

Succession, Wills/Adjudication, and Settlement of Estates - Review Questions

1. Define the term 'Faraid' in the context of Islamic inheritance law.

- Answer: Faraid refers to the fixed shares of inheritance that are prescribed by Islamic law for the distribution of a deceased person's estate among their heirs.

2. Explain the concept of 'Wasiyyah' (will) in Islamic law. What are the limitations on the testator's freedom to bequeath property through a will?

- Answer: Wasiyyah is a declaration by a person to allocate a portion of their property or wealth to be given to specific individuals or for specific purposes after their death. The limitations include that the bequest cannot exceed one-third of the estate after the payment of debts and funeral expenses, and it cannot be made in favor of an heir who is already entitled to a share under Faraid unless consented to by other heirs.

3. What are the primary categories of heirs in Islamic inheritance law, and how do they differ?

- Answer: The primary categories of heirs in Islamic inheritance law are Sharers (those who have fixed shares) and Residuaries (Asabah, who inherit what remains after the fixed shares have been distributed). Sharers include the spouse, parents, children, and specific relatives, while Residuaries typically include male relatives such as sons, brothers, and paternal uncles.

4. A man dies leaving behind a wife, one son, two daughters, and his mother. His estate is valued at 1,200,000 PHP. Calculate the inheritance shares for each heir.

- Answer:
 - Wife: $1/8$ of the estate = $1,200,000 \times 1/8 = 150,000$ PHP.
 - Mother: $1/6$ of the estate = $1,200,000 \times 1/6 = 200,000$ PHP.
 - Remaining estate = $1,200,000 - 150,000 - 200,000 = 850,000$ PHP.
 - Son and daughters share remaining estate with the son receiving twice the share of each daughter.
 - Son's share: $850,000 \times 2/4 = 425,000$ PHP.
 - Each daughter's share: $850,000 \times 1/4 = 212,500$ PHP.

5. Discuss the role and responsibilities of an executor in the administration of an estate in Islamic law.

- Answer: The executor (Wasi) is responsible for carrying out the instructions in the deceased's will, paying off any debts and funeral expenses, and distributing the remaining estate according to Islamic law. The executor must ensure that the estate is distributed justly among the heirs and in accordance with the fixed shares prescribed by Faraid. The executor must also act in the best interest of the estate and the beneficiaries, maintain transparency, and keep accurate records of all transactions.

6. What is the concept of 'Aul' in Islamic inheritance law, and when is it applied? Provide an example.

- Answer: 'Aul' is the proportional reduction of the shares of all heirs when the total of the prescribed shares exceeds the estate. It is applied to ensure that the shares fit into the available estate. For example, if a person dies leaving behind a husband ($1/4$), two sisters ($2/3$), and a mother ($1/6$), the shares would add up to more than 1 ($1/4 + 2/3 + 1/6 = 1.25$). In such a case, each share is reduced proportionally to fit the available estate.

7. Explain the concept of 'Tashih' (adjustment) in Islamic inheritance law and its significance.

- Answer: Tashih is the process of adjusting the shares of the heirs to ensure that the estate is distributed correctly when there are discrepancies or conflicts in the calculation of shares. It ensures that the distribution adheres to Islamic principles and that each heir receives their rightful share. Tashih is significant because it maintains fairness and accuracy in the distribution process, ensuring that no heir is deprived of their rightful inheritance.

8. A deceased person leaves behind no will and is survived by his wife, two sons, one daughter, and his father. His estate is worth 900,000 PHP. Calculate the shares of each heir.

- Answer:
 - Wife: $1/8$ of the estate = $900,000 \times 1/8 = 112,500$ PHP.
 - Father: $1/6$ of the estate = $900,000 \times 1/6 = 150,000$ PHP.
 - Remaining estate = $900,000 - 112,500 - 150,000 = 637,500$ PHP.
 - Sons and daughter share remaining estate, with each son receiving twice the share of the daughter.
 - Each son's share: $637,500 \times 2/5 = 255,000$ PHP.
 - Daughter's share: $637,500 \times 1/5 = 127,500$ PHP.

9. What are the rights of creditors in the settlement of an estate in Islamic law?

- Answer: Creditors have the right to be paid from the estate of the deceased before any distribution to heirs. Debts must be settled in full from the estate, including funeral expenses, before the remaining estate is distributed according to Faraid. This ensures that the deceased's obligations are fulfilled and that the heirs receive their shares free of debt.

10. Discuss the Islamic legal principles regarding the inheritance rights of adopted children.

- Answer: In Islamic law, adopted children do not have the same inheritance rights as biological children. They do not automatically inherit from their adoptive parents under Faraid. However, the adoptive parents can provide for adopted children through a Wasiyyah (will), as long as it does not exceed one-third of the estate and does not infringe on the rights of the legal heirs.

These questions cover various aspects of succession, wills, adjudication, and the settlement of estates in Islamic law, providing a comprehensive review for the Shari'ah Bar Examinations.