

CHILDLESS PERSON AND PROPERTY INHERITANCE

Division of the property of a deceased person survived by a wife and no children and having

There is a direct line of inheritance, which is given first priority in the division of inheritance. This direct line goes upwards to include parents and downwards to include children. It also branches out in the middle to include spouses. These people have a claim to inheritance, which is not waived in any circumstances. Their shares may be affected in different situations, depending on who of the heirs survive the deceased, but they inherit in all situations.

Furthermore, in both upward and downward movement, this direct line may go further to include grandparents or grandchildren, and the next generation in both directions, and the one after that and so on. But this movement is conditional on the non-survival of heirs in the degree closer to the deceased. Thus no grandchild may inherit if his father is alive. Similarly, no grandfather inherits when the father is alive. This has much to do with the responsibilities outlined by Islam among family members.

Another principle, which has to be emphasized, is that the marital status of heirs does not affect their shares at all. If the deceased's daughter is married, she inherits from her father on the same lines as her unmarried brothers and sisters. Each will have his or her share. The fact that a married woman has someone to look after her does not change her relationship to her parents or children or brothers or sisters. Importance is not given to the marital status of any heir when determining his or her share.

A third principle in the Islamic system of inheritance is that certain relatives are blocked and they inherit nothing as a result of the presence of closer heirs who block them. Thus the brothers and sisters of a deceased person will inherit nothing if he is survived by his father or a son.

Examining the system carefully, one will find that it is an elaborate system, which ensures the maximum degree of fairness to all.

In all these situations, then, his wife inherits one-quarter of all his property. Had he been survived by a child, his wife's share would be reduced by 50 percent to make it one-eighth. Analysing at the four situations bearing in mind that his wife is always having one quarter.

1. Since both parents are alive, his mother takes one-third of what is left after the wife has taken her share, and the father takes the rest.
2. The presence of brothers and sisters in this situation reduces his mother's share to one sixth. The remainder is shared out by his brothers and sisters on the basis of one share for a sister and two for a brother. So, when his wife and mother have taken their shares, the rest is divided into eight shares, one to each of his sisters, and two to each of his three brothers.
3. In this situation where the only surviving parent is the deceased's father, he

takes all that is left after the wife has taken her share. Nothing goes to the deceased's brothers and sisters. Their father blocks them.

4. In the last situation, there are no heirs in the direct line apart from his wife, who takes her share of one-quarter. The rest is divided among his brothers and sisters in the same way as in situation 2 above.

It is important to remember that no division of any property between heirs, of whatever degree they happen to be, can take place until the more important claims have been met.

These are the costs of the burial of the deceased, the settlement of his debts, if any, and the execution of his will. It is well known that a Muslim may make bequests by will, not exceeding one-third of his property. These bequests should preferably be in favor of relatives who are not heirs, or to charity.