

Hajr

Persons Who Have No Right of Disposal

or Discretion Over Their Own Property

Issue No. 1- A child who has not reached the age of bulugh, and an insane person, and a feeble-minded person i.e. someone who squanders his property for useless purposes, have no right of disposal over their properties, rather, it should be under the supervision of their guardians.

Issue No. 2- A bankrupt, whose debts are more than his available capital, if his creditors have asked the Mujtahid to prohibit him from disposal of or having discretion over his property, then he has no right of disposal or discretion over his property after the Mujtahid's judgment.

Hawala

(Transferring the debts etc.)

Issue No. 1- If a debtor directs his creditor to collect his debt from a third person, and the creditor accepts the arrangement, the third person will become the debtor, and the first debtor gets rid of the debt.

Issue No. 2- The debtor, the creditor and the person to whom collections referred, should be Baligh and sane, and no one should have coerced them, and they should not be

feeble-minded, or have been prevented from possessing their properties.

Issue No. 3- If a debt is transferred to a debtor for payment, it is necessary for him to accept it, but if it is transferred to a person who is not a debtor, it is not necessary for him to accept it, however, the transfer will be in order, in case he accepts it. Similarly, if a debtor wishes to affect a transfer to a creditor for a commodity other than that for which he is indebted, this will be in order, if the creditor accepts this transfer.

Issue No. 4- The transferor and the creditor should specify the quantity of the transfer and its category, and if they don't, the transfer will be void.

Issue No. 5- The creditor may decline to accept the transfer of debt.

Issue No. 6- If the debtor, the creditor, and the person to whom Hawala is assigned agree among themselves that all of them or any one of them has a right to cancel the Hawala, they can do so in accordance with the clause of the Hawala agreement.
