

Islamic Jurisprudence ♦ Inheritance 3 ♦ 11 D. Hijjah 1441 / 01 August 2020 1

**Review**

- Importance of Divine Laws in general.
- Importance of Divine Laws of *Irth*.
- Classification of Heirs:
  - *Nasab* (blood relationship)
  - *Sabab* (external cause) i.e., marriage
- The Qur’ān verses & ahādīth indicate:
  - 1) the blood relatives have priority over others and
  - 2) those closer to the deceased have priority over those who are remoter.

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**Classification of Heirs**

**Basis of Inheritance**

<p style="text-align: center;"><i>Nasab</i> (consanguinity)</p> <p><b>1<sup>st</sup> Group</b> (parents &amp; children)</p> <p><b>2<sup>nd</sup> Group</b> (grandparents &amp; siblings)</p> <p><b>3<sup>rd</sup> Group</b> (Uncles &amp; Aunts)</p>	<p style="text-align: center;"><i>Sabab</i> (external cause)</p> <p><b>1. Marriage</b></p> <div style="border: 1px solid gray; border-radius: 10px; padding: 5px; margin-top: 10px;"> <p><b>2. Walā’</b></p> <p>(a) Walā’u ‘l-’itq</p> <p>(b) Walā’ zimānu ‘l-jarirah</p> <p>(c) Walā’u ‘l-Imāmah</p> </div>
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**Basis of Shares of Inheritance**

- There are two basis of defining the shares of inheritance:
- Bi ‘l-Farḍ (بالفرض): this refers to the shares that have been mentioned in the Qur’ān. (Farīḍah, pl. farā’iḍ, portion or share.)
- Bi ‘l-Qarābah (بالقربة): this refers to the shares that are based on relationship only and not specified in the Qur’ān

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**The Qur'ānic Farā'id**• **There are six farā'id:**

1. Half –  $\frac{1}{2}$  النصف
2. Quarter –  $\frac{1}{4}$  الربع
3. One-Eighth –  $\frac{1}{8}$  الثمن
4. Two-Thirds –  $\frac{2}{3}$  الثلثين
5. One-Third –  $\frac{1}{3}$  الثلث
6. One-Sixth –  $\frac{1}{6}$  السدس

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**Find the Farā'id in Verse 4:11**

- <sup>4:11</sup>Allah enjoins you concerning *the shares of your children*: the male shall have the equal of the shares of two females;
- if two or more females, then they shall have two-thirds of what the deceased has left;
- if one female, then she gets half;
- for his parents, each of them shall have one-sixth, from whatever he has left, if he has a child,
- if he has no child and his parents inherit him, then the mother has a share of one-third.

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**Find the Farā'id in Verse 4:11 (2)**

- if he has some brothers, then his mother shall have a share of one-sixth each after any will that has been made or a debt *to be paid*.
- Your parent or your children—you do not know which of them are closer to you as far as benefit is concerned.
- This is the ordinance from Allāh, surely Allāh is Knowing, Wise.

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**Find the Farā'id in Verse 4:12**

- <sup>4:12</sup>You shall have half of whatever your wives leave if they have no child.
- If they have child, then you shall have  $\frac{1}{4}$  from a portion of what your wives leaves after any will that has been made or a debt *to be paid*.
- The wives shall have one-fourth from a portion of what you leave if you do not have a child;
- but if you have child, then the wives shall have one-eighth from a portion of what you leave after any will you may have made or a debt *to be paid*.

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**Find the Farā'id in Verse 4:12 (2)**

- If a man or a woman is inherited *by a half-sibling from mother's side*, then each of them shall have one-sixth.
- If they are more than one, then all of them are partners in one-third—after the will that may have been made and a debt *to be paid*, without any harm.
- This is an ordinance from Allāh. Allāh is Knowing, Forbearing.

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**Find the Farā'id in Verse 4:176**

They are asking you for a ruling: *O Muḥammad*, say that Allāh gives you His ruling about the *kalālah*:  
If a man dies having no child, but he has a sister, then she shall have half of what he leaves.  
And he shall inherit her if she dies and has no child.  
But if there be two sisters, they shall have two-thirds of what he leaves; and if there are more than two siblings, male and female, then the male shall have equal of the shares of two females.  
Allāh makes clear to you, lest you err; and Allāh knows all things.

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**The Qur'ānic Farā'id**

- There are six farā'id:
  1. Half –  $\frac{1}{2}$  = 3 cases
  2. Quarter –  $\frac{1}{4}$  = 2 cases
  3. One-Eighth –  $\frac{1}{8}$  = 1 case
  4. Two-Thirds –  $\frac{2}{3}$  = 2 cases
  5. One-Third –  $\frac{1}{3}$  = 2 cases
  6. One-Sixth –  $\frac{1}{6}$  = 3 cases

= These farā'id cover 13 cases.

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**1. The Qur'ānic Farā'id ( $\frac{1}{2}$ )**

1. **Husband if wife has no child or grandchild.**  
4:12 You shall have half of whatever your wives leave if they have no child.
2. **Only daughter.**  
4:11 if one female, then she gets half
3. **Full or half sister (from father's side) if she has no brother.**  
4:176 If a man dies having no child, but he has a sister, then she shall have half of what he leaves.

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**2. The Qur'ānic Farā'id ( $\frac{1}{4}$ )**

1. **Husband if wife has a child or grandchild.**  
4:12 If they have child, then you shall have one-fourth from a portion of what your wives leaves
2. **Wife if husband has no child or grandchild.**  
4:12 The wives shall have one-fourth from a portion of what you leave if you do not have a child

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**3. The Qur'ānic Farā'id (1/6)**

**1. Wife if husband has a child or grandchild.**

4:12 but if you have child, then the wives shall have one-eighth from a portion of what you leave

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**4. The Qur'ānic Farā'id (2/3)**

**1. Two or more daughters without no son.**

4:11 if two or more females, then they shall have two-thirds of what the deceased has left

**2. Two or more sisters without no brother.**

4:176 But if there be two sisters, they shall have two-thirds of what he leaves

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**5. The Qur'ānic Farā'id (1/3)**

**1. Mother when the deceased has no child or grandchild or no brother.**

4:11 if he has no child and his parents inherit him, then the mother has a share of one-third

**2. Brother and sister from mother's side.**

4:12 If they are more than one, then all of them are partners in one-third

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**6. The Qur'ānic Farā'id (1/6)**

- 1. Father and mother when the deceased has a child or grandchild.**  
4:11 for his parents, each of them shall have one-sixth, from whatever he has left, if he has a child
- 2. Mother when the deceased has brothers.**  
4:11 if he has some brothers, then his mother shall have a share of one-sixth each
- 3. A single brother or sister from mother's side.**  
4:12 If a man or a woman is inherited by a *half-sibling from mother's side*, then each of them shall have 1/6.

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**Share Based on Qarābah Only**

- Bi 'l-qarābah share has only 1 case:
- The son has no specified share.
- After the spouse and/or parent(s) have been given their Qur'ānic shares, *whatever remains* goes to the son.
- In case of multiple sons, they will share the remaining equally.
- In case of son and daughter, he will get double of her share as mentioned in 4:11 and 4:176.

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**Share Based on Farḍ & Qarābah**

- A case where both bases of farḍ and qarābah come together:
- In case a single daughter when there is no one from the first group:
- She gets *half* on basis of farḍ.
- And she gets the other *half* on basis of qarābah.

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**The Prophet's Estate**

- **The Prophet<sup>s</sup> left from potential heirs:**
  - 1<sup>st</sup> Group:** No parents  
but 1 daughter  
& 4 grandchildren
  - 2<sup>nd</sup> Group:** No grandparents or siblings.
  - 3<sup>rd</sup> Group:** 1 uncle, 1 aunt, & cousins  
and cousins' children.
- + 9 Wives.

**So who is eligible of inheriting?**

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**The Prophet's Estate (2)**

- **The only eligible heirs of the Prophet<sup>s</sup>:**  
**9 wives & 1 daughter**
  - The wives will get 1/8 to be shared among the nine equally.
  - 1/2 will go the daughter as fard.
  - Wives = 1/8 + Daughter = 4/8.

**What will happen to the remaining 3/8?**

- = **Shi'a:** the 3/8 goes to the daughter.
- = **Sunni:** the 3/8 goes to an eligible person from the 2<sup>nd</sup> or 3<sup>rd</sup> groups...

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