, and compliance with the legal requirements of the relevant jurisdiction. It is a way for individuals to leave a lasting impact, honor their beliefs, and provide for their loved ones even after their death.

3.0 SOURCES OF WASIAT

After Allah SWT explained the law of Qisas (Al-Sabuni, 1981; Jasmi, 2019a, 2020a), Allah SWT also explained the law of wasiat in Islam to be used as a guideline for Muslims (Jasmi, 2019b, 2020b). The debate of this verse's interpretation will be separated into two discussion groups: the discussion linked to the law of wills, which is found in surah al-Baqarah (2:180-182), and the discussion relating to the rule of qisas, which is found in surah al-Baqarah (2:178-179). The lessons that may be drawn from the debate of the verse's interpretation and a brief summary will be covered in the concluding section of this essay.

The verse's interpretation focuses solely on the law of wasiat, which is covered in Surah Al-Baqarah (2: 180–182). Whether purposefully or inadvertently, Allah SWT reveals the law of Qisas as in His words:

كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنْ تَرَكَ خَيْرًا الْوَصِيَّةَ لِلْوَالِدَيْنِ وَالْأَقْرَبِينَ بِالْمَعْرُوفِ ۗ حَقًّا عَلَى الْمُتَّقِينَ ١٨٠ فَمَنْ
بَدَّلَهُ بَعْدَ مَا سَمِعَهُ فَإِنَّمَا إِثْمُهُ عَلَى الَّذِينَ يُبَدِّلُونَهُ ۚ إِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ ١٨١ فَمَنْ خَافَ مِنْ مُوصٍ جَنَفًا أَوْ إِثْمًا فَأَصْلَحَ بَيْنَهُمْ فَلَا إِثْمَ
عَلَيْهِ ۚ إِنَّ اللَّهَ غَفُورٌ رَحِيمٌ ١٨٢

Meaning: You are required, when one of you is about to die, if he has left property, (he should) make a will for his parents and relatives in a good way (according to religious rules), as an obligation on pious people. (180) Then whoever changes any will after hearing it, then verily the