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# Rules of Inheritance in Islamic Laws (A Quranic Study)

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#### **Abstract**

If we look at the Glorious Qur'an, we find that the details of the rules of the inheritance came in a comprehensive and complete form. On the other hand, the other rules of fasting, prayer, hajj, and zakat, these rules came in a summary form, but the details came from the narrations on the tongue of the Prophet (prayers and peace of Allah be upon him and his family). We can note this accuracy in detail, for example, in Surat al-Nisa, verse 11, the male has the same share as the share of two females, and if the women are more than two, then they have a third of what he left, and if she is one, she gets half. In spite of that, we notice some stray arrows trying in vain to undermine these divine rulings, but these arrows are returned to their owners, as all scholars all over the world have recognized that the fairest system of inheritance is the system of the Glorious Qur'an.

This research is divided into three sections. The first section is the concept of inheritance, the reasons for its revelation and its verses. The second section is the inheritance of men. The third section is the inheritance of women and the inheritance of the mother. One of the sources that the researcher relied most on is the interpretation of Al-Kashef by Sheikh Muhammad Jawad Mughniyeh.

**Keywords** 

Islamic Laws; Quranic Study; Life,

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# **Section One**

# Inheritance in Language

The word "inheritance" means 'a thing that belongs to a person goes after his or her death to others for a reason or because of being one of his or her relatives' (Ahmed, 2020) If you bequeath money to someone, then this amount of money becomes his or her inheritance. If your inheritor dies, his or her inheritance becomes yours. He also inherited his glory and money. According to Ibn Al-Arabi (Chittick, 1994) inheritance is used in two senses. The first sense is concerned with inheriting the race of people that they come from 'lineage' while the second sense is concerned with inheriting money (Chittick, 1994).

One of the attributes of Allah Almighty is the attribute of being the Inheritor, which refers to survival after the extinction of all. We find that the word inheritance is used in two forms: the first is the base form, and the second is the participle form, i.e. inherited.

#### The Reasons for the Revelation of the Verses of Inheritance in the Qur'an

The word inheritance and its derivatives appeared in the Holy Qur'an 23 times but the verses related to inheritance in the Holy Qur'an appeared five times (Abd Al-Bagi, 2012).

1. Allah Almighty says "Men receive a share of what their parents and relatives leave, and women receive a share of what their parents and relatives leave; be it little or much— An imposed share. If the distribution is attended by the relatives, and the orphans, and the needy, give them something out of it, and speak to them kindly.

Parents here are clear. Relatives generally refers to all those with a kinship, including children and their descendants, fathers and their ascendants, brothers and sisters and their children, uncles and aunts, maternal uncles and aunts and their children, male and female, old and young, whether it is little or much. The principle of inheritance for all is stipulated in Islamic laws. It is not permissible to contradict it in any case, as evidenced by the Almighty's saying: (An imposed share). It is a nullification of what the people of the Jahiliyyah (Pre-Islamic period) were upon to deprive young females and males, for nothing but because they do not ride a horse, nor do they repel an enemy. Therefore, Islam established the right of inheritance for a person on the basis of his human nature, not on the basis of his/her ability to fight with a sword or stab with a spear (Khorasani & Nabavi, 2019).

The Shiites inferred with this verse the invalidity of the agnation that was proven by the Sunnis, but denied by the Shiites. The term agnation means the inheritance of men rather than women in some cases. For example, if the deceased has a daughter, a nephew, and a niece, then the Sunnis give half to the daughter, and the other half to the nephew, and nothing to his sister. Although she is in the same rank of her brother and equal to him. Another example, when the deceased has a sister, an uncle, and an aunt; they distribute the inheritance between the daughter and the uncle, and give nothing to aunt. The Qur'an bequeaths women and men, but they bequeath men, not women.

As for the Shiites, they give the entire estate to the daughter in the first and second examples because she is closer to the deceased than his brother and nephew in the first example and closer than his uncle and aunt in the second one.

"If the distribution is attended by the relatives, and the orphans, and the needy, give them something out of it, and speak to them kindly." (Aminah & Yazidah, 2018).

2. Allah Almighty says "Those who believed, emigrated, and struggled for Allah's cause, and those who gave shelter and support—these are the true believers. They will have forgiveness, and a bountiful provision. As for those who believed afterwards, and emigrated and struggled with you—they are of you. But kindred by blood have prior rights against each other in the Book of Allah. Verily Allah is well-acquainted with all things.

(Those who believed and emigrated) to the end of the surah, is not subject to the state of the guardianship of inheritance, but rather the absolute guardianship, and testified by His affirmation, Glory be to Him, of guardianship among the infidels by His saying "And those who disbelieve are guardians of one another:" (Al-Tabataba'i, 2006). The guardianship is more

general than the guardianship of inheritance and the guardianship of victory is the guardianship of security. In the previous verse, the Almighty mentioned the Muhajirun and the Ansar with this wording to clarify what each one of them must do towards the other in terms of defense and support. Then He returned here to praise them by saying (These are the true believers) because they believed their faith in what they had done of emigration and support and guardianship to one another, and their jihad against their enemies of the infidels and hypocrites (Kadhum & Abbas, 2020)

To clarify their affair, and what Allah has prepared for them tomorrow of pardoning the sins and the great reward, which he expressed by His saying "And a generous provision" (Mughniyeh, 2005) which means much goodness from the Generous Lord in the Gardens of Bliss. Perhaps they will receive a hasty reward that will comfort their eyes and reassure their hearts (Al-Maraghi & M., 1946).

What Imam Zayn al-Abidin (peace be upon him) described to the Muhajirun and the Ansar while he was conversing with his Lord and asking for mercy and contentment for them by saying

O God, and the companions of Muhammad, especially those who were good companions, afflicted with good affliction in his victory, sufficed him, hurried to his arrival, raced to his call, and responded to him as he let them hear the proof of his messages, they separated their wives and children in manifesting his word, they fought fathers and sons in confirming his prophethood, they were victorious with him. And those who were inclined to his love hope for a trade that will not fail in his affection. Do not forget for them, O God, what they left for you and in you.. and they were with your messenger for you to you.

Note - This monologue came in the Sahifa al-Sajjadiyya, which the Shiites venerate, and sanctify every letter of it. It is a confound response to those who said that the Shiites disrespect the companions.

(As for those who believed afterwards, and emigrated and struggled with you—they are of you.) Those are the ones who believed in Allah and His Messenger, migrated to Medina, and struggled with their lives and their money after the first predecessors, yet their rule is the same in terms of the necessity of victory and defense (Mughniyeh, 2005).

The guardianship in itself is more general than the guardianship of inheritance, the guardianship of victory, and the guardianship of security. Therefore, whoever among them safeguard an infidel, this command was effective for everyone. Therefore, some of everyone is the guardian of some of everyone like the immigrant is the guardian of every immigrant and supporter, and the supporter is the guardian of every supporter and immigrant, all of this is evidenced by the general sense of guardianship in the verse (Al-Tabataba'i, 2006)

(But kindred by blood have prior rights against each other in the Book of Allah. Verily Allah is well-acquainted with all things.) The commentators of the Noble Qur'an said that after the Prophet (PBUH) had fraternized between his companions, and between him and Ali (peace be upon him), they became guardians in the victory, and in the inheritance as well. That is, they inherited by this fraternity, not by lineage and kinship. Then the inheritance with this fraternity was abrogated and returned to the inheritance by kin ship.

The Shiites cited this verse as evidence that whoever is closest to the deceased by lineage is more deserving of his inheritance than the one who is farthest, whether the one who is farthest has a share or not. The daughter of the deceased withholds his brother from inheritance because she is closer than him to the deceased. On the other hand, his sister withholds his uncle for the same reason. Thus, the closest withholds the one who is farthest from all ranks. We talked about that and about the sayings of the Sunnis and Shiites concerning this issue. In addition, we referred to inheritance by the fraternity as well as to the causes of inheritance in the pre-Islamic era (Mughniyeh, 2005).

3. Allah Almighty says "Allah instructs you regarding your children: The male receives the equivalent of the share of two females. If they are daughters, more than two, they get two-thirds of what he leaves. If there is only one, she gets one-half. As for the parents, each gets one-sixth of what he leaves, if the deceased left a child. If he had no child, and his parents inherit from him, his mother gets one-third. If he has siblings, his mother gets one-sixth. After fulfilling any bequest and paying off debts. Your parents and your children—you do not know



which are closer to you in welfare. This is God's Law; and Allah is All-knowing, All-wise" (Fahmi, 2018)

'Allah instructs you' means that Allah commands you, entrusts you, and imposes upon you (regarding your children) regarding their inheritance "The male receives the equivalent of the share of two females" (Al-Kashani, 1995).

There were three reasons for inheritance in the pre-Islamic era. The first is lineage within the limits of men who carry weapons and can fight, as for females and weak males, they do not inherit. Islam has generalized inheritance for all. The second reason is adoption when a man adopts another's child. This child has the rule of a legitimate son in inheritance and other matters. Islam canceled that by saying "Nor did He make your adopted children, your actual children." (Yurianah, Husin, & Mahmudin). The third reason is the covenant, which is for a man to say to another "My blood is your blood, you inherit me and I inherit you", and Islam has approved it (Al-Tabataba'i, 2006).

"Allah instructs you regarding your children: The male receives the equivalent of the share of two females." If the sons and daughters of the deceased gather, they shall share for the male the same as the share of the two females. If others join them in the inheritance, such as the husband or wife, the father or the mother, or both, each one of them will take her/his share according to the following detail, and what is left shall be divided by the sons and daughters. The daughter takes half of what the son takes by agreement of Islamic schools of thought without exception.

Islamic sects also agreed that if the deceased left a son, and grandsons and/or granddaughters, the son withholds the inheritance of the grandsons and/or the granddaughters. The jurists of the schools differed as to whether the deceased left one daughter or two daughters or more and did not leave a son. The jurists of the four schools said that 'one daughter takes only the half, two daughters or more take only two thirds and the rest is given to others. The Imami Shiites said that 'the entire estate belongs to the daughter or daughters, and nothing for others.

"If they are daughters, more than two, they get two-thirds of what he leaves. If there is only one, she gets one-half." An-Nisa', verse 11 (Fahmi, 2018). If the daughters or newborns are only women, that is, just daughters with no son (Al-Zamakhshari, 1986). "As for the parents" refers to the parents of the deceased, a metaphor for the non-mentioned "each gets one-sixth of what he leaves, if the deceased left a child" (Al-Thalabi & 2005)

In the Almighty's saying: (more than two), the two daughters do not deserve two-thirds, but the nation is unanimously agreed that the rule of inheritance for two daughters is the same rule when there is more than two daughters (Al-Tabataba'i, 2006).

Explanation of what the Islamic sects differ in regarding the inheritance of a daughter and daughters if the deceased does not have a male child. The fuqaha' have agreed in one saying that if the deceased leaves one daughter, she takes the half. If he leaves two or more daughters, they take two thirds. They differed about the remaining half in case of one daughter and the remaining third in case of two daughters or more, to whom should it be given? (Mughniyeh, 2005)

"But kindred by blood have prior rights against each other in the Book of Allah". This verse indicates that the closest kin have rights more than the one who is further in relation to him, and there is no doubt that the daughter is closer than the brother.

As for the reasons for the revelation of the verses of inheritance, the interpreters have mentioned them as follows:

The reason for the revelation of the Almighty's saying "Men receive a share of what their parents leave" is that Aws bin Thabit Al-Ansari died leaving three daughters and a wife. Two men of his cousins, called Qatadah and Arafa, took his money, and they did not give his wife, nor his daughters anything. His wife came and told The Prophet (PBUH) about that, and she made a complaint about poverty, so this verse was revealed. Qatada said that they did not inherit women. Therefore, this verse was revealed. 'Men,' in this verse, refers to males, and 'women' refers to females, whether young or old (Al-Mashhadani & Al-Ani, 2021).

Regarding the Almighty's saying: (they are of you. But kindred by blood have prior rights against each other.), some of the interpreters said that the guardianship here is specific to the guardianship of inheritance, because, in the beginning, the Muslims were inheriting by Islam

and migration, not by kinship. That is, the Muslim residing in the desert, Mecca, or other countries of polytheism could not inherit the Muslim who is in Medina and nearby areas unless he immigrated to Medina. This continued until the conquest of Mecca, and the obligation of emigration ceased and the rule of Islam prevailed in the Arab Bedouins and their presence. Therefore, inheritance by Islam was abrogated (Al-Husseini, 1990).

(Al-Tabataba'i, 2006) said, "What is meant by "Those who believed, emigrated", are the first group of immigrants before the revelation of the surah, as evidenced by what will be mentioned from the immigrants in the last verses. What is meant by "those who gave shelter and support", are the Ansar who sheltered the Prophet (PBUH) and the believers who emigrated, and support Allah and His Messenger. Muslims were confined at that time to these two groups, except for a few who believed in Mecca and did not migrate, and Allah made a guardianship among them by saying "these are allies of one another." 'Allies' here refers to guardianship. The guardianship is more general than the guardianship of inheritance, the guardianship of victory, and the guardianship of security. Therefore, whoever among them safeguard an infidel, this command was effective for everyone. Therefore, everyone is the guardian of everyone like the immigrant is the guardian of every immigrant and supporter, and the supporter is the guardian of every supporter and immigrant, all of this is evidenced by the general sense of guardianship in the verse. All of this is evidenced by the fraternity that the Prophet (PBUH) made at the beginning of the migration between the Muhajireen "immigrants" and the Ansar, and they inherited by it for a time until it was abrogated" (Al-Tabataba'i, 2006). As for His saying, "Allah instructs you regarding your children" Al-Wahidi, in his interpretation 'The reason for the Revelation', on the authority of Jabir, said "The Messenger of Allah (PBUH) and Abu Bakr visited me on foot in Banu Salamah, and they found me feeling unreasonable. He asked for water to perform ablution, then sprinkled it on me, and I woke up. After that I said, 'How do I do with my money, O Messenger of Allah?' Then the verse "Allah instructs you regarding your children" was revealed", narrated by Al-Bukhari and Muslim (Al-Wahidi, 1992). In a narration on the authority of Jabir bin Abdullah, he said "A woman came with her two daughters and said: O Messenger of Allah, these are the two daughters of Saad bin Al-Rabee', and their uncle benefited from (took) their money and their inheritance. He did not leave any money for them. so what do you see, O Messenger of Allah? By Allah, they never marry unless they have money. He said, Allah will judge in that. So Surat al-Nisa was revealed and it says (Allah instructs you regarding your children: The male receives the equivalent of the share of two females.) to the end of the verse. Then the Messenger of Allah (PBUH) said to me "Call for me the woman and her companion." The Messenger of Allah said to their uncle Give them two-thirds, and give their mother the eighth, and what remained is yours".

On the authority of Ibn Abbas, he said, "When the ordinances were revealed in which Allah imposed what for the male and female children, and for the parents. People, or some of them, disliked that and said: "The woman is given a quarter and the eighth, the daughter is given the half, and the young boy is given a share of the inheritance, while none of them fights the people and does not take possession of the booty. They thought in the same way they did in the pre-Islamic era. They did not give the inheritance except to the one who fought the people." (Al-Tabarsi, 2006)

# **Section Two**

#### First: Father's Inheritance

The father inherits by imposition with the presence of the child and by kinship with his knowledge (Al-Karbasi, 2010). 'By imposition' means 'with what was imposed in the Almighty's saying: "As for the parents, each gets one-sixth of what he leaves, if the deceased left a child." An-Nisa', verse 11 (Fahmi, 2018). The father's share is as follows:

Abu Baseer narrated, "a man who died and left his father, his uncle, and his grandfather, he said: The father withheld the grandfather, the inheritance belongs to the father, and nothing goes to the uncle or to the grandfather" (Al-Kulayni, 1994).

Abu Baseer narrated, "a woman who died and left her husband, her mother, her father, and her brothers. He said, "It is of six shares, the husband has one half, that is, three shares. The

father has one third, that is, two shares. The son of the father has one-sixth, and the brothers have nothing (Al-Asqalani, 1908).

In another narration about a man who died and left his parents and his brothers, he said it is five shares, and the brothers have nothing. (Al-Asqalani, 1908) On the authority of Abdullah bin Jaafar, a woman died and left her husband, her parents, her grandfather, and her grandmother, so how should her inheritance be divided? So he (peace be upon him) signed 'half for the husband, and what remains is for the parents.' (Al-Asqalani, 1908)

#### Second: Son's Inheritance

The son inherits by kinship (Al-Karbasi, 2010). The single son of both parents and spouses has all the money unanimously, for the issue of kinship. Allah Almighty says "The male receives the equivalent of the share of two females." An-Nisa', verse 11 (Fahmi, 2018).

What is meant here is not the state of singularity or plurality of the male child in relation to his share, but rather the state of the existence of the male child with the female child together. On the authority of Abi Baseer, "If the deceased leaves daughters, sons, and a mother. He said "The mother has a sixth, and the rest is divided for the children. The male, has the share of two females". If one or both of the parents met with the male child, whether one or several, each of them shall have his minimum one-sixth share, and the remainder shall be given to the child

Al-Ridha (peace be upon him) said in his jurisprudence: "If the deceased leaves two parents and a son or more. Then the parents have the sixth, and what is left goes to the son" (Bin Babawayh, 1986). Likewise, the eldest son inherits which means 'the giving' (Manzur, 1999), and in the Shariah the eldest son is given specific things from his father's inheritance even without mentioning these things by his father's will or even these things reached to him when they divided their shares. (Al-Naraqi, 1988). It is a kind of inheritance agreed upon by the Imamis, and one of the peculiarities and necessities of their sect. Thus, their texts were combined from the imams of Ahl al-Bayt. (Al-Najafi, 1981).

Some jurists have mentioned some wisdom behind the legislation of Al-Habwa, which is, the eldest son is standing in the place of the father, so he is the first to have what belongs to his father, such as his clothes, sword, ring, Qur'an, and the like. Or, that Al-Habwa is reserved for the eldest son in view of the rights that Allah Almighty has imposed on him towards his father like the obligation to make up for what his father had missed of prayer or fasting.

# Third: Husband's Inheritance

In inheritance between spouses, the contract must be perpetuated, and there is no inheritance between them in the event of separation (Al-Sistani, 1993). The husband inherits from his wife half of her estate if she does not have a child, and he inherits a quarter if she has a child, even if he is a grandchild.

If the wife did not leave an inheritance for her with lineage or cause except for the Imam (peace be upon him), then half of her estate goes to her husband by imposition. The husband inherits from all what the wife left .

#### **Section Three**

#### First: Women's Inheritance

Women in Islam have only two shares in the inheritance: the first share: one third, and that is subject to three conditions (Al-Qurtubi, 1964).

The first condition: the absence of an inheriting offspring, and the evidence is the Almighty's saying "If he had no child, and his parents inherit from him, his mother gets one-third." An-Nisa', verse 11 (Fahmi, 2018). The verse clearly indicates that the mother inherits one third in the event that there is no inheriting offspring for the deceased, whether male or female.

The second condition: the absence of brothers and sisters at all, whether they are brothers, stepbrothers, sisters, or stepsisters. The evidence for this is the Almighty's saying: "If he has

siblings, his mother gets one-sixth, which clearly indicates that the mother is withheld from a third to a sixth in the case there is a number of siblings.

The scholars' disagreement about the number that withholds the mother from a third to a sixth is based on two opinions:

The first opinion: The mother is withheld by two brothers or more, and this is the opinion of the majority of Fuqaha'. The second opinion: The mother is withheld by three brothers or more, and this is the opinion of Ibn Abbas. The reason for the disagreement between the public and Ibn Abbas is due to the fact that the least of what is the plurality. Whoever said that the least of plurality is three, then, the least number of brothers that withhold the mother is three. In the same way, whoever said that the least of plurality is two, then, the least number of brothers that withhold the mother is two or more (Al-Qurtubi, 1964).

The mother inherits by imposition, if the mother has a male child or several male children, then she is entitled to a sixth. On the authority of Bakir, about a man who died and left his daughter and his mother: "The imposition consists of four shares. The daughter has three shares, the mother has one sixth share, and there are two shares left, so they are more deserving of them than the uncle, brother, and agnation kinship, because Allah Almighty has given for them. On the authority of Abi Baseer: In a woman who died and left her husband, her mother, her father, and her brothers. He said, "It consists of six shares, the husband has one-half, that is three shares, the father has one-third, that is two shares, the mother has one-sixth, and the brothers have nothing." (Al-Tusi, 1994).

#### Second: Daughter's Inheritance

# A- A daughter's entitlement of the half

The daughter has half of the inheritance with three conditions. The first condition is the absence of an agnatic brother. The evidence is the Almighty's saying "Allah instructs you regarding your children: The male receives the equivalent of the share of two females. If they are daughters, more than two, they get two-thirds of what he leaves." An-Nisa', verse 11 (Fahmi, 2018). The second condition is that she should be the only daughter. The evidence is the Almighty's saying "If there is only one, she gets one-half (Fahmi, 2018).

# B- A daughter's entitlement of the two thirds

A daughter has two thirds on certain conditions. The first condition is that they should be two or more, the evidence is the Almighty's saying "If they are daughters, more than two, they get two-thirds of what he leaves." (Fahmi, 2018), the second condition is the absence of an agnatic brother.

#### Third: Wife's Inheritance

# A- Conditions for the wife's entitlement to inheritance

The first condition is that the contract should be valid. When the contract is valid, inheritance must be made, with or without coition by agreement of fuqaha'. If the contract is void, then there is no inheritance between them at all by agreement of the public, and only the Malikis disagreed with them. They said, inheritance is made in Shagar marriage if coition occurred. The second condition: The establishment of marriage for real or legally.

- 1. The establishment of marriage for real. The wife deserves the inheritance from her deceased husband when marriage is established and if there is no separation occurred between them for any reason.
- 2. The establishment of the marriage legally. The wife is entitled to inherit from her deceased husband by the establishment of the marriage legally if the husband died in the period of revocable divorce, and there is no dispute about this among fuqaha' (Muhammad, 2019). Sheikh Al-Saduq believes that a woman inherits from her husband all the money, even



if she does not have a child from her husband. Then he mentioned that she does not inherit from the immovable property, the land and the building, but its value must be paid to her (Muhammad, 2019).

Ibn al-Junayd, one of the contemporary jurists of Sheikh al-Saduq, quoting from Allama al-Hilli, says, 'If the husband or wife consorts to the son and the parents, the husband gets a quarter, and the wife the eighth, from the entire estate, real estate or furniture and so on (Muhammad, 2019).

Sheikh Al-Mufid gave his opinion in the book (Al-Muqana'a), saying "The wife does not inherit anything that the husband leaves and she gives the value of wood, bricks, construction, and machinery in it. This is stipulated by the Prophet" (Al-Hilli, 1993).

It is not permissible for the wife to dispose of the property that she inherits from its value without the consent of the other heirs, and it is also not permissible for other heirs to dispose of it by selling and the like, or with what necessitates a decrease in its value before paying her share without her consent (Al-Sistani, 1993).

# Conclusion

The researcher concludes the following:

- The meaning of "inheritance" is interpreted according to the two elements of the discourse; the speaker and the addressee, if the speech is related to Allah Almighty, then the derivatives of the verb (inherit) carry the meaning of 'permanence' because it is not befitting the Divine Essence what befits human beings.
- If the verb inherit or its derivatives is attributed to the prophets and their inheritance, as in the Almighty's saying (Inherit me and inherit from the family of Jacob), then this carries the meaning of the moral inheritance (prophecy and knowledge). Also in the hadith of the Prophet (PBUH): "We are, the prophets, do not bequeath a dirham or a dinar, but we bequeath knowledge." In the same sense, in the Almighty's saying (and Sulayman bequeathed David).
- Inheritance has a special science called the science of inheritance, which is the science of jurisprudential and arithmetic rules, by which the beneficiaries of inheritance are known, what each of them is entitled to, the reasons for their entitlement, conditions, and impediments. The jurisprudence of inheritance is that science.

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