

ISLAMIC INHERITANCE AND WILLS (PART 2 OF 2):WHO ARE THE INHERITORS?

Rating:

Description: The Quranic verses outlining the inheritors and a reminder of the importance of giving in charity throughout one's life, not just at the end.

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In this article we will examine inheritance, paying particular attention to rights and responsibilities as defined by Islamic law. The money and the property that we possess in this life is a trust from God and our responsibility to use it for His sake extends beyond our death, for on the day of Judgement we will surely be asked about our wealth and how we spent it.

The two feet of the son of Adam will not move on the Day of Judgement in front of his Lord until he is asked about five things: about his life, and how he lived it? About his youth, and how he lived it? And about his money, how did he earn it? And what did he spend it on? And what did he do with his knowledge?^[1]

In Islam the heirs to a person's estate can take two forms. There are the fixed share inheritors, these are those whose percentage of the share is explicitly mentioned in Chapter 4 of the Quran (for example, for the husband, half or one-fourth, depending upon if there are children or not), and there are the residual inheritors, who will receive the balance of the estate once the fixed shares have been calculated.

“God commands you as regards your children's (inheritance): to the male, a portion equal to that of two females; if (there are) only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is a half. For parents, a sixth share of inheritance to each if the deceased left children; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers (or sisters), the mother has a sixth. (The distribution in all cases is) after the payment of legacies he may have bequeathed or debts. You know not which of them, whether your parents or your children, are nearest to you in benefit; (these fixed shares) are ordained by God. And God is Ever All-Knower, All-Wise.” (Quran 4:11)

Islamic scholars have derived several essential instructions from this verse, the most important being:

- Debts and bequests are taken from the estate before division amongst the heirs.

- A son receives twice as much as a daughter.
- If the deceased children are female only they receive two-thirds of the estate divided equally among them. The leftover would also be returned to them if there are no residual heirs.
- If the deceased is survived by only one daughter, she receives half the estate. The leftover would also be returned to them if there are no residual heirs.
- If there are children, parents receive one-sixth of the estate each.
- In the absence of children, if the deceased leaves siblings, (maternal or paternal) the mother then receives one-sixth.
- In the absence of children and siblings the mother then receives one-third of the estate.

“In that which your wives leave, your share is a half if they have no child; but if they leave a child, you get a fourth of that which they leave after payment of legacies that they may have bequeathed or debts. In that which you leave, their (your wives) share is a fourth if you leave no child; but if you leave a child, they get an eighth of that which you leave after payment of legacies that you may have bequeathed or debts. If the man or woman whose inheritance is in question has left neither ascendants nor descendants, but has left a (maternal) brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third, after payment of legacies he (or she) may have bequeathed or debts, so that no loss is caused (to anyone). This is a Commandment from God; and God is Ever All-Knowing, Most-Forbearing.” (Quran 4: 12)

Once again Islamic scholars have derived a number of rulings from this verse.

- If a married woman dies without children her husband receives half of her estate; if there are children he receives one-fourth.
- A wife is a woman who was married to the deceased when he died. If there is more than one (maximum four) their share is divided equally. A wife's share of her husband's estate is one-quarter – if there are no offspring; if there are, her share is one-eighth.
- The shares for males and females of the same rank (brother and sister, son and daughter etc.) are that the males receive twice as much as the females.
- The maternal siblings are the only exception to the above rule. If there is only one maternal sibling, he or she receives one-sixth. If there are two or more, they share one-third.

What is becoming more and more obvious, as we learn about the Islamic rules of inheritance is that it is a bit complex. It is for this reason that it is wise to both research and get advice from someone familiar with the Islamic laws of inheritance. The complexity also serves to remind us of the importance of making a will. When the rules have been so explicitly set out by God Himself, it would be unwise to leave the handling of an estate to someone not familiar with the deceased wishes or rules set by God.

Finally, when preparing for, or writing a will take into consideration the way the Prophet Muhammad, may the mercy and blessings of God be upon him, and his companions disposed of their wealth.

A man came to the Prophet and asked, *“Which charity is the most superior in reward?”* He replied, *“The charity which you give out while you are healthy and are afraid of poverty and wish to become wealthy. Do not delay it to the time of approaching death and then say, ‘Give so much to such and such, and so much to such and such.’”*^[2]

- Do not delay giving charity until you feel unwell and fear that death may be approaching. Because, at death it becomes too late, for your wealth is no longer yours, it belongs to your inheritors.
- Your wealth is yours to dispose of in whatever way that you see fit. If there are people or organisations or charities you would like to help you can do this at any time. There is no need to wait for your death or impending death.

Footnotes:

[1] *At Tirmidi.*

[2] *Saheeh Al-Bukhari*

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