

FARAID OR MUSLIM INHERITANCE LAW

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Faraid or Muslim inheritance law

Faraid stipulates how the estate of a Muslim is to be dealt with and distributed after his or her death. For convenience, all references to the male gender include the female gender. The rules described here reflect the rules practised under the Shafie school of thought; some differences or variations may be adopted under the Hanafi, Maliki and Hanbali schools.

Priority of payments

Before the estate of the deceased can be distributed to his heirs, all debts owing by the deceased and all prior claims against him must first be paid.

In order of priority, payments from the estate are as follows:

- a. Satisfaction of religious obligations, such as
 - i. satisfaction of all zakat payments that are unpaid;
 - ii. performance of the Haj through an acceptable proxy;
 - iii. making donations of the specified amount to redeem fast days unobserved;
- b. Payment of funeral expenses.
- c. Redemption of mortgaged property.
- d. Payment of all other debts owing by the deceased.
- e. Payment of legacies under a valid will.
- f. Distribution of net estate among Specified Heirs (described below).

Specified heirs

Heirs entitled to share in the net estate of the deceased in accordance with Faraid are specified in the Quran. These Specified Heirs include the following:

- a. Spouse (surviving wife or husband)
- b. Children (adopted children are excluded, and children conceived out of wedlock can only inherit from their mother, even if their birth is legitimised)
- c. Parents
- d. Paternal grandparents and paternal great grandfathers
- e. Maternal grandmother
- f. Descendants from the male line, i.e. children and grandchildren of sons (a daughter's son, although a grandson, is not a Specified Heir)

- g. Siblings including half siblings who share a common father ("consanguine sibling") or a common mother ("uterine sibling")
- h. Nephews (limited to sons of full brothers and consanguine brother)
- i. Paternal uncles
- j. Male cousins (limited to sons of full paternal uncle and consanguine uncle)

These heirs are entitled to certain prescribed shares which are intended to effect an equitable distribution of the estate. For instance, males are given 2 shares of the estate to every share given to his female counterpart because they are expected to assume financial responsibility for the women. In addition, female heirs are allocated a specified portion of the estate (e.g. half or one sixth) which means they will always be entitled to a portion of the estate, regardless how small, while male heirs are often residuary heirs who are only entitled to what is left of the estate after the claims of female heirs have been met. It may happen that a residuary heir is left with nothing or a very tiny portion after claimants with specific shares have been paid off.

Specified Heirs forfeit their claim under the following circumstances:

- a. he caused the death of the deceased, whether deliberately or unintentionally; or
- b. he is not a Muslim (the deceased may be a Muslim convert, or the heir may have renounced Islam).

Making of Wills

A Muslim can only make a will in favour of his non-Specified Heirs, such as his adopted children, certain maternal relatives such as maternal aunt or maternal grandfather, or third parties such as close friend or protege. A will can only be made in respect of not more than one third of the net estate of the testator. This is to protect those persons with a legitimate claim to the estate, such as spouse and children. If the will purports to bequeath more than one third of the net estate, the bequests may be reduced proportionally such that the aggregate will not exceed one third. Alternatively, if the Specified Heirs voluntarily agree to reduce their own entitlements accordingly, it is possible that the aggregate amount paid on the bequests could exceed the one third limit.

Estate administration

The first step is for a beneficiary to apply to the Syariah Court for a Certificate of Inheritance ("Sijil Warisan") to be issued. The Certificate will identify the surviving Specified Heirs, state their relationship to the deceased, and specify his precise share to the estate (e.g. one eighth portion).

An application is then made to the High Court (if the estate exceeds \$3 million), otherwise to the Subordinate Courts for Letters of Administration to be granted to enable the Court-appointed Administrator to deal with the estate.

Computation of shares of specified heirs

The rules prescribing the entitlement of Specified Heirs to a share of the net estate of the deceased are

fairly simple, although the computation of their respective shares can be fairly complex depending on the configuration of Specified Heirs surviving the deceased. The table below sets out the general rules of distribution among certain Specified Heirs and is intended to provide guidance only for simple cases. You can also visit MUIS's faraid website at <http://www.faraid.gov.sg/>.

<u>Heir</u>	<u>Share</u>
Husband	
If there is no child or grandchild surviving the deceased	1/2
If there is a surviving child or grandchild of deceased	1/4
Wife	
If there is no child or grandchild surviving the deceased	1/4
If there is a surviving child or grandchild of deceased	1/8
Son	
If there is no daughter	Residuary
If there is a daughter (he shares with his sister, but is entitled to 2 shares for every share given to her)	Residuary
Daughter	
If sole daughter	1/2
If 2 or more daughters (the daughters_ portion is shared equally among them)	2/3
If there is a son, (she shares with her brother, but is entitled to 1 share for every 2 shares given to him)	Residuary
Father	
If there is a child or grandchild surviving the deceased	1/6
If there is no child or grandchild surviving the deceased	Residuary
Mother	
	1/6
Paternal Grandmother (her portion is shared with maternal grandmother)	1/6
If Mother or Father survives	Nil
Paternal Grandfather	
If no father, child or grandchild survives	Residuary

If son or grandson survives	1/6
If father survives	Nil
Maternal Grandmother (her portion is shared with paternal grandmother)	1/6
If Mother survives	Nil
Brothers	
If father, son or grandson survives	Nil
If no father, son or grandchild survives	Residuary
Sister	
If father, son or grandson survives	Nil
If sole sister	1/2
If 2 or more sisters (they share equally)	2/3
If Brother survives (they share 2:1 with Brother)	Residuary

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