

Islamic Jurisprudence ♦ Inheritance 4 ♦ 18 D. Hijjah 1441 / 08 August 2020 1

What's the sequence in dividing *irth*?

- Children
- Debt
- Parent(s)
- One-third of the will
- Spouse

1. _____
2. _____
3. _____
4. _____
5. _____

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Farā'id (1st Group)

- **Husband:** if you have a child = 1/4 (25%)
if you have no child = 1/2 (50%)
- **Wife:** if you have a child = 1/8 (12.5%)
if you have no child = 1/4 (25%)
- **Father:** if you have no child = ?
if you have a child = 1/6 (16.66%)
- **Mother:** if you have a child = 1/6 (16.66%)
if you have a brother = 1/6 (16.66%)
if you have no child = 1/3 (33.33%)
- **Daughter:** if only child = 1/2 (50%)
- **Daughters:** if no son = 2/3 (66.66%)
- **Son(s):** = ?
- **Children:** = 1/3 vs 2/3 ratio

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Farā'id (2nd Group)

- **Sister:** if only sibling = 1/2 (50%)
- **Sisters:** if no brother = 2/3 (66.66%)
- **Sibling:** from mother's side = 1/6 (16.66%)
- **Siblings:** from mother's side = 1/3 (33.33%)

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Verses on the Farā'id (1)

Children: = single & double

^{4:11}Allah enjoins you concerning *the shares of your children*: the male shall have the equal of the shares of two females;

Daughters: if you have no child = 1/3 (33.33%)
if two or more females, then they shall have two-thirds of what the deceased has left;

Daughter: if only child = 1/2 (50%)
if one female, then she gets half.

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Verses on the Farā'id (2)

Parents: if you a child = 1/6 (16.66%) each
for his parents, each of them shall have one-sixth, from whatever he has left, if he has a child;

Mother: if you have no child = 1/3 (33.33%)
if he has no child and his parents inherit him, then the mother has a share of one-third.

Mother: if you have a brother = 1/6 (16.66%)
if he has some brothers, then his mother shall have a share of one-sixth after nay 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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Verses on the Farā'id (3)

Husband: if you have no child = 1/2 (50%)
if you have a child = 1/4 (25%)

^{4:12}You shall have half of whatever your wives leave if they have no child.
If they have child, then you shall have one-fourth from a portion of what your wives leaves after any will that has been made or a debt *to be paid*.

Wife: if you have no child = 1/4 (25%)
if you have a child = 1/8 (12.5%)

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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Verses on the Farā'id (4)

Sibling: from mother's side = $1/6$ (16.66%)

If a man or a woman is inherited by a *half-sibling from mother's side*, then each of them shall have one-sixth.

Siblings: from mother's side = $1/3$ (33.33%)

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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Verses on the Farā'id (5)

Sister: if only sibling = $1/2$ (50%)

^{4:176}They are asking you for a ruling: *O Muhammad*, 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...

Sisters: if no brother = $2/3$ (66.66%)

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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What about these cases?

• **Father: if you have no child** = ?

What happens when there is no child but there is a mother and wife?

wife → $1/4$ 25.00%

mother → $1/3$ 33.33%

father → whatever remains: 41.67%

• **Son(s):** = ?

Whatever remains after the wife and the parent(s) get their shares.

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A child or brother's impact on shares of the 1st Group

	No child or brother	Child or brother
• Husband <i>or</i>	50%	25%
• Wife	25%	12.50%
• Father	?	16.66%
• Mother	33.33%	16.66%

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Remember

- The Qur'ān verses & ahādīth indicate:
 - 1) the blood relatives have priority over others.
أُولُوا الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ
 - 2) Those blood relatives who are closer to the deceased have priority over those who are remoter.

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Question from last lecture

- A generation closer to the deceased prevents a generation that is remoter.

Father

1st Son 2nd son 3rd daughter 4th son

↓ ↓ ↓ ↓

grandchildren from all four children

= grandchildren, even the predeceased 1st son, do not inherit.

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Let us look again at the Prophet's heirs

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

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Let us look again at the Prophet's heirs

• Wives = 12.5% Daughter = 50% + 37.5%

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Remember

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Combination of Heirs' Shares

1. All inherit bil fard.
2. All inherit bil qarābah.
3. Some inherit bil fard and some by bil qarābah.

The first category can be of three kinds:

1. Either the shares are equal to 100%.
2. Or the shares are more than 100%.
3. Or the shares are less than 100%.

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Combination of Heirs' Shares (2)

The first category can be of three kinds:

1. Either the shares are equal to 100%.

- | | | |
|-----------------|-----|---------|
| a) Father: | 1/6 | 16.667% |
| b) Mother: | 1/6 | 16.667% |
| c) 2 Daughters: | 2/3 | 66.666% |

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Combination of Heirs' Shares (2)

2. Or the shares are more than 100%.

- | | | |
|----------------|-----|--------|
| a) Husband: | 1/4 | 25% |
| b) Father: | 1/6 | 16.66% |
| c) Mother: | 1/6 | 16.66% |
| d) 1 Daughter: | 1/2 | 50.00% |

= daughter will bear the loss. 41.68%

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Combination of Heirs' Shares (2)

3. Or the shares are less than 100%.

a) A daughter only: 1/2 50%

= the remaining 50% also goes to her as bil qarābah (or bir-radd, i.e., it is returned to her).

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A question from last class

- **Upon death of the husband, as per Canadian laws, the house goes to the wife. If the children ask for their share and she doesn't have enough cash to recompensate, then what happens?**
- **There are two solutions mentioned in Making An Islamic Will.**
- **One more solution is...**

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