

Repayment of Debt after Death of Person in Islam

Introduction:

It is indeed the incumbent responsibility of every *imam* at all Muslim funerals, that before the commencement of the *Salat-ul-Janaza*, the *imam* must make a public announcement, seeking clarification from all those gathered, whether or not the deceased person owed debts. There has to be declaration made by either the Muslim survivors of the Muslim deceased, or by any other person, who undertakes to pay off the debts within a specified time. The debts must be both announced and cleared, so that the Muslim survivors of the Muslim deceased will not be subsequently burdened with unestablished claims of debts, after the funeral procedures have been completed. In some cases, the Muslim deceased may have been the only earner or source of income for the whole extended family.

Discussion on Repayment of Debt after Death of Person in Islam:

- 1) The socioeconomic or financial standing of the deceased person does not matter. In broadness, the deceased Muslim person may have been of very high financial standing, or at midpoint, or even at the lowest end of the socioeconomic strata.
- 2) The fundamental fact remains, undisputedly that every *imam* at all Muslim funerals, must follow the Hadith procedural requirements, as historically recorded accounts practised by Prophet Muhammad (*pbuh*).¹
- 3) Debts owed by any person may be of various classifications. They may range from goods or groceries supplied on credit to the family of the deceased, or they may be loans taken by the deceased from a commercial bank², or they may be privately arranged loans³, or they may even be utility services provided

¹ The prescriptiveness of what should be done have been demonstrated by Prophet Muhammad (*pbuh*) in Hadith. Some selected quotations from Hadith are: Hadith Sahih Bukhari (narrated by Abu Huraira) *Volume 3, Book 37, Number 486*; Hadith Sahih Bukhari (narrated by Salama bib Al-Akwah) *Volume 3, Book 37, Number 488r*; Hadith Sahih Bukhari (narrated by Abu Huraira) *Volume 3, Book 37, Number 488h*; Hadith Sahih Bukhari (narrated by Salama bib Al-Akwah) *Volume 3, Book 37, Number 492*; Hadith Sahih Bukhari (narrated by Abu Huraira) *Volume 3, Book 37, Number 495*.

² Dealings with loans taken from any commercial bank have separate peculiarities, in different countries, in terms of lending or giving loans and involve aspects of mortgage or having guarantors or insurance support. Where guarantors are involved, the debt becomes the guarantors' responsibility. In the case of mortgages, the lender may very likely repossess the property and after disposal of the property, the balance of proceeds may be recovered by the Muslim survivors, unless there are specific beneficiaries in the Will of the testator. The circumstances differ amongst countries and the compelling State laws of the different countries.

³ In case of privately acquired loans, the Muslim survivors may be compelled to repay the debts incurred, unless there is arrangement with guarantors.

by the utility service supplier to the deceased or the family of the deceased⁴. Regardless of various classifications, the fact remains that the Muslim deceased owed money to some person or institution at the moment of that Muslim person's death. The debts must be repaid in full, upon an agreement reached on definite repayment schedule, before the commencement of the *Salat-ul-Janaza*.

- 4) These arrangements must be spontaneous, so that the Muslim survivors are not left totally indebted to some other persons or institutions.
- 5) In certain circumstances, the repayment may come with accrued interest. In Islamic terminologies these may be referred to as *riba*⁵ or commonly referred to in English as usury⁶. However, in many Muslim majority countries, the national State laws forbid the charging of *riba*⁷. Generally, Islamic religious practice forbids *riba*, even at low interest rates, as both illegal and unethical or usurious.
- 6) Bearing in mind the internationally and stylistically consistent practises in Islam, not all Muslim survivors of the deceased persons are in sound financial position, to pay off such debts spontaneously.
- 7) Hence the dire need, that the *imam* must make a public announcement, seeking clarification from all those gathered, whether or not the deceased Muslim person owed debts; and how the debts are to be settled and by whom?
- 8) Prudence dictates that all persons of whatsoever classifications, who are owed money, must attend the funeral of the Muslim deceased.
- 9) This brings about the need to search the Holy Qur'an on this topic, which is stated at **HQ2:275-276** *"Those who swallow usury cannot arise except as he arises whom the devil prostrates by (his) touch. That is because they say, Trading is only like usury. And Allah has allowed trading and forbidden usury. To whomsoever then the exhortation has come from his Lord, and he refrains,*

⁴ Utility services are generally billed to the name of the owner of the estate or tenant, as the case may be and the Muslim survivors will need to resolve with the connectivity supplier of those services. Notwithstanding, if the tenancy has changed or the ownership of the property has changed because of the Will of the testator, then that would have to be resolved procedurally so.

⁵ The term "*riba*" has also been roughly translated as the pursuit of illegal, exploitative gains made in business or trade under Islamic law, akin to usury. *Riba* is a concept in Islam that refers broadly to the concept of growth, increasing, or exceeding, which in turn forbids interest credited from loans or deposits.

⁶ Usury is the practice of making unethical or immoral monetary loans that unfairly enrich the lender. The term may be used in a moral sense—condemning, taking advantage of others' misfortunes—or in a legal sense, where an interest rate is charged in excess of the maximum rate that is allowed by law. Such actions by lenders also reduce the Muslim survivors of the deceased to penury, whilst others prosper at their expense. Islam forbids usury. The usurer becomes parasitic and living on the helplessness of the poor Muslim survivors of the deceased person. In actual reality, the same situation may also happen to communities other than Muslims.

⁷ *Riba* is prohibited under *Shari'ah law* for a couple of reasons. It is meant to ensure equity in exchange. It is meant to ensure that people can protect their wealth by making unjust and unequal exchanges illegal. Islam aims to promote charity and helping others through kindness. To remove sentiments of selfishness and self-centeredness, which can create social antipathy, distrust, and resentment. By making *riba* illegal, *Shari'ah law* creates opportunities and contexts in which people are encouraged to act charitably—lending money without interest.

he shall have what has already passed. And his affair is in the hands of Allah. And whoever returns (to it) — these are the companions of the Fire: in it they will abide. Allah will blot out usury, and He causes charity to prosper. And Allah does not love any ungrateful sinner.”

- 10)** Islam, as the final revealed religion to this World, has instituted certain Commands from Almighty God, in the Holy Qur’an, to be proactive and make positive arrangements, when it comes to matters of instituting debts.
- 11)** The fluency of style, flair, language and exactness in proactive preparation can only be admired at in the Holy Quran at **HQ2:280-282** *“And if (the debtor) is in difficulty, let there be postponement till (he is in) ease. And that you forgo it as charity is better for you, if only you knew. And guard yourselves against a day in which you will be returned to Allah. Then every soul will be paid in full what it has earned, and they will not be wronged. O you who believe, when you contract a debt for a fixed time, write it down. And let a scribe write it down between you with fairness; nor should the scribe refuse to write as Allah has taught him, so let him write. And let him who owes the debt dictate, and he should observe his duty to Allah, his Lord, and not diminish anything from it. But if he who owes the debt is unsound in understanding or weak, or (if) he is not able to dictate himself, let his guardian dictate with fairness. And call to witness from among your men two witnesses; but if there are not two men, then one man and two women from among those whom you choose to be witnesses, so that if one of the two commits error, the one may remind the other. And the witnesses must not refuse when they are summoned. And do not be averse to writing it whether it is small or large along with the time of its falling due. This is more equitable in the sight of Allah and makes testimony surer and the best way to keep away from doubts. But when it is ready merchandise which you give and take among yourselves from hand to hand, there is no blame on you in not writing it down. And have witnesses when you sell to one another. And let no harm be done to the scribe or to the witnesses. And if you do (it), then surely it is a transgression on your part. And keep your duty to Allah. And Allah teaches you. And Allah is Knower of all things.”*
- 12)** It becomes prudent to visit the opposite phase of what happens to the estate or wealth, when a Muslim person has died and left behind different classifications of wealth. There is a Command from Almighty God, in the Holy Qur’an, stating the proportions of how the estate or wealth are to be divided, according to the gender composition of the deceased Muslim person’s residual family. Muslims must study the composition of the Muslim family and obey this Command, especially when it comes to making of Wills by the testator, as stated in the Holy Qur’an at **HQ4:12** *“And yours is half of what your wives leave if they have no child; but if they have a child, your share is a fourth of what they leave after (payment of) any bequest they may have bequeathed or a debt; and theirs is the fourth of what you leave if you have no child, but if you have a child,*

their share is the eighth of what you leave after (payment of) a bequest you may have bequeathed or a debt. And if a man or a woman, having no children, leaves property to be inherited and he (or she) has a brother or a sister, then for each of them is the sixth; but if they are more than that, they shall be sharers in the third after (payment of) a bequest that may have been bequeathed or a debt not injuring (others). This is an ordinance from Allah, and Allah is Knowing, Forbearing."

13) Sometimes the geopolitical situations of some countries, or regions may not be very sound and consequently, people live in extended families. Their living in extended families may be prompted by the socioeconomic or financial situations, which may subsist under difficult times. The extended family may include other relatives, as dependents, living under the same roof (in some cases).

14) In such situations, the Command from Almighty God is superbly balanced to include the extended Muslim family, so as to become recipients of the wealth left behind by the Muslim deceased. The Holy Qur'an states such situations magnificently at **HQ4:11-12** *"Allah commands you concerning your children: for the male is the equal of the portion of two females; but if there are more than two females, two-thirds of what the deceased leaves is theirs; and if there is one, for her is the half. And as for his parents, for each of them is the sixth of what he leaves, if he has a child; but if he has no child and (only) his two parents inherit him, for his mother is the third; but if he has brothers, for his mother is the sixth, after (payment of) a bequest he may have bequeathed or a debt. Your parents and your children, you do not know which of them is the nearer to you in benefit. This is an ordinance from Allah. Surely Allah is ever Knowing, Wise. And yours is half of what your wives leave if they have no child; but if they have a child, your share is a fourth of what they leave after (payment of) any bequest they may have bequeathed or a debt; and theirs is the fourth of what you leave if you have no child, but if you have a child, their share is the eighth of what you leave after (payment of) a bequest you may have bequeathed or a debt. And if a man or a woman, having no children, leaves property to be inherited and he (or she) has a brother or a sister, then for each of them is the sixth; but if they are more than that, they shall be sharers in the third after (payment of) a bequest that may have been bequeathed or a debt not injuring (others). This is an ordinance from Allah, and Allah is Knowing, Forbearing."*

15) There can also be circumstances, when the Muslim survivors of the Muslim deceased are in such poor state, that there is very little likelihood of the Muslim survivors ever paying off the debt left behind by the Muslim deceased, especially without the dependence on a guarantor. Whereas on the contrary, the deceased Muslim may have been the moneylender. This does not mean that debts taken have been written off just because the moneylender

has died! There is clear prescription in the Holy Qur'an at **HQ2:280-282** that the debts must be written and recorded with witnesses. Likewise, before the *Salat-ul-Janaza*, the *imam* must also make the announcement, and those persons, who owed debts⁸ to the deceased Muslim, must come forward and announce their settlement of their debts to the survivors⁹ of the deceased Muslim.

- 16)** In such situations, the Command from Almighty God in the Holy Qur'an offers an opportunity to write off the debt, by conversion of the debt sum into *sadaqat*¹⁰, but, and this is very important – not to be confused with *zakat*¹¹, so the debt sum becomes an act of charity¹². This has been stated succinctly in the Holy Qur'an at **HQ9:60** *“(The due) charity is only for the poor and the needy, and those employed to administer it, and those whose hearts are made to incline (to truth), and (to free) the captives, and those in debt, and in the way of Allah and for the traveller — an ordinance from Allah. And Allah is Knowing, Wise.”*
- 17)** It is for all correct thinking Muslims to guide and assist other Muslims; the Holy Qur'an has sanctioned that correct advice shall be given to those who need to be guided. This is given in the Holy Qur'an at **HQ3:104**, as *“And from among you there should be a party who invite to good and enjoin the right and forbid the wrong. And these are they who are successful.”*

Conclusions on Repayment of Debt after Death of Person in Islam:

- a) Before the commencement of the *Salat-ul-Janaza*, the *imam* must make a public announcement, seeking clarification from all those gathered, whether or not the Muslim deceased person owed debts, notwithstanding the status of the Muslim deceased's socioeconomic and financial strata in society. This call for declaration is a compulsion, as stated in various Hadith.
- b) An immediate resolve has to be reached in repayment of that debt, if there is debt owed by the Muslim deceased.
- c) In the event of the rescue debt payer being a Muslim as well, options are open to that rescue debt payer, to consider that special and helpful debt payment, as an act of *sadaqat*.

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⁸ The Holy Qur'an clearly stipulates that all debts and lending must be witnessed in writing by men and women.

⁹ The survivors of the deceased Muslim will need to receive all repayments of debts. Almighty God is also a Witness. In modern business practices, there are additional protection measures such as guarantors and mortgage deeds.

¹⁰ *Sadaqat* or *Sadaqah* or *Sadqah* in the modern context has come to signify "voluntary charity". According to the Qur'an, the word means voluntary offering, whose amount is at the voluntary discretion of the "benefactor".

¹¹ *Zakat* is compulsory at minimum contribution of one-fortieth (or 2.5%) of net savings of peoples' earnings or possessing net balance of wealth in various forms, including disposable of property such as vehicles or jewellery.

¹² Hadith Sahih Bukhari (narrated by Aisha). *Volume 3, Book 37, Number 494.*