

Understanding the Law of Inheritance of the Qur'an

Written by Mojz Amjad and edited and slightly modified

Translation of the Related Verses

The law of inheritance has been given in the Qur'an in Surah Al-Nisaa (the fourth chapter) verses 11 & 12 and then in verse 176. The translation of the related portions of these verses (as I understand them) is given below:

4:11:

"Allah enjoins you about [the share of inheritance of] your children: A male's share shall equal that of two females -- in case there are only daughters, more than two shall have two-thirds of what has been left behind. And if there be only one daughter, her share shall be half -- and if the deceased has children, the parents shall inherit a sixth each, and if he has no children and the parents are his heirs then his mother shall receive a third, and if he has brothers and sisters then the mother's share is the same one-sixth. [These shares shall be distributed] after carrying out any will made by the deceased or payment of any debt owed by him (the deceased). You know not who among your children and your parents are nearest to you in benefit. This is the law of Allah. Indeed Allah is wise, all knowing."

4:12:

"You shall get half of what your wives leave, if they die childless. But if they do have children, your share shall then be a quarter of what they leave after carrying out any will made by the deceased or payment of any debt owed by her. And they (your wives) shall have a quarter of what you leave, if you die childless. But in case you have children, they shall then get one-eighth of what you leave, after carrying out any will made by you or payment of any debt owed by you (the deceased). And if a man or a woman is made an heir on account of his [or her] kalalah relationship [with the deceased] and he [or she] has one brother or sister, the brother and sister shall each receive a sixth and if they be more than two, they shall then share in one-third, after carrying out any will that had been made by the deceased or payment of any debt owed by him -- without harming anyone. This is a command from Allah and Allah is all-knowing, most forbearing."

4:176:

"They ask you. Say: Allah enjoins you about your kalalah heirs that if a man dies childless and he has only a sister, she shall inherit half of what he leaves; and if she dies childless, then her brother shall be her heir; and if there are two sisters, they shall inherit two-thirds of what he

[or she] leaves. If there are many brothers and sisters, the share of each male should be that of two females. Allah makes [His commands] clear to you, so that you do not err. Allah has knowledge of all things."

A Brief Explanation of the Law

According to these verses of the Qur'an The first right on the property of the deceased is that of the creditors. After the payment to the creditors, any will made by the deceased shall be executed. The remainder of the property and assets of the deceased, if any, shall be distributed among the inheritors in the specified proportions.

Two Categories of Inheritors

A close analysis of these verses shall show that according to this law, there are basically two kinds of inheritors:

1. Inheritors who are to be given a fixed proportion of the total inheritance; and
2. Inheritors who are to share, in a specified proportion, the balance of the inheritance after the share of inheritors of the first category has been given.

The first category of inheritors includes parents¹ (in case a person has any children or brothers and sisters) and spouse². On the other hand, the second category of inheritors includes children³, brothers and sisters⁴ (in case a person dies childless) and parents⁵ (in case a person has neither children, nor brothers and sisters).

It simply means that in case any or all inheritors of the first category are present, first they shall be given their stipulated portion of the inheritance. The balance of the inheritance shall then be distributed among the second category of inheritors, according to their specified proportion. On the other hand, in case any or all of the inheritors of the first category do not exist, then all the property and assets of the deceased shall be distributed among the inheritors of the second category, according to the stipulated principle or according to their specified shares.

The Shares

Shares of the Inheritors of the First Category

Parents

The share of the parents (as inheritors of the first category, i.e., when the deceased has either children or brothers and/or sisters) shall be one-sixth each⁶.

Spouse

The shares of the spouse⁷ are as under:

In case of Husband:

1. If the wife dies childless -- half of the total property and assets of the wife
2. If the wife had any children -- a quarter of the total property and assets of the wife

In case of Wife:

1. If the husband dies childless -- a quarter of the property and assets of the husband.
 - 1.1. **The husband must leave/bequeath for her enough to live for one year in their residence.**¹
2. If the husband had any children -- one-eighth of the property and assets of the husband.
 - 2.1. **The husband must leave/bequeath for her enough to live for one year in their residence.**

Shares of the Inheritors of the Second Category

Children

The deceased's children shall share in the balance of the property and assets of the deceased, after the stipulated shares of all the inheritors of the first category have been given. The share of the deceased's children⁸ is as follows:

1. If there are both sons and daughters -- the share of each son shall be double that of each daughter, in the balance of the property and assets of the deceased after the shares of the first category of inheritors is given..
2. If there are only sons -- all the sons shall share equally in the balance of the property and assets of the deceased after the shares of the first category of inheritors is given.
3. If there is only one son -- he shall take all the balance of the property and assets of the deceased after the shares of the first category of inheritors is given.
4. If there is only one daughter (and no other children) -- she shall get half of the balance of the property and assets of the deceased after the shares of the first category of inheritors is given.
5. If there be two or more daughters (and no sons) -- they shall share equally in two-thirds of the balance of the property and assets of the deceased after the shares of the first category of inheritors is given.

¹ 2: 240 : Those of you who die and leave widows should bequeath for their widows a year's maintenance and residence; but if they leave (the residence) there is no blame on you for what they do with themselves provided it is reasonable and Allah is Exalted in Power Wise.

Brothers And Sisters

According to verse 176, in case the deceased is childless, and has any brothers and/or sisters, the share of brothers and sisters of the deceased shall be exactly the same as that of his sons and/or daughters respectively, if he had any. Thus the share of the brothers and sisters shall be as under:

1. If there are both brothers and sisters -- the share of each brother shall be double that of each sister, in the balance of the property and assets of the deceased after the shares of the first category of inheritors is given..
2. If there are only brothers -- all the brothers shall share equally in the balance of the property and assets of the deceased after the shares of the first category of inheritors is given.
3. If there is only one brother -- he shall take all the balance of the property and assets of the deceased after the shares of the first category of inheritors is given.
4. If there is only one sister (and no other brothers and/or sisters) -- she shall get half of the balance of the property and assets of the deceased after the shares of the first category of inheritors is given.
5. If there be two or more sisters (and no brothers) -- they shall share equally in two-thirds of the balance of the property and assets of the deceased after the shares of the first category of inheritors is given.

Parents

In case a person has neither children nor brothers and/or sisters then his parents shall share the balance of his property and assets after satisfying the claims of the inheritors of the first category⁹ (in this case, the spouse of the deceased).

"Kalalah" Inheritors

Besides the stated relations (i.e., children, parents, brothers and/or sisters and spouse), the Qur'an has also referred to another kind of relations -- the "Kalalah". In the Arabic language, the word "Kalalah" is used in different meanings. In verse 12, it is used for relations other than the parents and children of a person.

Thus, if a person wants to add any kalalah relative (brothers and/or sisters, in the presence of children, and maternal and/or paternal aunts and uncles etc.) with the inheritors specified in the Qur'an¹⁰, in their absence¹¹ or after their share has been given¹², he can do so by nominating the desired person. Such nomination cannot be made for any of the persons whose share has been specified in the Qur'an; neither can such nominations alter any of the shares specified in the Qur'an.

According to the Qur'an, if any one has made such a nomination in favour of any of his kalalah relatives, the following rule shall apply¹³:

1. If the nominated person has one brother and/or one sister, then a sixth each of the nominated amount shall be given to this brother and/or sister. The balance of the nominated amount shall be given to the nominated person.
2. If the nominated person has more than two brothers and/or sisters they shall all equally share one-third of the total nominated amount and the balance of the nominated amount shall be given to the nominee.

What About the Balance?

According to our understanding of the law of inheritance given in the Qur'an, there can be certain instances where a portion of the wealth of the deceased is left over after all the heirs have been given their shares. In the same way, if a childless person has neither brothers and/or sisters nor parents, a significant portion of his wealth shall remain undistributed. One solution to this problem, as indicated above, is that the Qur'an has directed the person to make someone his heir. But in case, the person has not done so, then what is to be done with the remaining balance?

“It is prescribed for you, when death approaches one of you and if he has some goods to leave, to make a will in favour of his parents and close relatives, correctly and fairly: a duty for all those who guard against evil.” (2:180)

And: -

“If other relatives or orphans or poor people attend the sharing-out, provide for them out of it and speak to them correctly and courteously.” (4:8)

So if something is left from the defined categories, after the payment of debts, then the excess can go to the needy of the other relatives that there may be.

This is the law of inheritance of the Qur'an.

1

Regarding the share of the parents, the Qur'an says:

...if the deceased has children, the parents shall inherit a sixth each, and if he has no children and the parents are his only heirs then his mother shall receive a third, and if he has brothers and sisters then the mother's share is the same one-sixth.

If we look at this part of the verse closely, we shall see that in case the deceased has any children or, in the absence of children, has any brothers and/or sisters, the parents are to receive a fixed share (one-sixth each) of the total inheritance. Thus, we may conclude that in the presence of either children or brothers and/or sisters of the deceased, the parents get a fixed share in the total inheritance.

From the last line of the referred part of this verse, which says that the share of the deceased's mother is returned to the original share (i.e., the share stipulated for the mother in case the deceased had any children -- one-sixth), one may easily derive that if a person dies childless but has any brothers and/or sisters:

the share of the deceased's father will also be one-sixth, which is the original share of the deceased's father (i.e., the share stipulated for the father in case the deceased had any children -- one-sixth); and the brothers and/or sisters of the deceased shall take the same position, with regards to inheriting the deceased's property, as would have been the position of the deceased's children, if he had any. The statement of Verse 176, clearly supports this derivation.

Both these derivations can be made on the simple basis that in case of a childless person, if he has any brothers and/or sisters the share of the mother has been returned to what her share would have been if the deceased had any children.

2

Regarding the share of the spouse, the Qur'an says:

You shall get half of what your wives leave, if they die childless. But if they do have children, your share shall then be a quarter of what they leave after carrying out any will made by the deceased or payment of any debt owed by her. And they (your wives) shall have a quarter of what you leave, if you die childless. But in case you have children, they shall then get one-eighth of what you leave

According to the referred part of the verse, in case a woman dies childless, the husband shall get half of her property and assets. While if she has any children, her husband's share shall be one-fourth. On the other hand, if a man dies, his wife shall get a quarter of his property and assets, if he dies childless, while she shall get one-eighth if he has any children.

3

The share of the deceased's children has primarily been mentioned in the following words:

Allah enjoins you about [the share of inheritance of] your children: A male's share shall equal that of two females...

(For the purpose of understanding the verse more easily, its remaining part that relates to the share of a person's offspring -- i.e., in case there are only daughters, more than two shall have two-thirds of what has been left behind. And if there be only one daughter, her share shall be half -- is not yet being considered. This part of the verse shall be considered in detail, later.)

If the commandment of the Qur'an, regarding the law of inheritance had ended here, it would have meant that the total property and assets of the deceased are to be distributed among his/her children, according to the principle that each male child gets double the share of every female child. For example, if someone says: "This money is to be distributed among your children equally", it would simply imply that: 1) the money is to be distributed among all the children, according to the principle of equality; and 2) no one except the "children" has a right on the total money. In the same way, if someone says: "This money is to be distributed among your children in such a way that each female child gets half of what each male child gets", there shall be no change in the two stipulated implications of the sentence, except that in the latter case the principle of distribution, rather than "equality" shall be "each female gets half of what each male gets".

But, as a matter of fact, the commandment of the Qur'an does not end here. The Qur'an has mentioned a few other relations, like the parents and the spouse of the deceased, who are to be given a specified portion of the deceased's property. But the words used in describing the shares of the relations other than the children of the deceased are such that clearly imply that the other relations are to be given a fixed proportion of the total property and assets of the deceased, while his/her children are to share the balance of the property remaining after the share of the other relations has been given.

Suppose someone says: "Distribute this money equally among your children; give one-third of it to your parents". Obviously the implication of this sentence is quite clear. It simply means that first, one-third of the total money should be given to the parents and the remaining amount (two-thirds of the total) should be distributed equally among the children. In the same way, if someone says: "Distribute this money among your children in such a way that each girl gets half of what each boy gets; give one-third of it to your parents and a quarter of it to your wife", it would simply mean that after giving one-

fourth of the money to the wife and one-third to the parents, the remaining five-twelfths is to be distributed among the children in such a way that each boy gets the double of what each girl gets. It also means that if the person does not have either or both the parents and the wife, the total money would then be distributed among his children according to the given principle.

The directive of the Qur'an is quite similar to the above example statements. In a simplified form, it says that the deceased's children are to share the property on the principle that each male child gets double the share of each female child; parents are to get one-sixth each; and the deceased's wife is to be given one-eighth. This simply means that the deceased's mother, father and wife are to be given one-sixth, one-sixth and one-eighth of the total property respectively. The remaining balance ($13/24^{\text{th}}$) shall then be distributed among the children according to the stipulated principle.

From the above, it can easily be seen that according to the law of inheritance of the Qur'an, Children of the deceased are to share in the balance of the property and assets according to the specified principle, after the shares of the first category of inheritors has been given.

4

Verse 176 states:

...if a man dies childless and he has only a sister, she shall inherit half of what he leaves; and if she dies childless, then her brother shall be her heir; and if there are two sisters, they shall inherit two-thirds of what he [or she] leaves. If there are many brothers and sisters, the share of each male should be that of two females...

If we compare the shares of the brothers and sisters of the deceased (if he dies childless) as given in verse 176 with that of the deceased's children (if he had any) given in verse 11, we can easily see that in verse 176, the share of sons has been replaced by that of brothers and the share of daughters by that of sisters. In other words, we may say that in the absence of children, the brothers and sisters of the deceased take the place of his sons and daughters, with regards to the share in the property and assets of the deceased.

The words describing the shares of the brothers and sisters of the deceased (in case he dies childless) in verse 176 are also quite similar to those describing the shares of his sons and daughters in verse 11. We can therefore safely say that in the absence of the deceased's children, after the property and assets of the deceased have been distributed among the inheritors of the first category, the balance of his inheritance shall be distributed among his/her brothers and sisters.

5

From the last two explanatory notes, it may be summed up that after the shares of the first category of inheritors have been given, the balance of the property and assets of the deceased is to be distributed among his children, according to the principle that each male gets double the share of each female. In the absence of the deceased's children, this balance is to be distributed among his brothers and sisters, according to the same male/female proportion. Now, the question is what will happen to this balance, in case the deceased has neither children nor brothers and/or sisters. The Qur'an says that in such a case, the parents, who originally were inheritors of the first category, will now take the balance of property and assets of the deceased and thus, in this case, become inheritors of the second category:

...if the deceased has children, the parents shall inherit a sixth each, and if he has no children and the parents are his heirs then his mother shall receive a third, and if he has brothers and sisters then the mother's share is the same one-sixth...

As is clear from this portion of the verse, the share of the parents is one-sixth each, if the deceased has any children or, in the absence of children, any brothers and sisters. But if the deceased has neither children nor brothers and/or sisters then the parents are the heirs. Thus, after the share of the deceased's spouse has been given, the remainder shall be given to the parents. This is the obvious implication of the following portion of the referred verse:

...if he has no children and the parents are his heirs then his mother shall receive a third...

6

The Qur'an says:

...if the deceased has children, the parents shall inherit a sixth each, and if he has no children and the parents are his heirs then his mother shall receive a third, and if he has brothers and sisters then the mother's share is the same one-sixth...

The share of parents in case the deceased has any children is quite obvious (i.e., one-sixth each). In case a person dies childless but has any brothers and/or sisters the mother's share is given in this verse to be one-sixth, but the father's share is not mentioned here. Thus, someone may ask: what shall be the share of the deceased's father in such a case?

The father's share, in this case, like that of the mother, is also returned to its original amount (i.e., what his share would have been if the deceased had any children). Thus, the father's share shall also be one-sixth. This is also supported by the directive of verse 176, from which it is quite clear that in the absence of the deceased's children, his/her brothers and sisters shall be treated exactly like his/her children. Thus, the share of parents, mother and father, of a childless deceased, in the presence of his/her brothers and/or sisters is the same as it would have been if he had any children.

7

According to the Qur'an:

You shall get half of what your wives leave, if they die childless. But if they do have children, your share shall then be a quarter of what they leave after carrying out any will made by the deceased or payment of any debt owed by her. And they (your wives) shall have a quarter of what you leave, if you die childless. But in case you have children, they shall then get one-eighth of what you leave.

According to the referred part of the verse, in case a woman dies childless, the husband shall get half of her property and assets. While if she has any children, her husband's share shall be one-fourth. On the other hand, if a man dies, his wife shall get a quarter of his property and assets, if he dies childless, while she shall get one-eighth if he had any children.

8

The sentence: "Allah enjoins you about [the share of inheritance of] your children" is a prelude to the sentence: "A male's share shall equal that of two females".

Had this commandment ended on the words "A male's share shall equal that of two females", then it would have meant:

1. If the children of a deceased are only a boy and a girl then the boy shall receive twice as much as the girl.
2. If there are more than one boy and one girl, then the inheritance shall be divided among them in a manner that each boy receives twice the share of a girl.
3. If there are only boys or only girls then they shall be the inheritors of the whole.

The third case is also, quite evidently, an essential outcome of the style and pattern of the verse. For example, if someone says: "This money is to be distributed among beggars and a male beggar is to be given twice the amount given to a female beggar", it would simply mean that the money is actually meant for the beggars; whether the beggars are only male, only female or a combination of the two, all the money shall be distributed among them.

But the directive of the Qur'an does not end here; an exception immediately follows, thereby amending it.

The sentence: "in case there are only daughters: more than two shall have two-thirds of what has been left behind [as inheritance]" is an exception to the words: "A male's share shall equal that of two

females". Now the whole sentence, including the exception, means that if among the children of the deceased there are only girls, whether two or more, then their share shall be two-thirds of the total inheritance. The words: "And if there be only one daughter, her share shall be half [of what is left behind as inheritance]" are co-ordinated to this exception by the copulative "and", and thus do not form an independent clause.

It may be noted here that we have taken the words of the Qur'an: "more than two shall have two-thirds" to stand for "two or more than two daughters". The reason is that the words: "two or" have been suppressed before the words "more than two". This suppression is due to the style and pattern of the Qur'anic language. If closely observed, it shall be seen that the share of daughters in the verse are stated in the descending order. Now, if it was desired to mention the share of two girls separately, even though it was the same as that of more than two girls, there could only have been two possible constructions for the particular sentence:

- two or more than two shall have two-thirds of what has been left...; or
- more than two or two shall have two-thirds of what has been left...

if the choice was made in favour of the first sentence, it would have spoiled the descending order of the description; while the second sentence would have meant non-idiomatic Arabic, just as the translation is un-idiomatic English.

Thus, the Qur'an which is neither willing to sacrifice the style and quality of its language nor likes to do away with the logical sequence of its commandments has suppressed the words: "two or" in the said verse. However, this suppression has not created any confusion whatsoever. It is quite obvious that the referred verse implies that if a person dies leaving behind two or more daughters, his inheritance shall be distributed in all his daughters, whether they are two or more than two, in such a way that each girl gets an equal share of the two-thirds of the total inheritable property.

This fact is further substantiated by verse 176. A close analysis of verse 176 shows that it has prescribed exactly the same shares for the brothers and sisters of the deceased (in case he dies childless) and exactly the same rules for such distribution, as had already been prescribed for the sons and daughters of the deceased (if he had any children) in verse 11. The only difference is that in verse 176 the Qur'an has described these shares in the ascending order. A combined study of the two referred verses, not only helps in filling in the blanks of these verses, if they are studied independently but also gives the careful reader an idea of the style of the Qur'anic language. The relevant portions of the two verses has been reproduced below for a quick reference.

Verse 11 states: "Allah enjoins you about [the share of inheritance of] your children: A male's share shall equal that of two females -- in case there are only daughters [who inherit]: [two or] more than two shall have two-thirds of what has been left behind [as inheritance]. And if there be only one daughter, her share shall be half [of what is left behind as inheritance]"

Verse 176 states: "Allah enjoins you about your kalalah heirs that if a man dies childless and he has only a sister, she shall inherit half of what he leaves; and if she dies childless, then her brother shall be her heir; and if there are two sisters, they shall inherit two-thirds of what he [or she] leaves. If there are many brothers and sisters, the share of each male should be that of two females.

The common points in these verses are:

- if there are males as well as females, a male's share shall equal that of two females
- the share of one sister, if she is alone, is the same as that of one daughter, if she is alone

Besides these two common points another important commonality in the two situations is that the share of the parents of the deceased is the same (one-sixth), i.e., in case a person who has some children dies, and his parents are alive, the share of his parents shall be one-sixth. Again, his parents would get the same share if the person dies childless but has some brothers and sisters. Whereas, if neither of the two (i.e., brothers/sisters or sons/daughters) exist then the share of the parents shall be different.

These three common features point to the fact that in case a person dies childless, his brothers and sisters substitute his children, with regards to their prescribed shares in their inheritance.

Keeping this in mind, all the blanks (if any) of the two referred verses can be easily filled. For instance:

1. On the basis of verse 11, we may say that if there are more than two sisters, they shall have equal shares of two-thirds of the inheritable property (although this is quite obvious if verse 176 is read with care independent of verse 11).
2. On the basis of verse 176, we may say that if there are two daughters, they shall have equal shares of two-thirds of the inheritable property (although this is also quite obvious if verse 11 is read with care independent of verse 176).
3. On the basis of verse 176, we may say that if there is only one son, he shall get the whole inheritable property (this again is quite obvious in verse 11, even if it is read independent of verse 176, as has been shown in the illustration of "distribution of money among beggars" above.)

9

According to the Qur'an:

...if he has no children and the parents are his heirs then his mother shall receive a third...

One may ask: what shall be the share of the father in such a case. A close look at the above sentence shall itself provide an answer. If someone says: "This money is to be given to Mr. A and Mr. B; Mr. A should get a quarter of it", it would obviously mean that the remainder three-fourths is for Mr. B. By the same token, when the Qur'an says: "if the deceased's parents (A and B) are his only heirs, then the mother (A) shall receive a third", it obviously means that the father (B) shall receive the remaining two-thirds.

10

For instance, a person may say that besides the stipulated shares of his parents (one-sixth each) and his wife (one-eighth) he wants one-eighth of his property and assets to be given to one of his brothers or sisters (in the presence of children), or an aunt or an uncle.

11

For instance, a person who has no children, brothers and/or sisters or parents may leave his property and assets to any of his aunts, uncles or cousins.

12

There can be some instances where the total property and assets of the deceased are not distributed after all the inheritors have been given their specified share of inheritance. Some of these instances are as under:

- Where a person has one or more daughters but no sons -- in this case half or one-third of the balance of the property and assets of the deceased, after giving the shares of the inheritors of the first category may remain undistributed.
- Where a childless person has one or more sisters but no brothers -- in this case half or one-third of the balance of the property and assets of the deceased, after giving the shares of the inheritors of the first category may remain undistributed.
- Where a childless person who has no brother or sister has either of two parents -- in this case one-third (if he has a father but no mother) or two-thirds (if he has a mother but no father) of the balance of the property and assets of the deceased, after giving the shares of the inheritors of the first category may remain undistributed.

In any of these instances, a person may nominate any of his relatives to take the remaining part of his property and assets.

13

The Qur'an says:

...And if a man or a woman is made an heir on account of his [or her] *kalalah* relationship [with the deceased] and he [or she] has one brother or sister, the brother and sister shall each receive a sixth and if they be more than two, they shall then share in one-third...