



Estate Planning for Bahá'í Clients

The second part of a series of articles addressing the intersection of religious laws, beliefs, motivations, and estate planning.

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Introduction and History of the Bahá'í Faith

The Bahá'í Faith is a monotheistic religion founded during the mid-19th century in Persia. It has grown into a major worldwide religion. While the Bahá'í Faith has its historical roots in Shi'a Islam (as Christianity has its historical roots in Judaism, and Buddhism has its historical roots in Hinduism), it is an independent Faith with its own distinct history and writings. To understand how estate planning and drafting of wills and other documents would be tailored to reflect the needs of a Bahá'í client, the following background and information will provide guidance as to how generally to do so.

Historical Overview of the Bahá'í Faith and its Implications to Estate Planning

The Bahá'í Faith began in 1844, when a young Persian merchant, Siyyid Ali-Muhammad declared himself a messenger from God. His mission was to

prepare the people for the coming of an even greater emissary from God. He called himself the "Báb," which translates as "the gate." His many followers were referred to as "Bábis." One of the Báb's prominent disciples was Mirza Husayn Ali (1817-1892), a Persian from an affluent noble family who took on the title Bahá'u'lláh (which means "the Glory of God" in Arabic). Bahá'u'lláh chose not to pursue government posts nor societal positions as his ancestors had, and instead chose to focus on the needs of humanity. This action symbolizes a pattern among Bahá'ís to think of the needs of the many as the believers are called upon to 'let their vision be world embracing' - which can translate over into how a Bahá'í might wish to spread accumulated wealth upon their passing.) Bahá'u'lláh received a Revelation that he was the messenger of which the Báb had spo-

ken. Bahá'u'lláh revealed many volumes of sacred scriptures and established the laws and institutions of the Bahá'í Faith, between 1853 and 1892. The scriptures that Bahá'u'lláh wrote provide detailed laws and stipulations for the Bahá'í Faith, as well as theological teachings. These scriptures include the Kitab-i-Aqdas (The Most Holy Book), a central Bahá'í book which includes many of the Bahá'í laws and ordinances, and the Kitáb-i-Íqán (The Book of Certitude), another of His chief doctrinal works. Amongst other teachings, Bahá'u'lláh prescribed the creation of elected religious councils, which administer the affairs of the faith in place of a clergy.

Bahá'u'lláh designated his eldest son, 'Abdu'l-Bahá (which means "servant of Bahá") in His final will and other sources, as His successor. This use of a will to accomplish such a profoundly important transition of leadership contributes to the special importance and solemnity for a Bahá'í to write a final will and testament. As did his father before him,

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‘Abdu’l-Bahá also designated succession in his will, naming his eldest grandson Shoghi Effendi and an International House of Justice, each with distinctive functions for the future Bahá’í community. Again, this act underscores the importance of a final will and testament to Bahá’ís. Under Shoghi Effendi’s guardianship the National Spiritual Assembly of the Bahá’ís of the United States was incorporated, creating the legal model for the subsequent incorporation of national spiritual assemblies around the world. This body today oversees the administrative affairs of the Bahá’ís in the United States and provides guidance which includes the writing of a will and to engage in estate-planning.

Bahá’í religious authority resides not in a form of clergy, but rather in elected governing councils with the highest of these being the Universal House of Justice, which functions from Haifa, Israel. There are National Spiritual Assemblies around the world and thousands of Local Spiritual Assemblies across the United States and the world. This network of councils governs and unifies the faith-community and addresses religious matters which arise, including administering Bahá’í funds; performing marriages, divorces, and funerals; planning Holy Day observances; making arrangements for classes for children and pastoral care. Bahá’u’lláh expressly authorized the Universal House of Justice, the global governing body of the community, to legislate on any matters that are not stipulated in the Holy Scriptures. This is the structure which may be utilized by a Bahá’í client to address unresolved issues that may arise from an inadequate estate plan, subject to the governing law of the country or state that determines legal parameters.

Overview of Selected Bahá’í Beliefs

Bahá’ís believe in one God who is all powerful, omniscient, omnipresent, and eternal. God is considered to be ultimately unknowable to human beings, but He progressively reveals His nature and teachings to humanity through His messengers, including Adam, Buddha, Krishna, Moses, Abraham, Zoroaster, Christ, Muhammad, the Báb and Bahá’u’lláh, who are known to Bahá’ís as Manifestations of God. One grows closer to God through prayer, spiritual practice, living a moral life, good deeds, and service to humanity. ‘Abdu’l-Bahá encapsulated the Faith as: “To be a Bahá’í simply means to love all the world; to love humanity and try to serve it; to work for universal peace and universal brotherhood.”

The belief in the unity of all religions and the oneness of all humankind are central underlying principles of Bahá’í philosophy. The founders of all major religions are recognized as Manifestations of God who have progressively revealed what is essentially a single religion, “the changeless Faith of God, eternal in the past, eternal in the future.” Each Manifestation taught according to the societal needs of their time, and thus many of their social laws and teachings have differed. All the Manifestations, however, have restated and confirmed the core spiritual teachings common to all religions—that we are spiritual beings created in God’s image who are destined to acquire and reflect divine virtues such as compassion, kindness, love, mercy, and knowledge.

The unity of humanity is a central and pivotal teaching of the Bahá’í Faith. Discrimination and prejudice are strongly frowned upon, as all humans are part of one race. Men and woman are seen as equals. According to Bahá’í scripture, “Until the reality of equality between men and women is fully established and attained, the highest social development of mankind

is not possible.” The goal is for women to participate fully as equals in all areas of human endeavor, including professional life, government, and the sciences and arts. In cases where the families can only afford education for some of their children, girls are to be given priority over their boys. Natural differences between the sexes are acknowledged, and women are expected to fulfill their obligations to bear and be the first educators of their children, but the men are also expected to share in household responsibilities and childcare. The Bahá’í Faith sets this ex-

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ample with women equally participating in global, national, and local governing systems.

Other Bahá’í teachings include the elimination of extremes of wealth and poverty, a spiritual solution to economic problems, and the harmony of science and religion. Extremes of wealth and poverty are considered harmful to society, and Bahá’ís believe these extremes will gradually be reduced as humanity collectively matures. This doctrine can be an important factor when viewing how Bahá’ís structure their charitable and other bequests. While charitable giving

¹ The author gratefully acknowledges the help and assistance provided on this article by Shannon Javid, a member of the Bahá’í community.

is a key concept in the Bahá'í Faith, broad and equitable distribution of wealth influences Bahá'í thinking regarding patterns of living and giving, as well as estate planning. Thus, for a Bahá'í client, maximizing wealth to the next generation may not be their primary goal for estate planning, while they would naturally want to be lovingly equitably and consider provisions for future generations.

The Bahá'í Faith has no clergy, and the unfettered search for truth is one of the key Bahá'í principles. All Bahá'ís are responsible for reading, studying, and applying the Scriptures in their own lives. Only the Writings of the Founders of the Faith—the Báb and Bahá'u'lláh—and the interpretations of their designated successors—'Abdu'l-Bahá and Shoghi Effendi—are considered authoritative. Each individual Bahá'í strives to apply the teachings to their own situation. Thus, there may be significant variability in decision-making among Bahá'ís, such as in the case of estate planning. This is vital for advisors working with Bahá'í clients to understand.

Practice of Bahai Laws

Some laws (such as daily obligatory prayer, the annual 19-Day Fast, and a special type of charitable-giving called Huqúqu'lláh—the Right of God) are 'spiritually' mandatory; meaning that while they are expected acts of faith to be carried out by a believer (for their benefit), it is entirely left to the individual to choose to practice or not practice them. And the while Bahá'í institutions can encourage their practice and provide education, they have no authority to enforce them. All Bahá'í laws are found in the original sacred writings, including Bahá'u'lláh's Most Holy Book (the Kitáb-i-Aqdas). If the Scriptures and the rulings of the Universal House of Justice are silent on a point, Bahá'ís may make their own decisions in conformity with guiding principles of the Teachings.

Also, Bahá'ís often use the practice of consultation, to gain insight into applying the principles and teachings in varying circumstances. (The practice of consultation has unique implications and is explained below under "Conflict Resolution.")

Bahá'u'lláh reduced rituals to an absolute minimum, and prescribed only a few simple observances, such as the marriage and burial ceremonies. This results in considerable variability in application, while preserving a basic framework for practice.

Marriage and Divorce

Marriage is an integral part of the Bahá'í Faith, "a fortress for well-being and salvation," according to Bahá'u'lláh. Monogamous marriage is among the core building blocks of human society. Within a marriage, men and women are considered entirely equal. Interracial marriage is encouraged because it demonstrates the religious value of humanity's "oneness." Couples wed in front of two witnesses who are designated by the Local Spiritual Assembly. They must pledge to "abide by the will of God." Bahá'ís believe that this vow represents and implies all marriage commitments. Divorce is discouraged yet permitted in extenuating circumstances. Before a couple may officially divorce, they are encouraged to separate for a "year of patience," to see if affections re-emerge or differences resolve. After the conclusion of the year, if the couple still cannot reconcile, they may finalize the divorce.

Conflict Resolution

Bahá'ís use "consultation," a distinctive method of collective decision-making and truth-seeking, with the aim to arrive at wiser decisions, as well as foster unity. The method is the key to making decisions within Bahá'í administrative bodies, and individual Bahá'ís use consultation in making personal and family decisions. Consultation

combines the freedom and obligation to share one's views with the detachment to let go of one's ideas and thus be open to finding higher truth, as well as for the sake of the benefit of the whole. When facing a difficult decision, such as removing a family member from life support, consultation can help address each person's concerns and fears. The goal is to reach a unanimous decision, but if this is not possible, the majority opinion carries. In light of this concept, for example, the use of an 'in-terrorem' clause to force submission may not be preferred.

Charitable Giving

Giving to the Bahá'í Funds is a standard practice of devoted Bahá'ís, considered by them sacred and carried out voluntarily. The International Bahá'í Fund, administered by the Universal House of Justice, supports the faith internationally, as well as the maintenance of sacred shrines and other endowments at the Bahá'í World Center. National Bahá'í Funds and Local Bahá'í Funds are administered respectively by National Spiritual Assemblies and Local Spiritual Assemblies, and are used to support Bahá'í centers, schools, publishing trusts, educational and social service projects, and an array of other service activity. Giving to the Bahá'í Funds is restricted to the believers. Payments by Bahá'ís are made to: The National Spiritual Assembly of the Bahá'ís of the United States, which is an Illinois not-for-profit corporation. Its tax identification number is: 36-3981492. Its address is: 1233 Central Street, Evanston, IL 60201.

The focus is not on the amount given, but rather the spirit of sacrifice and the achievement of universal participation. As Shoghi Effendi stated, "Contributing to the Fund is a service every believer can render, be he poor or wealthy; for this is a spiritual responsibility in which the amount given is not important. It is the degree of sacrifice of the giver, and the love with

which he makes his gift, and the unity of the friends in this service which brings spiritual confirmations...” While giving to the funds is considered a Bahá’í responsibility, contributing to the fund is an entirely private, voluntary act.

Bahá’ís are spiritually obliged to make a different class of monetary payment known as Huqúqu’lláh, meaning “The Right of God.” The principle of Huqúqu’lláh is that 19% of one’s “excess wealth” belongs to God and should be returned, to be used for ‘the greater-good’. Huqúqu’lláh is a special fund placed solely at the disposal of the Universal House of Justice. This fund is used for the promotion of the Faith and its interests as well as for various philanthropic purposes, as stipulated in the Bahá’í Writings. The offering of the Right of God is left entirely to the conscience of each individual Bahá’í. As with the general Bahá’í Funds, no one is pressured or solicited to make payments.

“Huqúqu’lláh” was ordained by Bahá’u’lláh as a means to “purify one’s riches and earthly possessions.” Huqúqu’lláh is more than merely a means of raising charitable funds. Consistent with the concept of avoiding extremes of wealth or poverty, Huqúqu’lláh is a means of redistributing wealth. The Right of God also embodies the concept of each Bahá’í taking on a world embracing vision and wishing for the betterment of the entire world and all its peoples. In the United States, Bahá’í payments to Right of God are made to the “Bahá’í Huqúqu’lláh Trust.” Its tax identification number is 36-3297839 and mailing address is P. O. Box 697, Wilmette, IL 60091.

Certain assets are deemed exempt from Huqúqu’lláh, including a person’s primary residence, “needful” furnishings and living expenses, as well as “needful” business and agricultural equipment used to produce subsistence. The term “needful” is intentionally used as it requires an element of personal determination by the practi-

tioner. After deducting the exempt wealth, if the remaining excess exceeds a prescribed amount, 19% of it is due as Huqúq obligation. The payment is due only once on an amount. If an individual accrues additional excess wealth, then Right of God again falls due only on the increase. The wealth

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threshold amount on which Huqúqu’lláh is due is nineteen mithqáls of gold. A mithqáls is a measure of weight traditionally used in the Middle East. 19 mithqáls is equivalent to 2.224 troy ounces of gold, which - at current prices - is about \$3,800.

When wealth or assets increase Huqúqu’lláh is again calculated. The spiritual obligation to make this charitable payment is upon each individual Bahá’í. One Bahá’í cannot discharge another’s obligation to make this payment. However, a husband and wife may choose to address their obligations jointly or individually.

A Bahá’í’s final will should provide for the payment of any unpaid amounts for Huqúqu’lláh, as the concept is that a person practices it during their lifetime to receive its benefits while living. On occasion, in some cases, when someone passes-on, an estimate is done by applying 19% of the ‘remaining’ estate, after funeral and burial costs, and all outstanding personal debts are covered. However, an executor’s access to the deceased payment records, may in-

dicate part or all of the person’s Huqúqu’lláh has already been settled, and thus none may be due. It is also common for Bahá’ís to leave funds to other charities in their will or estate planning, as being charitable and aiding the advancement of society is a part of the DNA of Bahá’í identity. Estate planners will have to plan with the Bahá’í client to formulate a plan that has certainty as to the amount due Huqúqu’lláh to avoid ambiguity, potential claims against the executor, or even issues with qualification for an estate tax charitable contribution deduction.

The concept of Huqúqu’lláh originates from the pen of Bahá’u’lláh. The intent of it is to purify wealth. That is its function in this physical plane of existence and its material component for the individual participant. But the spiritual component, which is more important, is it can transform one’s attitude towards material wealth, and an aid one to overcome self-centeredness. When calculating a payment, one determines what is “excess” wealth above what is “needful.” In such a practice, one can come to learn what they really need and what is luxury. And thus, discover increased freedom from materialism. Its practice can also enable a desire to earn one’s livelihood in a pure way.

In a materialistic society it can transform peoples’ attitude, enabling them to be generous and find happiness independent of material life once one’s needs are met. On a psychological level it can enable a person to become less focused on material acquisition and be more spiritually oriented. These concepts do not suggest that Bahá’í cannot buy or own luxury items. Rather, the practice can enable a person to be less entrapped by materialism and more thoughtful of others. These concepts will infuse the estate plans of many Bahá’ís and practitioners should anticipate having these types of discussions to inform the estate plan.

Planning for Death and Burial

The Bahá'í Faith teaches that every person has a body and a soul. Death is viewed as only corporal, as it is the soul being freed from its physical confines into the spiritual afterlife. The spiritual worlds which exist after death are believed to be timeless and placeless and thus the soul which resides there is everlasting. According to the teachings of Bahá'u'lláh, "the world beyond is as different from this world as this world is different from that of the child while still in the womb of its mother." Bahá'ís view this life as preparation for the next life, just as the womb prepares the child for life in this world.

The religious community encourages members to keep a will outlining their wishes for their funeral services. Given some of the differences in Bahá'í traditions and those more common in Western culture it may be advisable to memorialize the details of funeral and burial customs in some detail in a liv-

ing will. Bahá'í law requires the burial to take place within one hour's travel time from the place of death. Burial is to take place as soon as possible after death, usually within days. During the funeral, Bahá'í texts and prayers are read, including a special prayer for the deceased. The service differs based on societal and cultural norms. Holding a simple and dignified service for the deceased are Bahá'í norms. The casket should be a durable material made of hard resistant stone, hardwood, or crystal, which is believed to be a means of honoring and respecting the body.

In states where a funeral agent can be named that should be considered. Given the potential costs of a traditional burial, practitioners might consider adding a statement in the will so that the executor has clear authority to pay for the costs involved. Since health care related documents are often available more quickly than a client's will delineating the Bahá'í

client's wishes in those documents may also be advisable.

Organ Donations. Organ donation and donation for medical research is permitted because it is viewed as a form of charity, an admirable value in the Bahá'í Faith. Organ donations are viewed as an "honorable choice." However, organ donations are an individual decision. If a Bahá'í does donate any of their organs, it is crucial that the rest of their body is properly and respectfully interned in accordance with Bahá'í practice.

Investment Standards

Bahá'ís abstain from alcoholic beverages, narcotics, and hallucinogenic drugs, unless physician prescribed. While it is not clear that Bahá'í doctrine would mandate that investment policies of Bahá'í avoid securities of companies specializing in these industries, restricting investments to avoid

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Journal Article Submission

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these may be a modification which an individual Bahá'í client might wish. If so, the investment provisions of a will or trust might include a specific modification to the prudent investor standard to preclude such investments.

Given the philosophical foundations of the Bahá'í Faith of world peace, unity, and other concepts discussed above, some Bahá'í clients might wish to add additional investment restrictions to preclude investment in defense contractors and the like. To avoid any ambiguity as to whether a socially oriented investment strategy is permitted under the applicable state law Prudent Investor Act, specific modifications might be made to the investment provisions of governing documents specifying any restrictions or other specific investment directions.

Living Will and Health Care Proxy

It is within each Bahá'í's personal discretion to determine if they want a living will or health proxy. There are no prohibitions from the Faith to the removal of life support in appropriate circumstances. The Bahá'í client may wish to name a health care agent familiar with the Faith, have a living will setting forth the religious and personal decisions, e.g., as to Bahá'í burial instructions.

Death is viewed as a joyous occasion. It is believed that one of the reasons the faithful are not told more about the next world, the "World of Splendor," or the "Abha" Kingdom, is because if people knew the splendor awaiting in the next life, they might accelerate the process of reaching it.

Bahá'í are called upon to honor life and honor their bodies. We are in this world for spiritual development. The soul, it is believed, is not affected by a person being in a vegetative state. There is much more going on than just a physical body. Whether the soul needs to stay directly connected to this

world, even if the body in which the soul resides is in a persistent vegetative state, is a matter to evaluate. People cannot determine what the soul may be experiencing and there could be merit for the soul remaining connected with the body. The decisions for a Bahá'í's 'living will' could invite careful

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thought of the pros and cons of continuing or ending medical 'life support' and offer criteria for such a consideration.

Health care decisions should preferably be made by the family in "consultation" (see above). In a health proxy, if state law provides that only one agent can be named, perhaps suggest - but not require - that the agent consult with the family and endeavor to consider the input from each person in a consultative process before deciding as to how to act. Provisions outlining Bahá'í funeral and burial practices in the final will, might also need to be addressed.

Investment and Gift Provisions

Investment provisions might also enable investment strategies consistent with the comments above, or other preferences. The gift provisions could be incorporated to reflect special needs of some children, educational support

plans, and/or other considerations. While wealth equalization among heirs may not be suited to various circumstances, as Bahá'ís strive for family unity, thoughtfulness regarding wealth distribution and explanation of desire and intent invites consideration. Charitable provisions should be addressed as a Bahá'í who is incapacitated may wish to continue their prior charitable goals.

Provisions concerning authority of an agent to commence lawsuits may be tempered by the concepts of consultation as defined above. Similar modifications may be considered for all documents.

Last Will

Will Required. According to Bahá'í law a last will and testament must be written. As stated by Bahá'u'lláh, "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."

Remember, as discussed above, the mantle of leadership of the Bahá'í Faith was passed twice to successive generations through designations in a predecessor leader's will. This historical context makes the writing of a will and testament a meaningful task for Bahá'í. Finally, the Bahá'í Faith advocates that wills include, in addition to provisions governing the transmission of wealth, statements of a spiritual nature. A testimony of faith is a key reason Bahá'ís write a final will, even if there are no material matters to be settled.

Wills Generally. A Bahá'í may wish to incorporate in their will the question of equitable treatment of heirs, as well as a societal objective of reducing the extremes of wealth and poverty. Prac-

tioners may have to determine whether such language may be more safely treated as precatory language to a will, relegated to a letter of instruction, or whether it can be incorporated into actual provisions in the instrument. Depending on the particular wishes, the plan may well incorporate a combination of these and even other mechanisms.

Dispute Resolution. The Bahá'í teachings encourage seeking consensus and strengthening harmonious relationships between people. An 'In Terrorem' clause or disinheritance may not be appropriate. Mediation consistent with Bahá'í principles may be preferable. But these decisions are up to the individual. The will should encourage the fiduciaries, family, beneficiaries or others involved to discuss issues in "consultation" and endeavor to understand and reconcile differing views without litigation.

Encouraging that Children be Reared as Bahá'ís. If there are minor children, trusts might provide for a means to encourage rearing of children as a Bahá'í, and this could include an emphasis on educational funding, subject to any public policy issues that might restrict such provisions. Given the use of institutional trustees, it is important to provide guidance, even if in terms of non-binding suggestions, for how a trustee should evaluate distributions to achieve the goals of transmitting his or her Bahá'í beliefs and values to children or other heirs.

Will Formalities. There are several formalities to adhere to a final will. The front/top of the will document should be adorned by the "Most Great Name," "God is the Most Glorious of the Glorious," or "O Glory of the Most Glorious," etc. This could be in traditional Persian calligraphy, or in English.

Revocable Trusts

Given the historical context of the use of wills in Bahá'í history, at least a pour-over final will should be used that includes the language and addresses the concepts above. In this case a client could 're-title' assets to avoid probate. The Bahá'í teachings call the writing of a will and testament, not that a will is needed to settle debt (personal or Huqúqu'lláh) or distribute wealth - as these can be settled in other ways - but making a testimony of faith and belief are essential for a Bahá'í. A final will and testament is the one of the best ways for a Bahá'í to achieve many purposes, in one document, and it need not be complex.

Conclusion

This article has endeavored to provide an overview of how estate and related planning might be tailored for a client of the Bahá'í Faith. ■