



## Miscellaneous Questions

**Q:** Before his death, my husband wrote a will which makes me the whole beneficiary of the house he owned, whether I wish to occupy or let it, provided that I do not get married. If I am married again, the house should be sold, in which case I get 50 percent of the price and my husband's son and two daughters would share the other half equally. My late husband's children understand and accept his will. I am now considering selling the house, but a relative of mine has created some doubts in my mind about the legitimacy of my husband's will. I would be grateful for your advice. May I ask full guidance on how I should write my own will. I have no children of my own, but I have one sister and two brothers, only one of whom is a full brother. May I add that in my country the Islamic family law is not recognized.

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**A:** One of the most important aspects of Islamic law is the way it deals with inheritance which is an area where it is easy to deny the rights of the weaker elements in the family and in society at large. For example, there are certain communities, some of whom profess to be Muslims, but nevertheless deny women all rights of inheritance. In other areas where the marriage of a daughter is an extremely expensive affair for her father, it is considered that if a father had married off his daughters, then he had done all his duty by them and whatever estate he leaves behind should be shared by his sons. I realize that none of this applies to the Muslim community in your country. However, because you are a small minority, many people tend to accept, knowingly or unknowingly, the prevailing traditions or laws thinking that Islam has no objection to them. Your husband has made out his will thinking that it serves the best interests of his

surviving relatives. It may be so, but he did not refer to the Islamic law of inheritance which is very detailed. What I would like you to know is that the Islamic law of inheritance has been laid down by Allah Himself who has stated its provisions in detail, apportioning shares of the estate to close relatives in all cases. Scholars have studied this system in depth and its provisions have been made clear for all situations. Hence, there can be no excuse for a Muslim man or woman to deal unjustly with any one of his or her heirs or to deny any of them his or her apportioned share, or indeed to give any of his heirs more than the share Allah has given him or her. What we have to remember is that no one may disinherit any heir, nor indeed can a person give any heir more than his or her apportioned share. The Prophet says very clearly: "No will may be made in favor of an heir." You are one of your husband's heirs, according to the provisions of the Islamic law Allah Himself has enacted. Because your late husband had children, although they are by an earlier marriage, you are entitled to receive one eighth of everything that he had left behind, whether in real estate, cash, shares, furniture, etc. The remainder should be divided between his other relatives. You have not told me whether he left behind any other relatives, such as a parent, a grandparent, or other children. Assuming that he had none, then you are his only heir who has a specified share. When any debt he left outstanding had been paid out and when the provisions of his will to any person who is not an heir have been carried out, you receive one eighth of his estate. The other seven-eighths go to his children whom you have mentioned as one son and two daughters. The son receives half of all that and the two daughters share the other half equally. This is the division which you should make sure to implement in order to comply with Allah's orders. You should speak to your late husband's children and explain the situation and carry out the division. You may end up receiving much less than what your late husband wanted you to receive, but his wishes cannot overrule divine orders. The thing to do with his will is to disregard it altogether so that he may not have to account for it on the Day of Judgment. Perhaps I should emphasize that what should be disregarded in his will is the provisions relating to you and his children. If the will includes other provisions, these should be carried

out if they are in line with Islamic law. If a Muslim does not leave any will, then all his estate should be divided among his heirs in accordance with the Islamic law. The will, from the Islamic point of view, is to cater for those relatives who are not among heirs, or to give away what a person wants to give to charity. Therefore, you need not make a will in favor of your brothers and sister because they will receive their shares automatically if they are among your heirs. You have not told me whether any of your parents is alive. I can tell you that if your father is alive, then your sisters and two brothers will receive nothing. Assuming that you have no surviving parents or grandparents, and knowing that you have no children, then your brothers and sister are your only heirs. Your property should be divided into five portions, with your sister receiving one portion [20%] and two portions [40%] going to each of your brothers. If you need to make a will in their favor in order to ensure that they receive their proper share, then these are the lines on which you should make your will. Otherwise, you are entitled to dispose of one-third of your property as you deem fit, in order to look after some poor relatives who are not heirs, such as an aunt, a poor cousin, etc. By the way, if you decide to marry again, then the situation will change, because your new husband will be one of your heirs, and if you remain childless, then he would be entitled to receive one half of what you leave behind. If you have a child, then your husband's share will be reduced to one quarter. Moreover, if you have a child, then your brothers and sister will cease to be among your heirs.

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Our Dialogue ( Source : Arab News - Jeddah )