Guide to writing an Islamic Will

Contents

The following booklet has been published by:

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Introductory note

It is highly recommended as perceived from the sayings of the Holy Prophet (S.A.W.) to write a Will.

To avoid the common pitfalls and prevalent problems when persons die instate, we have taken this initiative to prepare this booklet. It contains guidelines on making an Islamic Will as well as a sample Will. If you fill this tailor made Will it would become a legal and binding document.

The Africa Federation embarked on this task of preparing the guidelines and a sample will from which the members of the community can benefit. The following booklet was compiled from various sources and edited to meet the present needs. It is by no means a complete document and only serves as a guideline to make a Will that is both Islamically and legally acceptable. In short it explains certain aspects to be considered when making a Will and elaborates the parts of an Islamic Will and how to make one.

We would like to acknowledge the following sources where we extracted information from: GCG booklet on how to make a Will, Sayyid Muhammad Rizvi's Making an Islamic Will (1994) and the World Federation Sample Will.

We would like to add that there may be assets you own or debts you owe, which nobody knows about. If you have them listed in this secret document to be opened after your demise, at least the assets will not go to waste and your debts will be cleared.

Many orphans and widows have had to endure hardships and resort to legal wrangles lasting a long time until the estate of their deceased is sorted. If the Will clearly stipulates all your wishes then there would no room for any infighting.

You have the choice of using one third of your estate as per your wishes and do not miss on this chance to earn salvation for the hereafter by using this option to do the best charity. Their might be some activities you have wished to undertake all along, this is the chance to get them fulfilled by allocating valuable resources for it to become a reality.

We strongly believe you have benefited and been a proud member of our community. Now it is the turn of the community to gain from you out of the one third. Perhaps you could name your local Jamaat or Regional Federation or a charity of the community as a beneficiary; and leave behind a legacy from which many will benefit perpetually and you shall be remembered with fond memories and be an example to emulate for others.

We humbly suggest that you give this document the seriousness it deserves and do not put your Will on hold any further. Please read it carefully and fill it today. No one knows when death comes.

With Salaams and Duas,

Zulfikar H Khimji

April 2003

Making an Islamic Will

1. Importance of Making an Islamic Will

The timing of death is uncertain, but death itself is certain. Most people believe that their possessions will automatically pass on to their immediate spouse/children/family with no complications and everyone will receive what the deceased wanted them to. The fact is, unless you have made a Will, there is no guarantee that this is always the case. Yet, most people die without making one. Even if you have no family, it is important that you make a Will so that what you own will pass to whomever you wish. You will no doubt want to be sure that when you die, your property and affairs be dealt with in accordance with your wishes and in an efficient manner.

If you die without making a Will, the government appoints an executor who will divide the estate among the heirs, as he/she seems fit. This could mean that some of your dependants may be deprived of essential financial security and possessions of particular sentimental value. The pay of the executor for this job will come out of your estate, and the government bureaucracy takes its time in getting things done.

Secondly, from the Shariah point of view, your heirs may get more or less than the shares specified for them in Islam. By not writing a Will, you are leaving the door open for a non-Islamic authority to distribute your estate according to its own views. So not having a Will is costly as well as problematic from both the State and the Islamic points of view.

If you have no living relatives and have not made a Will leaving your estate, say to a friend, a favourite charity or other organization, then the State could receive everything on your death.

By making a Will, you can be sure that your estate is passed to the named beneficiary/ies in the most tax-efficient way. If the country you live in imposes inheritance tax, the may also take positive steps now to limit your estate's liability to inheritance tax by making gifts, taking out life assurance cover or by setting up a trust, which makes specific provision for your family. To help achieve this, it is important that you should make a Will and, having written it, check it regularly to make sure that it always is still up to date. Times change, families grow and yesterday's Will may not be right for today.

If any of the following apply to you, it may be advisable to seek specialist advice when writing your Will:

- If you live, or own property or assets anywhere in the world.
- If you own a business.
- If you have previously been married and/or have children from a previous marriage or relationship.
- If you are married with assets worth significantly more than about £250,000 and wish to include provisions in your Will to reduce the amount of Inheritance Tax payable (relevant to some counties only).

Our Holy Prophet Mohamed (S.A.W.) said:
"It is not proper for a Muslim to pass two nights except that his/her (last) Will and Testament is near his/her pillow."

"One who goes from this world after making a good Will dies the death of a martyr."
"A person who without making a Will, dies the death of a pagan."

Although according to Islamic law a Will need not necessarily be in writing or in any particular form of verbal declaration to constitute a WASIYYAT**,** the present day world requirements and laws of the land makes it obligatory upon a person to prepare a Will in **writing** to ensure speedy disposal of wealth, to avoid unforeseen hardships to the family members and to alleviate unnecessary problems for the administrators.

If a Will is not made in writing, then:

a. The foremost problem arises as to who will administer and distribute the estate and usually the nearest relative or friend takes over.
b. The administrators (Executors, Trustees) of deceased's estate cannot easily obtain PROBATE (Power to distribute the wealth) from a Court of Law, as it is time consuming, and in some countries like Kenya, in order to obtain Grant of Letter of Administration, two SURETIES would be required, each one having to give SURETY amounting to twice the value of the deceased's gross estate. It is obviously difficult to get such sureties, and going to a bank for surety would entail unnecessary expenses.
c. Pending the receipt of Probate, the Bank account of the Deceased would be frozen and the beneficiaries would not be in a position to draw from the Bank for the Household maintenance, unless there is a joint account and either party is surviving. However, one can always obtain an interim or limited grant for specific purpose, say to operate a business or bank account etc, with a view to preserving the deceased's estate pending full grant.
d. There is a likelihood that certain acts for example Hajj, prayers and fasts for so many days missed by the deceased during his lifetime, would remain unperformed; and certain wishes of the deceased would remain unfulfilled.
e. In case no one is willing to become a Trustee, the government (Public Trustee Department) will take over the administration. Again this would result in delay and would entail expenses.

So, although the law (the State as well as Islamic) does not say that making of the Will is a must; but by looking at the consequences of not having a Will, it is necessary – both from legal as well from Islamic aspects, to have one and avoid misuse of ones estate after death. Every man and woman should make a Will**.** The conditions regarding the capacity of the testator making a Will are dependent upon the laws of the country in which the testator lives, and subject to such requirements, which may have an overriding effect.

2. The One-Third Option

After a person dies, there are certain possible relationships between him and his estate. These are:

- he has full control over it through a Will
- he has partial control over it through a Will
- he has absolutely no control over it

Islam has taken the middle position. It says that when a person dies, he still retains the right to decide about up to one-third of his entire estate. But as far as the two-thirds are concerned, the deceased person loses the right to dispose according to his wish. The two-thirds must be divided according to the shares specified by the Shariah. (Most of these shares have been

specified in the Holy Qur'an itself.) This law is part of the overall system, which Islam has introduced for the distribution of wealth in society.

The right of disposing the one-third according to your own wish can be exercised only by making a Will. You can do whatever you like with the one-third: give to a family member, a relative, a friend, a charitable cause or organization, etc. For example, you can use the 1/3 or a part of it to make – if you like – the shares of your wife or your daughter equal to those of your other children.

When the Holy Qur'an talks about Wasiyyah, which is normally translated as "Will", it refers to the Will covering mainly the one-third only. For example, it says:
0 you who believe! It is prescribed upon you that when death approaches one of you – If he leaves behind plenty – then he should make a Will (Wasiyyah) for his parents and near relatives in the one-third. This is a duty upon the pious people. (2:177)

Writing more than one-third to a person or a cause means depriving the potential heirs of their rightful share in the estate; and, therefore, it is considered unjust and wrong. The Holy Qur'an says*, if a person fears that the testator is [wrongfully] inclined [to one party] or is sinning [by depriving the rightful heir in the Will, and so that person intervenes between the testator and the potential heirs] and makes peace between them—then there is no sin on him. All… is Forgiving, Merciful.* (2:182) What has been described in this verse as wrongfully "inclining to one party" and "sinning by depriving the rightful heir" is related to the two-thirds of the estate.

The one-third will be assessed after taking those expenditures, which are incumbent upon the whole estate, like funeral expenses, and the legal or religious debts.

Monetary obligations (Religious or Legal) are to be deducted out of the whole estate whether the testator made a Will or not. Some examples are: debts owed by him, property sold by him but not delivered to the buyer, the price of articles purchased by him but not paid for. Sureties and guarantees if necessary to be made up, fines, taxes, death duties, Khums, Hajj, Zakat, Raddul-Madhalim, monetary retributions as those of Kaffarra of Ihram and Saum, monetary Nazr like Nazr of Sadka, etc. When all monetary obligations of the estate of the deceased are deducted, then the one-third of the remaining property will be the subject of the Will. (The testator can, however, specify that certain monetary obligations be paid out of the one-third instead of the whole estate).

Since the testator has got the right to dispose of the one-third of the net estate, he can bequest the same in accordance with his own personal wishes.

In order to prepare a ‘Good Will’ (according to Ahadith), it is highly recommended to bear in mind the following Mustahabat while making bequest:

a. Bequest made for feeding poor and incapacitated people;
b. Bequest made in favour of relatives, for example children of one’s own deceased son or daughter;
c. Bequest made in favour of other poor or incapacitated relatives;
d. Bequest made in favour of one’s own parents;
e. Bequest made for the maintenance of religion.

One could also make a bequest for Sadaqate Jariyah that is having perpetual benefits, for example, donating to hospitals, schools, mosques, building of wells, and the like.

Other ideas for the distribution of the one-third

Families usually have family trusts. In order to keep the perpetuity of the main objectives of the trust created the trust could be in the name of the Jamaat or the Regional Federation, or in the joint names of the family and the Regional Federation, so that the trust is maintained and used for what it was originally planned for. The other issues is that the Jamaat can claim the trust because it is an institution whereas the family members may not always be able to do that, especially if they don't live in the country in which the property is.

1/3 of the property can also be bequeathed to the Jamaat to which one belongs. You could even take out a life assurance in the name of the Jamaat like one would take out in the name of the family. You can also take out education policies in the name of the Jamaat and/or in the name of your children.

For men, in today's situation you could also give 1/3rd to your wife, to increase her share of inheritance.

3. What is an "Estate "?

An "estate" is the collective name for everything that you own. The estate consists of the followings:

- all properties, goods and investments that are in your name.
- half or the specified portion of the goods and investments in which you are a co-owner.

The first type of property is very straightforward—the entire estate will be divided according to the will and the specified shares of the heirs.

But there are certain cases in the second type which need explanation:

Joint Account: According to laws of some countries, with death of one spouse, the money becomes the property of the surviving spouse. Such a transfer of money is not valid in Islam: Islamically, half of the money in that account belongs to the surviving spouse and the other half will become part of the deceased's estate.

House: House are normally in the name of the couple. Such ownership can be of two types' common ownership and tenants in common. "Tenants in common" is also without any problem because when one spouse dies, his/her share becomes part of the estate.

But in "common ownership", there is a problem because with the death of one spouse, according to laws of some countries, the entire property becomes that of the surviving spouse. This is contrary to Islamic laws, which says that the surviving spouse gets his or her 50% and the remaining 50% becomes part of the estate of the deceased.

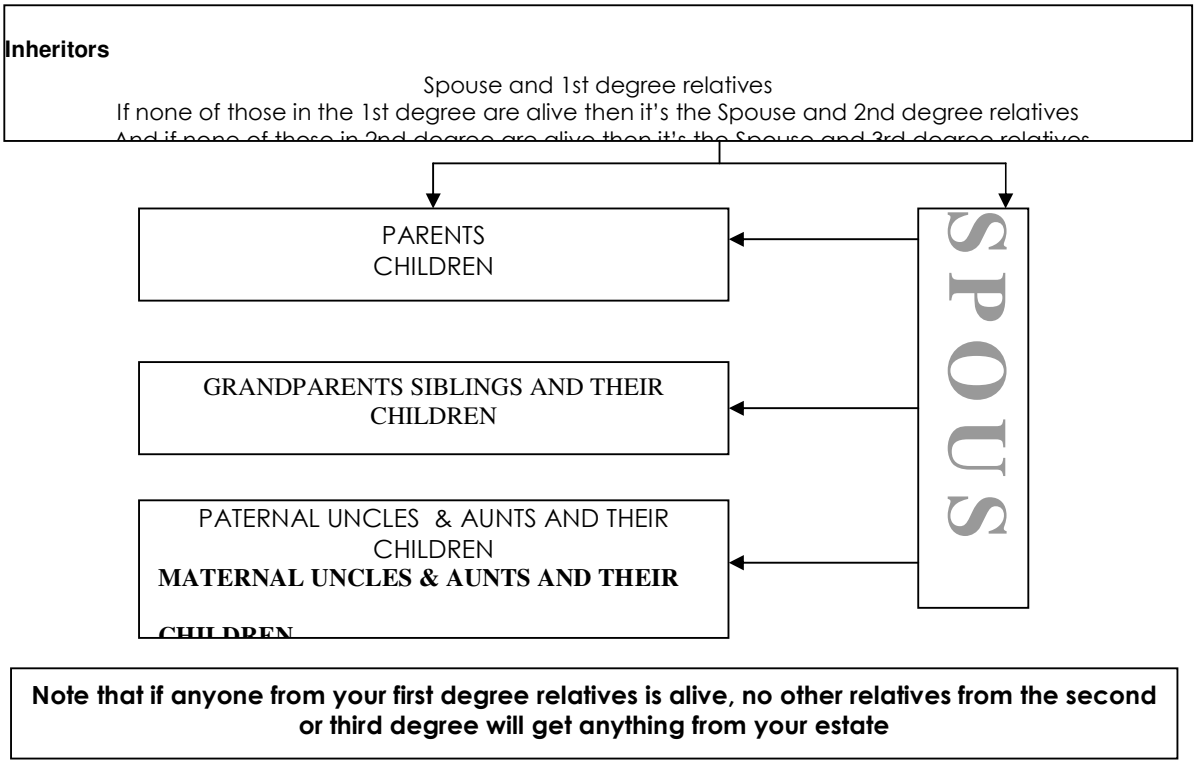
We will talk more about this below.

4. Who can inherit?

After disbursing the one-third according to your Will, your remaining estate is to be divided among the heirs mentioned in the Holy Qur'an: the surviving spouse and blood relatives. No one can prevent the spouse from inheriting his or her specified share from the estate of the deceased spouse.

As for the **blood relatives,** there are of different degrees.

First degree:	your parents & children
Second degree:	your grandparents & siblings
Third degree:	both your maternal and paternal uncles & aunts and their children



The right of inheritance by virtue of matrimony appertains to the individual heirs under all circumstances. A husband or wife is never excluded from inheritance. A widow or widower is entitled to the specific share before the estate is divided amongst the heirs succeeding by virtue of blood relation (Nasab).

It is very important to note that the laws of the country in which the Testator is domiciled, may have an overriding effect on the Shia Inheritance Law, and upon such matter as classification of heirs, unless and until that country also gives recognition to the Shia Inheritance Law.

Whilst devising a Will it should be borne in mind that the Testator has got a right to dispose **only one-third** of his estate according to his own wishes. The remaining **two-thirds** must be distributed to the heirs in accordance with the laid down rules of the Shariah. The Shariah is very clear in this matter and has laid down specific shares and proportions for distribution to each class/es and group/s as applicable. For the classes and groups, see the diagram above.

5. Basic Shares of the Most Common Heirs

What you see below are the basic shares of your most common heirs. In these examples, you have been considered as the deceased and the relatives mentioned here are your heirs.

Your Heirs	Their Shares
YOUR FATHER	if you had a child 16.66% (1/6)
	if you had no child whatever remains after share of the mother and/or the spouse.
YOUR MOTHER	if you had a child or brother* 16.66% (1/6)
	if you had no child or brother* 33.33% (1/3)
YOUR HUSBAND	if you had a child 25% (1/4)
	if you had no child 50% (1/2)
YOUR WIFE	if you had a child 12.5% (1/8)
	if you had no child 25% (1/4)
CHILDREN	whatever remains after giving the shares of the parents and/or the surviving spouse.
	a male child gets twice the share of a female.

* In presence of a parent (or a grandparent) or a child (or a grandchild), the brother of the deceased does not get anything. However, he affects the share of the mother: instead of 1 /3, it becomes 1/6.

(a) Will a female child gets half of a male child's share?

It is not a male versus female issue; it is not a sexist issue. If it were a sexist issue than why do we have cases in inheritance where females get the same percentage as their male counterparts. For example:

- if daughter is the only heir from the first group, then she inherits 100% and she excludes her grandparents and her uncles.
- a mother in most cases gets 1/6, the same share as that of a father.

So, why is there difference? The difference in inheritance is based on economic responsibilities: those who have been given greater burden of responsibility have been given greater share in inheritance. Rights are tied to responsibilities. The son gets a larger share because he has his family to take care of, while the daughter is taken care of by her husband.

Another example of the inter-relation between responsibility and rights is the case of the mother: if parents are the only heirs and the mother has no other sons to take care of her, then her share increases from 1/6 to 1/3.

Objection: What if the daughter's family is not rich or that she is a minor? Answer: The one-third option has made the Shariah laws quite flexible. If you think that your daughter needs extra help, then you can give up to the one-third of your estate to her:

son	daughter	
44.44	22.22	***out of the 2/3***
5.56	27.78	***Possible use of the 1/3***

50.00	50.00	

(b) Wife's Share:

The wife's share is 1/4 if the husband was childless or 1/8 if he had a child. This is basically because of two reasons: it is possible for a woman to marry again; and, if she has grown up children, then they are responsible for her maintenance.

However, even in this case, the one-third rule makes the Shariah very flexible. Look at the following example:

Wife share in %	Son share in %	Daughter share in %	
12.5	58.34	29.16	***out of 100%***
8.33 + 33.33 = 41.66	38.90	19.44	***possible use the 1/3 option***

6. Wife's Share

Since the share of the wife is somewhat complicated, it is necessary to explain a few points separately:

Firstly, as the definition of the "estate" shows, a house jointly-owned by a couple is divided – according to the Shariah – into two: half becomes part of the estate of the deceased, and the other half was from before the property of the surviving spouse.

Secondly, according to the Shariah, the wife is not entitled to inherit land of her husband (whether an agriculture land or a residential plot): she only inherits the house on the land according to her proportional shares in inheritance. In common ownership case, the wife is the owner of 50% of the house and the land; the other 50% becomes part of her husband's estate from which she will inherit only 6.25% of the house.

So in the end, the wife becomes the owner of 56.25% of the house and 50% of the land. This creates practical problems in some parts of the world: a house cannot be divided; if other heirs insist on their share in the house, then it has to be sold and the price divided accordingly; it is also difficult to assess the value of the land separate from the house, etc.

Therefore, the following is suggested:

1. Either give the house to your wife during your life-time.'
2. Or, if the value of the 50% of the house plus the land is within the one-third of your entire estate, then write the entire house to your wife in your Will. In this way, half of the house plus the land is her property from before and the other half will go to her on strength of the 1/3 option in your Will. In theory, it will work out like this:
    a. 50% of the land and house belongs to your wife.
    b. 6.25% of the house is your wife's share of inheritance.
    c. 50% of the land + 43.75% of the house goes to her by using the 1/3 option.
3. Or, if the value of the 50% of the land is more than the one-third of your estate, then discuss it with your other heirs (parents and children) and ask for their consent to write the entire house for your wife in the Will. If they give the consent (which is irrevocable),

then you can write the house to your wife in the Will even if it is more than her proportional share of inheritance.

7. Executor or Executrix

It is a normal practice to appoint your spouse or another family member as the executor of your Will. There is nothing wrong with this. The only conditions which are necessary for an executor/executrix is he or she should be Baligh, sane, and a Muslim. It is not necessary for him/her to be 'adil; Trustworthiness would be a sufficient quality for an Executor.

If you accept to be an Executor for someone's Will, then it becomes Wajib for you to fulfil your duty. You can only reject this responsibility while the testator is alive; but if the Testator dies before such rejection, or without the information having reached him, the retraction is null and void, and it is incumbent upon the Executor to assume the responsibility. An Executor cannot reject this role after his/her death.

Appointment of Executors (administrators, trustees)

A person has a right to appoint an Executor/s of his own choice. He has the power to confide the execution of his last wishes to whomsoever he likes, subject to the following restrictions:

a. Executor (Wasi) must be an adult. But, if a minor is made an Executor together with an adult on the condition that the minor's rights and duties would commence after his-attaining adulthood (Bulugh) the appointment is valid.
b. A woman can be appointed as an Executor. An heir or even a blind person can also be appointed as one.
c. The Executor must be sane (of sound mind).
d. The Executor should be a Muslim. If he renounces Islam, the executorship will lapse and he cannot be reappointed as an Executor even after he has re-embraced Islam.
e. The Executor must be trustworthy, though not necessarily ‘adil (i.e. of approved probity according to Shariah).

Note that:

a. An Executor may apportion reasonable normal remuneration for his services. But, when there is an express implied signs that services be honorary, this Executor must perform his duties without remuneration, provided he had accepted the nomination.
b. An Executor cannot appoint his own successor or cannot entrust the management of the testator's property to his own Executor or to any other person unless the testator had authorized him to do so.
   It is advisable, therefore, to make a provision in the Will giving **power** to the Executor/s to nominate successor/s and to enlist assistance from others for the smooth management of the affairs of the estate.

Why appoint an Executor?

Ensuring that your estate is distributed in the way laid down in your Will is the duty of an Executor. Executors are responsible for dealing with the affairs of someone who has died, in accordance with the terms of the Will. They will collect all the assets, settle all debts and liabilities, and distribute what is left to the beneficiaries.

When choosing your Executor(s), you should consider people you know, trust and who you believe will be willing and capable of accepting the responsibility when the time comes.

You can appoint anyone you wish to take this responsibility and many people chose a relative or a close friend, however there are disadvantages in doing this. The person appointed may die before you, or may be a beneficiary under your Will, which can lead to awkward situations with other beneficiaries. Some of the tasks involved in administering an estate can be onerous, time consuming and often need legal and taxation expertise. For some Executors, this may be a worrying prospect. The appointment of a professional specialist Executor with the necessary skills and expertise to act with integrity and impartiality will remove all these worries.

Nobody likes to contemplate the effect their death will have on their family and friends. Yet, at a time of personal sorrow, perhaps the heaviest burden one can leave behind is the administration of one's estate.

8. Guardian of Children

It is very important to write in your Will about the guardian and custodian of your children. Under normal circumstances, the surviving spouse is made the guardian, and this is indeed, the best decision.

It is important to note here, for the sake of record, the conditions, which must be found in the guardian of your children. The guardian must be a Muslim, sane, and trustworthy. Those who have the right of custody of children (in order of preference) are: father, mother; paternal grandfather; and then anyone specifically appointed as the guardian of the children. However, the duty of maintenance for the children falls upon the following (in order of preference): father; paternal grandfather; mother; other grandparents collectively.

The last person in this list of custodians can be from outside the family, but one must be very careful in selecting such a person. The most important condition is that he/she besides being trustworthy must also be a Muslim who will raise the children according to the teachings of Islam.

9. Updating your Will

Having made a Will it is important to ensure that it continues to meet your requirements over time. If your circumstances change you may need to amend the terms of your Will to reflect the new position. This is a common situation and you should view your Will as something that can be easily revised at any time.

Equally important to making a Will is that you review it regularly to make sure that it reflects any changes in your circumstances or in the names of those you would like to benefit.
Changes in financial or marital status, or a wish to include new family members, are things that could lead to a need to change your Will. During the review, you could also take into consideration any new legislation, which may help reduce your inheritance tax liability.

10. Some Legal Matters

For a written Will to be recognised in the Court of Law, must be:

a. dated,
b. hand written or typed,
c. signed by the testator, and
d. attested by **two** witnesses.

The testator must sign the Will in presence of the two witnesses. It is not necessary for the witnesses to know the contents of the Will. The witnesses MUST NOT be the heirs or beneficiaries of the testator, otherwise the bequests to them could be void.

The names and addresses of the witnesses must be recorded against the attestation clause/signature of the testator at the time of signing, not later.

After the Will has been executed, no additions to, or alterations to it may be made**.** Any addition or alteration to the Will can be made by way of Codicil, (addition to Will) but it is not advisable to make a Codicil, as this can create complications in the interpretation of the provisions contained in the Will. It is better to prepare a new Will rather than make additions or alterations to the original Will.

In some countries like Kenya, no stamp is required on a Will, but it can be registered at the Land Office by paying stamp duty, but this requirement will be dependent upon the laws of the country where one is residing.

Glossary

Prior to devising a Will, the definitions of some of the terms used should be understood

- **Will** – It is a directive, which is also known as Testament. In terms of Shariah it is called Wasiyyah**.**
- **Testator** – Person making a **Will.** He is called "MUSI".
- **Beneficiaries** – Persons having right to inheritance. They are also as heirs or legatees. The beneficiaries are called **"**Musa Lahu**".**
- **Executors** – Persons appointed by the testator, to execute, administer and distribute the estate in accordance with the Will**.** They are also known as Administrators or Trustees**.** They are called **"**Wasi".
- **Estate** – All property/ies owned by the testator at the time of his death that is subject to distribution, for example land, building, cash in hand, cash at banks, shares, motor cars, etc.
- **Net Estate** – Net Estate is a person's estate **less** all debts owing by the testator at the time of death including estate duty, income tax, Khums, Zakat, etc.
- **Bequests or Legacy** – These are specific grants made, viz, grants made to the particular members of the family or allotments made to the poor or for the advancement of religion, etc.
- **Probate** – Power to distribute the wealth.

Sample[1] of an Islamic Will

In the Name of God, the Beneficent, the Merciful

This is the last Will and Testament of (name)……..……

currently residing at (full address) ……..

made on (date)…… ……..

1. I hereby revoke all my former Wills, Codicils and Testaments made by me and declare this to my last Will.
2. I testify that I am a practising Muslim of the Shia Ithna Asheri faith believing in one God, His Prophets – the last of whom is Muhammad (S.A.W.) and the institution of Imamate with the Imam of the time being Imam Muhammad Al-Mahdi (A.S.).
3. Being a Shia Ithna Asheri Muslim, I hereby declare the administration and devolution of my estate be governed by Islamic Law of Succession and Inheritance as followed by Muslims of the Shia Ithna Asheri Sect.

4. I APPOINT[2] (name)……..……..

   currently residing at (full address) ……..……

   and (name)……..……. ……..…

   currently residing at (full address) ……

   to be the joint Executors and Trustees of this my last Will and Testament[3]. BUT IF anyone or more of the above named persons should refuse to act, die before me, or die before the trusts hereof have been fully performed, then I appoint

   (name)……..……. currently residing at (full

   address)……..
   to be the Executor of my Will and Testament in the place and stead of anyone or moreof the above named persons, and the expression "my Trustee", used throughout include the Trustee for the time being, whether original or substitutional.

5. I GIVE, DEVISE AND BEQUEATH all my real and personal property of every nature and kind, wheresoever situated, inclosing my property over which I may have a general power of appointment, to my Trustees **upon the following trusts**, namely:

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[1] This is only a sample Will. However, should you choose to use it and sign it then it becomes a legal document.
[2] Note that it is better to seek permission of the Executor(s)/Trustee(s) of your will. Failure to do this and listing someone without their permission does not mean the named Executor/Trustee will carry out their duties; they can even refuse to act.
[3] A Will should be updated from time to time. A change in the circumstances may require one to change his/her Will. For example if one of the Executor passes away then, a new Executor for one's Will should be immediately appointed.

a. subject to my express direction to the contrary, to use their discretion in the realisation of my estate with the power to my Trustees to sell, call in or convert into cash at any time they see fit, either for cash or credit, or part cash and part credit as my Trustees may in their absolute discretion decide upon, and my Trustees shall not be held responsible for any loss that may happen to my estate by reason of their so doing;
b. to pay my just debts (as listed in Codicil II), funeral and other testamentary expenses, all succession duties, inheritance and death taxes, and all expenses necessarily incidental thereto, to be paid and satisfied by my Trustees as soon as is convenient after my death; to collect all my debts and outstanding property(as listed in Codicil III) and to return the property (Amanat) that I have of others (as listed in Codicil II);
c. to pay such religious taxes (like Khums, Zakat, Kaffara, Hajj, etc – as listed in Codicil II) and other expenses for hiring people to do my Qaza prayers and fasts, any expenses of Khums should be paid to: my local Jamaat (……), the Africa Federation, NASIMCO, Council of European Jamaats, Council of Gujurat, the World Federation or Wakeel (name) …… of the Marja'e Taqleed **(please select one option)**;
d. that all my clothes, jewellery (other than those kept for investment purposes), ornaments which have from time to time been made and given to my parents, my wife and to my children which are in their possession or are kept in the family safe or in the safe deposit vault are their absolute property respectively and do not form part of my estate, and the Trustees have no right over such property;
e. to pay the below amount to the respective heirs as outlined in the Islamic Law of Succession and Inheritance followed by the Muslims of the Shia Ithna Asheri sect, after incurring all customary and adequate expenses of my funeral and all expense from 5.a. to c. above, and then to distribute the balance of my net estate in the manner laid down hereunder;
    i. One third of my estate, which I can distribute as per my wish should be distributed as follows:

……

……

……

……

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……

……

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……

……

ii. Two-thirds of my estate, which will be distributed according to the ratios set out in the Islamic law of Inheritance and Succession as followed by the Muslims of the Shia Ithna Asheri sect, and I declare that the below named are my only lawful heirs at present:

1. My wife/wives[4]/husband: (name(s))……
2. My father (name) ……
3. My mother (name)……
4. My son[5] [6](s) (name) ……

   (name) ……

   (name) ……

   (name) ……

   (name) ……
5. My daughter(s) (name) ……

   (name) ……

   (name) ……

   (name) ……

   (name) ……

f. to appoint successor(s) and/or assistant(s) of their own choice and also to seek help from any quarters (even professional) for the purpose of the administration and execution of my estate;
g. to apportion for themselves, their successor(s) and/or assistant(s) a just and reasonable remuneration for their services out of my whole estate prior to the distribution of the same.

6. The share of each child(ren) of mine as determined above shall be paid or transferred to such child(ren) of mine, if he or she is over the age of 18/21 **(please tick one)** at the time of my death, for his or her own use absolutely. If however, any child(ren) of mine, whether male or female, is under the age of 18/21 **(please tick one)** at the time of my death, my Trustees shall hold and keep the invested share of the such child(ren) of mine and use the income from such for maintenance, education and benefit of such child(ren) of mine until he or she reaches the age of 18/21 **(please tick one)**, at which time my Trustees shall pay or transfer the amount remaining of the share of such child(ren), if any, to such child for his or her own use absolutely.

7. I nominate, constitute and appoint

   (name)……..…….

   currently residing at (place) ……..

   to be the guardian[7] of my minor children. I direct the guardian of my minor children to raise them as Muslims according to the rules, customs, and teachings of the Shia Ithna Asheri sect of Islam.

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[4] Note that only permanent wives can inherit, wives on a temporary contract with a man cannot inherit from his estate, although children from a such wife would be entitled to inherit.
[5] Children from a divorced wife/husband are entitled to inherit. Only legitimate children can inherit.
[6] Note that adopted children are not lawful heirs and should not be listed here. Note also that if you have a child(ren) who you have given up for adoption, then that child(ren) must be listed here.

8. In the event that any of my heirs should predecease me, then my estate should be divided among my remaining heirs according to (3) above.
9. It is my most earnest request to all my heirs that if any differences of opinion should arise between them as regards any of my assets whatsoever or as the ownership, character, value or otherwise, of the same or as to the meaning or true interpretation of anything contained in my Will, or Codicils, thereto, they shall on no account have to resort to any Court of Law whatsoever. They should settle it amongst themselves first, if not, then with the Trustees of this Will and if not, then with the Managing Committee of their resident Jamaat and/or their Regional Federation, and if not, then as a last and final option they should take the matter to the living Marja'e Taqleed and accept whatever decree follows.

In witness, whereof I, the said (your name) .....

have signed my name on this (date).....

Signed by the said .....
Signed by the Testator and published and declared as his last Will and Testament, in the presence of us both present together and in his presence and in the presence of each other have hereunto subscribed our names as witnesses. (The witness can be the same person as the Executor/Trustee.)

Signature of Witness ……. Signature of Witness
…….
Name: …….. Name:
……..
Address: …….. Address:
……..
……..
……..

[7] It is advisable to seek permission from the guardian before writing his/her name here.

Codicils I, II and III are part of this Will.

Codicil I

List of all my Property/Assets

(Here make a list of all your property including: cash, bank accounts* (local and foreign), off shore accounts, life assurances, real estate, jewellery (kept for the purpose of investment), shares/stocks, lockers and others)

Name of property/estate	Location	Comments

The Codicils are part of your Will. Since the Codicils are likely to change over time the Codicil which has the latest date and which is attached to this Will, forms part of the Will and revokes all former Codicils made by you. Therefore the dates on the Codicil may not necessarily correspond with the date on the Will. Please ensure that you sign your latest Codicils and date it.

Signature ……. Date ……..

* It is advisable to have all your bank accounts in joint names, where either of the account holders can operate it.

Codicil II
List of Debts and Property of other to whom I have to pay/return
(Here list all your debts and property (Amanat) you have of other people)

Name of person who I owe	Amount/Property owed	Comments

The Codicils are part of your Will. Since the Codicils are likely to change over time the Codicil which has the latest date and which is attached to this Will, forms part of the Will and revokes all former Codicils made by you. Therefore the dates on the Codicil may not necessarily correspond with the date on the Will. Please ensure that you sign your latest Codicil and date it.

Signature ……. Date ……..

Codicil III
List of Debts and Property that belong to me and I have to collect
(Here list the people who owe you and the property (Amanat) that others are keeping for you)

Name of person who owes me	Amount/Property owed to me	Comments

The Codicils are part of your Will. Since the Codicils are likely to change over time the Codicil which has the latest date and which is attached to this Will, forms part of the Will and revokes all former Codicils made by you. Therefore the dates on the Codicil may not necessarily correspond with the date on the Will. Please ensure that you sign your latest Codicil and date it.

Signature …… Date ……..