

National Council for Women

Women's inheritance in Islam

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A specious argument often advanced to perpetuate the misconception that the status of women in Islam is inferior to that of men is the fact that females inherit half as much as males. This paper will attempt to dispel this misconception by presenting proof to the contrary.

I. When addressing the issue of inheritance in Islam, it is necessary to consider the rules governing inheritance and the considerations taken into account by Islam when determining the distribution of shares among the heirs. Viewed in the light of these rules and considerations, the variation in the inherited shares reveals the greatness of Islamic law and divine justice under which women are greatly honoured. It is erroneous to claim that women are inferior to men on the ground that in some cases they inherit half the share of men. If anything, this argument indicates inadequate knowledge of the institution of Islamic legislation.

A careful examination of the Islamic philosophy of inheritance reveals that Islam takes into account certain considerations which have nothing to do with gender. Thus while women inherit half the share of men in some cases, in others they inherit an equal share and sometimes, even, double the share of men or even more. Indeed, there are instances in which women are entitled to inherit while men are not.

One such instance arises from the division in Islam between two classes of heirs: first degree heirs, who are entitled to a statutory portion in estate according to the Quran and the Sunna (the teachings of the Prophet Mohamed), and second degree heirs who are related to the decedent through the paternal line. The former take precedence over the latter, and only after they receive their statutory shares of the inheritance that the paternal relations, whose shares are not statutorily determined, receive the remainder, if any. Occasionally the inheritance rights of the first degree heirs use up the entire estate and nothing is left for the second degree heirs.

The Quran designates twelve first-degree heirs, of whom eight are female and only four are male. The females are the mother, the grandmother, the wife, the daughter, the son's daughter, the sister of the whole blood, the consanguine sister [the sister from the father] and the uterine sister [the sister from the mother], while the males are the father, the grandfather, the husband and the uterine brother.

With this division, Islam extended its protection in respect of inheritance rights to a greater number of females than males, thereby putting an end to the unjust pre-Islamic practice of limiting the right of inheritance to male fighters. The principle of women's right to inherit is consecrated in the Quran:

“UNTO THE MEN (OF A FAMILY) BELONGS A SHARE OF THAT WHICH PARENTS AND NEAR KINDRED LEAVE, AND UNTO THE WOMEN A SHARE OF THAT WHICH PARENTS AND NEAR KINDRED LEAVE, WHETHER IT BE LITTLE OR MUCH A DETERMINATE SHARE”.

(Surah IV:7)

Not only has Islam established that women are just as entitled to inherit as men, but has also ordained that the number of females entitled to a first degree right of inheritance is double that of males.

Moreover, when Islam ordained that a uterine brother is a first degree heir, its aim was to extend its protection to a category of people who had previously been denied this right on account of their kinship through the maternal line. In the pre-Islamic period a woman and those related to her were denied any right to inheritance.

1. The degree of relationship to the decedent:

The more closely related the heir is to the decedent, the larger his or her share of the estate. For example, a daughter inherits more than an uncle. She gets half the inheritance if she is the only daughter and, if there is more than one daughter their share in estate is two thirds. A wife inherits one eighth, while a mother inherits one sixth. The rest of the estate, no matter how small, passes to the paternal uncle or uncles. Thus, the daughter of the deceased, although a female, inherits much more than his brother, even though he is a male.

There is, however, an exception to this rule in favour of women. A maternal grandmother, for example, inherits the same share as the father of the deceased, although she is not as closely related to the deceased as his father. This is one more example of how Islam honors women by exempting them from the rule that the closer the kinship, the greater the inheritance.

Yet another example is that a decedent's uterine sister inherits an equal share of his estate as his brother of the whole blood, although she is not as closely related to the deceased as his brother. This rule was applied by Omar Ibn El-Khattab, Zaid and Osman, while Ali Ibn Abi Taleb, Ibn Masmoul, Abi Bin Ka'ab, Ibn Abbas and Abu-Mousa Al-Asha'ari gave a uterine sister her share of the inheritance and did not consider the brother of the deceased entitled to inheritance. (For more information on this point, see "Beddayat Al-Mugtahid Wa Nihayat Al-Moqtasid" by Ibn Rushd (345/2), and "The Mughniyati Ibn Qaddama Al-Maqsi, edited by Dr. Abdel-Fatah El-Helou).

2. The generational criterion:

The rule here is that the younger the generation of heirs, the greater its need for money. Accordingly, the younger generation inherits more than the preceding one. Thus the daughter of the deceased, although a female, receives a larger share of his estate than her grandfather. An only daughter gets half of the estate and two daughters or more get two thirds while the grandfather is granted only one sixth. The share of the son is also more than that of his grandfather, although both of them are males, even if the grandfather is the cause behind the wealth of his deceased son and his grandson is a baby in its crib.

Along the same lines, when a woman dies, half of her inheritance is passed on to her only daughter, while her husband gets only one fourth. Although the daughter is female and the husband male, she inherits double his share.

3. Financial burdens:

This is the logic on the basis of which a woman inherits half the share of the man in the following four cases only:-

1- Where the deceased is survived by a son and a daughter, the Quran says: "Allah chargeth you concerning [the provision for] your children: to the male, the equivalent of the portion of two females..." (Surah An-Nisa'- verse 11)

2- Where the deceased is survived by a father and mother but no children, husband or wife, the Quran says: "... if he has a son and the parents are the (only) heirs, then to his mother appertaineth the third...". Here one third is statutorily granted to the mother and the remaining two thirds to the father.

3- Where the deceased is survived by a sister of the whole blood or a consanguine sister together with a brother of the whole blood or a consanguine brother, the Quran says: "If there are brothers and sisters, the male will have twice the share of the female" (Surah An-Nisa'-verse 176).

4- In case one of the couple dies and is survived by the other, the distribution of his/her inheritance will be as follows:-

.. Where there are no children, the husband gets half of the inheritance while the wife gets one fourth.

.. Where there are children, the husband gets one fourth of the inheritance while the wife gets one eighth.

This survey of the rules governing the distribution of inheritance and designating the circumstances in which women inherit half as much as men shows that these rules are designed to strike a balance between rights and obligations. If we compare the four cases cited above in the light of a woman's right to inherit and men's obligations to provide her with financial support we find that ultimately she is at least equal to if not more privileged than men. In Islam the man is fully responsible

for the maintenance of woman and his family, while she does not have any financial obligations and is not even required to spend either on herself or on her children, no matter how wealthy she is, unless she willingly chooses to do so.

We now move on to the three other cases of inheritance in Islam:-

1. cases where the woman's share in an inheritance is equal to that of the man.
2. cases where a woman inherits more than a man.
3. cases where a woman is entitled to inherit while the man is not.

(1) Cases in which a woman inherits the same share as a man:

a- The first case is when a mother inherits the same share of the estate as the father in the presence of one son and a spouse. In such case, the distribution will be as follows:-

The spouse inherits one quarter of the estate.
The father inherits one sixth.
The mother inherits one sixth.
The son inherits the remainder of the estate.

b- The second case is when a mother inherits the same share as the father in the presence of one daughter and a spouse.

The spouse inherits one quarter.
The daughter inherits one half.
The father inherits one sixth.
The mother inherits one sixth.

c- The third case is when a mother inherits the same share as the father in the presence of two daughters.

The father inherits one sixth.
The mother inherits one sixth.
The two daughters inherit two thirds.

d- the fourth case is when a grandmother inherits the same share as a father. In such a case, a maternal grandmother inherits the same share as the father of the deceased, although she is not as closely related to the deceased as his father. This is a departure from the rule that the more closely related an heir is to the deceased the larger his share in the estate, and is another example of how Islam honours women. The distribution of inheritance in this case will be as follows:-

· If the heirs are:

The father : One sixth
The maternal grandmother: one sixth.
The son: the remainder of the inheritance.

· If the heirs are:

The father: one sixth.
The maternal grandmother: one sixth
The two daughters: two thirds, which is the remainder of the estate.

II. The inheritance of uterine brothers and uterine sisters:

God Almighty says: " .. if the man or woman whose inheritance is in question has left neither ascendants nor descendants but has left a brother or a sister, then to each of them the sixth and if they be more than two then they shall be sharers of the third." (Surah IV:12)

This text clearly indicates that the woman has an equal share of inheritance as the man when they are half siblings on the mother's side. Thus when a woman dies and is survived by the following heirs:

- a- A husband : he inherits one half of the estate.
- b- A mother: one third.

c- A uterine brother or uterine sister inherits one sixth, that is, they are treated equally regardless of gender.

The estate of a woman who is survived by a husband, a mother, two uterine sisters and a brother of the whole blood is divided as follows:

The husband: one half

The mother: one sixth

The two uterine sisters: one third.

III. When uterine sisters are favoured over a brother of the whole blood:

It is only after these statutorily prescribed percentages have been distributed that the brother of the whole blood, a second degree heir in this case, inherits a share. If nothing is left after the first-degree heirs receive their inheritance, he receives nothing, in accordance with the teachings of the Prophet Mohammed as compiled in the hadith: "Give to the first degree heirs their dues and then give what is left to the most deserving of the male relatives."

This ruling was applied by the Orthodox Caliph Omar, Zaid, Othman, Ibn Masoud, Abi Ibn Ka'ab, Ibn Abbas and Abu-Muhammad Al-Ash'ari. But Omar repealed this ruling when brothers who did not receive a share from their mother's estate complained to him. As a result, Omar ruled that they should share the third of the estate with their uterine sisters.

It is to be noted here that the brother of the whole blood gets the same share of inheritance as the uterine sister in spite of the fact that he is more closely related to the deceased than her half sister. This is another example of exempting women from the rule of next of kin in the interest of women.

IV. A woman gets the same share as a man when either of them is the sole heir:

In the event the deceased is survived by a sole heir, whether male or female, the survivor will inherit the entire estate, regardless of whether the man is entitled to the inheritance as a second degree heir and the woman as a first degree heir. If the sole survivor is a woman, after receiving her statutorily prescribed share, the remainder of the estate will revert to her by default as follows:

a- A father: the entire estate	* A mother: one third and the rest will revert to her.
b- A son: the entire estate	* A daughter: one half and the rest will revert to her.
c- A brother: the entire estate	* A sister: one half and the rest will revert to her.
d- A husband: half the estate and the rest will revert to him	* A wife: a quarter of the estate and the rest will revert to her.
e- Maternal uncle: the entire estate (because of the uterine connection).	* Maternal aunt: the entire estate.
f- Paternal uncle: the entire estate.	* Paternal aunt: the entire estate.

Another example of equality is when the heirs are:

A husband: a quarter of the estate	* A wife: one eighth of the estate
A son: the remainder of the estate	* A daughter: half of the estate and the rest will revert to her.
A wife: a quarter of the estate	* A sister: a quarter of the estate
A brother: the remainder	* A sister: a quarter and the rest will revert to her.

Here, the son and the daughter and the brother and sister are entitled to equal shares of the estate.

Another case of equal inheritance rights regardless of gender is when the woman is survived by:
 The husband: one quarter of the estate
 A daughter: half the estate
 A brother or sister of the full blood: the remaining quarter

Then there is equality between a uterine sister and a brother of the whole blood:
 The husband: half the estate
 The mother: one sixth
 The uterine sister: one sixth
 The full brother: one sixth [which is the balance of the estate]

This is in addition to the six first degree heirs, three male and three female, who may under no circumstances whatsoever be deprived of their inheritance right:
 the husband the wife
 the son the daughters
 the father the mother.

2) Cases in which women inherit more than men:

Before giving examples of those cases, we shall present a brief overview of the mandatory heirs as designated in the Quran and the Sunna and the shares to which they are entitled:

Two thirds of the estate	Half	One third	One sixth	One quarter	One eighth
	One daughter	The mother	The mother	The husband	The wife
Two daughters or more	one daughter of a son	Uterine sister	The grandmother	The wife	
Two or more daughters of a son	One uterine sister	One uterine brother	Daughter of a son		
Two or more sisters of the whole blood	One consanguine sister		One consanguine sister		
Two or more consanguine sisters	The husband		Uterine sister		
			Uterine brother		
			The father		
			The grandfather		

“ We notice from the above that the biggest first degree (mandatory) share of inheritance in Islam is two thirds and that share is granted to females not males.

“ The only male who gets half the inheritance is the husband in the absence of other heirs, which is a rare case, while females are granted half the inheritance in four cases.

“ One third of the inheritance goes to two females: the mother in the absence of first degree and collateral heirs and uterine sisters under the same conditions, while one third goes to uterine brothers under the same conditions.

“ One sixth goes to eight heirs: five of them female and three male.

“ One quarter goes to the wife in the absence of collateral heirs. If, however, there are any collateral heirs she takes one eighth.

It is clear from the foregoing that women are first degree heirs in 17 cases compared to 6 cases only for men. This allo

women to inherit more than men in the following cases:-

1) Two thirds for a woman is better than the share given to a man as a second degree heir.

a) If a woman dies leaving behind 60 feddans and her heirs are as follows:-

A husband : One quarter (12 feddans)	A husband:One quarter (15 feddans)
A father: One sixth (8 feddans)	A father: One sixth (10 feddans)
A mother One sixth (8 feddans)	A mother One sixth (10 feddans)
Two daughters: two thirds (32 feddans)	Two sons (their shares are not mandatory) 25 feddans

In other words, the share of each daughter is 16 feddans and of each son only 12.5 feddans.

b) When a woman dies leaving behind 48 feddans and her heirs are as follows:-

A husband: one half (18 feddans)	A husband: one half (24 feddans)
A mother: One sixth (6 feddans)	A mother: One sixth (8 feddans)
Two sisters of the whole blood: two thirds (24 feddans)	Two brothers of the whole blood: the remaining 16 feddans

The share of each sister is 12 feddans and of each brother only 8 feddans.

c) When a woman dies leaving behind 156 feddans and her heirs are as follows:-

A husband: one quarter (36 feddans)	A husband: one quarter (39 feddans)
A father: One sixth (24 feddans)	A father: one sixth (26 feddans)
A mother: One sixth (24 feddans)	A mother: one sixth (26 feddans)
A daughter: One half (72 feddans)	A son: the remaining 65 feddans)

Here the daughter takes 72 feddans as a statutorily prescribed share, with the husband, the father and the mother receiving their shares for considerations of support. As to the son, who inherits by reason of kinship through the paternal line, his share is only 65 feddans because the remainder of the estate goes to the mandatory heirs. The same applies if in place of the daughter there is the daughter of a son and in place of the son the son of a son.

d) If a woman dies leaving behind 48 feddans and is survived by the following heirs:

A husband: one half (18 feddans)	A husband: one half (24 feddans)
A mother: One third (12 feddans)	A mother: one third (16 feddans)
A sister: One half (18 feddans)	A brother: the remaining 8 feddans

There is a clear discrepancy here between the shares inherited by the sister and brother respectively, as she received more than double the share of her brother who only inherited 8 feddans to her 18.

Two uterine sisters: one third (16 feddans)
 Two brothers of the whole blood: the remaining 12 feddans.

In this case, each of the uterine sister inherits 8 feddans while each of the two full brothers inherits 6 feddans, although they are more closely related to the deceased than the half-sisters.

Another example in which a woman's one sixth share of inheritance can be better than a man's second degree share:

If 60 feddans are to be distributed among the following heirs:

A husband: one half (30 feddans).
 A mother: one sixth (10 feddans).
 A uterine sister: one sixth (10 feddans).
 Two brothers of the whole blood: the remaining 10 feddans.

Here ordaining one sixth as a share for the uterine sister results in her share being double that of the full brother of the deceased. Should there be more than one brother of the whole blood, the uterine sister will still receive the same share while the rest of the inheritance will be distributed among the number of brothers.

Another example is when the inheritance is 648 feddans and the heirs are as follows:-

A wife: one eighth (72 feddans)	A wife: one eighth (81 feddans)
A father: one sixth (96 feddans)	A father: one sixth (108 feddans)
A mother: one sixth (96 feddans)	A mother: one sixth (108 feddans)
A daughter: one half (288 feddans)	A daughter: one half (324 feddans)
Daughter of a son: one sixth (96 feddans)	Son of a son: the remaining 27 feddans

Here the daughter of a son gets 96 feddans while the son of a son gets only 27 feddans.

3) Cases in which females inherit while their male counterparts do not:-

If a woman dies leaving behind 195 feddans and is survived by the following heirs, her estate is divided among them as follows:

A husband: one quarter (39 feddans)	A husband: one quarter (45 feddans)
A father: one sixth (26 feddans)	A father: one sixth (30 feddans)
A mother: one sixth (26 feddans)	A mother: one sixth (30 feddans)
A daughter: one half (78 feddans)	A daughter: one half (90 feddans)
Daughter of a son: one sixth (26 feddans)	Son of a son: the rest as second degree (nothing)

Here the daughter of a son inherits 26 feddans as a first degree share, while the son of a son inherits nothing.

Another case is when the estate is 26 feddans to be divided among the following heirs:

A husband: one half (36 feddans)	A husband: one half (42 feddans)
A sister of the whole blood: one half (36 feddans)	A sister of the whole blood: one half (42 feddans)
A consanguine sister: one sixth (12 feddans)	A consanguine brother: the rest as second degree (nothing)

Here a consanguine sister inherits one sixth as a first degree share while her male counterpart inherits nothing.

A third case:-

Father of a mother: inherits nothing	Mother's maternal grandfather: nothing
Mother of a mother: one sixth and the rest reverts to her	Mother's maternal grandmother: one sixth and the rest

reverts to her
