

CHAPTER NINE

Why do women only get half inheritance and the man gets a full share?

Allah mentions in the Quran, *“For the male, what is equal to the share of two females...”*

In the Islamic Shariah there is a general rule as stated in the Qur’an *“for the male, what is equal to the share of two females...”* Critics are often quoting this rule without understanding its full legality and exceptions. This is not a hard and fast rule that applies to all heirs based on their gender, but rather a just and qualified rule as we will see below.

Some examples of the exceptions are as follows;

1) If the deceased leaves behind dependents i.e. children, a mother and a father then each of his parents inherit one-sixth of the estate without any distinction between them based on the gender and without any regard for the supposedly unbending rule of *“the share of male is equal to the share of two females...”* This ruling is based on the phrase, *‘And for each of the parents of the deceased is one sixth of what is left...’*ⁱ

2) If the deceased leaves a maternal brother and a maternal sister and if there is no one present who would render either of them unqualified to inherit, then one-sixth of the estate goes to the brother and another sixth goes to the sister. This ruling, which likewise makes no distinction between the heirs on the basis of gender.ⁱⁱ

3) If the deceased leaves two or more maternal sisters and two or more maternal brothers, the brothers together inherit one-third, while the sisters together inherit another third without any distinction made on the basis of their maleness and femaleness respectively, and without regard for what some take to be all-encompassing rule of, *“the share of male is equal to the share of two females...”* This ruling is based on the words, *“then if the sister and brother be more than one-third,...”*ⁱⁱⁱ.

4) If a woman dies and leaves her husband and a daughter, the daughter inherits one-half of her mother’s bequest while the girl’s father one-fourth; in other words, the female in this case inherits twice as much as the male.

5) If a man dies leaving a wife, two daughters and a brother, his wife inherits one eighth of his estate, the two daughters inherit two-thirds, and whatever is left goes to their paternal uncle, who is the deceased’s brother. Hence, each of the daughters of the deceased inherits more than her paternal uncle, since each daughter’s share amounts to 8/24 of the estate, while the uncle’s share comes to 5/24 of the estate.

What has been taken into consideration by Allah (The Exalted) in these rulings is the situation of the heir and his or her degree of need, as well as relationship between the heir and the person from whom he or she is to inherit, whether male or female.

Men have responsibility

When the Quran mentions the verse of inheritance it is a general rule; the explanation have to be looked at and books of Islamic law that takes the full picture into consideration. The reason why the male gets twice the amount is because he has more economic responsibilities upon his shoulder. For example:

1. When a son reaches maturity and acquires the capacity to earn money, he becomes responsible for providing financial support for his parents if they are in need of support.
2. The husband is required to cover expenses related to the marriage ceremony and the wedding celebration (walimah).
3. In addition, he has the responsibility to support his wife, including payments of a dowry as they begin their married life.
4. The husband is responsible for covering all the housing expenses for his family.
5. The husband is required to cover the cost of educating and rearing his children.
6. In the event of divorce, the husband is still required to bear the children’s expenses.

This man’s sister, on the other hand, is not required to shoulder these responsibilities. Hence, a fair inheritance settlement involving a brother and a sister whose father has died requires:

1) That the brother and sister take part in dividing up what remains of the bequest after all fixed shares have been distributed, and

2) That the sister receives one-half of whatever she falls to her brother rather than her original fixed share, namely, one-half.

Inheritance is the transfer of legal possession of deceased persons onto their descendants. It is really a very tough job to determine the justified quantity or ratio of assets to be distributed among the dependants and relatives.

According to the Confucius philosophy like many other religions the eldest son enjoys the right of possessing the total assets of father (that is called the 'right of primogeniture'). Other systems prevalent throughout the world, with a very little variation, are very much one eyed towards women and in other words unjustified.

Woman's right?

According to the Encyclopedia Americana, in English Common law all the real property held by a woman at the time of her marriage became the property of her husband-he was entitled to the rent from the land and any profit that might be made from managing it. It was not until the late 1870s onwards in Europe that married women achieved the right to enter contracts and own property. In France this right was not recognised until 1938. Many western writers have expressed astonishment that Islam should have recognised property rights for women as early as the 670 CE; this is because they wonder how Muhammad (may Allah bless him and grant him peace) could have initiated these rights for women at a time when women themselves were considered object of inheritance and abuse. They forget that Prophet Muhammad (may Allah bless him and grant him peace) himself was not the maker of these laws, but it was Allah (The Exalted) who acts unbiased to any social environment.^{iv}

During the time of Prophet (may Allah bless him and grant him peace) women themselves were objects of inheritance and they were considered part of the possession of a man. At such a critical juncture of history, Islam brought about a revolution in the domain of human thought and outlook towards women and established the right of women to inherit and has distributed the inheritance in a very upright way. This determined share is calculated by Allah (The Exalted) Himself and can't be changed.

"And for everyone We have made heirs of the property that is left by parents and relations..."^v

The Islamic law of inheritance is extremely detailed and it is based on two most significant features:

A. The extent of the share of inheritance is dependent on the closeness of the heirs' relationship to the deceased.

"...And Blood-relations are nearer to one another in the Book of Allah than other Muslims and emigrants..."^{vi}

And in another verse- *"For men there is share in what their parents and relatives have left behind, and for women there is share in what their parents and relatives have left behind, be the bequest little or be it much, it is a share estimated, determined."^{vii}*

B. In most cases, man's share of the inheritance is twice that of the woman's.

"Allah commands you concerning your children, the share of male is equal to the share of two females: then if there be daughters only, though more than two, then for them is two third of what is left, and if there be only one daughter, for her is one half."^{viii}

Actually this is due to the variant of financial responsibilities of the male toward family and relatives. Moreover, this is astonishing that according to the Qur'an 12 persons have been declared as Jawil Furuz (determined share-holders) in respect of inheritance where only four persons are men and the rest eight are women. That means that Islam has shown its utmost seriousness about ensuring the portion of women, as they had been the most deprived ones before the advent of Islam. Islam has determined the share of daughter (as she has the status of Jawil Furuz) but did not determine the share of son (as his status is one of Asaba).

Islam favours females more favourably as highlighted below:

1. Before marriage any gift given by the woman's fiancé is her own and her husband has no legal right to claim, on it even after marriage.
2. On marriage she is entitled to receive a marriage gift (Mehar) and this is her own property.
3. Even if the wife is rich, she is not required to spend a single penny for household; the full responsibility for her food, clothing, housing, medications and recreation etc. are her husband's.
4. Any income the wife earns through investment or working is entirely her own.
5. In case of divorce, if any deferred part of the Mehar is left unpaid, it becomes due immediately.
6. The divorcee woman is entitled to get maintenance from her husband during her waiting period (iddah). Thus one can see that men need extra share to discharge the family responsibility, social responsibility etc. incumbent upon him. Herein I would like to take the privilege quoting some other Qur'anic verses regarding the share of women in inheritance:

“And for you is one-half of what is left by your wives, if they have no issue; but if you have issue, then you have one fourth of what they leave after (paying) any bequest made by them and the debts. And for the women is one fourth of what you leave if you have no issue; but if you have issue, then for them is one-eighth of what you leave after (paying) any bequest made by you and the debts.”^x

“...Allah commands to you in respect of a person who leaves neither father nor child that if a man dies and has no child and he has a sister then his sister has half in his heritage and the man will be the heir of his sister if the sister has no child.”^x

Thus it becomes crystal clear that the inheritance of Islam given to women is quite a respectable share-without rendering upon her financially any family or social responsibilities.

Another reason is that the man has to look after the spouse or eventually would have to when he does get married and the responsibilities surrounding the marriage. However, the women has no responsibility as the husband is responsible for all the needs of the wife, hence half of the inheritance allocated for the female is actually an incentive.

It is not appropriate for one to take the direct meaning of the Quran without understanding it. If it was that easy there was no need for Allah (The Exalted) to send the Prophet (may Allah bless him and grant him peace). We also have to take into account the saying of the Prophet known as the hadith and the ruling of Islamic jurisprudence. Allah mentions in the Quran: *“O people! Ask the men of knowledge if you now not.”^{xi}*

ⁱ Surah Al-Nisa; Surah No: 4; Verse: 11

ⁱⁱ ibid; Verse 11

ⁱⁱⁱ ibid; Verse: 12

^{iv} The Islamic Teaching Course; Vol. 3

^v Surah No:4 Surah Nisa, Verse: 33

^{vi} Surah No: 33, Surah Ahzab, Verse: 6

^{vii} Surah No: 4, Surah Nisa, Verse:7

^{viii} Surah No: 4, Surah Nisa, Verse: 11

^{ix} Surah No: 4, Surah Nisa, Verse:12

^x Surah No: 4, Surah Nisa, Verse: 177

^{xi} Surah No: 16, Surah Nahl, Verse:43