

Wasiyat

(Will)

Issue No. 1- A Will is purported to direct that after one's death the certain tasks be completed, like directions given for the burial place and other ceremonies, or to direct that after his death a part of his properties should become the property of a certain person, or that he appoints someone as guardian of his children.

Issue No. 2- If a person wishes to make a Will, he can do so by saying or writing make his intention understood, or if he is not able to speak or to write, he can make a Will by means of a sign that makes his intention understood.

Issue No. 3- A person making a Will should be Baligh and sane. Also, a person making a Will should not be a feeble-minded squanderer, and should not be prevented from having discretion over his properties by the Mujtahid, and he should make a Will on his own free will and intention, not reluctance and compulsion.

Issue No. 4- When a person sees signs of approaching death in him, he should immediately return the things held in trust by him to their owners. And if he is indebted to others, and the time for repayment of the debt has matured, he should repay the debt. And if he is not in a position to repay the debt, or the time for its repayment has not yet matured, he should make a Will, and if he is not sure that they will act according to his Will, he should appoint witness to the Will.

But, if he is sure that his heirs will repay his debts, then it is not necessary to make a Will.

Issue No. 5- If a person retracts a directive in his Will, for example, if he first says that 1/3 of his property should be given to a person, and then says that it should not be given to him, the Will becomes void. And if he changes his will, for example, if he appoints an administrator for his minor children, and then replaces him with another person, his first Will becomes void. And if he also conducts himself in a manner which shows that he has drawn back from his Will, for example, if he sells the house which he had willed to give away to someone, or appoints someone as his agent to sell it, in spite of his original wish, the Will becomes void.

Issue No. 6- If a person makes a Will that a particular thing be given away to someone, and later changes it to say that half of the same thing should be given to another person, that thing should be divided into two parts, and one part should be given to each of them.

Issue No. 7- If a person makes a Will that 1/3 of his property should be retained and its income should be spent for some particular purpose, his instructions should be followed.

Issue No. 8- If an executor alone cannot perform all the tasks laid down in the Will of the deceased, and cannot hire someone else to help him, then the Mujtahid will appoint someone to assist him in his duties.

Issue No. 9- If all or a part of the property of the deceased is lost or damaged while in the custody of the executor, and if he has not been negligent in looking after it, or has not acted

against the tasks laid down in the Will by the deceased, he will not be responsible, otherwise, he will be.

Issue No. 10- If a person appoints someone as his executor, and says that after that executor's death, another person should be the executor in his place, this Will is in order, and if the first executor dies, the second executor replaces him.

Issue No. 11- If debts and obligatory Hajj remained unperformed by the dead person, and dues like Khums, Zakat, etc.were not paid, they should be paid from the estate of the deceased though he may not have directed in his Will for them. And if the estate of the deceased exceeds his debts and obligatory religious dues like the one mentioned above, and if he has also willed that 1/3 or a part thereof of his property be put to a particular use, his Will should be followed, and if he has not made a Will, then 1/3 of the property will not be for him, and what remains after the deduction of his debts and religious dues is the property of the heirs.

Issue No. 12- One cannot will more than 1/3 of his property, unless the heirs give consent to it, whether this permission is before his death or after it.

Issue No. 13- If a person claims that he is the executor of the deceased, and can act according to the Will and put it into effect, or that the deceased had appointed him an administrator of his children, his statement should be accepted only if two Adil (Just) witnesses confirm it.

Qarz

(Debt or Loan)

Issue No. 1- Giving loan is one of the very much recommended acts, which has been greatly recommended in the Holy Qur'an and in the traditions and narrations of the infallible prophet and Imamas. There is a narration which says, "The reward for Sadaqa is ten times of it, and the reward for loan is eighteen times of it."

Issue No. 2- Loan agreement formula can be done either verbally, or in action, that is, if a person gives something to another person with the intention of loaning, and the other person takes it with the intention of borrowing, it is in order in both cases.

Issue No. 3- In lending, the quantity, the period and the commodity should be specified, and also both the creditor and the debtor should be Baligh and sane, and they should not be feeble-minded and should not have been prohibited from having discretion over their property, and they should do so on their own free will and with intention.

Issue No. 4- If the creditor demands his debt at the time he is entitled to, and the debtor is in a position to pay it he should pay it immediately, and if he delays its payment, he commits a sin. However, if the debtor does not possess anything other than the house he occupies and the household effects, the creditor should wait, and he cannot compel him to sell the things he needs. However, the debtor should try hard for the repayment of his debt through trade

and work or other lawful ways to earn something to pay his debt.

Issue No. 5- If a person who advances a loan, makes a condition that he will take back more than what he gives, it will be usury and therefore haraam.

Issue No. 6- To pay interest is haraam, the same way as charging interest, and the one who has taken a loan against interest does not become its owner, and it is not permissible to exercise discretion over it.

Issue No. 7- If a debtor dies, all his debts should be paid, and the creditors can claim their debts.

Zamanat

(Surety)

Issue No. 1- If a person wishes to stand surety for the repayment of the debts of another person, he can either recite verbal formula in any language and say, for example, “I guarantee to pay the debt of Mr. so and so”, and the creditor also says, “I accept it” and they can do it by signing the surety agreement.

Issue No. 2- After a person has become the guarantor for the repayment of a debtor’s debts, his debts are transferred to the guarantor’s obligation, and the debtor’s obligation is cleared. And if the surety has been done at the request of the debtor, whenever the guarantor pays the debt, he can

claim it from the former debtor. There is another kind of surety that a person becomes the guarantor of another person with this in mind that if the debtor fails to repay his dues or was not able to repay it, the creditor can claim it from the guarantor. This kind of surety is also in order. And most of the surety that takes place in the banks, they are of this kind.

Issue No. 3- The guarantor and the creditor should both be Baligh and sane, and they should not have been coerced by anyone. Furthermore, they should not be feeble-minded.

Issue No. 4- In surety, the creditor, the debtor and the commodity given as loan should be specified.

Issue No. 5- If a creditor gifts the guarantor with the debt owed to him, the guarantor cannot claim anything from the debtor, and if the creditor gifts him with a part of his debt, the guarantor cannot demand that part from the debtor.

Issue No. 6- The guarantor cannot cancel his surety without the consent of the creditor, but there is no harm if the guarantor or the creditor stipulates an option in their agreement for cancellation of the guarantee at any time they wish to do so.

Usurpation

Issue No. 1- Usurpation means that a person unjustly seizes the property or the right of another person. This is one of the major sins.

Issue No. 2- If a person does not allow the people to benefit from a public properties like mosque, a school, a bridge and other places which have been constructed for the use of the public, he usurps their right.

Issue No. 3- Seizing the properties of the Public Treasury of Muslims without having a right over it is also usurpation.

Issue No. 4- It is obligatory for a usurper to return the property that he has usurped to his owner as soon as possible, and the more he delays in doing so, the more sins will be recorded for him, and if it is lost or damaged he should compensate him for it.

Issue No. 5- If some benefit accrues from a thing which has been usurped, for example, if a lamb is born of a sheep which has been usurped, or the fruit of an orchard which has been usurped, they all belong to the owner of the property, though the usurper may have spent time or his energy, etc. on it. Moreover, if a person usurps a house, he should pay its rent, at the normal rate, for the period it has been in his hand, even if he does not occupy it. This also applies to other properties such as cars, etc.

Issue No. 6- If a person changes a property that he has usurped into something better than before, for example, if he makes an earring or a necklace from the gold usurped by him, and the owner asks him to give it to him in the same (i.e. changed) form, he should give him in that form. He cannot claim any charges from the owner for his labor.

Issue No. 7- If a person changes the property usurped by him in such a way that it becomes better than its original

form, but its owner asks him, for some reasons, to change it back to its original condition, it will be obligatory on him to do so. And if due to the change, its value decreases, he should pay the difference in the value to the owner.

Issue No. 8- If a person cultivates or plants trees in a piece of land usurped by him, the crop, the trees and their fruits belong to the usurper. However, he should pay rent to the owner of the land for the period that the crop and the trees remained on his land. If the owner of the land is not agreeable to the crops and the trees remaining on his land, the usurper of the land should pull them out immediately even if he may suffer loss for that, and if damage is done to the land, he should pay the difference in value. Neither can the usurper of the land compel the owner of the land to sell it or lease it out to him, nor can the land owner force the usurper to sell the crops or the trees to him.

Issue No. 9- If a thing usurped by a person perishes, and if it is among the things whose likeness or resemblance is usually rare, like, some hand-woven rugs, then, he should pay its value, but if its market price has changed, he should give the value of the day it perished. However, if the usurped thing is among the things, like, wheat, barley, machine carpets, various kinds of fabrics and utensils which are mass produced and their likenesses are usually in abundance, then, he should give back the likeness of what he has usurped, but its qualification and characteristic should be the same as the one that has been perished.
