

# **Inheritance Law in Islam and Women**

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Inheritance is the transfer of legal possession of deceased persons onto their descendants. It is really a very tough job to determine the justified quantity or ratio of assets to be distributed among the dependants and relatives.

According to the Confucious philosophy like many other religions the eldest son enjoys the right of possessing the total assets of father (that is called the 'right of primogeniture'). Other systems prevalent throughout the world, with a very little variation, are very much one eyed towards women and in other words unjustified.

According to the Encyclopaedia Americana, in English Common law all the real property held by a woman at the time of her marriage became the property of her husband-he was entitled to the rent from the land and any profit that might be made from managing it. It was not until the late 1870s onwards in Europe that married women achieved the right to enter contracts and own property. In France this right was not recognized until 1938. Many western writers have expressed astonishment that Islam should have recognized property rights for women as early as the 670th CE; this is because they wonder how Muhammad (SAWS) could have initiated these rights for women at a time when women themselves were considered object of inheritance and abuse. They forget that Prophet Muhammad (SAWS) himself was not the maker of these laws, but it was Allah (SWT) who acts unbiased to any social environment. (Ref. G-15; The Islamic Teaching Course; Vol. 3).

During the time of Prophet (SAWS) women themselves were objects of inheritance and they were considered part of the possession of a man. At such a critical juncture of history Islam brought about a revolution in the domain of human thought and outlook towards women and established the right of women to inherit and has distributed the inheritance in a very upright way. This determined share is calculated by Allah Himself and can't be changed.

"To everyone, we have appointed shares and heirs to property left by parents and relatives...." (Surah Nisa-33)

The Islamic law of inheritance is extremely detailed and it is based on two most salient features:

A The extent of the share of inheritance is dependent on the closeness of the heirs' relationship to the deceased.

"Blood-relations among each other have closer ties, in the Book of Allah than (the brotherhood of) believers and Muhajirs" (Surah Ahjab-6)

And in another verse-

"From that is left by parents and those nearest related there is a share for men and a share of women, whether the property be small or large-a determined share.' (Surah Nisa-7)

B. In most cases, man's share of the inheritance is the twice of woman's.

"Allah (thus) directs you as regards your children's (inheritance) to the male, a portion equal to that of two females, if only daughter, two or more, their share is two-thirds of the inheritance, if only one her share is a half." (Surah Nisa: 11).

Actually this is due to the variant financial responsibilities of the male toward family and relatives. Moreover, this is astonishing that according to the Qur'an 12 persons have been declared as Jawil Furuz (determined share-holders) in respect of inheritance where only four persons are men and the rest eight are women. That means that Islam has shown its utmost seriousness about ensuring the portion of women, as they had been the most deprived ones before the advent of Islam. Islam has determined the share of daughter (as she has the status of Jawil Furuz) but did not determined the share of son (as his status is one of Asaba).

But western world seems very much concerned regarding the share of woman and they think that in Islam women's share in inheritance is unfair and unjustified. The fact is that in Islamic law as a whole, women are much more favored financially than their male counterparts for the following reasons:

1 Before marriage any gift given by the woman's fiancé is her own and her husband has no legal right to claim on it even after marriage.

2 On marriage she is entitled to receive a marriage gift (Mohr) and this is her own property.

3 Even if the wife is rich, she is not required to spend a single penny for household; the full responsibility for her food, clothing, housing, medications and recreation etc. are her husband's.

4 Any income the wife earns through investment or working is entirely her own.

5 In case of divorce, if any deferred part of the Mohr is left unpaid, it becomes due immediately.

6 The divorcee woman is entitled to get maintenance from husband during her waiting period (iddat).

Thus one can see that men need extra share to discharge the family responsibility, social responsibility etc. incumbent upon him. Herein I would like to take the privilege quoting some other Qur'anic verses regarding the share of women in inheritance:

"In what your wives leave, your share is a half, if they leave no child; but if they leave a child, you get a fourth; after payment of legacies and debts. In what you leave, their (wives') share is a fourth, if you leave no child; if you leave a child, they get an eighth; after payment of legacies and debts...." ( Surah Nisa-12).

"Allah directs about those who leave no descendants or ascendants as heirs: If it is a man that dies, leaving a sister but no child, she shall have half the inheritance." (Surah Nisa-176)

Thus it becomes crystal clear that the inheritance of Islam gives to women is quite respectable share-without rendering upon her financially any family or social responsibilities.

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