

# Islamic Inheritance Law and Its detail Analysis:

وَلِكُلِّ جَعَلْنَا مَوَالِي مِمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَالَّذِينَ عَقَدْتُمْ أَيْمَانَكُمْ فَأَتَوْهُم نَصِيبَهُمْ  
إِنَّ اللَّهَ كَانَ عَلَىٰ كُلِّ شَيْءٍ شَهِيدًا

For every parent and relative, We have appointed the rightful heirs to inherit what they leave. As for those with whom you have made firm agreements, give them their share, Surely, Allah is witness to everything.

Q4/33

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا  
مَا تَرَكَ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن  
كَانَ لَهُ وَلَدٌ فَإِن لَّمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَهُ أَبَوَاهُ فَلِأُمِّهِ الثُّلُثُ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ  
السُّدُسُ مِّن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ آبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ  
نَفَعًا فَرِيضَةٌ مِّنَ اللَّهِ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِن لَّمْ يَكُن لَّهُنَّ وَلَدٌ فَإِن كَانَ لَهُنَّ وَلَدٌ فَلَكُمْ الرُّبْعُ مِمَّا  
تَرَكَنَّ مِّن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ وَلَهُنَّ الرُّبْعُ مِمَّا تَرَكَتُمْ إِن لَّمْ يَكُن لَّكُمْ وَلَدٌ  
فَإِن كَانَ لَكُمْ وَلَدٌ فَلَهُنَّ الثُّمْنُ مِمَّا تَرَكَتُمْ مِّن بَعْدِ وَصِيَّةٍ تُوصُونَ بِهَا أَوْ دَيْنٍ وَإِن كَانَ  
رَجُلٌ يُورِثُ كَالْأَلَّةِ أَوْ امْرَأَةٌ وَلَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ فَإِن كَانُوا أَكْثَرَ  
مِن ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ مِّن بَعْدِ وَصِيَّةٍ يُوصَى بِهَا أَوْ دَيْنٍ غَيْرَ مُضَارٍّ وَصِيَّةً  
مِّنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَلِيمٌ

يَسْتَفْتُونَكَ قُلِ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ إِنِ امْرُؤٌ هَلَكَ لَيْسَ لَهُ وَلَدٌ وَلَهُ أُخْتٌ فَلَهَا نِصْفُ مَا  
تَرَكَ وَهُوَ يَرِثُهَا إِن لَّمْ يَكُن لَّهَا وَلَدٌ فَإِن كَانَتَا اثْنَتَيْنِ فَلَهُمَا الثُّلُثَانِ مِمَّا تَرَكَ وَإِن كَانُوا  
إِخْوَةً رِّجَالًا وَنِسَاءً فَلِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ يُبَيِّنُ اللَّهُ لَكُمْ أَن تَصِلُوا وَاللَّهُ بِكُلِّ شَيْءٍ  
عَلِيمٌ

**Quran 4/11, 12 &176:**

After giving detail in above Ayat how money/assets will be distributed to the heirs in different scenarios, Allah Says:

م وَصِيَّةً مِّنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَلِيمٌ.

**This is the commandment of Allah, Allah is Knowledgeable, Forbearing. Continuing on He Says in same Surah An-Nisa/ Ayat 13 and 14 as mentioned below:**

تِلْكَ حُدُودُ اللَّهِ وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ يُدْخِلْهُ جَنَّاتٍ تَجْرِي مِنْ تَحْتِهَا  
الْأَنْهَارُ خَالِدِينَ فِيهَا وَذَلِكَ الْفَوْزُ الْعَظِيمُ

وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَهُ يُدْخِلْهُ نَارًا خَالِدًا فِيهَا وَلَهُ عَذَابٌ  
مُّهِينٌ

**These are the boundaries/Limits set by Allah: Those who obey Allah and His Rasool will be admitted to paradise, beneath which river flow, to live there in forever, and that will be great achievement. But the ones who disobey Allah and His Rasool, and transgress His (HUDOOD) Boundaries/Limits, they will be cast to Hellfire to live therein forever. They shall have a humiliating punishment.**

Allah ﷻ is clearly telling us that do not cross the boundaries set by Allah in the matter of inheritance. Unfortunately when we think about crossing the (Hudood Allah), we mean other major sins, but do not consider matter of inheritance as the one in which Allah (SWT) Has set the Boundry.

Summarizing the above Ayat of Surah An-Nisa and Different Ahadith of Prophet (ﷺ), we conclude the following:

To write a will about the distribution of the wealth a Muslim leaves behind is an obligation in Islam. The inheritance needs to be distributed to the inheritors in accordance with verses: 11, 12 & 176 of surah An-'Nisa as mentioned above. However, many of us have our favorite causes to support or individuals to help, who are not classified by the Qur'an as heirs. Thus, Islam allows a person an option to make a **Will** over an amount **not exceeding** one-third (33.33%) of his wealth to donate for good causes or gift to individuals who are not among the inheritors, like a masjid, school, charity, grandchildren, relatives, or friends who need help.

If this discretionary Will or bequest of up to 1/3 of the inheritance is exercised, three conditions must be satisfied: (a) Proceed must be used only for legitimate purposes (a general rule), (b) The intention must not be to financially deprive any potential heir(s), and (c) Must **not** be used to benefit any known heir(s). Whether or not this option is exercised, the prescribed ratio in the Qur'an across the inheritors cannot be altered by any action or decision.

During life, a person also has a right to spend his wealth for any good purposes or transfer values to anyone he likes, including his potential heirs. Such a decision, however, will have no bearing on the distribution of the inheritance in the future, provided it meets two conditions: (a) Proceed will be used only for legitimate causes (a general rule), and (b) The intention must **not** be to financially deprive any potential heir(s).

The deceased has no discretion during his life to make a judgment about any inheritor or hold any prejudice against any individual that might have impact on his/her share. The inheritors are defined in the Qur'an purely on the basis of their relationships with the deceased and their shares are determined accordingly without consideration to anyone's behavior or financial capacity.

The general pool of heirs consists of four categories: (I) Parents, (II) Siblings, (III) Spouse, and (IV) Children. Siblings have share in the inheritance **only** if the deceased leaves behind neither parents nor children. They may be included in the Will, however. Thus, (II) is not applicable in the presence of (I) and/or (IV).

Process for distributing the inheritance:

Step 1: Pay off any loans or liabilities of the deceased, if any.

Step 2: Pay the funeral related expenses, if any.

Step 3: Implement the bequest, if the deceased has exercised that discretion.

Step 4: Distribute the balance over the heirs as prescribed in [Q, 4: 11, 12 & 176].

## **Detail Analysis of above points:**

One of the most overlooked, casual approach and confused problem in Muslim community, especially people living in non Islamic countries is distribution of Inheritance to their heirs after someone's death. Allah has done a great favor to

believers by Himself deciding the shares of Inheritance. As a human being we can never be 100% objective and do justice to our own family (sons, daughters, parents, brothers and sisters) and other relative, it is human nature that within our own kids, we love some more than the others due to some obvious reasons. If Allah had left us to decide who gets what from our inheritance, then imagine how much injustice we would have done to our family and the consequences of these injustices would destroy the every fiber of our family relationship and blood bath amongst our own kids.

### **IN SURAH “NISA” CHAPTER 4 ALLAH HAS DESCRIBED IN DETAIL THIS LAW OF INHERITANCE.**

Although Islamic law of inheritance is a complete subject of its own and readers are encouraged to read this surah, as well as get authentic knowledge from Islamic scholars in this subject. Then they will fully understand the logic behind this law (As it is from Allah, who has the ultimate knowledge and wisdom, it had to be the most fair system of inheritance).

I am just going to list few logic and wisdom behind this law, which is most commonly misunderstood especially by daughters/sisters.

1. As a believer when Allah and His Messenger command something, we simply say “We listened and obeyed”, no question asked.
2. Islam gives son twice amount from inheritance as compared to daughters. The reason, logic and wisdom behind are very clear. It has nothing to do with who is more valued in the sight of Allah. It does not mean that women have lower station, the idea behind is to align rights with responsibilities. Islam has solely given responsibility of earning livelihood of the family to men and not women, therefore the men should get more from inheritance. Secondly the responsibility of taking care of old surviving parents financially is on sons, not daughter. In addition women get “Mahr” from husband at the time of her marriage and that is her sole property. NOTE: In Islam a Mahr is a mandatory payment (mutually agreed by bride and groom or their family), in the form of money, property or any other possessions paid by groom to bride at the time of marriage, that legally becomes her property. It must be noted that most men do not pay this

amount to bride, which is against the Islamic law; it must be paid in full, unless women willingly, without any pressure forgives that right.

Based on that it is obvious why Allah decided this distribution of share between a son and daughter.

1. Allah has allowed  $1/3^{\text{rd}}$  value of your inheritance at your discretion to give to somebody who is not entitled to get inheritance according to Islamic Sharia. Like some close relative, you think deserves some money, or to charity, like hospitals, mosques, orphanage, water wells etc. This is called "Wasiya" in Islam. It must be noted that this Wasiya of 33% is maximum; scholars prefer to be about 25% of the total inheritance value. Also if not much wealth is available as inheritance then, it is better not to do any Wasiya and leave everything for your heirs. According to Hadith of Prophet (S.A.W), do not give to other charitable causes so that your children become poor and beg for money. It must be noted that distribution of inheritance will be done only after fulfilling the "Wasiya" if any as mentioned above and paying off any loan or debt if that dead person has.

Also make sure if you are giving some money/property or any wealth to your kids in your life time then, following two things must be consider:

3. You should give same to all the kids' regardless of sons or daughters if they are your dependent (small children). Do not give preference one on other (That is between sons, daughters or between sons and daughters). The difference in shares between sons and daughters is only in inheritance wealth after your death, because of Allah's commandment. In your lifetime there is no difference between them.

But in extra ordinary circumstances, you can give your money/property not equally to your sons and daughters in your life, for example if one of the son is not educated as others or is handicapped, you daughter is married to a husband who is facing financial difficulties etc)

4. It is wrong to believe that Islamic inheritance law cannot be implemented in USA, CANADA, and EUROPE etc. Check good

Islamic inheritance lawyers in your area. These countries and states allow having Islamic inheritance law as long as certain conditions are met. The main condition required is that your wife has consent to this Islamic distribution.

**Please take this issue of Islamic inheritance very seriously; it is Allah law and His Boundary. Not following this is a grave sin and it is also infringement in “Haqooq ul ibad” (rights of your fellow human being, in this case it is right of your heirs on you). Allah may forgive His rights (Haqooq ul Allah), but will not forgive your fellow beings right unless he/she forgives and we know on the Day of Judgment nobody even your mother will not forgive anything as everybody will be dying to even get one small good deed from anywhere.**

**Remember if all along, you have been working within the boundaries set by Allah in Quran and Sunnah in terms of Worship/Ibadat (Salah, Zakat, Fasting, Hajj etc) and all other Rights of other you are fulfilling (I.e Parents, family members, neighbors and in your business dealings etc), but just before death you violated Allah’s rule in terms of inheritance for the love or hate for some of your heirs, your all good deeds of your life can be multiplied by zero. What a great loss and regret you will have on the Day of Judgment?**

**Also remember when you are dead and in the grave, you will not be concern about worldly life you left behind. You will be worried about your accountability of your deeds you did in your life time and no going back to correct deeds, your time is gone forever. So why cross Allah’s boundary in matter of inheritance just to please someone who may not even make Dua for your forgiveness and you will not even know how he/she is living their lives as you are totally cut off from this world.**

**Note 1: Remember when you have passed away, the first thing is taken away from you is your name. Nobody calls you by name; they identify you by calling “Dead body” like Dig the grave for the dead body, give bath to the dead body etc. Similarly right after your death all the assets you had is no more yours, because it was given to you in this world by Allah (SWT) as an “Ammana” (you**

being its trustee) and as soon you die it goes back to Allah as He is the actual owner inheritor of everything in heavens and earth.

وَمَا لَكُمْ أَلَّا تُنْفِقُوا فِي سَبِيلِ اللَّهِ وَلِلَّهِ مِيرَاثُ السَّمَاوَاتِ وَالْأَرْضِ لَا يَسْتَوِي مِنْكُمْ مَنْ أَنْفَقَ مِنْ قَبْلِ الْفَتْحِ وَقَاتَلَ أُولَئِكَ أَعْظَمُ دَرَجَةً مِنَ الَّذِينَ أَنْفَقُوا مِنْ بَعْدُ وَقَاتَلُوا وَكُلًّا وَعَدَّ اللَّهُ الْحُسْنَىٰ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ

“-----To Allah belongs the inheritance of the heavens and earth-----“

[Q57/10].

Since He is the real owner, then distribution of your wealth must be done according to His commandments and you had absolutely no say in it. It is Mercy of Allah ﷻ that He gives you authority that 33% of your wealth can be distributed according to your wishes in the form of written “Wasiya” [WILL]

Note2 : It must be noted that in Islamic Inheritance law sons and daughters share described is same regardless of their age. Also an unborn child in Mother’s womb has a same share in inheritance as born children. Islamic scholars have said since we do not know the sex of unborn child, therefore child share would be treated as a boy (to be on the safe side). Please make sure you check this statement on unborn child with an Islamic scholar.