

ISLAMIC LAWS OF **THE WILL**

ACCORDING TO THE RULINGS OF
GRAND AYATULLAH SAYYID ALI AL-SISTANI



ISLAMIC LAWS OF THE
Will (al-Wasiyyah)

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According to the rulings of Grand Ayatullah
al-Sayyid Ali al-Husseini al-Sistani

Fundamental Islamic rulings about the
testator (*al-musi*), the executor (*al-wasi*),
personal property (*al-musa bihi*), and
the legatee (*al-musa lahu*) including a template
for writing an Islamic will



I.M.A.M.

IMAM MAHDI ASSOCIATION OF MARJA'EYA

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I.M.A.M.'s Foreword


In the name of Almighty Allah

May Allah shower His blessings upon
Prophet Muhammad (pbuh) and his family (p)


This booklet is part of a series of abridged and precise practical jurisprudential guidelines. The contents of this booklet and the others in the series are specifically written using simplified language which can easily be understood by non-specialized readers of jurisprudential texts. The series clarifies the most important issues of applied Islamic practice (i.e., Islamic laws) facing our youth who are living and growing up in the West and who have reached the age at which they are responsible for performing and fulfilling their religious duties. These Islamic laws are written in accordance with the edicts (*fatwas*) of the top religious authority of the Shia sect, His Eminence Grand Ayatullah Ali al-Sistani (may God prolong his life). They are specifically derived from his books *Minhaj al-salihin* and *Al-taliqah ala al-urwah al-wuthqa* and what has been published on the official website of the Office of His Eminence in the Holy City of Najaf, Iraq.

This booklet focuses on the Islamic laws related to the will (*al-wasiyyah*) for several reasons, most importantly for the following three reasons.

THE NEED TO DISSEMINATE PRACTICAL ISLAMIC LAWS (i.e., jurisprudence), as taught by the school of Ahl al-Bayt, to help educate youth, particularly in dealing with their day-to-day issues, including the important subject of the will. At times, ignorance has been the cause of compromising the will of a deceased Muslim, either due to unawareness of the process of preparing a will or due to the ignorance of the heirs in executing it. In addition, ignorance has been the reason behind disputes among heirs, that, for example, resulted in an unfortunate scenario where instead of a compassionate and merciful father leaving a will that helped strengthen the bonds of the heirs, it did the opposite.



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THE PREVALENCE OF FALSE INFORMATION AND MISCONCEPTIONS AMONG THE PUBLIC about the system of the Islamic will and the process of executing and fulfilling the required rites of the dead such as burying the body, distributing the funds of the deceased, and executing the will.

THE CONFUSION, PERPLEXITY, AND EMBARRASSMENT THAT ARISES AT THE TIME OF EXECUTING THE WILL, particularly when a conflict arises between Islamic laws and civil (human-made) laws. Often, the believer does not know the correct procedure or the right solution that would comply with both sets of laws.

Therefore, this initiative is part of our mission to clarify these issues and spread awareness among Muslims, particularly those living in the West.

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Jurist Representative
I.M.A.M.



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This booklet was translated and reviewed by Brother Haidar Mazen and Dr. Haj Mehdi Saeed Hazari respectively.

I.M.A.M.



Introduction

A will in Islamic tradition is the enduring connection that a human being maintains between their life and death. It is the connection that ties them, their family, and community members together. Without this connection, we could lose the association, relationship, and any link with the dead. Therefore, Islam has urged believers to give importance to writing a will during their lives as a way of preparation for death and the inevitable transfer to permanent, eternal life without the worry of carrying any burden or leaving behind any responsibility. God says, “Prescribed for you, when death approaches any of you and he leaves behind any property, is that he make a bequest for his parents and relatives, in an honorable manner, —an obligation on the God-wary” (Quran 2:180). And a narration by Prophet Muhammad (peace be upon him and his progeny) says, “One who has not prepared a proper will at his death lacks magnanimity and intellect.”¹ Moreover, it has been narrated that Ahl al-Bayt (peace be upon them) have said, “God, the Almighty says, ‘O, Son of Adam I have rewarded you with three things: I have concealed things that if your own family knew will never conceal. I have given you abundant share, but you have not

1. Shaykh al-Saduq, *Man la yahdarhu al-faqih*, vol. 2, p. 276.

returned good deeds. Nor did you take the opportunity to manage the one third of your share before your death.”² Because a will is a transaction that transfers wealth to subsequent generations in an accurate, systematic way and leaves behind a good physical and spiritual effect on the family and society, Islam forbids changing or altering the content of a will by anyone who hears (i.e., executes) it. God says, “And should anyone alter it after hearing it, its sin shall indeed lie on those who alter it. Indeed, Allah is all-hearing, all-knowing” (Quran 2:181).

“*One who has not prepared
a proper will at his death lacks magnanimity
and intellect.*”

Prophet Muhammad (peace be upon him and his progeny)

Thus, a will transcends the materialistic aspects of this world and becomes a preaching tool and guidance for believers. As such, a person who has reached the age of discernment understands things through the sum of their experiences and is able to view life from a broader horizon so that they see the permanent abode and the true permanent life they should seek with God, the

2. Shaykh al-Hurr al-Amili, *Tafsil wasail al-Shia*, vol. 2, p. 447, sec. 30, the first hadith.

Almighty. Therefore, one must consider the opinions and thoughts in these narrations on the importance of a will and implement them in one's life. Hence, the Quran depicts an exemplary scene of the father of the prophets, Abraham (peace be upon him) with his children, and the Almighty says, "Abraham enjoined this [creed] upon his children, and [so did] Jacob, [saying], 'My children! Allah has indeed chosen this religion for you; so never die except as Muslims.' Were you witnesses when death approached Jacob, when he said to his children, 'What will you worship after me?' They said, 'We will worship your God, and the God of your fathers, Abraham, Ishmael, and Isaac, the One God, and to Him do we submit'" (Quran 2:132-133). One finds many of these commandments in the words of the prophets, successors, imams, righteous scholars, and faithful believers. Particularly, they are present in religious and ethical Islamic books due to these commandments' great spiritual value and positive impact on discipline and behavior and in keeping communities close to the divine decree.

This booklet discusses the most important issues concerning a will. It details, explains, and classifies all the topics of a will in a simplified and objective manner.



Laws Concerning a Will

Introductory Information

Definition of a will

In Arabic, the root of the past tense verb *wassa* وَصَّى indicates a connection between two things. And the noun for will, *al-wasiyyah* الْوَصِيَّة (or plural *wasaya*), is a statement of conveyance or linkage. A will is known as *al-wasiyyah* الْوَصِيَّة because it connects with or has a relation to matters of death. In Arabic, *awsa and wassa* أَوْصَى وَوَصَّى means to entrust someone with a specific matter. Imam Ali ibn Abi Talib (peace be upon him) was called the *wasi* (executor) to Prophet Muhammad because of his connection with and relationship to the Prophet (peace and blessings be upon him and his progeny).³

In Islamic jurisprudential terminology, *wasiyyah* (a will) is something that stipulates that after one's death certain tasks should be fulfilled concerning one's money, property, and children, among many other things. Although it is a recommended (*mustahabb*) act, it sometimes becomes obligatory (*wajib*) in situations such as repaying debts,

3. Refer to Ibn Manthoor's *Lisan al-Arab* (لسانُ العرب), The Arab Tongue) and other Arabic lexicons.

giving back certain rights, and making up some of the missed obligatory acts of worship.

Fulfilling and formalizing a will

A will is fulfilled and formalized in the following three ways:


- **ORALLY.** An oral will is spoken. This type of will is usually made through pronouncement before (i.e., heard by) heirs, or the executor and witnesses for example. The testator will say aloud to someone else how they want their property and assets to be distributed after death.
- **BY A SPECIFIC ACTION,** or even a specific gesticulation, as when a person lacks the power to speak and uses sign language, or if the person is fearful or apprehensive of speaking publicly.
- **WRITTEN.** A will is written to specify that certain transactions be taken after a person's death. It may be recognized by a signature or the testator's handwriting itself.

Types of Wills


Generally, a will is valid for one third of the wealth and property, while the other two-thirds remain subject to God's decree for the heirs who comprise three different groups. The first group consists of the parents, children, and spouse of the deceased. The second group consists of the brothers and sisters, while the third group consists of the maternal and paternal uncles and aunts. So, God

has reserved one-third of the estate for the deceased to specify where it should be distributed according to their wishes in any permissible way.

There are two types of wills: the first is the will of ownership (الوصية التمليلية), and the second is the will of entrustment (الوصية العهدية), and each one has its terms and conditions.


“O you who have faith! Let there be witnesses to what you do when death approaches any of you, while making a bequest, shall be two fair men from among yourselves.”

Quran 5:106



Will of ownership

The will of ownership is the one by which a person may give [to another] ownership of some of their wealth, like gold or silver, or the right of compensation such as financial reparation from another, after one's death. It is a will that is based on a testator, personal property, and a legatee. Therefore, it is only valid after the acceptance of the legatee; otherwise it cannot be acted upon.

FORMALIZING THE WILL OF OWNERSHIP

A will of ownership is formalized by one of the following:

- Approval of the testator in their lifetime in front of witnesses testifying to that approval
- Knowledge that leads to certainty or assurance, such as the testator's handwriting or signature on the will, or what can be proven by other means of communication—even by using modern technological means such as electronic mail, voice recording, or video recording that is unlikely to be falsified
- By way of evidence, which means the testimony of:
 - Two just⁴ (men) believers.⁵ God says, “O you who have faith! Let there be witnesses to what you do when death approaches any of you, while making a bequest, shall be two fair men from among yourselves” (Quran 5:106), or
 - One just Muslim (man) along with an oath by the legatee, or
 - One just Muslim (man) along with two just Muslim women.
 - Individual women. One quarter of the will may be confirmed by the testimony of one just Muslim woman; half may be confirmed by the

4. A just (or fair) believer (*mumin*) is the Jafari (Ithna Ashari) person who does not leave out an obligatory (*wajib*) act, does not commit a forbidden act, and, if they commit even a small sin (*saghira*), repent right away and ask God for forgiveness.

5. A believer (*mumin*) is a person who believes in the twelve imams being the successors of Prophet Muhammad (peace and blessings be upon all of them). He may sometimes be referred to as a Jafari, Imami, or Ithna Ashari.

testimony of two just Muslim women; three-quarters may be confirmed by the testimony of three just Muslim women; and the entire will may be confirmed by the testimony of four just Muslim women, without their need to give an oath during their testimony.

- The approval of all heirs, if they were sane adults, even if they are not just

Will of entrustment

The will of entrustment is the one with which a person entrusts another to perform a specific act for them after death, such as taking the responsibility of burying the body in a specific place, paying a debt on their behalf, or fulfilling any other Islamic obligations relating to other people's rights. In addition, these matters could include granting ownership of some of their property to someone else, taking responsibility for and providing sustenance for their children, or performing some of their missed obligatory (or recommended) prayers or acts of worship. So, clearly then, it is a will that is enacted between a testator and personal property⁶ only. And it is a will that must be fulfilled and never be neglected.

6. Personal property (*al-musa bihi*) is all the property owned by the testator at the time of death that is subject to distribution. Examples include land, buildings, cash on hand, cash in banks, shares of stocks, and motor vehicles. However, it also includes spiritual matters that the testator had directed to be fulfilled in the will, such as visitation to the holy shrines of Ahl al-Bayt (peace be upon them) or the recitation of the Holy Quran.

As for instructions or commands (*wasaya*) like “marry this man to that woman,” or “manage this company or house in a particular way” or similar examples which are mere wishes, these are inconsequential because they are not categorized as a will of entrustment.

FORMALIZING THE WILL OF ENTRUSTMENT

A will of entrustment is formalized by one of the following:

- Approval of the testator in their lifetime in front of witnesses testifying to that approval
- Knowledge that leads to certainty or assurance, such as the deceased’s handwriting or signature on the will, or what can be proven by other means or using a medium, for example, even by using modern technological means such as electronic mail, voice recording, or video recording that is unlikely to be falsified
- By way of evidence—that is the testimony of two just⁷ male believers⁸ only



7. A just (or fair) believer (*mumin*); see footnote 4.

8. A believer (*mumin*); see footnote 5.

The Testator

Conditions of the Testator

The testator is the one who makes a will to take care of their money and estate after death that must be executed then. The testator must meet several conditions:

- *Bulugh*: Puberty in the Islamic sense (*baligh*) means that a person has reached the age at which they are religiously duty-bound. Although there are specific physical signs that indicate a person has reached the age of being baligh, jurists generally agree it occurs when a girl has completed nine lunar years and a boy fifteen lunar years. A child's will is not valid unless the child is at least ten years old. The will is valid for charities and public good as well as to both close relatives (who potentially have a right upon them) and other more distant relatives. However, it is not valid for people other than relatives.
- *Sanity*: The will of an insane, unconscious, or drunk person when made at the time of insanity, unconsciousness, or intoxication, respectively, is not valid. Yet, if the person made a will at a time of sanity and then became insane, of sobriety and then became drunk, or of consciousness and then became unconscious, then the will is still valid.

- **Maturity:** An absurd, irrational will is invalid. Thus, overall, the will of a feeble-minded squanderer is not valid, even though it may still be valid for processing the body after death and for burial, for example. Similarly, the will of a girl who has reached bulugh, and therefore is responsible for performing religious duties, is not valid if she is immature. The same goes for a boy who is at least ten years of age and has not reached maturity.
- **Free will and choice:** The will is not valid if the testator was coerced, compelled, forced, or oppressed to make it.
- **Should not have committed suicide:** A will made by someone who has committed any act that leads to their own death (like cutting or poisoning or any such act) is generally invalid if the subject of the will is their funds, even though it would still be valid for processing the burial and similar matters.

Signs of Death and Approaching Demise

If the signs of death appear to a person and they anticipate it is approaching, they must hasten to do several things, most importantly:

- Inform those who have entrusted them or repay and give back everything that was kept with them as a trust.

- Ensure that all debts are paid back after their death, albeit by including this in the will and it (i.e., the debt) being witnessed.
- Ensure that all religious dues are paid including *khums*, *zakah*, and grievances, if any.⁹ This would be the case if the person had assets (e.g., money or property). However, if they do not have assets, then they must include the religious dues listed above in the will if
 - the person had assets but could not [in actuality] give or pay back the funds at that time (i.e., they did not have cash to pay);
 - the person surmised or believed (i.e., felt assured) that most likely some believers would voluntarily pay it on their behalf.
- Ensure that they (i.e., the testator) have performed all religious acts of worship for which they are obligated including daily prayers, fasting, and fulfilling any expiations (*kaffarat*). If the person is not able to do so and is certain that someone will perform the actions on their behalf after death, by someone like any of their children, then that is fine. Otherwise, it would be obligatory to include the fulfillment of the acts in the will if the testator had assets, whether it was cash, property, or anything else of financial

9. This includes, for example, the following situations: If the person knew that they made extra earnings that exceeded their annual needs, which would require payment of the wealth tax (*khums*) and it has not yet been paid; or, if the person had cheated someone and did not pay the restitution or grievance.

value. In that case, some of this value must be specified to pay for performing these religious acts of worship [which they were obligated to perform]: daily prayer, fasting, and expiations.

- Inform the heirs of any assets that are being kept by other entities such as savings accounts, lands, stocks, or property. Also, inform the heirs of the assets that are in keeping for others, or wealth that is hidden in a place they are not aware of if it is considered a violation of their inheritance rights.

Multiple Wills and Executors

If a testator made more than one will, with the first one being contradictory to the second, the first should be ignored and the second should be executed. So, for example, if something was specified to Muhammad, then later was specified to Ali, it should be given to Ali. Similarly, if the one-third (wasiyyah) was specified to Muhammad, then later it was specified to Ali, it should be given to Ali.

If a testator made multiple wills that were consistent and not contradictory and all were directed to the original estate,¹⁰ then all disbursements should be derived from

10. The original estate (أصل التركة) of the deceased includes all their assets before the one-third is removed. Certain essential lapsed obligatory acts and obligations like hajj al-Islam, previously accrued unpaid khums, and unpaid debts are taken from the original estate.

the estate, even if they exceed the one-third.¹¹ For instance, if in one will the testator directed fulfillment of the hajj they were obligated to perform, and in a second directed that a debt [upon them] should be paid, and in another directed the payment of khums that was due on them and not paid, then all these wills, regardless of their number, should be fulfilled.

If a testator made multiple wills, some of which contained directives to fulfill missed obligatory acts that are not designated to the original estate, such as an unfulfilled vowed pilgrimage to Mecca, and some recommended acts, such as visiting the holy shrines of Ahl al-Bayt (peace be upon them), and all of them cannot be fulfilled with the one-third, and the heirs do not permit usage of what is more than the one-third, then payment for obligatory acts must be fulfilled first [over recommended acts].

Withdrawing the Will

The testator may develop a reason or desire to change the will or the executor. This may be achieved by one of the following means:

- By statement and oral declaration. For example, the testator says aloud to someone else

11. The one-third (ثُلُث) is the proportion of a person's assets that they can specifically direct disposition of in their will; the remainder is the right of the inheritors. Certain secondary unfulfilled obligatory acts (e.g., vowed hajj) can only be fulfilled from the one-third.

(i.e., someone hears the testator), “I withdraw my will from Muhammad.”

- By acting upon it and carrying it out. For example, in the first will, the testator directs spending the one-third in a certain place, then, in a second will directs to cancel the spending.
- By direct action. For example, the testator directs in their will that something should be given as an endowment but then sells or donates it while still alive.

Nullification of the Will

The will becomes nullified by one of the following:

- If the testator makes a will while the executor is sane, then the executor becomes insane and the insanity is severe and permanent, then the will becomes nullified.
- If the executor becomes an apostate (abandons the religion), then the will is nullified even if the executor later returns to religion and becomes a Muslim again.
- If the testator makes a will to a just and trustworthy executor who then openly breaks religious rules without intending to repent or reform (becomes *fasiq*¹²), and there was evidence to

12. *Fasiq* is a Muslim who does not practice the religion or who openly and obstinately breaks the rules of Islam (i.e., violates Islamic law).

prove that, then the will becomes nullified.

However, if there was no evidence of the executor's transgression, the will is valid.

- In the will, if the testator required a condition to be met by the executor, for example saying so-and-so is my executor if that person is a student and of good conduct and discipline in society, the will is valid on the condition that the person is a student. However, if the person quits studying (i.e., being a student), that person can no longer be the executor. If this happens, the current legitimate jurist must become the executor.
- If a disagreement about the will arises between the testator and the executor¹³ then
 - if acting on a directive in the will was permissible to the testator and impermissible to the executor, then it is impermissible for the executor to fulfill and execute the will;
 - if it is *haram* (forbidden) to the testator and permissible to the executor, then it is obligatory for the executor to fulfill and execute the will.



13. This might arise because people follow different jurists, or because of *ijtihad*. So, sometimes one circumstance might be permissible according to one jurist and impermissible to another.

Executing the Will

Unfulfilled Obligatory Matters

The executor, heirs, and whoever has the authority to execute and fulfill the will of the deceased, including controlling the funds and estate, must take the initiative, first, to fulfill their obligatory matters (such as debt or unpaid khums). They should specify a certain amount of money for funeral costs such as washing, shrouding, and burial.¹⁴ But first the will should be read to see whether it refers to things such as

- money the deceased had borrowed and not returned, whether all or some of it;
- sales made in advance for which all or some of the revenue was not received;

14. What some people might do, according to their tradition and culture, of memorial services such as funeral processions, condolence gatherings, general banquets for honoring the dead, and a variety of traditional rituals that vary between different classes of society and from one place to another, all are expenses that have nothing to do with the estate, unless the deceased directed the performance of any of the rituals. If that is the case, then the costs could be deducted from the one-third. Otherwise, if the heirs want to perform any of these rituals and deduct it from their inheritance as a donation, then they are free to do so.

- the cost of something the deceased bought and promised to pay later or put on a payment installment plan and never paid off;
- reimbursement of trusts as, for example, if the deceased was entrusted a certain amount of money or property for a specific period. In this case, an equivalent (amount of money) for the trusts must be set aside until the term expires;
- the testator's unfulfilled religious dues like khums, zakah, and grievances, if any.¹⁵ As for expiations (kaffarat) and those acts that become obligatory due to a vow such as a vowed pilgrimage to Mecca, they are to be taken from the one-third (see footnotes 10 and 11).

Personal Property

Conditions of personal property

Islamic law has set the foundations for a fully equitable system that balances rights and duties of all family members. In addition, Islamic religious law has secured the rights of others and the fulfillment of missed obligatory acts of the deceased, as well as obligating the shares for inheritance.¹⁶ Furthermore, God has provided

15. Paying back grievances may be achieved by giving charity to the poor on behalf of whomever has a financial right on the payer and cannot be reached.

16. The inheritance and the process of dividing the shares among the heirs will come in a separate booklet specified for this subject.

a perfectly measured system that allows a person to bequeath their wealth, property, or rights according to their hopes and wishes within the limits He has imposed. Moreover, although God has granted this opportunity to humans, He has set several conditions for it, including the following:

- It is required that the personal property specified in the will of ownership should either be assets, benefits, or a transferable right like the right of specification (*ikhtisas*)¹⁷ but not like the right to slander¹⁸ (*alqathf*) for example. This is regardless of whether the type of assets was property, debt owed by (i.e., to be collected from) someone, or a benefit. The property may exist now or may exist in the future; for example, the will is valid for something that is being transported and shipped until it arrives, even if the period exceeds months. Or, for

17. The right of specification (*ikhtisas*) is a right for a person to own something that Islam does not recognize in terms of its ownership or the money spent on buying it. For example, Islam forbids the sale and purchase of a dog, but if someone purchased a dog to take advantage of its skills in hunting or guarding, then the dog, in this situation, is not owned (in Islamic terms) by the buyer, but the benefit of it was specified to this person. Therefore, this right is called the right of specification. In this case, it is permissible for a person, in his will, to give this right of specification to someone else.

18. The right to slander means if one person, Zaid, slandered a second person, Umar, accusing him of committing adultery, then the right of slandering is confirmed here for Umar, and it is to whip Zaid eighty times as a punishment (under certain conditions). This right for Umar may not be included in the Islamic will.

example, the will is valid for trees that will be harvested in the future and for profits from stable and continuous investments. As for what comes in return, after one's death, to the heirs as compensation for work done, grants awarded after death in wars, accidents and disasters, life insurance, and such, all are not considered to be part of the deceased's estate. In fact, they should go directly to the specific beneficiary where they were designated and in the manner directed.

- If the will specified a property, then that property must be of commonly understood permissible benefit. So, for example, the will is not valid if it involved forbidden (haram) acts, such as those involving alcohol, musical instruments, and gambling machines.
- In the will of entrustment, the directives of the testator must involve appropriate legitimate acts, so the will is invalid (and funds should not be spent) if it involves helping an oppressor, supporting wrongdoing, aiding evil, and so on.
- A will is valid only for one-third of the assets. If it exceeds this amount, then the details that follow should be taken into consideration.

Bequeathing the one-third

God has given the testator the right to direct one-third of the estate, whether money or property, for the purpose of fulfilling what they wish of religious acts of worship including the payment of any expiations

(kaffarat), fulfilling vows, and paying back grievances.¹⁹ Or, the testator may direct someone to perform some recommended acts for them such as a mustahabb pilgrimage to Mecca or visiting the holy shrines of Ahl al-Bayt (peace be upon them), or they may direct whatever is permissible such as allocating something for one or more of their children, close or distant relatives, or friends. Furthermore, the testator may also direct in the will recommended acts such as taking care of an orphan, helping a single man or woman to get married, or participating in charity projects, donations, and many similar ways of doing good for others. In such examples, the heirs have no right to dispose of this one-third in any way because it is the right of the legatee, and the executor is the one who must execute it. However, the executor might face certain circumstances that may be contrary to the will in some respects. Therefore, it is important to draw attention to some issues in this regard.

THE ONE-THIRD IS CALCULATED AFTER DEDUCTING THE AMOUNT FOR PERFORMING CERTAIN ACTS from the entire original estate; these include unfulfilled acts obligated upon the testator like any debts, obligatory hajj, and khums, for example. Hence, disposal of one-third of the remaining amount is what may then be directed in the will.

IF THE WILL DIRECTS THE DISPOSITION OF WHAT AMOUNTS TO MORE THAN THE ONE-THIRD, the directives beyond the

19. Paying back grievances; see footnote 15.

one-third are invalid except if the heirs approve. Here, we have two situations.

- If only some heirs approve execution of the directives that exceed the one-third, the will is executed in the share of the ones who approved, without affecting the others' share.

For example, a father has a remainder of thirty thousand dollars after paying back his debts and dues [from the original estate]. In his will, he requests from his sons to (1) perform a recommended (mustahabb) pilgrimage on his behalf to Mecca that costs seven thousand dollars, (2) adopt ten orphans in the amount of five thousand dollars, and (3) donate three thousand dollars to a nursing home. Here, the problem exists that the total amount of his directives in the will equals fifteen thousand dollars, when it is supposed to equal ten thousand dollars, one-third of \$30,000. To put it differently, in his will for the one-third, he has exceeded the remaining amount by five thousand dollars.

For the heirs to resolve this issue, they should do one of the following: (1) they could perform a recommended (mustahabb) pilgrimage on his behalf to Mecca that costs seven thousand dollars and adopt fewer orphans in the amount of three thousand dollars, or (2) all the heirs approve to compensate the additional amount (i.e., \$5,000) from the remaining two-thirds, which is their inheritance right. (3) However, if Muhammad and

Ali, for instance, approve this solution (#2), and the mother rejects it, then the amount shall be taken from Muhammad and Ali's share of the two-thirds, and the mother shall be given her full share.

- If the heirs agree to the execution of the will for only part of the estate and property, which falls under their inheritance right, then the will is only valid in that portion. The will is invalid in the rest. For instance, in the previous example, if the heirs fell into a dispute about the three directives, and all of them agreed to fulfill the recommended (mustahabb) pilgrimage to Mecca, and the adoption (of the orphans) by replenishing the shortage from the two-thirds but rejected the nursing home directive, then due to their rejection, the will becomes invalid concerning the donation to a nursing home.

THE TACIT SATISFACTION AND CONTENTMENT of the heirs is not enough to approve what has exceeded the third of the will. Rather, it requires acceptance of the will and implementing it.

Depriving the Heirs of Their Inheritance

IT IS PROHIBITED TO DEPRIVE HEIRS OF INHERITANCE. If the testator directed in the will to deprive some heirs of their shares, then it is not permissible to dispose of their shares [to other places or for other purposes] unless they approve and are content with the result.

A DIRECTIVE [BY THE TESTATOR] TO DEPRIVE SOME HEIRS FROM THE ONE-THIRD IS VALID if the testator has not specified a will.

First example: The testator left two sons, Muhammad and Ali, six thousand dollars and never directed the disposal of the one-third but instead directed to deprive Muhammad of his inheritance.²⁰ Then the will shall be executed with one thousand dollars exempted because that is Muhammad's portion of the one-third. So, Muhammad shall be given two thousand dollars (i.e., his share of the inheritance), and Ali shall be given four thousand dollars (i.e., his share of the inheritance plus the entire one-third).

Second example: The testator never directed the disposal of the one-third and left two sons, Muhammad and Ali, an inheritance of six thousand dollars. The testator also directed that Muhammad be deprived and that his (i.e., the testator's) brother be given one thousand dollars. In this case, Muhammad shall take two thousand (his share of the inheritance), Ali three thousand (his share of the inheritance plus one half of the one-third), and the testator's brother one thousand (one half of the one-third).

20. A person cannot deprive their heirs of their inheritance but have the right to withhold any or all of the one-third from them if they choose.

Bequeathing to Minors

Within their inherent nature, God has created human beings to love their children and their descendants to the extent that the amount of attention and care they receive can easily be recognized even after death. Therefore, Islam has set down laws and guiding rules for human beings to ensure that their children and descendants are safe and well taken care of. For the same reason, Islam has warned parents how critical it is to be responsible (after death) for providing a stable and secure life for their children. These laws are called the Islamic laws of minors.

The minor in Islamic terms is a person who does not have the legal capacity [religiously] to take full responsibility for their affairs and money mainly because the individual lacks two qualities: (1) bulugh,²¹ where the individual is at the age of bulugh and therefore responsible for performing religious duties, and (2) maturity.²² Consequently, if the child reaches the age of bulugh (responsibility) but is still immature, or vice versa, meaning the child reaches

21. Bulugh is the age at which a person becomes responsible for performing religious duties such as daily obligatory prayer and fasting during the month of Ramadan. A girl becomes baligha (reaches this time) upon completing nine lunar years, and a boy becomes baligh (reaches this time) upon completing fifteen lunar years except for when one of the signs of bulugh, such as the growth of stiff pubic hair or the discharge of semen, appears before that age.

22. Maturity in Islamic terms is the time when a person becomes independent in their actions and can balance their life and guide themselves to do good (discernment between right and wrong).

the age of maturity but is still not baligh (of age), then they are still considered a minor in Islamic terms. Therefore, the child needs a guardian or a person who will be responsible for their affairs. This responsibility includes all the appropriate tasks one takes to nurture a child. These tasks include offering them a safe living environment, food, drink, housing, medical treatment, security, education, religious dues such as khums, and legal dues such as paying taxes. Thus, the guardian (*wali*)²³ and/or the one responsible (*al-qayyim*) shall be one of these three persons: the father, the paternal grandfather, or the current legitimate jurist (*al-hakim al-shari*).²⁴ Or, the person could be appointed by any of the previous three, much like the testator who names or appoints an executor to perform or enact the affairs of the will. Here we must mention the following issues.

EITHER THE FATHER OR THE PATERNAL GRANDFATHER MAY APPOINT A GUARDIAN for the child in their will but not if the other one of them is alive. For example, the will is invalid from a father who appoints a guardian for his child while the paternal grandfather is alive and present.

23. The guardian (*wali*) in Islamic terms is a person who would be responsible for the minor's (or child's) affairs. Or, according to Islamic law, the wali could be the one responsible for the Islamic society, in general.

24. The legitimate jurist is a scholar who specializes in Islamic jurisprudence and has reached the degree of diligence in deriving and developing Islamic laws from their original sources (Quran and hadith) and has been characterized by a set of certain qualities particularly devotion, loyalty, and superior knowledge amongst other jurists of his time.

In the same fashion, the will is invalid from a grandfather who appoints a guardian for his grandchildren while their father is alive and present.

IF THE CHILD LOSES HIS FATHER AND PATERNAL GRANDFATHER, then the guardianship automatically transfers to the current legitimate jurist. This jurist has the option of being the guardian himself or appointing a guardian.

NO GUARDIANSHIP EXISTS FOR THE MOTHER, MATERNAL GRANDFATHER, SIBLINGS, MATERNAL and paternal uncles, or another supervisor for the child, unless directed in a will by the father or the paternal grandfather. Nevertheless, if the father or paternal grandfather both died, then the guardianship automatically transfers to the current legitimate jurist (who may be asked for permission to assume guardianship as his representative).

IF A CURRENT LEGITIMATE JURIST HAD GUARDIANSHIP OVER A CHILD, and this jurist dies, then the guardianship transfers to the next current legitimate jurist.

Guardianship and Responsibility for the Child

IF THE TESTATOR NEVER SPECIFIED THE KIND OF GUARDIANSHIP OR RESTRICTED ITS INTENT in any way and said to the executor, “You are the guardian and the one responsible for my [minor] children and grandchildren,” then that person has the authority to take responsibility for any of their affairs. This responsibility includes all the appropriate tasks needed to nurture a child. These tasks include offering them a safe living environment, food,

drink, housing, medical treatment, security, education, religious dues such as khums, and legal dues such as paying taxes. However, this person has no authority over their marriage. Hence, the executor, who is also the guardian in this case, has no right to forcibly marry off the child (male or female). Generally, there is no de facto guardianship of the executor or the current legitimate jurist of the child if the father or the paternal grandfather are deceased. This is true except in a situation where there is an urgent need for a guardian, to the extent that if there was no guardian, the child would be at risk of losing their faith. In this situation only, it becomes an obligatory precaution²⁵ that could be agreed upon and discussed with the current legitimate jurist.

IF THE TESTATOR RESTRICTED THE GUARDIANSHIP IN A SPECIFIC MANNER, then the guardian must act according to those restrictions and exercise authority accordingly. The current legitimate jurist or his appointee control all other matters.

THE GUARDIAN OR THE PERSON IN CHARGE SHOULD SPEND MONEY on the child in a reasonable way without being extravagant or miserly. Rather, the guardian should feed and clothe the child in a way similar to his peers. Otherwise, if the guardian spends too much of

25. The phrase “obligatory precaution” (*ihhtiyat wajib*) is an edict that means the follower may either act on this precaution or act on the fatwa of the second most knowledgeable current jurist.

the child's money, then the guardian is the one who should pay for any additional costs.

IF THE CHILD REACHED THE AGE OF ADULTHOOD and denied the source of spending, claimed that the person in charge was extravagant, or claimed that the guardian had spent the money without reasonable cause, and the person (i.e., the one responsible for the child) claimed the opposite, then the word of the person in charge should be taken, with an oath, if all apparent facts corroborate.

IF THE CHILD AND THE PERSON IN CHARGE DISAGREE over whether the child received their money after reaching adulthood, where the person in charge says the child received the money and the child says they have not, then the word of the child should be taken, with an oath, if all apparent facts corroborate.

IF THE PERSON IN CHARGE OF AN ORPHAN WAS POOR, then they may take a certain amount of money from the child as compensation for taking responsibility and guardianship. If that person was rich, however, then as an obligatory precaution²⁶ the guardian may not take any compensation.



26. Obligatory precaution (ihtiyat wajib); see footnote 25.

The Legatee

Acceptance of the Will

For the executor to perform and execute the will of ownership, all the directives of the will must be accepted by the legatee, otherwise the entire will is nullified. For example, in his will, if Muhammad directed that, after his death, a book shall be given to Ali, then it becomes fulfilled when Ali accepts the will. Here, we should highlight some important issues.

For the acceptance of a will, anything that indicates satisfaction (whether by words or actions) is enough, such as receiving, taking, or holding whatever was mentioned in the will.

There is no difference to the acceptance of a will in terms of whether the acceptance occurred during the testator's lifetime or after death. Likewise, there is no difference if it occurred right after the death or later (after a long period of time). For example, if the legatee indicated acceptance one month after the testator's death, then the will is valid and it shall be executed.

If the legatee died before the testator and before transferring any money to the legatee, the will should still be valid and the money shall go to the legatee's

heirs directly after the testator's death. So, if in his will, a grandfather has directed a piece of land to his son Muhammad, for instance, and Muhammad has a son named Ali, but suddenly Muhammad died before the grandfather, then the inheritance goes directly to Ali [the grandson] as soon as his paternal grandfather dies.

If some of the heirs accepted the will and others refused it, then the will is valid to the ones who accepted it and invalid to the ones who refused it, and according to the stated proportions. However, if the testator specifically directed the total in its entirety (i.e., as a whole), then everything in its entirety is invalid.

It is apparent that the refusal of the legatee in the will of ownership causes it to become invalid if the refusal was after the death (of the testator) and was never accepted to begin with. However, if an acceptance preceded the refusal after the death of the testator or during his lifetime, then the refusal has no effect [therefore the will is valid].

If the testator, in the will, directed two things and the legatee only accepted one (and refused the other), then, logically the will is valid in what was accepted and invalid in what was refused. However, if the testator directed the total in its entirety, and the legatee refused some part of it, then [only in such a situation] it is considered to be as if the legatee has refused everything in its entirety.

It is impermissible for the heirs to execute anything before the acceptance or refusal of the legatee. They

should not force the legatee to choose immediately unless they were thrown into a situation of hardship. Only in such instances, may the current legitimate jurist force the legatee to either accept or decline.

If the will of ownership's purpose was to give the general public the right to possess something, such as a legacy for the poor, orphans, or students, then it is like the will of entrustment in that it does not require acceptance by those bequeathed to. However, if it designates ownership to a [specific] person then acceptance by the legatee is apparently needed.

Compensation for Executing the Will

It is permissible for the executor to receive compensation for executing a will, unless it was directed in the will that the executor should do the work for free.

If the executor refused compensation for executing the will, or accepted to do the work for free, then it becomes impermissible to receive compensation. Therefore, it becomes obligatory on the executor to do the work, as accepted.



The Supervisor of the Will

The will is a sacred trust placed upon the executor. Therefore, the will must be executed, before God and their heart and conscience, exactly as directed by the testator. In addition, the executor has a big responsibility because this task deals with the rights of others. For this reason, Islamic law has allowed and guided people to use other tools to ensure the safety and fulfillment of the will. One of these great tools is choosing a supervisor over the execution of the will. Thus, the testator has a right to select a supervisor over the executor to ensure that the process of execution and fulfillment of the will runs smoothly and in the appropriate way.

Different Types of Supervisors

A supervisor, in this context, is someone whose job is to oversee and guide the work or activities of the executor. There are two different types: the overseeing supervisor and the consulting supervisor.

The overseeing supervisor

The overseeing supervisor is the person whose job is to ensure that the process of execution and fulfillment of the will occurs according to the testator's directions.

So, this supervisor has the authority to object in instances where the executor is performing an act contrary to what the will states. However, it is not necessary for the executor to get permission in this type of supervision. Rather, it is enough that all the work done be under the supervisor's observation. To demonstrate this in an example, if a testator directed in their will that a person should perform some of their missed prayers on their behalf, and the executor informed the supervisor of finding a person [with the required qualities], then the executor has done the job correctly. The supervisor then has no authority to object and ask the executor to change that person if the person has the described qualities. On the other hand, if the executor found a person [with the required qualities], but did not inform the supervisor, then that is considered a (forbidden act of) betrayal of the will.

The consulting supervisor

The consulting supervisor is the person whose job is to provide honest advice and participate [along with the executor] in ensuring that the process of execution and fulfillment of the will occurs according to the testator's directions. No work (by the executor) shall be done unless it is approved and confirmed by the consulting supervisor. So, even though the executor has full independence and guardianship to execute and dispose of the will, the executor depends on the consulting supervisor's opinion and judgment, and nothing may be done without that supervisor's permission and authorization. If the executor insisted on carrying out the terms of the will without

gaining permission from the consulting supervisor, then this execution would be invalid. To clarify, we will use the previous example. If, in the will, a testator directed that a person performs some of their missed prayers on their behalf, and the executor informed the supervisor of finding a person [with the required qualities], but the consulting supervisor did not approve the selection of the person performing the prayers, then the performance will [by the person designated by the executor] become invalid. Under these circumstances, both the executor and the consulting supervisor must agree.

Laws of the Supervisor

If the executor was derelict in the process of executing and fulfilling the will, the supervisor is not obliged to force the executor to be accountable for anything.

If the supervisor dies, then the executor is required to go back to the current legitimate jurist to find a replacement.



The Current Legitimate Jurist's Guardianship

The will's directives to an [independent] boy during his childhood are valid if they call for the undertaking of some action, but as an obligatory precaution,²⁷ his disposition should be under the permission of the current legitimate jurist.

In the will, if the testator requires a condition to be met by the executor, for example if the testator says that "so-and-so is my executor if they are a student," the will is valid on the condition that the person is a student. However, if the person quits studying, they may no longer be the executor. In this situation, the current legitimate jurist becomes the executor.

If the executor dies before fulfilling all the directives of the will, the execution automatically transfers to the hands of the current legitimate jurist. However, if the executor was not able to execute the will due to old age or similar reasons, then the current legitimate jurist appoints an assistant, otherwise he would appoint another executor.

27. Obligatory precaution (ihtiyat wajib); see footnote 25.

If the executor fails to continue fulfilling the directives of the will due to betrayal or ethical transgression, the executor must give the funds related to the execution to any partner in the process of execution or to the current legitimate jurist.

If the will included appointing guardians or people responsible for minors, then as an obligatory precaution the current legitimate jurist should be sought for permission and approval of this guardianship.

If the testator directed something but no executor was appointed to fulfill it or it became invalid (i.e., because of a missed condition), then the current legitimate jurist shall be its executor.

If the testator appointed a supervisor, and this supervisor dies, then the executor must go back to the current legitimate jurist to find a replacement.

In the will of entrustment, if the testator did not appoint an executor, then the current legitimate jurist shall be its executor, or the jurist has the option of appointing one. However, if the current legitimate jurist or the one appointed by him is not able to execute the will, then any just male believers shall take on this responsibility.

If the testator restricted the guardianship in a specific manner, then the guardian must act accordingly and adhere to those restrictions. The current legitimate jurist or his appointee control all other matters.

If the validity of the will was contingent on the trustworthiness of the executor who later betrays the process of executing and fulfilling the will, then the executor shall be dismissed, and the current legitimate jurist should appoint another. If the will was not validated by the trustworthiness of the new executor, then the current legitimate jurist shall appoint a trustworthy person to serve along with the executor. If the executor disputes this, then the current legitimate jurist shall dismiss the current executor and name a replacement.



Appendix

Template of a Legitimate Islamic Will

In the Name of God,
the Beneficent, the Merciful

“Prescribed for you, when death approaches any of you and he leaves behind any property, is that he make a bequest for his parents and relatives, in an honorable manner, —an obligation on the Godwary.” 2:180

“O you who have faith! The witness between you, when death approaches any of you, while making a bequest, shall be two fair men from among yourselves.” 5:106

I am

First name _____

Middle name _____

Family name _____

Date and place of birth _____

I bear witness that there is no god but Allah, and I bear witness that Muhammad ibn Abdullah is the Messenger of Allah. It is He who has sent His Apostle with the guidance and the religion of truth, that He may make it prevail over all religions, though the polytheists should be averse. And the hour is bound to come, there is no doubt in it, and Allah will resurrect those who are in the graves, and towards Him is the resurrection. And He is the Just who does not abuse, and toward Him is the return. I bear witness that death is truth, heaven and hell are truth, the judgment in the grave is truth, and everything that was revealed to the Seal of the Prophets, Muhammad ibn Abdullah (peace be upon him and his progeny) is truth from Allah. And that his true rightful successors are the twelve imams that followed him of whom Ali ibn Abi Talib is first, then his son Hasan al-Mujtaba, then his son Hussain al-Shahid, and then the nine descendants of Hussain, Ali ibn Hussain al-Sajjad, Muhammad ibn Ali al-Baqir, Jafar ibn Muhammad al-Sadiq, Musa ibn Jafar al-Kadhim, Ali ibn Musa al-Rida, Muhammad ibn Ali al-Jawad, Ali ibn Muhammad al-Hadi, Al-Hasan ibn Ali al-Askari, and the last of them al-Hujjah ibn al-Hasan al-Mahdi (may God hasten his reappearance) who shall fill the earth with justice and equity after it was filled with injustice and oppression.

I hereby declare this will and direct with my full mental competence and free will and choice that if the inevitable death strikes me, then I shall be washed, prepared, and buried in the Muslim cemetery,

that is called _____

in the city of _____

and the country of _____

given that there is no legitimate Islamic prevention.²⁸

I direct that the following will be paid on my behalf.

Debts in the amount of _____

to be paid to _____

28. Believers should pay attention to the fact that the directives in the will to bury the dead in a far place, such as a far city or country, may require some illegitimate irregularities such as violating the corpse's sanctity, or imposition of religiously illegitimate procedures such as withdrawing blood from the dead body, slitting it, spraying it with chemicals, and so forth. For this reason, Islam has urged the acceleration of the burial and the reprehensibility (*karaha*) of any delay.

Islamic Rulings of the Will (al-Wasiyyah)

Trusts (deposits) in the amount of _____

that belong to _____

Daily obligatory missed prayers _____

Missed ayat prayer _____

Obligatory missed fasting _____

Appendix

Obligatory pilgrimage to Mecca _____

Wealth tax (khums) _____

Major expiation (kaffarat) _____

Minor expiation (kaffarat) _____

Financial compensation (fidyah) – fasting _____

Islamic Rulings of the Will (al-Wasiyyah)

Charity for Eid al-Fitr (zakat al-fitra) _____

As for the one-third of my estate that I may distribute as per my wish, then it should be distributed as follows.

Paying back grievances _____

The prayer of the first night of the burial (wahsha prayer)

Reciting the Holy Quran at the grave _____

Appendix

A complete recitation of the Holy Quran (khatma)

A sacrifice of an animal (aqiqah) _____

Ongoing charity (sadaqah jariyah) _____

Recommended pilgrimage to Mecca (hajj and umrah)

Visiting the holy shrines of Ahl al-Bayt (ziyarah)

Islamic Rulings of the Will (al-Wasiyyah)

I have funds and [given] loans in the amount of

in the hand of _____

it is due on [this date] _____

I also direct the following _____

**And I appoint [_____] to be the
Executor and Trustee of my Will and Testament, but
if this executor should refuse to act, predecease me, or
die before the trusts hereof have been fully performed,
then I appoint [_____] to be the**

next executor, and [_____] to be **the supervisor** whose job is to oversee and guide the work or activities of the executor. If the first supervisor is unavailable due to certain excuses, then I appoint the **second supervisor to be [_____]** and **the one responsible for my children is [_____]**.

Therefore, I have directed and authorized this will as God (the Almighty) has commanded, asking all my family members' and loved ones' pardon and forgiveness. I also ask them to execute this will as it is, while revoking all former wills, codicils, and testamentary dispositions previously made by me. "And should anyone alter it after hearing it, its sin shall indeed lie on those who alter it. Indeed, Allah is all-hearing, all-knowing."

I am pleased with you Allah as a Lord, Islam as a religion, Muhammad (peace be upon him and his progeny) as a prophet, the Quran as the Holy Book, the twelve imams as the true successors and imams, whoever believes in them will be safe [on the Day of Judgment] and will win, and whoever does not believe in them and considers them an enemy will lose. O God, in You I trust in tribulations, You are my only hope in agonies, You are my sponsor in my blessings, and You are my God and my ancestors' God. So (please) send blessings upon

Islamic Rulings of the Will (al-Wasiyyah)

Muhammad and his household and do not make me depend on my own self even for the time of the winking of an eye. Please give solace to me during my loneliness in the grave, and keep my confidence in You active for the day on which I shall meet You.

I am

Full name _____

Signature _____

Date _____

First executor

Full name _____

Signature _____

Date _____

Second executor

Full name _____

Signature _____

Date _____

Appendix

First supervisor

Full name _____

Signature _____

Date _____

Second supervisor

Full name _____

Signature _____

Date _____

The guardian of my child(ren)

Full name _____

Signature _____

Date _____

First witness

Full name _____

Signature _____

Date _____

Islamic Rulings of the Will (al-Wasiyyah)

Second witness

Full name _____

Signature _____

Date _____

Endorsements of legal and legitimate Islamic entities:

Please note that if you wish to make this a legal will according to civil law, it is advisable to consult an attorney specializing in wills.



Glossary

Prior to devising a will, the definitions of some of the commonly used terms should be understood.

***aqiqah* (عقيقة).** Sacrifice. An Islamic tradition of sacrificing an animal on the occasion of a child's birth. It is recommended (mustahabb) that if no one had done this for the person when a child, then the person may do it on behalf of themselves for protection, and it shall be distributed among the poor and needy or be cooked and the believers should be invited for the meal.

***fidyah* (فدية).** Financial compensation for fasting. Fidyah substitutes for what a person has broken of a fast due to illness, pregnancy, or travel during the month of Ramadan and for which they could not make up later in the year but before the next month of Ramadan (*qada*). Fidyah is the feeding of one poor person with an amount that is not less than 750 grams or 1.65 pounds of wheat.

graveside recitation of the Holy Quran.

A recommended (mustahabb) act in which immediately after the burial, the Quran is to be recited at the gravesite of the deceased for one day and one night or for three full days.

***al-hakim al-shari* (الحاكم الشرعي).** Legitimate jurist.

A scholar who specializes in Islamic jurisprudence

and has reached the degree of diligence in deriving and developing Islamic laws from their original sources (Quran and hadith) and has been characterized by a set of certain qualities particularly devotion, loyalty, and superior knowledge amongst other jurists of his time.

ijtihad (إجتهد). A level of jurisprudential knowledge obtained after long, in-depth study with the highest, most knowledgeable religious scholars at the Islamic seminary (*hawzah*) that makes one able to derive rulings from Islamic texts, the Quran, and authentic hadith.

kaffarah kabira (كفارة كبيرة). Major expiation. An expiation of freeing a slave, feeding sixty poor people, or fasting two consecutive months for major causes. These major causes include intentionally breaking an obligatory fast (such as the fasting of the month of Ramadan) or promising God to do something and then breaking that oath.

kaffarah saghira (كفارة صغيرة). Minor expiation. A financial expiation due, for example, for breaking an oath or a vow made while swearing by the name of God. It consists of either feeding or clothing ten poor people. Whoever is unable to do that must perform the physical expiation of fasting three consecutive days.

khatm al-Quran (ختم القرآن). Complete recitation of the Holy Quran. Recommended (*mustahabb*) act that a testator, in the will, may ask to be fulfilled after death. This could be done for one time or more than that, especially with the intention of sending its reward (*thawab*) to their soul because

it will ease [the bewilderment] of the grave and give it enlightenment.

al-musa bihi (المُوصَى بِهِ). Personal property. All the property owned by the testator at the time of death that is subject to distribution. Examples include land, buildings, cash on hand, cash in banks, shares of stocks, and motor vehicles. However, it also includes spiritual matters that the testator had directed to be fulfilled in the will, such as visitation to the holy shrines of Ahl al-Bayt (peace be upon them) or the recitation of the Holy Quran.

al-musa lahu (المُوصَى لَهُ). Legatee. A person or entity having right to inheritance, such as heirs or orphanages.

al-musi (المُوصِي). Testator. The person who makes a will to take care of their funds and estate after death. The testator must meet certain rules and conditions.

al-nadhir (الناظر). Supervisor. A supervisor, in the Islamic will context, is someone whose job is to oversee and guide the work or activities of the executor. There are two different types: the overseeing supervisor and the consulting supervisor.

al-qasir (القاصر). Minor. In Islamic terms minors are people who do not have the legal capacity to take full responsibility of their affairs and money, mainly because they lack two qualities: (1) bulugh—where they have reached the age of responsibility and are therefore obliged to perform religious duties—and (2) maturity.

al-qayyim (القَيِّم). One responsible for the testator's minor children. The person who is appointed by the testator to take on the responsibility and management of the testator's children's affairs until they reach bulugh (adulthood) and become independent, when their funds and trusts are returned to them.

radd madhalim (رَدُّ مَظَالِم). Payment of grievances. This is the act of payment that a believer should do to clear all debts and dues for committing wrongful acts, including such things as the abuse of general and private funds, cursing and insulting others, not giving positive advice and consultation while supporting others, cheating, vanity, keeping a distance between oneself and others, betrayal, backbiting, mistrust, lying, and many more small sins that a person has not atoned for and that a victim did not forgive.

sadaqah jariyah (صدقة جارية). Ongoing charity. A recommended (mustahabb) act that is an ongoing charity producing continuous reward (thawab) for us (for good actions and deeds) that will not only benefit us in this life but will continue to benefit us after our death. Examples include such things as opening a school or donating religious books to a center.

salat al-ayat (صلاة الآيات). Ayat prayer. The prayer that becomes obligatory on every person who is obliged to perform religious duties—except a woman when she is on her menstrual period or when she is on her postpartum period (after the birth of a child)—due to the following occurrences: a solar eclipse, a lunar eclipse (even

if the moon or the sun are partially eclipsed), an earthquake, as an obligatory precaution, and on the occurrence of any earthly fear that frightens most people. This prayer consists of two rakah, and there are five ruku in each. Its method is as follows: after making niyyah of offering the ayat prayers, one should say takbir (Allahu akbar) and recite Surat al-Fatihah and another surah and then perform the ruku. Thereafter, one should stand and recite Surat al-Fatihah and a surah and then perform another ruku. One should repeat this action five times, and, when they stand after the fifth ruku, they should perform two sajdah and then stand up to perform the second rakah in the same manner as the first. Then they should recite tashahhud and salam.

salat al-hadiya or al-wahsha (صلاة الوحشة أو الهدية).

The prayer of the first night of the burial. It consists of two rakah. In the first rakah, one recites Surat al-Fatihah and then Ayat al-Kursi (Surat al-Baqarah, ayat 255–257, up to the words of ‘the Sublime,’ “wahum fiha khalidun: and they are in it (Fire) for eternity”). In the second rakah, one recites after al-Fatihah Surat al-Qadr ten times. On completion of tashahhud and taslim, one says, allahumma salli ala Muhammad wa al-e Muhammad (may peace be with Muhammad and his pure progeny); O Lord make the reward (of this prayer) go to [the name of the deceased].

al-tarika (التَّرَكَّة). Estate. All assets that a person leaves (for others) after death.

al-wali (الْوَلِي). Guardian. Someone who is entrusted to manage someone else’s affairs, especially those of

a minor, a child, or Islamic society, all under Islamic laws. He shall be one of these three persons: the father, the paternal grandfather, or the current legitimate jurist.

al-wasi (الْوَصِي). Executor. The person(s) appointed by the testator [or named in a will], to execute, administer, and distribute the estate in accordance with the will. This person is also known as an administrator or a trustee.

zakat al-fitr (زكاة الفطرة). Charity for Eid al-Fitr. An obligatory act that involves giving charity to the needy, in a certain amount and using a certain method of calculation, on the day of Eid al-Fitr. The obligatory amount of *zakat al-fitr* upon each person (based on the usual main food) is three kilograms or about 6.6 pounds of either wheat, barley, dates, or raisins, or its equivalent in cash. It should be paid for a poor believer. Whoever was not able to pay it on behalf of themselves and their household shall direct in their will that it would be paid as a general charity (*sadaqah*).



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God Almighty has decreed that every soul will taste death, and no living thing can deny, avoid, or even delay this reality. In His infinite mercy and wisdom, the Almighty Creator has granted rights to each person, and in addition, He has imposed certain obligations for the disposition of their personal property and the execution of their affairs after death. These obligations preserve not only the rights of the deceased but also of the heirs. Therefore, this booklet describes the Islamic laws related to the will (al-wasiyyah), which are among the most important issues that Muslims must understand and implement, because they are relevant both during life and after death. Furthermore, the proper execution of these rules ensures that the deceased can fulfill any lapsed obligations and thus continue to receive blessings, rewards, and expiation even after leaving this world. Unfortunately, ignorance of these laws and the procedures decreed by God has led to misappropriation of property, violation of individual rights, and rancor and dispute within families. This occurs either because a Muslim is unaware of the process of preparing a will or is unaware of the personal freedoms and limitations imposed by Islam, or it is due to the ignorance of the heirs in executing the will. Therefore, this booklet seeks to educate Muslims about the Islamic will, detail the specific elements related to its contents and directives, provide instructions on how to properly create it, remove misconceptions, clarify challenging issues, and spread awareness of its importance.

