

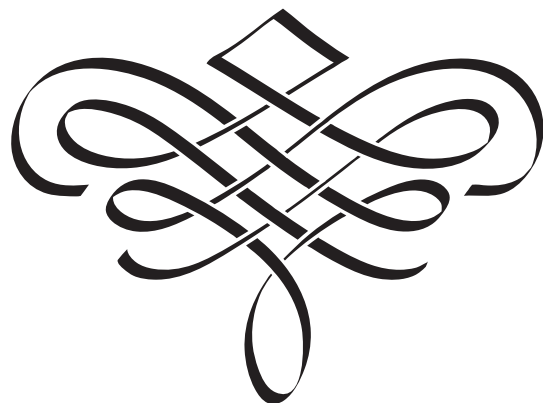
The Writing of a Will and Testament



“...the execution of the provisions of the will causes the spirit of the deceased to rejoice in the Abha Kingdom...”

— Written on behalf of Shoghi Effendi





“They that have kept their promises, fulfilled their obligations, redeemed their pledges and vows, rendered the Trust of God and His Right unto Him—these are numbered among the inmates of the all-highest Paradise.”

— **Bahá'u'lláh**



Introduction

The drawing up of a last will and testament is a binding law of Bahá'u'lláh's Dispensation. The task requires serious and thoughtful attention. This document, developed by the National Spiritual Assembly's Office of the Treasurer in collaboration with the Board of Trustees of Ḥuqúqu'lláh in the United States is offered as accompaniment for this work.

Among many important subjects, guidance in this booklet covers specifying last wishes, informing heirs of the final divisions of estate assets, identifying an executor and clarifying their role in the estate process, clearly communicating the requirements of guardianship for children, creating provisions for bequests, and closely following all Bahá'í laws.

Finally, the privilege of creating a will is adorning its first page with the Greatest Name and including a testament of faith that, as we are assured in the Holy Writings, will be "...a testimony for him in the kingdoms of Revelation and Creation and a Treasure with his Lord, the Supreme Protector, the Faithful."



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The Significance of a Will and Testament*

Writing a Will

“Unto everyone hath been enjoined the writing of a will.”¹

“He, verily, hath willed for you that which is yet beyond your knowledge, but which shall be known to you when, after this fleeting life, your souls soar heavenwards and the trappings of your earthly joys are folded up.”²

“... it should be noted that the question of the will is of extreme importance: everyone should devote the most serious attention to drawing up a will, so that there should be no one who doth not have a will. This is one of the binding laws of this mighty Dispensation. We ask God to bestow a blessing upon your affairs so that they may prosper abundantly.”³

“In truth, the wisdom of this perspicuous and most mighty ordinance is that no one should draw breath without a will. Observe how, in the absence of a will, the inheritance in its entirety is divided up, distributed and dispersed contrary to the wishes of the deceased; what difficulties and disagreements are thus engendered! The will, however, is the settler of every dispute, and the cause of ease for all, for in it the testator disposeth of his property in whatsoever manner he desireth. How agreeable it is for the estate in its entirety to be disposed of in accordance with the testator’s will and pleasure! Observe ye how many people during their lifetime are fearful about what will happen when they pass away. Now, with this divine commandment—the obligation and religious duty of drawing up a will before one’s passing—all these difficulties are resolved.”⁴

Writing a Testament

“The testator should head this document with the adornment of the Most Great Name, bear witness therein unto the oneness of God in the Dayspring of His Revelation, and make mention, as he may wish, of that which is praiseworthy, so that it may be a testimony for him in the kingdoms of Revelation and Creation and a treasure with his Lord, the Supreme Protector, the Faithful.”⁵

“[T]he Greatest Name of God can take various forms, all based on the word ‘Bahá.’ The Bahá’ís in the East have implemented this injunction of the Aqdas by heading their wills with such phrases as ‘O Thou Glory of the All-Glorious,’ ‘In the name of God, the All-Glorious’ or ‘He is the All-Glorious’ and the like.”⁶

“It should be pointed out that “Bahá’u’lláh,” “Bahá,” “Alláh-u-Abhá,” “Yá Bahá’u’l- Abhá,” the ring-stone symbol and the design in Arabic script are all correctly called “The Greatest Name.”

“With respect to your question as to whether English rather than Arabic should be used to adorn a will with the Greatest Name, the Research Department states that it has not found any evidence to support this preference.”⁷

In order to “bear witness therein unto the oneness of God in the Dayspring of His Revelation” a will and testament could open with a statement of faith such as: “I am a Bahá’í,” or “I accept Bahá’u’lláh as God’s Manifestation for this day and age,” or “I declare my belief in Bahá’u’lláh, the Promised One of God, and recognize The Báb, His Forerunner, and ‘Abdu’l-Bahá, the Center of His Covenant”, or a similar expressions.

**This document provides a basic understanding of how to prepare a will and plan for the orderly transfer of ones’ estate. Information contained herein does not constitute legal advice. In addition, each state has its own requirements for legally valid wills. Individuals should consult an attorney regarding their personal estate and will.*

Making mention of “that which is praiseworthy, so that it may be a testimony for him in the kingdoms of Revelation and Creation and a treasure with his Lord, the Supreme Protector, the Faithful”⁸ is a purely personal matter. This testament is a profound opportunity to express one’s sincere belief and aspirations. In addition, those who read the testament, including perhaps future generations, may be touched and inspired by a believer’s heartfelt sentiments. The language of the testimony is left totally to the individual to express in his or her own words and may be as long or as short in length as the testator deems appropriate.*

**See “Examples of Final Testaments” in Appendix, page 13*

Distribution of Possessions

“The funeral and burial take precedence, then settlement of debts, then payment of Ḥuqúqu’lláh. Should the property of the deceased prove insufficient to cover his debts, the remainder of his estate should be distributed among these debts in proportion to their size.”⁹

“A person hath full jurisdiction over his property. If he is able to discharge the Ḥuqúqu’lláh, and is free of debt, then all that is recorded in his will, and any declaration or avowal it containeth, shall be acceptable. God, verily, hath permitted him to deal with that which He hath bestowed upon him in whatever manner he may desire.”¹⁰

“Thou hast asked which is to take precedence: the Ḥuqúqu’lláh, the debts of the deceased, or the cost of burial. It is God’s command that the cost of burial take precedence, then payment of debts, then the Right of God. Verily He is the One Who will pay due recompense, the All-Rewarding, the All-Generous. If the property is not equal to the debts, the estate must be distributed in direct proportion to each debt. The settlement of debts is a most important command set forth in the Book. Well is it with him who ascendeth unto God, without any obligations to Ḥuqúqu’lláh and to His servants. It is evident that the Ḥuqúqu’lláh hath priority over all other liabilities; however, as a token of mercy, He Who is the Dawning-Place of Revelation hath commanded that which hath been revealed by His life-giving and omniscient Pen in this Tablet.”¹¹

“That which is of primary and fundamental importance, and constituteth, by the express pronouncement of the holy text, a divinely established obligation, is the making of a will. Everyone must in his lifetime draw up a will, and dispose of his property in whatsoever manner he deemeth fit, while having due regard for the need to observe justice and equity. Under these conditions, there will be no one who hath not made a will, and inheritance will thus be dealt with according to the will of the deceased... The testator, then, is free to bequeath the residence to whomsoever he wisheth; or, if he desireth, he may devise it to all his heirs jointly.”¹²

“... even though a Bahá’í is permitted in his will to dispose of his wealth in the way he wishes, yet he is morally and conscientiously bound to always bear in mind, while writing his will, the necessity of his upholding the principle of Bahá’u’lláh regarding the social function of wealth, and the consequent necessity of avoiding its over-accumulation and concentration in a few individuals or groups of individuals.”¹³

“Should a wealthy man choose to bequeath, upon his death, a portion of his wealth to the poor and needy, perchance this action will bring about divine pardon and forgiveness, and result in his progress in the Kingdom of the All-Merciful.”¹⁴

Arranging for the distribution of earthly possessions

You can help ensure that your wishes will be fulfilled by including in your final will the details for how your possessions and property are to be disbursed, either by designated amounts or assignment of percentages, as well as specifics on which properties are to be bequeathed to each beneficiary (be it an individual or an institution) and whether bequests are to be made outright or placed in a trust.

The Obligation of Ḥuqúqu'lláh (the Right of God)

“Ḥuqúqu'lláh is indeed a great law. It is incumbent upon all to make this offering, because it is the source of grace, abundance, and of all good. It is a bounty which shall remain with every soul in every world of the worlds of God, the All-Possessing, the All-Bountiful.”¹⁵

“There can be no doubt that whatsoever hath been revealed from the All-Glorious Pen, be it ordinances or prohibitions, conferreth benefits upon the believers themselves. For example, among the commandments is that of the Ḥuqúqu'lláh. If the people attain the privilege of paying the Ḥuqúq, the one true God—exalted be His glory—will of a certainty confer blessing upon them. Moreover, such payment will enable them and their offspring to benefit from their possessions. As thou dost observe, large portions of people's wealth are lost to them as God causeth strangers, or heirs in comparison with whom strangers would have been preferable, to lay hands on their possessions.”¹⁶

“Those who have observed this weighty ordinance have received heavenly blessings and in both worlds their faces have shone radiantly and their nostrils have been perfumed by the sweet savours of God's tender mercy. One of the tokens of His consummate wisdom is that the payment of the Ḥuqúq will enable the donors to become firm and steadfast and will exert a great influence on their hearts and souls.”¹⁷

“The payment of Ḥuqúqu'lláh is a personal obligation on each Bahá'í, and it is for him to meet this obligation in accordance with his own conscience; it cannot be demanded from him by any of the institutions of the Faith. A part of this obligation is for a Bahá'í to make provision in his will for the payment of whatever remains of his debt to Ḥuqúqu'lláh at the end of his life. The Bahá'í law of intestacy, likewise, provides for the payment of such a balance of Ḥuqúqu'lláh before the distribution of the estate to the heirs.”¹⁸

“Essentially, the Ḥuqúqu'lláh should be paid by a believer during the course of his life whenever his surplus property reaches the assessable level. A certain leeway is provided in the law, inasmuch as reference is made to the annual expenses which should be deducted before the liability to Ḥuqúqu'lláh is calculated. Ideally, when a Bahá'í dies, the only payment to Ḥuqúqu'lláh which should need to be provided for in his Will is such additional liability as may be found to exist when his affairs are reckoned up as at the date of his death.

“The House of Justice hopes that as the believers acquaint themselves with the law of Ḥuqúqu'lláh and start to pay it, they will also learn not only how to calculate it during the course of their lives but will thereby be enabled to understand how to provide for the payment of the balance remaining at their deaths.”¹⁹

“The Right of God that is not delivered to the Threshold of the Lord is an unclaimed trust of God in our hands, and it is our spiritual obligation to return this trust and free ourselves from this debt. The Supreme Pen has showered His blessings on the people who observe the Right of God, stating: ‘They that have kept their promises, fulfilled their obligations, redeemed their pledges and vows, rendered the Trust of God and His Right unto Him—these are numbered among the inmates of the all-highest Paradise.’²⁰” (From talks given by Dr. Varqá, Ḥuqúqu'lláh Conferences, Barcelona, Spain and Hofheim, Germany, October 1999)

“The effect on individuals of obedience to the law of Ḥuqúqu’lláh is reflected in the creation or development of divine virtues and attributes, including trustworthiness, honesty, loyalty to and firmness in the Covenant, and the ability to maintain balance in their personal lives and home economics. Bahá’u’lláh says: ‘It is indeed a most excellent favour, a boundless grace vouchsafed unto whosoever is privileged in this day to render service to the Cause of God and to offer the Right of God, for its goodly results and the fruits thereof will last as long as the kingdom of earth and heaven will endure.’²¹”

(From talks given by Dr. Varqá, Ḥuqúqu’lláh Conferences, Barcelona, Spain and Hofheim, Germany, October 1999)

The Universal House of Justice offers the following guidance with regards to the wording to be used in a will to provide the final payment of Ḥuqúqu’lláh:

“... the question of a legal wording to include provision in a will for the payment of Ḥuqúqu’lláh after a believer has died is dependent upon so many factors, that it would be preferable to seek legal advice so that wording which is appropriate and in accordance with the laws governing inheritance can be used. Obviously, unless the believer leaves a clear accounting of his or her property and payment of Ḥuqúqu’lláh to date, if any, it will not be possible for anyone to calculate accurately what remains to be paid at the time of death. While the application of the principles involved in payment of Ḥuqúqu’lláh may well require subsidiary legislation by the House of Justice in the future, at the present time it falls to the executor or administrator of an estate to apply them to the extent possible, using his or her best judgment and taking into account the information available.”²²

How to Make a Payment of Ḥuqúqu’lláh

Payments to Ḥuqúqu’lláh are made out to the “Bahá’í Ḥuqúqu’lláh Trust” and the Tax ID number is **36-3297839**. In the United States, Ḥuqúqu’lláh payments are mailed to:

Bahá’í Ḥuqúqu’lláh Trust
P. O. Box 697
Wilmette, IL 60091

Information regarding the Right of God and the contact information for the Deputy Trustees and Representatives can be found on the Bahá’í National Center website www.bahai.us. For information regarding processing payments or executor financial inquiries, contact (847) 728-9028.

Making Bequests to the Faith

“I have urged them to support consistently and whole-heartedly the very essential and vital institutions of the National Fund and the National Assembly. It must be made clear to them all that continuous support to these twin institutions is the corner-stone of all future achievements, the mainspring from which all future blessings will flow.”²³

“... we must always bear in mind that there are so few Bahá’ís in the world, relative to the world’s population, and so many people in need, that even if all of us gave all we had, it would not alleviate more than an infinitesimal amount of suffering. This does not mean we must not help the needy, we should; but our contributions to the Faith are the surest way of lifting once and for all time the burden of hunger and misery from mankind, for it is only through the system of Bahá’u’lláh—Divine in origin—that the world can be gotten on its feet and want, fear, hunger, war, etc., be eliminated. Non-Bahá’ís cannot contribute to our work or do it for us; so really our first obligation is to support our own teaching work, as this will lead to the healing of the nations.”²⁴

“As the activities of the American Bahá’í community expand, and its world-wide prestige correspondingly increases, the institution of the national Fund, the bedrock on which all other institutions must necessarily rest and be established, acquires added importance, and should be increasingly supported by the entire body of the believers, both in their individual capacities, and through their collective efforts, whether organized as groups or as Local Assemblies. The supply of funds, in support of the national Treasury, constitutes, at the present time, the life-blood of these nascent institutions which you are labouring to erect. Its importance cannot surely be overestimated. Untold blessings shall no doubt crown every effort directed to that end. I am eagerly and prayerfully awaiting the news of an unprecedented expansion in so vital an organ of the Administrative Order of our Faith.”²⁵

How to Make Bequests to the Faith

A bequest can be made to the Local, National, Continental, and International Bahá’í Funds as well as to the Universal House of Justice. However, the friends are encouraged to take into consideration the information below.

Bequests to the Universal House of Justice and to the Continental Bahá’í Fund (or for the Continental Bahá’í Fund for the Americas) can be cleared through probate more efficiently and easily if they are worded as follows: “To the National Spiritual Assembly of the Bahá’ís of the United States, an Illinois not-for-profit corporation, and for the benefit of the Universal House of Justice” or, “Continental Bahá’í Fund.” This phrasing negates the necessity of forwarding the release documents to the World Center for review and signature.

In response to an inquiry from an individual, the Universal House of Justice, through its Secretariat, wrote:

“Your loving intentions are warmly acknowledged. Although the House of Justice has an officially recognized status in Israel as the Head of the Bahá’í Faith, it is not a legal entity; accordingly, it is not possible to name the House of Justice as a beneficiary in a will. Therefore, believers are generally advised to name an incorporated National Spiritual Assembly in their wills and to write a separate document addressed to the Assembly informing it of this fact and expressing their intention for the National Assembly to transfer the bequest to the House of Justice. ...”²⁶

The National Spiritual Assembly of the Bahá’ís of the United States, is an Illinois not-for-profit corporation, tax ID number **36-3981492**.

Bequests designated to the National Spiritual Assembly of the Bahá’ís of the United States can be mailed to:

National Spiritual Assembly of the Bahá’ís of the United States
1233 Central Street
Evanston, IL 60201

If a portion of a bequest is intended to be for a Local Spiritual Assembly, it needs to be clearly identified as to which Assembly by location and state, for example: Spiritual Assembly of the Bahá’ís of (locality name and state).

For additional information regarding planned giving options, please contact (847) 733-3569.

Assuring Legality of the Will

While the information contained in the present document provides a summary of guidance about what a Bahá'í would want to incorporate into his or her will and testament, it does not constitute nor contain legal advice.

Due to various civil laws related to executing a will, it is recommended that an individual consult a lawyer when finalizing it, to ensure that the content is sufficiently clear and comprehensive for legal purposes and that the individual's desires are not nullified by a possible breach of legal requirements.

In consulting with advisors and family members regarding your will, consider being candid about your feelings regarding the needs of your beneficiaries, and about the obligations and aspirations you want to fulfill through your will.

Drafted effectively, a will allows an estate to be passed on efficiently reducing taxes where possible and providing proper management of assets under the specific intents of the testator. An advisor can also explain other ways of passing on assets, such as naming beneficiaries of certain accounts or arranging joint ownership of assets.

Other Important Considerations

Keeping Your Will Current

A will is drafted based on current conditions, laws, asset values, planning techniques, family and financial needs, and objectives. As these factors change, it is prudent to periodically review your will. A common practice is to review the will annually so that new material circumstances can be incorporated and the will adjusted to reflect newly gained spiritual insights and understanding. A copy of the current Ḥuqúqu'lláh payment record can then also be attached (or a note be included to provide an indication of where the Ḥuqúqu'lláh payment records can be found).

Accessibility

Your written will and testament should be easy to locate at the time of your passing. Some common practices are storage in an accessible place, preservation in a designated safety box or by an attorney, and providing instructions as to the location to trusted individuals. Some choose to provide a copy of their will and testament to their Local Spiritual Assembly or National Spiritual Assembly.

Roles and Responsibilities of an Executor

Preparing an Executor

For an executor, the application of the provisions of a person's final will, including the Right of God, may require sensitive handling, especially if some or all of the deceased's family are not members of the Bahá'í Faith. By discharging the material provisions of the will, an executor is facilitating a spiritual aspect of the soul's progress, thereby bringing joy and blessings to the deceased.

“The execution of the provisions of the will causes the spirit of the deceased to rejoice in the Abhá Kingdom.”²⁷

Arranging for an Executor and Guardian

The House of Justice has indicated:

“You are free to inform those who ask that neither the National nor Local Spiritual Assemblies should be named as executor of a will.”²⁸

Identifying an executor(s), preparing the individual for this service in advance, and providing them with ready access to essential information and records can help ensure your wishes are carried out. Your executor(s) will need specific information about your assets, income, debt obligations, and your objectives, as well as other information, such as a record of which assets have already been purified through payment of *Ḥuqúqu’lláh*.

Designating a person or persons as guardian(s) of your children, if applicable to circumstances, can help ensure that desires are fulfilled (e.g., that they be raised as Bahá’ís). The provisions of your will also offer the opportunity to provide safety and financial security for family members or friends who have special needs or unique circumstances that you wish to thoughtfully take into consideration.

Burial Arrangements

The executor(s) should understand and respect your desire to follow Bahá’í burial laws. In stating one’s desire for a Bahá’í burial, the requirements that are currently binding for eastern or western believers (as the case may be) should be referenced. If you have asked your family and/or Local Spiritual Assembly to ensure that your funeral and burial are according to your wishes, the executor will need to be made aware of how to cover the costs from your estate.

“You are advised to express in your will your wish to have a Bahá’í funeral, and to clearly set out the relevant Bahá’í laws. Since a will might not be opened until after a funeral has occurred, you are encouraged also to inform your family of the requirements of the religion you have embraced. It would then be a matter of conscience for the executors of your will and your immediate relatives to follow your clearly-stated wishes.”²⁹

The following extracts may be of assistance when considering burial arrangements:

“There are several ways a believer can leave instructions regarding his burial; there is no objection for such instructions to be included in the will, if the law permits, and the believer so wishes.”³⁰

“The friends should be strongly advised to make wills specifying that they want their funerals to be conducted under the auspices of the Bahá’í Faith or at least in conformity with its requirements and they should make this known both to the Local Spiritual Assembly and to their own relatives, while they are still alive. In this way it is quite possible that agreements may be reached with non-Bahá’í relatives before death takes place.”³¹

“For the burial of the dead the only requirements now binding in the West are to bury the body (not to cremate it), not to carry it more than a distance of one hour’s journey from the place of death, and to say the Prayer for the Dead if the deceased is a believer over the age of 15.”³²

One way to carry this out is to draft a memorandum or write a short note regarding burial instructions and keep this document in the same place as (perhaps attached to) your will and testament. Consider also leaving a copy of this document with your Local Spiritual Assembly.

Sample Memorandum on Burial Requests for Family and Heirs

As I am a member of the Bahá'í Faith, I request my executors and the members of my family, upon my death, to abide by the following:

- a. Under no circumstances shall my body be cremated.
- b. A Bahá'í funeral service is to be conducted.
- c. My body should be buried at a suitable plot within one hour's journey from the place of my death.
- d. Unless required by the laws of the United States or of the State in which I am domiciled at my death, my body should not be embalmed.
- e. The Bahá'í Prayer for the Dead should be recited at my funeral.
- f. My funeral should be carried out in a simple and dignified manner.
- g. Organs from my body may (or may not) be donated for medical usage.*

*Note: "There is nothing in the Teachings against leaving our bodies to medical science...The spirit has no more connection with the body after it departs, but as the body was once the temple of the spirit, we Bahá'ís are taught that it must be treated with respect." (*Written on behalf of Shoghi Effendi, cited in "Directives from the Guardian," p. 47*)

Provisions if a Bahá'í Burial has been Overlooked

If provision for a Bahá'í burial has been overlooked in the will, it would be a kindness and a blessing to the deceased if the executor(s) makes this requirement known to the family of the deceased if they are not aware of it.

Provisions if No Will Exists or Bahá'í Stipulations are Absent

Having a legal written will avoids the condition of intestacy (being without a written will at one's passing). In cases of intestacy in the United States, civil law dictates how an estate will be distributed without regard to the wishes of the deceased or the application of Bahá'í law. The matter may also default to the probate court which is often burdensome and may prolong the time needed to resolve matters.

The Universal House of Justice has provided, in response to a question raised, a breakdown of steps that can be taken by an executor of the will of a deceased individual who, in the specific case, stated only that he wished to leave his estate to his children according to Bahá'í law. The actions to be taken by an executor, if certain required provisions are absent, can be applied more generally:

"The House of Justice does not have the text of the will of Mr.before it, but if your letter accurately conveys his wish to be 'to divide his wealth according to Bahá'í Law among his six children,' it leaves his exact intentions obscure, inasmuch as the Bahá'í law of intestacy names other heirs besides children.

"Having considered the matter, the House of Justice has decided that you should understand Mr..... wishes, as expressed in his will, to be as follows: that his wealth should be divided equally among his six children and that the provisions of Bahá'í law which are not inconsistent with this basic wish should also be applied.

“There is, however, a fundamental factor that can affect the entire matter, and that is the civil law of That law takes precedence over any Bahá’í regulations in the matter, and your Assembly should obtain legal advice to ensure that, in executing Mr.’s will, you are not in any way contravening the provisions of law.

“Bearing that in mind, the House of Justice states that, insofar as law permits, the division of the estate should be:

1. Payment of the costs of the funeral and burial of Mr.
2. Payment of any debts that he had at the time of death.
3. Payment of any costs incurred in liquidating and dividing the estate.
4. Since you know that Mr. never paid Ḥuqúqu’lláh, 19% of what remains after the above payments have been made should be paid as Ḥuqúqu’lláh.
5. The remainder should be divided into six equal portions for his six children.
6. In cases where the children’s addresses are known, their portions should be paid over to them immediately.”³³

The Law of Inheritance

“... The Law of Inheritance as revealed in the Kitáb-i-Aqdas, which is applicable when the deceased has left no will, is explicit in stating: ‘Division of the estate should take place only after the Ḥuqúqu’lláh hath been paid...’

“Likewise, in relation to the making of a will, Bahá’u’lláh has stated [in the Kitáb-i-Aqdas pp.127], ‘A person hath full jurisdiction over his property. If he is able to discharge the Ḥuqúqu’lláh, and is free of debt, then all that is recorded in his will, and any declaration or avowal it containeth, shall be acceptable. God, verily, hath permitted him to deal with that which He hath bestowed upon him in whatever manner he may desire.’

“This makes it clear that the responsibility of a testator to pay his debts and his Ḥuqúqu’lláh have precedence over his freedom to leave his property in whatever other manner he wishes.”³⁴

“Bahá’í law holds that each individual is entirely free to arrange as he wishes for the disposition of his possessions upon his death, provided, of course, that he has paid his debts. A person’s will is sacred, and therefore a Bahá’í should not challenge the provisions of another’s will unless there is reason to suspect that the document itself is invalid on account of forgery or some other similar flaw, such as lack of mental competence of the testator. This restraint applies also to the children of the deceased, whether or not they feel the provisions of the will to be just.”³⁵

“Undoubtedly in the years to come the Universal House of Justice will be called upon to decide on specific issues of detail as they arise. It must also be remembered that at the present time the implementation of Bahá’í law in such matters is dependent upon the provisions of the civil law, which takes precedence.”³⁶

Provisions Regarding Clauses Contrary to Bahá’í Law

- “1. The payment of Ḥuqúqu’lláh is an obligation resting on each believer. The weight of this obligation is not diminished by the fact that no institution of the Faith can demand it from him or can pry into whether or not he has paid the amount due.

“2. The call to the Bahá’ís to offer their Ḥuqúqu’lláh in a spirit of joy and contentment should not be taken as providing a condition under which they can properly feel relieved of the obligation if they believe they are not infused with that spirit. Rather they should strive to manifest these attributes as they fulfil their responsibilities to the law of Ḥuqúqu’lláh.

“3. When a believer dies without having made a will, or with a will in which there is either no provision for the payment of Ḥuqúqu’lláh or else a statement that no Ḥuqúqu’lláh should be paid, the executor should be guided by the following two principles of Bahá’í law, the application of which would be determined by the limits imposed by civil law.

a. ... one of the duties of the executor or administrator is to do his utmost, within the limits imposed by civil law, to ensure that the balance due to Ḥuqúqu’lláh by the deceased is paid out of the estate, following the payment of the expenses of the funeral and burial and the settlement of all outstanding debts of the deceased, and before the remainder of the estate is distributed. (From a memorandum dated 10 August 1998 written on behalf of the Universal House of Justice to the Office of Ḥuqúqu’lláh)

b. ... if a Bahá’í makes a provision in his will that is contrary to Bahá’í law, that provision is null and void in Bahá’í law, and neither the Bahá’í relatives nor the Spiritual Assembly are permitted to fulfil it...” (From a letter dated 9 December 1984 written on behalf of the Universal House of Justice to a National Spiritual Assembly)³⁷

Access to a Testator’s Ḥuqúqu’lláh Payment Records

“We have received your memorandum dated 10 December 2009 requesting guidance regarding whether the executor or administrator of a deceased believer’s estate may be allowed to have access to the payment records for that individual which are maintained by the institution of Ḥuqúqu’lláh. We have decided that, if the executor or administrator requires access to such records in order to assist in calculating the amount that should be deducted from the estate as a payment of Ḥuqúqu’lláh, then there is no objection to the payment records for the deceased believer being disclosed to the relevant person on a strictly confidential basis.”³⁸

“Thus, one of the duties of the executor or administrator is to do his utmost to ensure that the balance due to Ḥuqúqu’lláh by the deceased is paid out of the estate, following the payment of the expenses of the funeral and burial and the settlement of all outstanding debts of the deceased, and before the remainder of the estate is distributed.”³⁹

The Universal House of Justice has advised that the executor of the estate would use his or her best judgement in applying the principles of calculation and in determining the amount that needs to be paid:

“While the application of the principles involved in payment of Ḥuqúqu’lláh may well require subsidiary legislation by the House of Justice in the future, at the present time it falls to the executor or administrator of an estate to apply them to the extent possible, using his or her best judgment and taking into account the information available.”⁴⁰

Ḥuqúqu’lláh is an individual responsibility for which an executor can action payment on behalf of a deceased believer. Institutions of the Faith neither demand nor enforce such. In the event where there is no provision in a final will for Ḥuqúqu’lláh, an executor’s function to do so may not be enforceable by civil law. In such cases, for an executor to accomplish this action, they would seek the agreement of the heirs or beneficiaries, and could provide opportunity for them to become aware of the law’s spiritual significances. Should agreement not be forthcoming, the final payment in all likelihood would not be made.

Provisions Regarding a Living Will

“In general, our Teachings indicate that God, the Giver of life, can alone dispose of it as He deems best. The House of Justice has found nothing in the Sacred Text about the matter of withholding or removing life support in disabling or terminal illnesses where intervention prolongs life. Therefore, until such time as the Universal House of Justice considers legislation on these matters, it is left to the conscience of the individual concerned whether or not to subscribe to a ‘living will.’”⁴¹

Appendix

Checklist of Practical Matters Related to the Will

It is important to fully disclose to your attorney all of the facts concerning your property so that he or she may draw up a will that meets your particular needs and desires. Your attorney has a legal duty to hold the information you provide confidential.

Compiling the following information will be helpful in preparing your will. It is suggested that you also provide your spouse and/or executor(s) with a copy of this information.

1. Your legal name
2. Address of your permanent residence (If you have more than one residence, list each.)
3. Your date and place of birth
4. Your Social Security number
5. Name and address of your employer and your accountant
6. The full legal names, addresses, and dates of birth of your immediate family members - indicating their relationship to you. It may be important to identify any family member who is unable to manage their own affairs.
7. Your spouse's legal name
8. Date and place of marriage and the place where your marriage license can be found. If you have been married previously, note the name of any deceased or former spouse(s) (this is necessary only if there is a financial obligation currently in force). If divorced, list which court granted the judgment of dissolution. If legally separated, give all pertinent details and identify the place where the separation agreement can be found. Provide a copy of any prenuptial agreements if you entered into any.
9. The full names and birth dates of your children (both biological and adopted). If they are beneficiaries, indicate at what age they should receive their distribution. If one predeceases you, how should shares be redistributed?
10. The full names and addresses of any other intended beneficiaries
11. Do you have the right to exercise a power of appointment under someone's will or trust? Consider providing a copy of the document granting that power.
12. Consider providing copies of your income and gift tax returns for the past three years and who prepared them.
13. Assure your record of Ḥuqúqu'lláh payments is accessible (perhaps attached to your will), with an indication, if feasible, of which assets have been purified, which have yet to be (such as a retirement account), and which assets were exempted (such as home residence). This can be a simple record that is updated annually.
14. Regarding any real estate owned, consider providing the following: (a) fair market value, (b) your cost basis, (c) any mortgage debt on the property, (d) a legal description of any property you own, and (e) the deed and title insurance policy.
15. Regarding your personal assets, consider providing the following: (a) a detailed list of valuable items (jewelry, antiques, oriental rugs, etc., and items of sentimental value), (b) the approximate value of each item and its designated recipient, (c) a list of jointly owned items and property, and (d) a list of debts owed to you. If any debts owed to you are in the form of legal notes, provide copies.

16. Consider providing the following information or documents: (a) pension, profit sharing, stock options, or any other employment benefits, with an indication of which benefits are payable upon your death, and (b) the approximate amount of your debts, with the names and addresses of persons to whom you are indebted and the basis of your liability.
17. Provide the names and addresses of those you wish to serve as your executor(s) or guardian(s). Consider listing at least one alternate for each.
18. Consider providing copies of any employment contracts, buy-sell agreements, partnership agreements, limited liability company agreements, stock purchasing plans, life insurance policies owned by you on your life, policies owned by you on others' lives, and annuity policies owned by you. Include the name and address of each company, policy number(s), and principal beneficiaries, and indicate whether any loans were taken out on any of the policies.
19. If a person has no Bahá'í relatives, the testator may wish to designate a Bahá'í institution or individuals to receive their Bahá'í materials, such as books, papers, and so on.

Examples of Final Testaments

*“With great patience and forbearance, with utmost faith, I express my allegiance to Bahá'u'lláh, the Founder of the Bahá'í Faith; to the Báb, His unique Forerunner; to 'Abdu'l-Bahá, the Mystery of God, Exemplar and Interpreter of His Teachings; to Shoghi Effendi, the Guardian of God's Cause; and to the Universal House of Justice, the infallible institution which today guides the destiny of the Faith; and to all Bahá'í institutions....”*⁴²

*“At this hour I express my recognition of the station of the Exalted Lord [the Báb] and of the Ancient Beauty as Manifestations of God; of 'Abdu'l-Bahá as the Centre of God's Covenant; of the Guardian of the Cause of God as interpreter of the Teachings; and of the station of the Universal House of Justice.”*⁴³



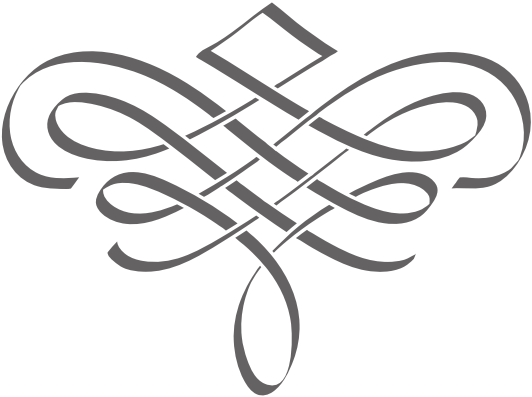
References

- 1 Bahá'u'lláh, "The Kitáb-i-Aqdas," paragraph 109
- 2 Ibid, paragraph 97
- 3 'Abdu'l-Bahá, cited in a letter written on behalf of The Universal House of Justice, 1 July 1996
- 4 Ibid.
- 5 Bahá'u'lláh, "The Kitáb-i-Aqdas," paragraph 109
- 6 Ibid, Notes, number 137
- 7 From a letter written on behalf of the Universal House of Justice to an individual believer dated 26 July 2010
- 8 Bahá'u'lláh, "The Kitáb-i-Aqdas," paragraph 109
- 9 Bahá'u'lláh, "The Kitáb-i-Aqdas," Questions and Answers, number 9
- 10 Ibid, number 69
- 11 Bahá'u'lláh, referenced in "Understanding Appreciating And Applying The Law Of Ḥuqúqu'lláh," a workbook, 3rd Edition, Allan Waters, pg. 69
- 12 From a Tablet of 'Abdu'l-Bahá, quoted in a letter written on behalf of the Universal House of Justice to an individual dated 1 July 1996
- 13 Extract from a letter of Shoghi Effendi in "The Kitáb-i-Aqdas," Notes, number 38
- 14 'Abdu'l-Bahá: Some Answered Questions, 2014 edition, pp. 267
- 15 Bahá'u'lláh, cited in "Ḥuqúqu'lláh: The Right of God," A Compilation of Extracts from the Writings of Bahá'u'lláh and 'Abdu'l-Bahá and from Letters Written by and on Behalf of Shoghi Effendi and the Universal House of Justice, April 2007, Amended August 2009, number 13
- 16 Ibid, number 17
- 17 Ibid, 'Abdu'l-Bahá, number 24
- 18 Ibid, the Universal House of Justice, number 69
- 19 Ibid, Written on behalf of the Universal House of Justice, 1 October 1989, number 66
- 20 Ibid, Bahá'u'lláh, number 32
- 21 Ḥuqúqu'lláh, Extracts from the Writings of Bahá'u'lláh, 'Abdu'l-Bahá, Shoghi Effendi and the Universal House of Justice, 1986 ed., number 36
- 22 Written on behalf of the Universal House of Justice, 1 July 1996, cited in "Ḥuqúqu'lláh: The Right of God," April 2007, Amended August 2009, number 73
- 23 In the handwriting of Shoghi Effendi, appended to the 7 September 1926 message to a National Spiritual Assembly, published in "Dawn of a New Day," 1970 edition, pp. 13–14
- 24 From a letter written on behalf of Shoghi Effendi to an individual believer, December 8, 1947: "Lifeblood of the Cause," 1970, London, pp. 12-13
- 25 In the handwriting of Shoghi Effendi, appended to a letter dated 29 July 1935 to a National Spiritual Assembly, published in "Bahá'í News," no. 95, October 1935, p. 1
- 26 From a letter written on behalf of the Universal House of Justice to an individual believer dated 24 December 2017
- 27 From a letter written on behalf of Shoghi Effendi to an individual believer dated 4 November 1933
- 28 Letter from the Universal House of Justice, dated 14 January 1971, to a National Spiritual Assembly, in "Lights of Guidance," no. 632
- 29 From a letter written on behalf of the Universal House of Justice to an individual believer dated 2 September 1992
- 30 The Universal House of Justice, cited in "Lights of Guidance:" A Bahá'í Reference File, p. 192, number 631
- 31 Ibid, number 633
- 32 The Universal House of Justice, Messages from the Universal House of Justice, 1963-1986: The Third Epoch of the Formative Age, p. 279, number 147.18
- 33 Written on behalf of the Universal House of Justice to a National Spiritual Assembly, from a letter dated 23 February 1988
- 34 From a memorandum from the Universal House of Justice, 30 April 1992, cited in "Ḥuqúqu'lláh: The Right of God," April 2007, Amended August 2009, number 68
- 35 From a letter written on behalf of the Universal House of Justice to an individual believer dated 28 February 2007.

- 36 From a letter written on behalf of the Universal House of Justice to an individual believer, dated 15 October 1998
- 37 From a memorandum dated 22 October 2002 written by the Universal House of Justice to the Office of Ḥuqúqu'lláh
- 38 From a memorandum dated 14 June 2010 written by the Universal House of Justice to the Office of Ḥuqúqu'lláh in the Holy Land
- 39 From a memorandum dated 30 April 1992 written by Universal House of Justice to the Research Department
- 40 From a letter written on behalf of the Universal House of Justice to an individual believer dated 1 July 1996
- 41 From a letter written on behalf of the Universal House of Justice to a Local Spiritual Assembly dated 23 July 1985
- 42 Excerpts from letter of Auxiliary Board member Yadu'llah Vahdat, of Shiraz, written from prison before his execution on 30 April 1980, "The Bahá'í World," vol. XVIII (1979-1983), p. 285
- 43 Excerpt from the last letter of Mr. Suháb (Muhammad-Báqir) Habíbí, of Hamadán, written from prison before his execution on 14 June 1981, "The Bahá'í World," vol. XVIII (1979-1983), p. 286

Reflection Notes

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