

THE ISLAMIC WILL

WHAT SHOULD BE DONE AS DEATH APPROACHES

THE SUNNAH METHOD OF TA' ZIYYAH



فَإِذَا جَاءَ أَجَلُهُمْ لَا يَسْتَأْخِرُونَ سَاعَةً وَلَا يَسْتَقْدِمُونَ

When their times arrives, they cannot delay it for a moment nor could they advance it.

Sūrah 'A'rāf: 34

كُلُّ نَفْسٍ ذَائِقَةُ الْمَوْتِ

Every soul shall taste death

Sūrah Āl-Imrān: 185

كُنْ فِي الدُّنْيَا كَأَنَّكَ غَرِيبٌ،
أَوْ عَابِرُ سَبِيلٍ

“Live in this world as if you are a traveler
or a wayfarer”

Ṣaḥīḥ Bukhārī #6416

The Messenger of Allāh ﷺ mentions:

الْكَيْسُ مَنْ دَانَ نَفْسَهُ وَعَمِلَ لِمَا بَعْدَ الْمَوْتِ
وَالْعَاجِزُ مَنْ أَتْبَعَ نَفْسَهُ هَوَاهَا وَتَمَنَّى عَلَى اللَّهِ

“The intelligent person is the one who controls his self-desires and perform deeds for after his death. And the helpless person is the one who follows his self-desires and relies on Allāh ﷻ”

Jāmi‘ Tirmidhī #2459

**GUIDELINES ON
WRITING
AN ISLAMIC WILL**

‘Abdullah ibn ‘Umar رضي الله عنهما , the eminent scholar and companion of the prophet ﷺ narrates that the Messenger of Allāh ﷺ said:

“It is not permissible for any Muslim who has something to will to stay for two nights without having his will and testament written and kept ready with him.”

Ṣaḥīḥ Bukhārī #2738

The Following Should Be Considered When Writing A Wasiyyah (Will):

- ❖ A *waṣiyyah* can only be made for up to one third (1/3) of the estate that remains after discharge of the funeral expenses and unpaid debts. Funeral expenses and financial debts must be paid back even if there is nothing left for the relatives after paying them.
- ❖ A *waṣiyyah* should only be made for those relatives and friends who are not entitled to a share of the inheritance. Such a bequest cannot include Islāmic heirs as they inherit automatically from the estate of the deceased according to the *Sharī'ah*.

The Following Should Be Considered When Writing A Wasiyyah (Will):

- ❖ The discharge of religious debts (*fidyah* of missed fasts and prayers, undischarged *zakāh* unperformed *Hajj*, unperformed *qurbānī*) can only be fulfilled if a *waṣīyyah* is made. It is *wājib* (compulsory) to make a *waṣīyyah* for such debts. Such debts can only be discharged from the one third (1/3) of the *waṣīyyah*. If no money remains after the payment of funeral expenses and financial debts, then these obligations should not be discharged.
- ❖ Similarly, if after the discharge of funeral expenses and any financial debts, the religious debts exceed one third of the remaining estate, then only up to one third of the estate could be used to discharge such religious obligations.

The Following Should Be Considered When Writing A Wasiyyah (Will):

- ❖ The remainder shall be left to the discretion of the inheritors. If the inheritors wish to give more than the one third to discharge religious debts, then all the inheritors must be *bāligh* (mature) and give with their own free will i.e., without any pressure or persuasion.
- ❖ *Waṣīyyah* for any harmful activity or innovation (*bid'ah*) shall not be carried out.

The Following Should Be Considered When Writing A Wasiyyah (Will):

- ❖ Since a large number of people are overcome by *bid'ah* (innovations), particularly with regards to funerals, a Muslim should also order in his/her will that he/she should be prepared for burial and buried upon the *sunnah and Islāmic* method and forbid innovative practices.
- ❖ It is forbidden to make a will in order to cause oppression and harm, for example, a person makes a will so that the inheritors get a third less than what they would have, or he makes a will contrary to the distribution of *sharī'ah*.

The Following Should Be Considered When Writing A Wasiyyah (Will):

- ❖ He/she should have as witnesses at least two just Muslims who are not beneficiaries /inheritors.
- ❖ The witnesses should witness the signing and declaration only by the testator (i.e., one who makes the Will) at the end of the will and must sign in the presence of the testator and of each other.
- ❖ Consult with your local alims and lawyers when drafting your will.

Template of an Islamic will

In the Name of Allāh, the Most Gracious, the Most Merciful
Islāmic Last Will and Testament

OF _____ ID No.:

RESIDING _____ AT

DATE OF BIRTH _____ TELEPHONE _____ TODAY'S DATE _____

ARTICLE I: PREAMBLE

While being in full mental capacity and good health, I, _____, a Muslim, do hereby declare and certify this as my Last Will and Testament. I also do hereby declare that this document revokes any and all former wills and codicils that I may have previously written.

Template of an Islamic will

....cont.

I bear witness that there is none worthy of worship except Allāh, and I bear witness that Prophet Muḥammad ﷺ is His servant and Messenger. I ask my relatives, friends and anyone reading this will, whether or not they believe as I do, to respect my beliefs and wishes. Please do not obstruct or alter this document. Rather, ensure that I am buried as I ask, and that my property is divided as I ask.

I also say to my relatives and friends what the Prophets Ibrāhīm and Ya‘qūb ﷺ said to their sons: **“O my sons, indeed Allāh has chosen for you this religion, so do not die except while you are Muslims.”** (Sūrah al-Baqarah, 2:132)

Template of an Islamic will

ARTICLE II: MY IMMEDIATE FAMILY

A. I am married to _____ and all references in this Will to my husband/wife(s) are references to this person.

B. I am the father/mother of the following children whose names and dates of birth are:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

Template of an Islamic will

ARTICLE III: EXECUTOR

A. I hereby appoint the person named below to serve as the executor of my will. I thereby entrust control of my entire estate (cash, bank accounts, real property, shares in any business, and any other property not mentioned in this Will), to the person/s named below, who shall distribute it according to my wishes and Islāmic law.

1. _____ ID No.: _____

2. _____ ID No.: _____

or, if he/she/they fail to survive me by 45 days,

3. _____ ID No.: _____

4. _____ ID No.: _____

or, if he/she/they fail to survive me by 45 days,

The *qāḍī* (Islamic judge) _____ of the community.

Otherwise, the ʿImām of the local Sunnī Muslim community at _____ Masjid.

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B. I direct that my executor takes all actions Islāmically and legally permissible to execute the distribution of my estate as simply and as expeditiously as possible.

C. I give my executor power to sell my property, real, personal or mixed, without a court order and without bond, in accordance with the laws of *Sharī'ah*.

D. I give my executor power to settle any claim for or against my estate.

E. In the event of any one or more of the executors dying during the term of office, or declining to act for any reason whatsoever, then the remaining or surviving Executor(s) shall be authorised to act on my behalf.

F. If all decline to act, then I declare that the *Dārul Qaḍā'* _____ or other competent *Dārul Iftā'* _____ shall be authorized to appoint one or more executor/s.

Template of an Islamic will

ARTICLE IV: ARBITRATION

Any disputes regarding this Will shall be adjudicated via private, binding Arbitration by a neutral Arbitrator. I hereby appoint _____ ID No.: _____ to serve as the Arbitrator. If he/she/it is unable or unwilling to serve as Arbitrator, I direct that _____ ID No.: _____ be appointed. The Arbitrator shall use his/her/its judgment and knowledge to resolve any and all disputes regarding this Will while adhering strictly to the directions contained therein as well as Islāmic law. The judgment of the Arbitrator shall be final and legally enforceable, without regard if the disputing parties consider his/her/its judgment imperfect.

Template of an Islamic will

NOTE:

I hereby direct that the executor/s of my estate apply the assets in my estate in the following order of priority as required by Islāmic law.

- A. First to the payment of my funeral expenses.
- B. Second to the payment of all my debts.
- C. Third to the payment of the bequests as set out in terms of Islāmic law.
- D. Fourth to the distribution of the remainder of my estate to my Islāmic heirs.

Template of an Islamic will

ARTICLE V: BURIAL ARRANGEMENTS

I ordain that my body be prepared for burial in keeping with the Sunnī Muslim Law (*Sharī'ah*). I ask that under no circumstances shall my body be voluntarily turned over for an autopsy, or embalming, or organ donation. My body must be prepared for burial, and buried, according to the *Sharī'ah*. Absolutely no non-Islāmic religious service or observance shall be conducted upon my death, or on my body, or at the grave site. No pictures, symbols, or music should be involved at any stage of my burial.

My body may not be transported over any unreasonable distance from the locality of my death unless necessitated by the circumstances. My grave should face in the direction of the *Ka'bah* in Makkah, Saudi Arabia. My body must be buried without casket or any other encasement that separates the shroud from the surrounding soil if the local law allows. My grave must be covered with dirt only. My burial must take place as soon as possible.

Template of an Islamic will

ARTICLE VI: CUSTODY OF MINOR CHILDREN AND GUARDIAN

If, at my death, any of my children are minors, I recommend that my husband/wife _____ ID No.: _____ be appointed guardian of my minor children, provided he/she is a Muslim. If he/she is unable or unwilling to serve as personal guardian, I recommend that _____ ID No.: _____ be appointed guardian of my minor children. If he/she is unable or unwilling to serve as personal guardian, I recommend that _____ ID No.: _____ be appointed guardian of my minor children. If he/she is unable or unwilling to serve as personal guardian, I recommend that _____ ID No.: _____ be appointed guardian of my minor children.

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In all cases, I urge that all my minor children be raised as practicing Sunnī Muslims and not in any way be indoctrinated into any other faith, religion, or sect of Islām. I direct that no bond be required of any personal guardian. Any property or other inheritance that this Will gives to any of my minor children shall be administered by their guardian in their best interest.

ARTICLE VII: DEBTS AND EXPENSES

I direct my executor:

- A. Return to the rightful owners all trust and property (Annexure C) that are in my care at the time of my death.
- B. To first apply the assets of my estate to the payment of all my legal debts (Annexure B), including such expenses incurred by my last illness and burial as well as the expenses of the administration of my estate.

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ARTICLE VIII: BEQUESTS

A. I direct my executor to pay any outstanding 'obligation due to Allāh' binding on me:

A.1 Unpaid Zakāh _____

A.2 Unaccomplished Ḥajj _____

A.3 Unkept Ṣawm (Fasts) _____

A.4 Unperformed Ṣalāh (Prayers) _____

A.5 Unfulfilled Kaffārah _____

A.6 Undischarged Qurbānī (ʿUḍḥiyah) _____

A.7 Undischarged Vows _____

A.8 Interest [impermissible income] _____

Accordingly, I hereby direct that such amounts shall be paid to such persons or institutions as my executor/s in their absolute discretion, shall determine to be entitled there to according to the laws of Islām.

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B. I direct my executor to pay the following amount from any remainder of my estate to the people or groups listed below. The following entities are not already guaranteed a portion of my estate.

_____ % of the total remainder

_____ % of the total remainder

_____ % of the total remainder

_____ % of the total remainder

_____ % of the total remainder

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Note: The total amount payable under this clause (ARTICLE VIII: BEQUESTS) shall not, however, exceed 33.33% (one third) of the net value of my estate after the payment of my entire lawful obligation and all debts contracted by me during my lifetime, including funeral expenses.

Should any Bequest of mine as described above be in conflict with Islāmic law, then the *Dārul Qaḍā'* _____ or other competent *Dārul Iftā'* _____ shall have the power to adjust/modify such a bequest in order that it complies with Islāmic law.

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ARTICLE IX: DISTRIBUTION OF THE REMAINDER OF MY ESTATE

I direct my executor:

1. To distribute the residue and remainder of my estate to the rightful heirs strictly in accordance with the tenets of Sunnī Muslim law of inheritance.
2. In case of any difficulty or disputes in distributing my estate according to this Will, the matter should be referred to the previously declared Arbitrator.

ARTICLE X: SEPARABILITY

If any part of this will is determined invalid by a court, the other parts shall remain valid and enforceable.

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ARTICLE XI: CONCLUSION

This concludes my Last Will and Testament. ***“Then, whoever alters it [i.e., the bequest] after he has heard it - the sin is only upon those who have altered it.” (Sūrah al-Baqarah, 2:181)***

I subscribe my name to this Will this day _____ of _____, 20____ at _____ a.m./p.m. and do hereby declare that I sign and execute this instrument as my last Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am of age or otherwise legally empowered to make a Will, under no constraint or undue influence.

Full Name and Signature

Date and Time

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WITNESSES

On this day, _____ date of _____, the undersigned declared to us that this instrument was his/her Will and requested us to act as witnesses to it. He/She thereupon signed this Will in our presence, all of us being present at the same time. We now, at his/her request, in his/her presence, and in the presence of each other, subscribe our names as witnesses and declare that we understand this to be his/her Last Will, and that, to the best of our knowledge the testator is of the age of majority, or is otherwise legally empowered to make a Will, and under no constraint or undue influence.

Witness 1. _____ ID No.: _____

Full Name

Signature

Date and Time

Witness 2. _____ ID No.: _____

Full Name

Signature

Date and Time

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ANNEXURE A

ASSETS

1. Fixed Assets like property etc.

2. Movable assets like cars etc.

3. Cash- bank accounts, physical cash, jewellery, coins etc.

4. Businesses

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ANNEXURE B

DEBTS

OWED TO

AMOUNT

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ANNEXURE C

Trusts/Amānāt

ITEM	OWNER

Missed Prayers And Fast Of The Deceased And Paying Expiation (*Fidyah*)

- *Ṣalāh* and fasting is one of the most superlative acts of worshipping Allāh.
- The importance of *ṣalāh* and fasting has been mentioned repeatedly by Allāh and His Messenger ﷺ .
- If for some reason the deceased had missed some obligatory prayers then making up those prayers on behalf of the deceased is not valid.

Nabī ﷺ said:

“None should pray on behalf another nor should one fast on behalf of another.”

Missed Prayers And Fast Of The Deceased And Paying Expiation (*Fidyah*)

- There is no hadith which mentions paying the *fidyah* for missed ṣalāh as mentioned regarding the *Fidyah* for missed fast. Hence one must diligently perform one's ṣalāh. The *fuqahā'* did analogy on fasting in hopes that Allāh will forgive the missed obligatory prayers. *Fidyah* can only be given from the estate if the deceased made a bequeath for it.
- However, the expiation should be limited to one third of the estate. If the expiation exceeds one third, the heirs are not obliged to observe the excess. If, however, they do so voluntarily then that is permissible (on condition they are *bāligh*).

The expiation is 1.75 kg of wheat or its cash equivalent for every prayer missed including the *witr* prayer. $\$7.50 \times 6 \text{ salah a day} \times 365 \text{ days a year} = (\$16,425)$

Missed Prayers And Fast Of The Deceased And Paying Expiation (*Fidyah*)

➤ Majority of the scholars including the *Ḥanafīs*, *Shāfi‘īs* and *Ḥanbalīs* are of the opinion that if a person dies after the fast of *Ramaḍān* have become obligatory for him, but was unable to observe the fast due to a legally valid excuse such as illness, travelling, pregnancy, old age and that condition remained right until he died for instance a person was sick in *Ramaḍān* and died in *Ramaḍān* or remained sick after *Ramaḍān* and died in the sickness without getting time to make *qaḍā’* while healthy then the obligation of fasting is suspended and there is no need to make up for these fasts, nor is there any need for expiation (*fidyah*). This person will not be considered wrongful for missing his fast. The Ḥadīth of Nabi ﷺ that:

“A person who dies after the fast of *Ramaḍān* have become obligatory for him but was unable to observe the fast due to a valid excuse is not considered blameworthy or liable to fast”

Missed Prayers And Fast Of The Deceased And Paying Expiation (*Fidyah*)

- The scholars are of the opinion that it is not permissible for any person to make up for the fasts of another person who has failed to fast during the month of *Ramaḍān* and died after having been able to make it up. Instead the poor should be fed.
- The heirs are obliged to render expiation by feeding the poor, provided the deceased had made a bequest to that effect.

Missed Prayers And Fast Of The Deceased And Paying Expiation (*Fidyah*)

- However, the expiation should be limited to one third of the estate. If the expiation exceeds one third, the heirs are not obliged to observe the excess. If, however, they do so voluntarily then that is permissible (on condition they are *bāligh*).
- The expiation is 3.5 kg of dates or barley or 1.75 kg of wheat or their cash equivalent for every fast missed.
- A person will pay the above for each day of fast/*ṣalāh* missed. Alternatively, one who must pay *fidyah* can feed one poor person with two complete meals for each fast that he misses. If one is giving *fidyah* in grains or cash, he/she can distribute it to several poor persons.
- The poor and the needy ones are deserving recipients of *fidyah*. It is best to give it to the poor and needy practicing Muslims. It is not permissible to give 'rich' 'well to do' Muslims *fidyah*.

Sadaqat ul Fitr

What is Sadaqat ul Fitr?

Abdullah bn Abbas (Radiyallahu anhu) narrates, "The prophet (Peace Be Upon Him) declared the payment of Sadqat ul Fitr as obligatory; it purifies the fasting person from any indecent act or speech, and is a provision for the needy." (Sunan Abu Dawud)

How much is Sadaqat ul Fitr?

Sadaqat ul Fitr is paid according to foodstuff mentioned in various ahadith or their corresponding value. For Ramadhan 1443/2022, the Sadaqah al-Fitr values are as follows:

Wheat

\$7.50

Barley

\$22

Raisins

\$35

Dates

\$175

ONE MAY GIVE ANY PRICE ABOVE PER HEAD

Note: These are the market values of the commodities in the above quantities which have been rounded up to the nearest fifty cents. We have carried out a field research on the prices and have concluded the above as an accurate reflection of the market values.

WHAT SHOULD BE DONE AS DEATH APPROACHES

What To Do When A Person Is Dying

- ✓ When the signs of death manifest on a person it is laudable (but not necessary) to lay the person on his right side with the limbs straightened and facing the qibla.
- ✓ If this proves to be difficult then he/she can be assisted to lie on his/her back, legs stretched towards the *qiblah* and head raised against some form of head rest (pillow or cushion).
- ✓ If moving the *muḥtaḍar* (dying person) causes discomfort, then it is best to leave them as they are.

What To Do When A Person Is Dying

- ✓ Those present around the dying person should gently encourage him or her to recite the declaration of faith by reciting the following yourself:

“Lā ilāha illā Llahu Muḥammadur- Rasūlullāh”

There is no god but Allah, and Muḥammad is his Messenger

It is related that the Prophet Muḥammad ﷺ said:
“Instruct the dying to say Lā ilāha illā Llah (there is no god but Allāh) because it will eliminate previous sins.”

Muslim #2123

What To Do When A Person Is Dying

- ✓ Recite *Sūrah Yāsīn* in a calm low voice that does not disturb the *muḥtadar*.

Nothing will happen to a person who reads it desiring Allāh and the abode of the Hereafter except that Allāh will forgive him, so recite *Yāsīn* over the dying.

Ābū Dāwūd #3121

What To Do When A Person Has Passed Away

- ✓ When the *muḥtaḍar* has passed away, if the eyes are still open they should be closed as per the actions of Nabī ﷺ

“Umm Salamāh رضي الله عنها narrated, “The Messenger of Allāh ﷺ came to see Abū Salamāh رضي الله عنه when his sight had become fixed (with his eyes open, as he had already passed away). So the Prophet ﷺ, closed his eyes”

Muslim #2003

What To Do When A Person Has Passed Away

- ✓ After closing the eyes close the jaw gently and keep it in place by tying a strip of cloth around the head and tie it firmly at the top.
- ✓ Straighten all of the limbs gently but do not force them. Place the legs together and the ankles together with a strip of cloth so they stay in place.
- ✓ Remove all jewelry from the body, especially for women such as rings, necklaces, earrings, nose piercings e.tc.

What To Do When A Person Has Passed Away

- ✓ If there is any fear of the stomach bloating, then place something heavy on the abdomen.
- ✓ Cover the body with a shroud.
- ✓ Until the body is carried away, sit besides the *mayyīt* (the corpse) and pray for the deceased forgiveness.
- ✓ It is strongly recommended not to delay the *Janāzah ṣalāh* and the burial.

The *Sunnah* Method of *Ta'zīyyah*
(Visiting the House of the Deceased)

The Sunnah Method of Ta'ziyyah

- When someone passes away, the people who are going for *ta'zīyyah* should only say good words for the deceased.
- They should also ask for forgiveness for themselves and for the deceased because at that time the angels say *Āmīn* to the *du'ā's*.

It is related that the Prophet ﷺ said, “Speak well of the dead, because the angles pronounce “*Āmīn* upon what the family of the deceased say.”

Sunan-an-Nasa'i #1825

The Sunnah Method of Ta'ziyyah

- The essence of *ta'zīyah* is to say something that makes the bereaved feel better.
- The best time for *ta'zīyah* is immediately after the burial.
- According to the teachings of our Prophet ﷺ *ta'zīyat* carries a lot of reward.

Nabī ﷺ said, one who offers *ta'zīyah* receives a reward equal to the one who has been afflicted by the loss.

Tirmidhī #1073

The Sunnah Method of Ta'ziyyah

- The visitors should busy themselves in praying and *du'ā'*. They should console the members of the household and refrain from asking awkward questions relating to the deceased.
- We should try and visit the house of the deceased within the three-day mourning period if possible.
- There is no basis to the custom where upon arrival of new guests, incense sticks are lit, and group supplication takes place.

The Sunnah Method of Ta'ziyyah

- The custom of announcing and arranging collective recitations of the glorious *Qur'ān* immediately after the burial of the deceased has no basis in the *sunnah*.
- There is no harm in doing *du'ā'* but considering it an obligation which every visitor must undertake is incorrect. (Kitābun Nawāzil)

Preparing Food For The Household Of The Deceased During The Mourning Period

When the cousin of Rasūlullāh ﷺ, Ja‘far ؓ passed away, he instructed his household to send food to the household of the deceased.

It was narrated that ‘Abdullah bin Ja‘far ؓ said:

“When news of the death of Ja‘far was brought, the Messenger of Allāh ﷺ said: ‘Prepare food for the family of Ja‘far, for there has come to them that which is keeping them busy or something which is keeping them busy.’”

Preparing Food For The Household Of The Deceased During The Mourning Period

It is *Mustahab* (desirable) that food is sent to the household of the deceased which is sufficient for one day and one night.

This food should be sent by the neighbours or the people close to the household.

The food should also just be sent, there is no evidence that the people sending the food should sit and partake of the food with the household of the deceased.

Preparing Food For The Household Of The Deceased During The Mourning Period

There is also no evidence that the food should be sent for more than one day and night, and that food should be prepared for visitors as well.

The custom where groups of people get together and take turns in sending food for a number of days sharing the cost has no basis.

Furthermore, inviting people for food after a certain number of days also has no basis.

Preparing Food For The Household Of The Deceased During The Mourning Period

We have to be very careful that customs which have been passed down through generations are not prioritised in such a way that one believes it to be part of religion.

May Allāh سبحانه و تعالى give us the ability to be prepared when our death approaches, practice on the true Dīn and what has been said. Āmīn.

وآخر دعوانا عن الحمد لله رب العالمين

