

Question 2362) - What is Wasiyah and what is its status?

A: Literally it is a request that someone perform some act, whether during the life or after the death of the one requesting. In the terminology of the jurists it is the transfer of ownership to someone upon the one's death, whether it be of a physical item or of a benefit.

Its status is that if the Musi [one making the bequest] has obligations upon him to Allaah e.g. unpaid Zakah, he did not perform Hajj when it became compulsory upon him, etc then it is Wajib upon him to make a bequest that these be fulfilled on his behalf. It is also Wajib upon him to leave a bequest for the fulfilment of rights of people against him and debts he owes them. He must also leave instructions for the return of trusts and Wadi'ah he has by him.

If he does not have any outstanding rights of Allaah or humans or debts to be paid, then it is Mustahabb for him to leave a bequest that some of his wealth be spent in good avenues.

If his debts encompass his entire estate, then he may not make a bequest for anyone. If he does make a bequest, it is not valid and will not be implemented unless the creditors agree out of their kindness.

~ al-Quduri ~