



## THIS MIGHTY LAW

# PROVISION IN A WILL FOR THE PAYMENT OF HUQÚQU'LLÁH

Dear Friends,

**T**he Board of Trustees is delighted to share with you the second insert of the newsletter *This Mighty Law* in *Bahá'í Canada*. The Board decided to make the subject of the provision in a will for the payment of Huqúqu'lláh the theme of this issue. The newsletter is prepared and approved by the Board of Trustees of Huqúqu'lláh in Canada.

*“A person hath full jurisdiction over his property. If he is able to discharge the Huqúqu'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.”*

(Bahá'u'lláh, Questions and Answers, *Kitáb-i-Aqdas*, no. 69, p. 127)

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

(Written on behalf of Shoghi Effendi, quoted in a letter written on behalf of the Universal House of Justice, August 24, 1982 to the National Spiritual Assembly of the Bahá'ís of the United States)

**QUESTION:** How should one make provision in one's will for the payment of Huqúqu'lláh?

**ANSWER:** The question of a legal wording to include provision in a will for the payment of Huqúqu'lláh after a believer is deceased is dependent upon so many factors that it would be preferable for the answer to be sought in each case from a lawyer in the country concerned.

The advice needs to be local because legal wording and the laws governing inheritance vary from country to country. It also needs to be specific to

each case because believers may follow somewhat different methods in computing their liability to Huqúqu'lláh and in recording those items of their property on which Huqúqu'lláh has already been paid. Moreover, unless the believer concerned leaves a clear accounting of his property and his payment of Huqúqu'lláh to date, if any, it will not be possible for anyone to calculate what remains to be paid at the time of his death.

The payment of Huqúqu'lláh is an individual responsibility. If a believer turns to you with a question on this matter, you could refer him to the nearest Representative of the Trustee of Huqúqu'lláh, who could advise him in the light of his specific circumstances.

(Letter to a National Spiritual Assembly, 17 July 1989)

Essentially, the Huqúqu'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 Huqúqu'lláh is calculated. Ideally, when a Bahá'í dies, the only payment to Huqúqu'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 Huqúqu'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.

(Letter from the Universal House of Justice, to an individual, 1 October 1989)

The Board of Trustees of Huqúqu'lláh in Canada has sought legal advice and at the present time the following wording has been determined to best meet the requirements for providing a provision for payment of Huqúqu'lláh in your will.

“Given the spiritual significance for me to ensure that Huqúqu'lláh (“the Right of God”) has been paid in accordance with Bahá'í law, I direct my Estate Trustees to refer to my personal records to ascertain those of my assets on which I calculated and paid the Right of God during my lifetime and to determine what amount, if any, is due from my



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estate in accordance with Bahá'í law, and to pay such amount forthwith to 'National Spiritual Assembly of the Bahá'ís of Canada' earmarked 'Right of God'. In the event of uncertainty as to the calculation of same, advice shall be taken from the Board of Trustees of Huqúqu'lláh in Canada. In the event that my personal records cannot be located or it is found that they are incomplete or not current, I expressly grant herein power and authority to my Estate Trustees, in an exercise of their absolute discretion, to make the final decision as to what amount shall be paid, if any, from my estate for the Right of God.

My Estate Trustees shall be fully protected in exercising the discretion granted to them hereunder and shall not be liable to the beneficiaries or their heirs or personal representatives by reason of the exercise of such discretion."

In addition, testators and their lawyers are advised to consider preparing a memo from the testator to the estate trustees with the specific records of assets and values on which the Right of God has been paid during the testator's lifetime or explicit directions to the estate trustees where to look for the testator's records regarding the Right of God. We further recommend that all testators review these provisions with their lawyers to ensure that they conform to the relevant legal requirements of their particular jurisdiction.

Board of Trustees of Huqúqu'lláh in Canada, June 2011

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## OBLIGATION TO OBEY THE LAW OF HUQÚQU'LLÁH

The following excerpt from a letter from the Office of Huqúqu'lláh in the Holy Land dated June 24, 2010 to the Boards of Trustees of Huququ'llah further clarifies the application of the law of Huqúqu'lláh in the preparation of one's will:

"The obligation to faithfully obey the law of Huqúqu'lláh is an individual responsibility, and it is one that is to be joyously undertaken during the lifetime of a believer. In most cases, provisions also need to be made in the will and testament of a believer, so that any remaining Huqúqu'lláh liability is discharged at the time of death. The Universal House of Justice states that

[w]hile the application of the principles involved in payment of Huqúqu'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.

(From a letter dated 1 July 1996 written on behalf of the Universal House of Justice to an individual believer)

The Universal House of Justice has recently clarified that the executor or administrator of an estate can access the payment records of a deceased believer in order to fulfil any Huqúqu'lláh liability. The statement it issued to our Office is as follows:

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 Huqúqu'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.

(From a memorandum dated 14 June 2010 written by the Universal House of Justice to the Office of Huqúqu'lláh in the Holy Land)

However, the guidance below makes it clear that the family members of the deceased do not have the right to access this information:

As you are aware, information about a person's contributions to the Funds of the Faith and Huqúqu'lláh payments are normally considered to be confidential, and would not be provided to family members. (From a letter dated 8 February 1999 written on behalf of the Universal House of Justice to a National Spiritual Assembly)"

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"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 Huqúqu'lláh. If the people attain the privilege of paying the Huquq, 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."

(Compilation of Compilations, vol II)





# The Right of God

**Q:** What should the heirs and/or executor of a will do if the will does not mention Huqúqu'lláh and the deceased has already divided his/her belongings?

**A:** "... the event of death does not remove from a believer his obligation to pay Huqúqu'lláh. Whatever portion he is due to pay is therefore a debt due from his estate at the time of his death. The cost of the funeral and burial, the payment of the debts of the deceased, and the payment of whatever portion of Huqúqu'lláh remains due from him are prior charges on the estate which must be met before arriving at the amount of the property which the deceased is free to dispose of as he wishes or which has to be divided in accordance with the provisions of the law of inheritance. Thus, whether or not a person makes a will or, having made a will, whether he makes provision in it for the payment of Huqúqu'lláh, the Huqúqu'lláh should be paid, like his debts, before the rest of the estate is divided.

"The application of these principles may well require subsidiary legislation by the Universal House of Justice in future. In the

meantime it falls to the executor or administrator of an estate to apply them to the extent possible, using his best judgement in the light of information available to him." (From a memorandum dated 5 August 1994 written by the Universal House of Justice to the Office of the Huqúqu'lláh)

"As to the calculation of Huqúqu'lláh on the estate of your father in the absence of his will, if it is ascertainable that no Huqúqu'lláh has been paid on any part of the estate by your father during his lifetime, then 19% of his estate after the deduction of relevant expenses and his debts, if any, will be due as Huqúqu'lláh.

"You and your family's noble wish to discharge the Huqúqu'lláh obligation of your late father is indeed meritorious and commendable. It will be the cause of the progress of your beloved father's soul in the Abhá Kingdom, and the source of Bahá'u'lláh's confirmations and bounties descending upon the dear members of his family." (From a letter dated 23 December 1999 written by the Office of Huqúqu'lláh to an individual believer)

"... in the case of the estate of a deceased Bahá'í whose liability to Huqúqu'lláh cannot be assessed, there is, as you know, no objection in principle to the heirs agreeing to a payment from the estate to Huqúqu'lláh on behalf of the deceased if they so wish. But this is in no way their obligation, nor should such a payment be accepted from non-Bahá'í heirs. This is different from the case of an estate in respect of which the deceased has left records whereby his liability to Huqúqu'lláh can be computed. In such a case, the executor or administrator should do his utmost to ensure that this Right of God is paid. The provisions of civil law may make it necessary for the executor or administrator to obtain the permission of the heirs to the making of the payment, and in this, the non-Bahá'í heirs should be included, because the payment would be the liquidation of a recognized and clearly computed debt of the deceased, and not a voluntary gift in respect of what is understood to be a spiritual duty."

(Huqúqu'lláh, *The Right of God*, Compilation, 2007, amended August 2009, #4)



Star design on the Terraces of the Shrine of the Báb.

Photo: Bahá'í International Community