

## Year 2 - Inheritance Law

FOUNTAIN INSTITUTE

Published by FI – Fountain Institute

First edition 2012

© 2012 by Fountain Institute, All rights reserved

Title: Inheritance Law

In the name of Allah, the All-Merciful, the Most Merciful.  
May Allah bless Muḥammad and his family and  
companions and grant them perfect peace.

# Inheritance LAW

The laws of inheritance are detailed out in the Quran. This is rare for Sacred Law rulings as the norm is for the obligation or prohibition to be established in the Quran and the details filled in by the Sunnah of the Holy Prophet.

When a Muslim dies his property (Tarikah) is divided amongst the rightful heirs, but before that can be done other financial considerations take priority. So the procedure is as follows:

1. Pay all funeral and burial expenses from the deceased person's wealth.
2. Pay all debts.
3. Fulfil the bequests of the deceased from a maximum of 1/3rd of the remaining wealth.
4. Distribute the remaining property according to the Sacred Law.

Depending on the relationship to the deceased the share of the remaining estate will differ and the share will also be affected by other family members.

There are situations in which a person who would normally inherit is barred from his portion. This happens if the relative who would normally inherit is not following the same religion as the deceased. Another situation is if the relative was responsible for the murder of the deceased in which case he will not inherit.

## The Husband

وَلَكُمْ نِصْفٌ مَا تَرَكَ أَزْوَاجُكُمْ إِنْ لَمْ يَكُنْ لَهُنَّ وَلْدًا فَإِنْ كَانَ لَهُنَّ وَلْدٌ فَلَكُمُ الرُّبُعُ مِمَّا تَرَكْنَ مِنْ بَعْدِ وَصِيَّةٍ يُوصِينَ بِهَا أَوْ دَيْنٍ

You shall inherit one half of your wives' estate if they leave no child, but if they leave behind a child then you will get one fourth of their estate after fulfilling the terms of their last will and the payment of debts. (An Nisa, 12).

The husband will always inherit and he cannot be blocked by any other inheritor. He may inherit in one of two ways depending on the situation:

- a) 1/2 - He gets half the property if the wife does not have children.
- b) 1/4 - He gets a quarter of the property if the wife does have children.

2k

- Husband

4k

- Son
- Daughter
- Husband

## The Wife

وَلَهُنَّ الْرُّبُعُ مِمَّا تَرَكْتُمْ إِنْ لَمْ يَكُنْ لَكُمْ وَلَدٌ حَفَانْ كَانَ  
لَكُمْ وَلَدٌ فَلَهُنَّ الشُّتُّمُ مِمَّا تَرَكْتُمْ حَمِّنْ بَعْدِ وَصِيَّةٍ تَوْصُونَ  
بَهَا أَوْ دَيْنَ

And your wives shall inherit one fourth if you leave no child behind you, but if you leave a child, then they shall get one-eighth of your estate after fulfilling the terms of your last will and the payment of debts. (An Nisa, 12).

The wife will always inherit and she cannot be blocked by any other inheritor. She may inherit in one of two ways depending on the situation:

- a) 1/4 - She gets a quarter of the property if the husband does not have children.
- b) 1/8 - She gets an eighth of the property if the husband does have children.

4k

- Wife

8k

- Son  
- Wife

# The Daughter

بُوصِيْكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنْثَيَيْنِ وَإِنْ كَنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ وَإِنْ كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ

Allah (thus) directs you as regards your children's (inheritance), to the male a portion equal to that of two females; if there are (only) daughters two or more, their share is two-thirds of the inheritance. If there is only one, her share is a half. (An Nisa, 11).

The daughter can inherit in one of three ways depending on the situation:

c) 1/2 - She gets half the property if she is the only (living) daughter and the deceased has no son.

d) 2/3 - She gets two thirds of the property if there is more than one daughter. However the two thirds must be divided equally between herself and any other daughters.

e) A - She is Asabah if there is a son for the deceased (her brother). Asabah means that the entire or remaining property is taken. In this case the daughter will share the property with the son and the son will get twice as much as the daughter.

3k

- Son
- Daughter

12k

- 2 Daughters
- Husband

8k

- 1 Daughter
- Wife

## The Son

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ كَمَا لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ فَإِنْ كَنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلْهُنَّ ثُلَاثًا مَا تَرَكَ وَإِنْ كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ

Allah (thus) directs you as regards your children's (inheritance), to the male a portion equal to that of two females; if there are (only) daughters two or more, their share is two-thirds of the inheritance. If there is only one, her share is a half. (An Nisa, 11).

The Son is the strongest inheritor, he blocks many inheritors and himself inherits as Asabah or residuary. The Asabah inheritor takes the remaining estate after those entitled have taken their share.

4k

- 2 Sons
- 4 Grandsons

8k

- 2 Sons
- 4 Daughters

16k

- 2 Sons
- 4 Daughters
- Husband

# The Father

وَلَا يَبْوَيْهِ لِكُلٌّ وَاحِدٌ مِنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُ وَلْدٌ

As for his parents, each one will receive a sixth of the inheritance if he (the deceased) had children. (An Nisa, 11).

The father can inherit in one of three ways depending on the situation:

- a) 1/6 - He gets a sixth of the property if male progeny is present (son, or grandson, being the son of son and so on down).
- b) 1/6 + A - He gets a sixth of the property and also becomes Asabah if there is no male progeny present but there is female progeny (daughter or granddaughter, being the daughter of son and so on down as in daughter of son's son).
- c) A - He is Asabah if there is no progeny.

6k

- 2 Sons
- 4 Grandsons
- Father

6k

- Daughter
- 4 Grandsons
- Father

24k

- Daughter
- Wife
- Father

6k

- Granddaughter
- Father

6k

- Husband
- Father

## The Mother

وَلَا يَبْوِيهِ لُكْلٌ وَاحِدٌ مِنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُ وَلَدٌ  
فَإِنْ لَمْ يَكُنْ لَهُ وَلَدٌ وَوَرَثَهُ أَبُوهُهُ فَلَامِهِ الْثُلُثُ فَإِنْ كَانَ  
لَهُ أَخْوَةٌ فَلَامِهِ السُّدُسُ مِنْ بَعْدِ وَصِيَّةٍ يُوصَىٰ بِهَا أَوْ دِينٍ  
أَبَاؤُكُمْ وَابْناؤُكُمْ لَا تَدْرُونَ أَيْمَنَ أَقْرَبٌ لَكُمْ نَفْعًا فَرِيضَةٌ  
مِنَ اللَّهِ إِنَّ اللَّهَ كَانَ عَلَيْمًا حَكِيمًا

Allah (thus) directs you as regards your children's (inheritance), to As for his parents, each one will receive a sixth of the inheritance if he (the deceased) had children. You know not whether your parents or your children are nearest to you in benefit. These are settled portions ordained by Allah and Allah is All-Knowing All-Wise. (An Nisa, 11).

The mother can inherit in one of three ways depending on the situation:

- a) 1/6 - She gets a sixth of the property if the deceased has children or grandchildren (and so on down).

Or

She also gets a sixth if there are two or more siblings (full or half, from mother or father) even if they themselves are blocked.

- b) 1/3 - She gets a third of the property if the deceased does not have children or two siblings, and if the situation is not Umariyah.

- c) 1/3 of the remainder - She gets a third of the remaining property if the situation is Umariyah. It is considered Umariyah if we have both parents and a spouse present and there are no children and neither two nor more siblings. In such a case the spouse inherits then the mother gets a third of what remains and the father inherits the rest.

The above inheritors are not blocked by anyone else. They will always inherit if they are alive, unless there is another reason for them not

inheriting. As for the following inheritors they can be blocked.

6k

- 12 Great Grandsons
- Mother

6k

- 2 Full Brothers
- Father
- Mother

6k

- Father
- Mother

6k

- Grandfather
- Husband
- Mother

6k

- Husband
- Father
- MOther

16k

- Full Sister
- Wife
- Father
- Mother

## The Grandson

بُوْصِيْكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأَنْثَيْنِ فَإِنْ كَنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلَاثًا مَا تَرَكَ وَإِنْ كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ

Allah (thus) directs you as regards your children>s (inheritance), to the male a portion equal to that of two females; if there are (only) daughters two or more their share is two-thirds of the inheritance. If there is only one, her share is a half. (An Nisa, 11).

The grandson considered is the son's son and not the daughter's son as he will inherit from his father's side. His inheritance situation is the same as the son except that he can be blocked by the son.

- a) Bl - If the son is present the grandson is blocked as in accordance with the general rule 'the individual through whom you connect to the deceased blocks you'.
- b) A - He is Asabah if there is no son.

4k	6k
- Son	- 3 Daughters
- Daughter	- 5 Grandsons
- Husband	
- 4 Grandsons	

# The Granddaughter

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ  
 يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنْثَيَيْنِ حَفَانْ  
 كُنْ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنْ ثُلَاثًا مَا تَرَكَ وَإِنْ كَانَتْ وَاحِدَةً  
 فَلَهَا النِّصْفُ

Allah (thus) directs you as regards your children's (inheritance), to the male a portion equal to that of two females; if there are (only) daughters two or more their share is two-thirds of the inheritance. If there is only one, her share is a half. (An Nisa, 11).

The granddaughter considered is the son's daughter and not the daughter's daughter as she will inherit from her father's side. She has five possibilities with regards to inheritance:

- a) Bl - If the son is present the granddaughter is blocked as in accordance with the general rule 'the individual through whom you connect to the deceased blocks you'. She is also blocked by two or more daughters if there is no one for her to become Asabah with (i.e. grandson, great grandson or so on down).
- b) A - She is Asabah if there is no son and a grandson is present (this may be here brother or cousin).
- c) 2/3 - She gets two thirds if there are two or more granddaughters (they do not have to be sisters) and there are no sons, daughters or grandsons.
- d) 1/2 - she gets half if there is one granddaughter and there are no sons, daughters or grandsons.
- e) 1/6 - If there is a no son or grandson and there is one daughter then the granddaughter(s) get a sixth.

4k	6k
- Son	- 3 Daughters
- Daughter	- 5 Granddaughters
- 4 Grandsons	
- 4 Granddaughters	
24k	24k
- 3 Daughters	- Daughter
- 2 Great Grandsons	- 4 Grandsons
- 3 Great Granddaughters	- 4 Granddaughters
- 1 Granddaughters	
12k	12k
- Mother	- Father
- 5 Granddaughters	- Granddaughter
12k	
-	
- Daughters	
- 4 Granddaughters	

# The Grandfather

The grandfather (father's father) is like the father in the absence of the father whereas if the father is present the grandfather is blocked from inheritance.

- a) Bl - He is blocked in the presence of the father.
- b) 1/6 - He gets a sixth of the property if male progeny is present (son, or grandson, being the son of son and so on down).
- c) 1/6 + A - He gets a sixth of the property and also becomes Asabah if no male progeny is present but there is female progeny (daughter or granddaughter, being the daughter of son and on so on down as in daughter of son's son).
- d) A - He is Asabah if there is no progeny.  
However there are certain situations in which the grandfather does not act like the father.
- e) The father blocks the grandmother (his mother) but the grandfather does not (block his wife).
- f) The Umariyah situation does not take place with the grandfather but does with the father.

6k

- 2 Sons
- 4 Grandsons

24k

- Daughter
- Wife
- Grandfather

6k

- Granddaughter
- Grandfather

6k

- Husband
- Grandfather

12k

- Husband
- Grandmother (fathers mother)
- Grandfather

12k

- Wife
- Mother
- Grandfather

## The Grandmother

The maternal grandmother (mother's mother) may inherit in accordance with Hadith and a consensus of the Sahaabah and as for the paternal grandmother (father's mother) she inherits due to the consensus of the Sahaabah. Although both are blocked by the mother.

a) Bl - The maternal grandmother is blocked by the mother, whereas the paternal grandmother is blocked by both the mother and the father.

b) 1/6 -The maternal grandmother inherits a sixth if there is no mother and the paternal grandmother inherits a sixth if there is no father or mother. If both grandmothers inherit then they will share a sixth.

6k	6k
- Father	- Mother
- Maternal Grandmother	- 4 Grandsons
- Paternal Grandmother	- Maternal Grandmother
	- Paternal Grandmother
12k	24k
- Husband	- Daughter
- Son	- 2 Grandsons
- Maternal Grandmother	- Wife
- Paternal Grandmother	- Paternal Grandmother

## Full Brother

حَدَّثَنَا مُوسَىٰ بْنُ إِسْمَاعِيلَ حَدَّثَنَا وَهِيَتْ حَدَّثَنَا ابْنُ طَاؤِسٍ  
 عَنْ أَيِّهِ عَنْ أَبْنَ عَبَّاسَ رَضِيَ اللَّهُ عَنْهُمَا  
 عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ الْحَقُوا الْفَرَائِضَ  
 بِأَهْلِهَا فَمَا بَقِيَ فَهُوَ لِأُولَى رَجُلٍ ذَكَرٍ

Imam Al Bukhari said Musa ibn Ismaeel said to me Wahb informed me that Ibn Taawus informed him from his father from Ibn Abbas from the Prophet that he said, 'Give over the inheritance to those who deserve it and if anything is left over then it is for the closest male relative.' (Al Bukhari).

The full brother is the one who shares the same father and mother with the deceased. For him there are two possibilities with regards to inheritance:

- a) Bl - The full brother is blocked by the father and grandfather (and on up) and the son and grandson (and on down).
- b) A - If the full brother is not blocked then he will inherit as Asabah. If there is a full sister present she will share the Asabah with him.

9k

- Daughter
- Son
- 2 Grandsons
- 2 Full brothers

12k

- Wife
- Mother
- Grandfather
- Full brother

24k

- Daughter
- Mother
- Wife
- 4 Full Brothers

## Full Sister

يَسْتَفْتُونَكَ قُلِّ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ إِنْ أَمْرُوا هَلْكَ لَيْسَ  
لَهُ وَلَدٌ وَلَهُ أُخْتٌ فَلَهَا نِصْفٌ مَا تَرَكَ وَهُوَ يَرْثُهَا إِنْ لَمْ  
يَكُنْ لَهَا وَلَدٌ فَإِنْ كَانَتَا أَشْتَهِيْنَ فَلَهُمَا الشَّانِ مِمَّا تَرَكَ وَإِنْ  
كَانُوا إِخْوَةً رِجَالًا وَنِسَاءً فَلَلذَّكَرُ مِثْلُ حَظِّ الْأَنْثَيْنِ فَلَمْ يُبَيِّنْ  
اللَّهُ لَكُمْ أَنْ تَضْلُوا فَوَاللَّهِ بِكُلِّ شَيْءٍ عَلِيمٌ

They ask you for a legal decision. Say: Allah directs (thus) about those who leave no descendants or ascendants as heirs. If it is a man that dies leaving a sister but no child she shall have half the inheritance: if (such a deceased was) a woman who left no child her brother takes her inheritance: if there are two sisters they shall have two-thirds of the inheritance (between them): if there are brothers and sisters (they share) the male having twice the share of the female. Thus doth Allah make clear to you (His law) lest you go astray. And Allah hath knowledge of all things. (An Nisa, 176).

The full sister is the one who shares the same father and mother with the deceased. For her there are four possibilities with regards to inheritance:

- a) Bl - The full sister is blocked by the father and grandfather (and on up) and the son and grandson (and on down).
- b) A - If the full sister is not blocked then she will inherit as Asabah with the full brother if he is present. Or she will become Asabah in the presence of a daughter or granddaughter (and on down).
- c) 1/2 - She will inherit a half if there is no progeny (son, daughter, grandson, granddaughter and on down) and no father or grandfather (and on up) and there is no full brother.
- d) 2/3 - The full sister will inherit two thirds if there is more than one and the conditions above (c) are met.

9k

- Daughter
- Son
- 2 Grandsons
- 2 Full brothers
- Full Sister

24k

- Daughter
- Mother
- Wife
- 4 Full Brothers
- 2 Full Sisters

4k

- Full Sister

8k

- Wife
- Full Sister
- Granddaughter

12k

- Husband
- Mother
- Father
- Full Sister

24k

- Daughter
- Paternal Grandmother
- Husband
- Full Sister

24k

- Maternal Grandmother
- 2 Full Sisters

## Paternal half brother

This is a brother with whom you share a father but have different mothers. His inheritance is the same as the full brother except he is blocked by him and by the full sister if she becomes Asabah.

a) Bl - The paternal half brother is blocked by the father and grandfather (and on up) and the son and grandson (and on down), also by the full brother and by the full sister if she becomes Asabah.

b) A - If the full brother is not blocked then he will inherit as Asabah. If there is a full sister present she will share the Asabah with him.

12k	12k
- Full Brother	- Maternal Grandmother
- 2 Full Sisters	- 4 Full Sisters
- Husband	- Paternal Half brother

6k	12k
- Daughter	- Wife
- Full Sister	- Full Sister
- 2 Paternal Half brothers	- Paternal Half brother

12k
- Husband
- 2 Paternal Half Sister
- 2 Paternal Half brothers

## Paternal half sister

حَدَّثَنَا عَمْرُو بْنُ عَبَّاسَ حَدَّثَنَا عَبْدُ الرَّحْمَنَ حَدَّثَنَا سُفِيَّانُ  
 عَنْ أَبِي قَيْسٍ عَنْ هُزَيْلٍ قَالَ قَالَ عَبْدُ اللَّهِ  
 لَا يُقْضِيَنَّ فِيهَا بَقْصَاءُ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَوْ قَالَ  
 قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لِلْأُبْنَةِ النَّصْفُ وَلِلْأُبْنَةِ  
 الْأَبْنَى السُّدُسُ وَمَا بَقِيَ فَلِلْأُخْتِ

Abdullah said I will judge according to the judgement of Messenger of Allah who said, ‘The daughter has a half, the granddaughter has a sixth and what remains is for the sister’. (Al Bukhari).

The paternal half sister is a sister with whom you share a father but have different mothers. For her there are five possibilities with regards to inheritance.

- a) Bl - The paternal half sister is blocked by the father and grandfather (and on up) and the son and grandson (and on down), also by the full brother and by the full sister if she becomes Asabah.
- b) A - If the paternal half sister is not blocked then she will inherit as Asabah if the paternal half brother is present.
- c) 1/2 - She will inherit a half if there is no progeny (son, daughter, grandson, granddaughter and so on down) and no father or grandfather (and on up) and there is no full brother, full sister or paternal half brother.
- d) 2/3 - The paternal half sister will inherit two thirds if there is more than one and the conditions above (c) are met.
- e) 1/6 - She will inherit a sixth if she is not blocked and there is no paternal half brother and there is one full sister. She will inherit a sixth to complete the two thirds.

8k

- 2 Full Brothers
- 4 Full Sisters
- 4 Paternal Half Sisters
- 2 Paternal Half brothers

6k

- Father
- 2 Grandsons
- 4 Full brothers
- 2 Paternal Half sisters

6k

- Daughter
- 3 Full Sisters
- 4 Paternal half brothers
- 3 Paternal Half sisters

6k

- Paternal Uncle
- Full sister
- Paternal Half sister

6k

- Paternal cousin
- Mother
- Paternal Half sister

6k

- Nephew
- Wife
- 4 Paternal Half sisters

## Maternal Half Brother and sisters

وَإِنْ كَانَ رَجُلٌ يُورَثُ كَلَالَةً أَوْ امْرَأَةٌ وَلَهُ أَخٌ أَوْ أُخْتٌ  
 فَلَكُلٌّ وَاحِدٌ مِنْهُمَا السُّدُسُ حَفَاظًا عَلَى الْمُؤْمِنِينَ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ  
 شُرَكَاءٌ فِي الْثُلُثَةِ حَمَلُوا بَعْدَ وَصِيَّةٍ يُوصَىٰ بِهَا أَوْ دَيْنٍ غَيْرَ  
 مُضَارٍ حَمَلُوا بَعْدَ وَصِيَّةٍ مِنَ اللَّهِ وَاللَّهُ عَلَيْهِ حَلِيمٌ

If the man or woman whose inheritance is in question has left neither ascendants nor descendants but has left a brother or a sister each one of the two gets a sixth; but if more than two they share in a third; after payment of legacies and debts; so that no loss is caused (to anyone). Thus is it ordained by Allah and Allah is All-Knowing Most Forbearing.

(An Nisa, 12).

There is no difference between the inheritance of a maternal half brother and maternal half sister. They both have the following possibilities:

- a) Bl - They are blocked by the father and grandfather (and on up) as well as the son, grandson (and on down), daughter and granddaughter (and on down).
- b) 1/6 - If the maternal half brother or sister is alone and is not blocked, he or she will inherit a sixth.
- c) 1/3 - If there is more than one and they are not blocked they share a third equally.

6k

- Father
- 2 Granddaughters
- Maternal Half brother

6k

- Mother
- Husband
- Maternal Half Sister

24k

- Full brother
- Husband
- 2 Maternal Half Sisters
- 2 Maternal Half Brothers

## Order of Asabah

As we have seen different inheritors can become Asabah. The Asabah is always given to relatives from the father's side. The order of priority in regards to Asabah is given below.

1. Decedents - The children and grandchildren (son's children) and so on down.
2. Ancestors - Father then grandfather and on up.
3. Siblings - Full brothers then half brothers. The sisters with daughters (or granddaughters) are also Asabah.
4. Nephews - The full brother's son is given preference over the paternal half brother's son.
5. Uncles - The father's full brother is given priority over the father's paternal half brother.
6. Cousins - These are male children of the paternal uncle.

12k	6k
- Nephew (Full brothers son)	- Husband
- Wife	- Grandmother (fathers mother)
- Mother	- Nephew (Full brothers son)
- Grandfather	- Nephew

## The Will

مِنْ بَعْدِ وَصِيَّةٍ يُوصَىٰ بِهَا أَوْ دَيْنٍ غَيْرِ مُضَارٍ وَصِيَّةٌ مِنْ  
اللَّهِ قَدْ وَاللَّهُ عَلَيْمٌ حَلِيمٌ

After (the deduction of) any bequest that may have been made or any debt (that may have been incurred) neither of which having been intended to harm (the heirs). (This is) an injunction from God: and God is all-knowing, forbearing. (An Nisa, 12).

Sacred Law has placed two restrictions on a Testator (one who makes a Will):

1. Firstly the beneficiary (Al-Musa Lahu) of the will cannot be an existing heir.
2. Secondly, the amount that he can bequeath is limited to 1/3 of his assets.