Leaving a Will

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Q1813. Before their martyrdom, some soldiers directed in their wills that one third of their estate should be spent bolstering the defenses [of the Islamic Republic]. And since the purpose behind such work has ended, how should one go about dealing with such a provision?

A: Assuming that the purpose could no longer be served by the provision in the will, the money earmarked for the goal should revert to the inheritors. However it is, as a matter of caution, better spent in charitable work with their permission.

Q1814: In his will, my brother has directed that one-third of his estate should be spent in looking after the people who were displaced by the war in a particular town. Since there are no such people left in that town, what can be done?

A: The money must be given to those people who were displaced and found refuge in that town, even though they might have already been repatriated to their hometowns or housed somewhere else. Yet if the spending is confined to the displaced people who are living in that town at the time being, the money should revert to the inheritors.

Q1815. Is it permissible for someone to stipulate in their will that half of their estate be spent on holding a memorial service for them after they have passed away? Or it is not permissible because Islam has specified special ceiling for it.

A: There is no objection to providing for one's funeral as there is no ceiling to that as per shar'. However, the provision in the will of the deceased is enforceable in only one third of the entire estate. Any amount over and above the one-third share should be subject to the consent and permission of the heirs.

Q1816. Is leaving a will obligatory so much so that one could be sinful if they do not do it?

A: If the person keeps other's belongings, owes something to somebody or he should perform some missed rituals (missed prayers, fasts, khums, zakat, kaffārah, maẓālim, haj), of which they could not discharge their responsibility, it is obligatory for them to leave a will. Otherwise, it is not obligatory.

Q1817. A man directed in his will that something not more than one-third of his estate should go to his wife. He made his eldest son the executor of the will. However, the rest of the would-be inheritors objected to this arrangement. What should the executor do?

A: If the share being designated amounts to one-third, or less, of the estate, there is no case for the inheritors′ objecting to it. Indeed, it is obligatory on them to abide by it.

Q1818. What is the ruling in the matter of the denial, by the inheritors, of the existence of a will?

A: It falls to the person who claims the will to prove that in a shar'ī way. If it is established, it has to be adhered to provided that the matter is confined to one-third or less of the estate. Accordingly, neither the denial of, nor the objection by, the inheritors is of any

consequence.

Q1819. A person instructed in his will that some of his property should be spared to pay for religious tithes such as khums, zakat, kaffārah which he owes as well as rituals like missed prayers, fasts, and haj. This was witnessed by a number of trustworthy people, including one of the man's sons. However, some of the inheritors did not agree to this arrangement, demanding the distribution of the entire estate amongst the heirs. What can be done?

A: Assuming that the will is proven, by way of sharʻī evidence or the inheritors admitted the will, they have no right in demanding the inclusion, in the estate, of property that was earmarked by the testator in his will to be spared if it is less than one third of the entire estate. It is obligatory on them to spend it in the avenues the testator had set forth.
However, if it is established according to sharʻ that the deceased owed money to other people, or religious dues of financial nature, such as khums, zakāt, kaffārah or of both financial and physical nature like hajj, or the inheritors admitted that although the deceased did not provide for the same in his will, it is obligatory on them to set aside a sum equivalent to these debts from the whole estate and divide the remainder amongst themselves.

Q1820. A person directed in his will that his arable land should be used for repair work of the masjid. However, his inheritors sold the property. Can the will still be valid? And have the inheritors the right to do so?

A: If the will means that the arable land, itself, is to be sold to spend the proceeds in repair work for the masjid and the value of the property is not more than one-third of his estate, the instructions in the will should be implemented and there is no objection to selling the land. But, if the testator meant that the profit from the land would be spent in this avenue, the inheritors had no right to sell the land.

Q1821. A person instructed in his will that a plot of land, among his property, should be reserved to pay for hiring someone to perform prayer and fast, which he missed during his lifetime, and in other charitable causes. Is it permissible to sell this land or should it be deemed an endowment?

A: Unless it is known that the testator's intention was to leave the land as it is and spend the returns, i.e. rather, he wanted the very land to be spent for him, the [provision in the] will should not be construed as that concerning endowment. Accordingly, there is no harm in selling the land and using the proceeds in the avenues he directed provided that the total value does not exceed one-third [of his estate].

Q1822. Is it permissible for someone to set aside one-third of his estate or deposit the same with another person to be spent in his cause after his death?

A: There is no objection to it provided that the remainder of his estate, i.e. the inheritors' share, is equivalent to double the amount that has been set aside.

Q1823. A person asked his father, as a provision in the will, to hire someone to perform prayer and fasting for him. Now, that the person has disappeared, is it obligatory on his father to execute the will?

A: Unless the death of the testator is established in any sharʻī way or the executor is convinced that this is the case, hiring someone to perform the lapsed prayer and fasting on his behalf is not valid.

Q1824. My father has directed in his will that a masjid should be built on one third of his land. Since there are already two masjids adjacent to that land and because of the pressing need for school buildings, is it permissible to build a school on the land instead of a masjid?

A: It is not permissible to act contrary to the will by building a school instead of a masjid. However, if it is known that the deceased's intention was not building a masjid on that particular land, there is no objection to selling it and spending the proceeds in building a masjid somewhere else where it is needed.

Q1825. Is it permissible for someone to make a provision in his will that, after his death, his body is to be put at the disposal of medical students for dissection or is it ḥarām to do so as it amounts to muthlah?

A: It seems that the religious sources indicating prohibition of muthlah or the like are dealing with some other affairs and do not include dissection of the deceased's body in which an important interest lies. Apparently, there is no objection to dissection on the provision of observing respect for the Muslim deceased's body, which serves as an axiom in this type of issues.

Q1826. If someone has instructed in their will that certain parts of their body be donated to the hospital, or a particular person, is such a will valid?

A: The validity and enforceability of such a will cannot be ruled out so long as the removal of the parts from the body does not amount to disrespect to the body itself. Therefore, there is no objection to enforcing the will.

Q1827. Is the permission of the inheritors, during the lifetime of the testator, to spend more than one third of the estate sufficient to make the will enforceable? Assuming that it is sufficient, is it permissible for the inheritors to change their mind after the death of the testator?

A: The permission of the inheritors, in the lifetime of the testator, is sufficient to make the will valid and enforceable insofar as the excess amount to the one-third share is concerned. It is not permissible for them to revoke the permission after the death of the testator. Such retraction is of no consequence.

Q1828. In his will, a person has instructed that the prayer and fasting he missed during his lifetime should be performed after his death. He got martyred in the war, leaving behind a furnished house. If his possessions were to be sold to pay for hiring a person to do the job, this would leave his inheritors facing hardship, especially his fledgling children. What should the inheritors do about the will?

A: If the martyr did not leave any property, it is not obligatory on anyone to act upon the will. However, it is obligatory on the eldest son, among his children, to perform the missed prayer and fasting on behalf of his father when he reaches the age of sharʿī puberty. If the deceased left behind an estate, one third of it should be spent in the avenues he prescribed. The need of the inheritors, and the fact that they are still young, are not sharʿī reasons for not complying with the will.

Q1829. In order for the will to be valid, should its named beneficiary exist at the time of writing it?

A: In order for the will to be valid insofar as the transfer of property [from the testator to the beneficiary] is concerned, the beneficiary should exist, even if it is an unborn fetus,

even before the stage of ensoulment so long as it will be born alive.

Q1830. In a written will, a person appointed an executor to enforce his will. He appointed another person to act as an overseer without specifying his scope of power, is it only to know about executor's acts anther or not they are in accordance with the terms of the will or should the executor act according to the opinion of the overseer? What should the boundaries of the authority of this overseer be?

A: Assuming that the power given to the executor in the will is absolute, it is not obligatory on the executor to consult the overseer in any matter, although it is closer to caution. However, the overseer's role is to supervise the work of the executor.

Q1831. In his will, the deceased appointed me as the supervisor and his son as the executor of his will. Since the death of the son, I have become the only administrator of the will. However, for personal reasons, I have become increasingly busy, so much so that I hardly have time to attend to matters relating to the will. Is it permissible for me to change the areas in which the returns of one-third of the estate is going to be spent by giving them to a certain department to spend the income in charitable causes and for the poor and the needy registered by that department?

A: The supervisor has no right to independently implement the provisions stipulated by the deceased in the will, even after the first executor's death, unless he becomes the executor after the death of the first executor as provided for in the will. Otherwise, the supervisor should resort to the authorized religious authority with a view to appointing someone else to replace the dead executor. At any rate, it is not permissible to encroach upon the will of the deceased or alter it in any way.

Q1832. Someone has instructed in his will that they pay a sum of his money to someone else to recite verses of the Noble Qur'an in the Eminent City of Najaf or he endowed a property for the same purpose. The executor of the will or the person in charge of the endowment cannot [for reasons beyond their control] send the money to Najaf to hire someone to do so. What should they do?

A: If it is feasible to spend the money for the recitation of the Noble Qur'an in the Eminent City of Najaf, albeit in the near future, it is obligatory to execute the will.

Q1833. Prior to her death, my mother instructed me to spend the proceeds from the sale of her jewelry in charitable avenues on Thursday nights. I have done so ever since her death. What should I do in the event of traveling to a non-Muslim country?

A: Unless it is known that her intention was to spend the money on Muslims and non-Muslims alike, the spending should be confined to the Muslims only, albeit by depositing the money with a trusted person in a Muslim country to spend it for Muslims.

Q1834. In his will, a person has instructed that parts of his land should be sold and the proceeds spent in holding memorial services and other charitable causes. The sale of the land to a third party would put the inheritors in an unbearable situation. So, is it permissible for them to buy the land for themselves and pay for it by installments whereby they can spend the money in the avenues the testator had named with the knowledge of both the executor and the supervisor?

A: In itself, there is no objection to the buying of the land by the inheritors themselves. As for paying for it by installments, there is no harm in that provided that an equitable price is paid for the land, that both the executor and the trustee see that an interest is served [in this way], and that the installments are not going to be a hindrance to the [smooth and timely] execution of the will. All of this, though, is dependent on the knowledge that the intention of the testator was not the selling of the land for cash and spending the proceeds in the first year.

Q1835. On his deathbed, a person appointed two people, one as executor and the other deputy. However, later on he changed his mind and informed both the appointees of his new decision. He wrote another will whereby he appointed one of his relatives in his absence as the executor. With the existence of the second will, would the first one still be valid? Suppose that the first two people, who were appointed by the deceased as his executors in the first will, acted according to the now revoked will, would their action be unlawful, so much so that they must repay the second executor what they had already spent from the deceased's property?

A: After the deceased had changed his mind, during his lifetime, and dismissed the first executor, the latter should not have acted upon the will, after he had been told of his dismissal. However, any disposal of property by the dismissed executor should be dependent on the agreement of [the shar'ī] executor. If the latter did not approve it, the dismissed executor must be made to pay compensation.

Q1836. In his will, a person directed that certain property should be given to one of his sons. Two years later, this person changed his will. Would this change of heart be shar'ī? And suppose that the person is ill, to such an extent that he needs care, would the responsibility of providing such care fall on the shoulders of his eldest son, who is the executor of his will, or should it be shared among all his inheritors?

A: There is no legal impediment to changing one's mind regarding the will one wrote provided that one does it while still enjoying a healthy mental condition. In this case, the recent will is valid according to shar'. As for the provision of care, it has to be catered for by employing a nurse with money paid by him [the father]. If he cannot afford it, the responsibility should rest equally with all those, among his children, who can afford it. Therefore, it should not fall solely on the shoulders of the executor.

Q1837. In his will, my father has appointed me as the executor. After the estate was divided, one third of it was put aside. Is it permissible for me to sell it to be spent in the avenues he named?

A: If he had directed that one third of this estate should be spent in the avenues he so described, there is no objection to selling the share, having taken it out of the entire estate, and using it in the avenues described in the will. However, if the instruction was specifically confined to the disposal of the returns of the share of one-third, it is not permissible to sell the property itself, even for spending the proceeds in the avenues stipulated in the will.

Q1838. A person appointed an executor and a supervisor. However, he did not specify what the appointees should do, especially in matters relating to the bequeathed share of one-third of his estate. What should the executor do regarding the administration of the share? Can the executor separate the one-third of the estate and spend it on charities and public services? Does it suffice for being entitled to the one-third of the estate to make a will and appoint an executor so that the executor is obligated to separate the one-third and to spend it?

A: If it is at all possible to discern the intentions of the testator, even by weighing the evidence and consulting the local tradition and custom, the executor should act according to his understanding of the testator's intention and the areas of expenditure. Otherwise, the will would be deemed void due to its ambiguity and because the areas of expenditure are not specified.

Q1839. In his will, a person has directed that all fabrics, whether sewn or unsown, and others should go to his wife. What could the word "others" mean? Does it imply his movable properties or those of a value less than fabrics?

A: Unless the meaning of the word "others" that is mentioned in the will is known from the context, and the intention of the testator fathomed, this word cannot be acted upon because

of its loose, as well as ambiguous, meaning. As for applying it to any of the assumptions outlined in the question, this is left to the approval of the heirs and their satisfaction.

Q1840. In her will, a woman directed that one third of her estate should be spent on performing eight years of prayer that she had missed during her lifetime. She further instructed that the remainder should be spent on khums, repayment of maẓālim, and in other charitable causes.
However, the executor knew for sure that she didn't have to perform any prayer. Yet, he hired a person to perform prayer on her behalf for two years and paid them from the share of one-third of the estate; he spent the remainder in the war effort, khums, and repaying maẓālim. What is the position of the executor?

A: It is obligatory that the provisions of the will are adhered to as the deceased has stipulated. It is not permissible for the executor to overlook any of it. Any money the executor spent contrary to the testator's wish should be compensated with the executor's own money.

Q1841. In his will, a person has instructed that the two executors he appointed should act according to the provisions stipulated therein. However, clause 3 of the will requires that all the property left by the testator be collected, that his debts be paid, and that his share of one-third of the estate then be set aside and spent according to clauses 4, 5, and 6. There was another requirement, i.e., after the lapse of 17 years, the remaining amount still outstanding from the share of one-third of the estate be given to the poor among the heirs.
Both the executors of the will could not manage to set aside the share of one-third of the estate, let alone act according to the above quoted provisions, even after the lapse of the appointed period of time. The inheritors claimed that the will has become void due to the time lag and that the executors have no right to remain in control of the estate of the deceased any more. What is your opinion about the matter? And what should the executors do?

A: Neither the will nor the power of the executors become void due to the delay in executing the will. Indeed, it is obligatory on the executors to act upon the will in spite of the time that may have passed. It is not permissible for the inheritors to harass the executors to execute the will unless their authority has been restricted by a time span and it is expired.

Q1842. The inheritance of a person was divided among his heirs, each of whom had officially registered his own share with the authorities. Six years later, one of the inheritors claimed that the deceased had verbally instructed him to give part of a house to one of his sons. A number of women testified in his favor. Should such claim carry any weight?

A: Neither the time factor nor the official completion of the distribution of the inheritance should detract from the validity of the will provided that it [the claim] is proved in a shar'ī way. So, if the claimant succeeded in proving his claim, all the parties have to act upon it. Otherwise, it is obligatory on each and every inheritor who admitted the will as being genuine to abide by the provisions of the will insofar as their respective share of the inheritance is concerned.

Q1843. In his will, a person appointed two people, one as executor and the other as overseer. This official appointment was confined to performing hajj on his behalf with money paid from the proceeds of selling a piece of land belonging to the testator. Meanwhile, a third person claimed that he had already performed hajj for the deceased of his own accord, i.e. without informing the executor or the overseer. After some time, the executor passed away. What should the overseer do in this case? Should he spend the proceeds to perform hajj for the deceased or give it to the claimant as compensation? Or he is obligated to do nothing in this regard.

A: If it was incumbent on the deceased to perform hajj and he wanted to discharge his responsibility by appointing a person to do it on his behalf, the performance of hajj by the third person would be sufficient. However, the latter should not demand payment from anybody for what he has done.

Otherwise, both the executor and the overseer should act upon the will of the deceased by arranging for hajj to be performed on his behalf with money paid from the proceeds of the sale of the land. Should the executor die before executing the will, the overseer should consult an authorized religious authority.

Q1844. Is it permissible for the heirs to make the executor pay a certain amount towards performing any outstanding prayer and fasting on behalf of the deceased? And what should the executor do in this respect?

A: Acting upon the provisions of the will of the deceased rests with the executor. He must go about the fulfillment of those provisions as he sees fit. However, the heirs have no right to meddle in his affairs.

Q1845. A person wrote a will which he kept with him. He got killed in a fire. No one knows the contents of the will. Someone does not know whether he is the only executor or whether there might be another executor as well. What should he do?

A: Having established the will, the executor must act upon those provisions of the will he is certain were not altered in any way and pay no attention to the possibility that another person may be the executor as well.

Q1846. Is it permissible for the testator to appoint an executor who is not among his immediate inheritors? Has anybody the right to object to that?

A: Choosing and appointing an executor whom the testator thinks fit for the job is the latter's prerogative alone. The appointee should not necessarily be among his heirs. The heirs should have no right to object to that.

Q1847. Is it permissible for some of the inheritors, without consulting other inheritors or seeking permission of the executor, to defray hospitality expenses from the estate?

A: If they wanted to enforce the provisions of the will, this is the responsibility of the executor of the will and they have no right to do so without the permission of the executor. Yet, if they want to spend from the shares of the inheritors in the estate, this should be met with the approval of all the inheritors. Otherwise, it will be deemed usurpation of the shares of other inheritors.

Q1848. A testator named three different executors in his will as the first, the second, and the third executor. Who among them is considered the executor? Is it the first one or all of them?

A: This depends on the intention of the testator. So, unless it is known from the evidence that they are jointly, or successively, responsible for executing the will, they should reach a consensus to act upon the will jointly.

Q1849. Someone appointed three persons to enforce his will jointly, but they failed to agree on the execution of the will, how would their differences be reconciled?

A: In case there are multiple executors, if the executors of a will failed to agree on the execution of the will, they should consult *ḥākim* of *shar* '

Q1850. I am the eldest son of my father, hence I am responsible for performing any outstanding prayer and fast my father owed. However, my father has directed in his will that one-year of prayer and fast should be performed. How should I go about the fact that more than one year of prayer and fast is outstanding?

A: The instructions of the deceased to clear any outstanding prayer and fast should be catered for from his share of one-third of the estate if he has directed thus. Accordingly, it is within your right to hire a person to perform the outstanding prayer and fast. Should the outstanding duration be more than what he directed in his will, you have to perform it on his behalf, albeit by hiring a person to do it with money paid from your own pocket.

Q1851. A testator has directed in his will that his eldest son should perform hajj on his behalf with money paid from the proceeds of the sale of a piece of land he left. However, since the son could not secure the government permission to go to hajj at a good time and due to the spiraling cost of the journey, the proceeds of the sale of the land have become insufficient to pay for the expenses of hajj. Since this is the case, is it obligatory on the rest of the inheritors to help the eldest son out in order to enable him to act upon the will of the testator, or is it his responsibility alone as he is obligated to perform hajj on behalf of his father?

A: As the question goes, the rest of the inheritors should not have any responsibility towards bearing any expenses arising from the journey to hajj. However, if performing hajj did become obligatory on the testator and the proceeds of the sale of land are not sufficient to meet the expenses of hajj by proxy, even from the mīqāt, the shortfall of the expenses of a hajj, performed from the mīqāt, has to be met from the whole estate.

Q1852. An inheritor can provide a proof, by way of a receipt or a testimony that the testator has paid an amount of money as religious tithes. Should the inheritor still be liable to pay the religious tithes of the estate?

A: The existence of a receipt or a testimony of witnesses that the deceased was paying religious tithes is not a legal proof of a disclaimer that he did not owe any religious tithes. If he declared that such tithes were still outstanding, or the inheritors came to such a conclusion, it is obligatory on them to clear what the deceased had admitted to, or they themselves have concluded to be the case, by catering for it from the whole estate. Of course, they are not required to pay anything else.

Q1853. A person has directed in his will that one-third of his property be set aside to be spent on his behalf. However, in a footnote to the will, he mentioned that the one-third share should be met from the proceeds of the sale of a house, which he instructed to be sold after 20 years from his departure. How should this share be calculated? Should it be confined to the house or the entire estate, especially if the proceeds of the sale of the house were not sufficient to make the one-third share?

A: By what he wrote in the will and its footnote if he meant to determine only the house as the one-third while its value does not exceed the one-third after the debts are deducted, then, the one-third includes only the house to which the deceased is entitled. The same ruling is applicable if he wanted to earmark the house for the one-third expenditures, while the value of the house is equal to the one-third of the estate after debt deduction. Otherwise, some other properties among the estate should be added to the house to make it one-third of the estate.

Q1854. After 20 years of the death of her husband, and 4 years since her daughter sold her share of the estate, the wife of the deceased produced a document claiming that the entire estate of her husband belonged to her. However, she has maintained that she was in possession of this document all these years, yet she preferred to remain silent.
Should the division of the estate among the heirs be ruled invalid, and so, the sale of the daughter's share? Assuming that it is void, is it correct to annul the subsequent property deed which is held by the buyer of the property that was sold by the daughter?

A: Even if we assume that the will, which has been produced by the mother, is genuine beyond any doubt, her silence and non-objection all this period since the death of her

husband, and her daughter's receipt of her share of the estate and its subsequent sale, are considered a tacit agreement by her to what has taken place.
Accordingly, she has no right to demand from her daughter to return what she had received of the estate. Nor has she the right to demand the return of the property from the buyer. Thus, the sale of the property by the daughter is deemed valid and it can, thus, remain in the ownership of the buyer.

Q1855. A martyr has directed in his will that his father should sell the house which belongs to him to pay for his debt in case he was unable to do that without selling the property. He further instructed that a certain amount of money should be spent in charitable avenues, the proceeds from the sale of the land should be given to his uncle, expenses arising from hajj by his mother should be paid, and that money should be paid on his behalf to perform a number of years of outstanding prayer and fast that he missed.
However, his brother married his widow and moved to live in the same house, which she bought in part. The brother incurred some money as a result of repairs he carried out to the property, with money paid in part from the proceeds of the sale of the gold coin which belonged to the son of the martyr.
What is the view on the brother's having a free hand in the estate of the martyr and the property owned by his son [orphan]? And is he justified in making use of the salary allocated to the martyr's son, noting that he is raising him and catering for his needs?

A: All the property of the martyr should be pooled. After the payment of any debts owed by him, one third of the remainder should be allocated to carry out the provisions made in the will, i.e. the performance of prayer and fast on his behalf, the payment of expenses arising from sending his mother to perform hajj, and suchlike. The remaining two-thirds and whatever left over from the one-third share should be divided among the inheritors of the martyr, i.e. his parents, son, and widow in accordance with the Holy Book and Sunnah.
However, all actions concerning the house and all other possessions of the martyr should be carried out with the agreement of the inheritors and the legal guardian of the minor child. Whatever the brother has spent on the repairs carried out to the house, without the permission of the legal guardian of the child, has to be borne by him alone, i.e. without deducting them from the property of the child.
Similarly, he can neither spend the proceeds of selling the gold coin, nor the salary of the child on the expenses arising from the maintenance work carried out to the property. Furthermore, he has no right to spend any money that belongs to the child, either on himself or on the child unless he obtains the permission and agreement of the legal guardian of the child. Failure to do so should result in his indemnifying anything paid from the child's belongings. Purchasing the property should meet with the permission of the inheritors and the legal guardian of the child.

Q1856. A testator has stipulated in his will that all his property, including three hectares of fruit groves, was subject to muṣālaḥah, thus after his death: Two hectares should go to some of his children, and one hectare allocated to the special provisions he has made for himself. However, after his death, it transpired that the total area of the groves is less than two hectares.
Should the instructions, he outlined in his will stand as they are, or should they be treated in a general sense, i.e. a will concerning his estate after his death? And after the discovery that the area of the groves is less than two hectares, should they be allocated to his children, thus making the provision of the one hectare redundant, or should the matter be tackled differently?

A: Unless it is ensured that, during his lifetime, the muṣālaḥah was materialized in a valid way, in that both the benefactor and the beneficiary had agreed to the muṣālaḥah, the instructions contained in the will would be treated as a will [in a general sense].

Accordingly, the provisions he made in the will with regard to the shares of the fruit groves for his children and himself should only be applicable to one third of the entire estate. Anything in excess of the one-third share is dependent on the permission of the inheritors. If such permission is not forthcoming, the excess amount would be treated as inheritance for them.

Q1857. A person transferred all his property to the ownership of his son, on the understanding that after the death of his father he would pay his sisters certain amounts of money, in lieu of their shares of the inheritance. However, one of his sisters was not present at the time when the distribution of the inheritance took place. She returned home and demanded from her brother that her share be paid. The brother turned down the request. After several years he offered to give her the specified amount of money, but after the currency has lost much of its purchasing power. The sister insists that she be paid the real value of the sum of money; her brother accuses her of demanding the payment of ribā. What is the ruling in the matter?

A: Provided that the transfer of the property to the ownership of the son, and the provisions made in the will for paying the females certain amounts of money were done properly and according to shar‘, each of them is only entitled to receive the particular amount allocated to her. However, if the purchasing power of money at the time of the father's death was higher than that at the time of payment, it is necessary to take it into consideration and it is not regarded as ribā.

Q1858. During their lifetime, my parents directed that a plot of arable land they own should be allocated, as their legitimate share of one-third of the estate after their death, to pay for the expenses arising from their funeral, others relating to the performance of prayers and fasting they may have missed during their lifetime, and the like. Being their only son, and since they had no cash left after their death, I paid all the expenses from my own pocket. Is it permissible for me to retrieve what I spent from the share of one-third they have provided for in their will?

A: It is permissible for you to defray the expenses you incurred as a result of acting upon the provisions of the will provided that you had the intention of deducting the same from their share of one-third of the estate. Otherwise, it is not.

Q1859. In his will, a person has directed that one third of the property, which has been occupied by his wife, should be allocated to her after his death, as long as she remained unmarried. Since the widow did not marry after the lapse of her waiting period, and she does not contemplate marrying again for the foreseeable future, what would the position of the executor and the inheritors be vis-à-vis the execution of the will?

A: For the time being, they should give the property to the widow as directed in the will. However, this transfer of property should be made contingent upon the widow not remarrying. If she gets married, the inheritors have the right to revoke the arrangements and retrieve the property.

Q1860. Having decided on the division of our joint inheritance from our father, which he in turn had inherited from his father so that our uncle and grandmother have a share in it, they produced a thirty-year-old will, stating that, besides the share of the inheritance, they should be given a certain amount of money of his estate. However, they paid themselves the specified amount of money at the current rates. The result has been that they got much more than the original amounts that had been provided for in the will. Are they legally justified in what they have done?

A: In the given case, it is necessary that the decrease in purchasing power of money is paid.

Q1861. A martyr has directed in his will that the carpet he owned be donated to the Holy Shrine of Imam Ḥusayn (a.s.) in Karbalā, Iraq. However, should we leave this carpet for safekeeping in the house, until such a time comes when we would be able to take it to the shrine, as directed by the will, it might sustain damage. So, is it permissible for us, in the meantime, to leave it in the masjid to avoid any damage it could sustain?

A: Should the preservation of the carpet from any damage be dependent on keeping it in the masjid, on a temporary basis, then there is no objection to doing so.

Q1862. A person has directed in his will that specified amounts of profits from his property should be donated to the masjids and other charitable avenues. However, all his property was usurped. Salvaging the property would require some expense. Is it permissible to defray the expenses from the estate? And is the possibility of restoring the property from usurpation sufficient for the will to be deemed valid?

A: There is no objection to providing for the payment of the expenses arising from salvaging the property from the hands of the usurper from the profits of the property left by the testator pro rata. It is sufficient for the validity of the will that the property can meet the expenses arising from the provisions of the will, even after the efforts put into retrieving the property from the hands of the usurper. That is, even by spending some money in the process.

Q1863. A person has directed in his will that all his property, movable and immovable, should be transferred to the ownership of his only son, thus denying his six daughters their shares in the estate. Can such a will be deemed enforceable? If not, how should one go about distributing the estate among the six daughters and one son?

A: There is no objection to considering the said will valid in a general sense. However, it should be enforced as far as one third of the entire estate is concerned. The dispensing of any thing over and above the one-third share is dependent on the permission of all the inheritors. Thus, if the daughters object to giving their consent, each of whom should receive a share of inheritance of the remaining two thirds of the estate.
Accordingly, the distribution of the estate of the father should be divided into 24 parts. The son should receive 8/24 of the estate as one third and 4/24 thereof as his share in the remaining two thirds. Each one of the daughters should receive 2/24. In other words, one half of the entire estate goes to the son, whereas the second half should be divided between the six daughters.