

Mirāth

The Laws of Islamic Inheritance

Will and Testament



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PREFACE

Allāh has through his infinite mercy perfected and completed His chosen religion for mankind. He has outlined what He wants from us not only in our lives, but also after our deaths. Whatever remains of our material legacy also has Divine laws regulating it.

Allāh has made a law of inheritance that is applied in all situations between Muslims. The system implemented by Islām is different from many eastern cultures, which dictate that if the deceased's male children come of age then they receive everything, if they are not present (or are not of age) then the deceased's brothers take everything. This does not accommodate women or anyone else from amongst the relatives e.g. the parents etc.

In the UK, the law in some areas is very similar to Islāmic law. However there are major differences that need to be understood by all. An overview of these similarities and differences, are now mentioned.

1. First and foremost in both laws, is to make sure that all funeral expenses (both stipulate that no extravagance should be adopted) are paid for from the estate.
2. Thereafter all the debts must be cleared. This too is mutually endorsed. If it is unclear that the deceased had debts to pay, UK Law stipulates a procedure, similar to Islāmic law, but with an additional necessary provision. This is, that the deceased's demise should be announced in the 'London Gazette' and a local paper by the will's administrator. This must be done for two months and then a further two months waiting period should be spent before the will is executed.
3. Thereafter, from the remainder of the estate the bequests are given. The major difference between UK law and Islāmic law is that

Islāmic law stipulates that only one third of the estate can be given as bequest, whereas under UK law, the entire estate can be given.

Islām recognises ownership only until the point of death. The instance a person dies, the wealth is no longer his/hers. Funeral expenses would classify as debts; and debts are seen as wealth not in the ownership of the deceased, which must be returned. The remaining wealth which no longer has an owner is thus, de facto the property of the heirs.

The introduction of the one third bequest limit was initially granted to allow a person to donate to charity, etc for their betterment in the hereafter. Although this is rewarding, it is however, missing a major component of charity, which is meaningful sacrifice on the part of the donor. Charity given during one's lifetime is thus more rewarding.

4. Lastly, the heirs. This situation in UK law is reached if a person dies intestate (without making a will or has their will rejected for whatever reason), in regards to who gets what, things are fairly complex. For example, if the deceased left an estate of up to £250,000 then the spouse gets everything and the children and parents get nothing.

The last two parts are against the teachings of Islām. It is therefore a Fard upon every Muslim to avoid this. This is not against UK Law, but acting fully within it. The Islāmic law of inheritance can be fully implied at the stage where it is a bequest according to UK law, as long as one bequests the percentage that each heir is to receive under Islāmic law. This does not mean that one will lose the opportunity of making a bequest of one third of their wealth that too can be made within the same will. One will, however, need to ensure that the allotments and proportions are all worked out and the exact proportions are included in the will, otherwise there is the possibility that the will is rejected.

UK Law information from CLS Direct Information Leaflet 10

THE ISLĀMIC CONCEPT OF INHERITANCE

When a person dies, his ownership of his property ends, and is to be given to his heirs. It is Allāh's ﷻ favour upon us that He has not made the disposal of that wealth as charity necessary, but rather, He in His wisdom knows that the death of any person is a great loss to their relatives and an even greater loss to their dependants who relied upon them for provision.

That said, Allāh ﷻ also knew that Man has greed. And it is this greed that causes brother to hate brother and sister, and to usurp the rights of the less persuasive. For this reason, Allāh has fixed, very clearly in the Qur'ān, the allotted shares of the relatives of the deceased. This has been further mapped out in the Aḥādith by the Prophet of Allāh ﷺ so as to leave no scope of doubt or leeway for argument in who gets what. Everyone will get their share: No more, no less. This prevents the greedy from getting more than their share and it stops the undefended from receiving less than their allotment.

In Islām the concept of the wealth only going to the first born son is seen as oppressive. Islām has also distinguished the different levels of dependency of the closer relatives and has stipulated amounts varying in quantity in different circumstances. The factors that lessen one relative's share is the presence of another relative, who also has a considerable relationship with the deceased.

There are times when an allotment may seem unfair, these will also be explained. For example, of two inheriting brothers, one may be financially well off whereas the other is poor. This will not mean that the poorer brother will get everything or more than the richer brother. This is because inheritance is not charity and is given on account of the strength of the relationship not on account of who is more needy. Both brothers in this aspect are equal, and will thus receive an equal share.

PROCEDURES AFTER DEATH

This book only deals with the financial side of the events around death. For an in-depth look at the rites of passage of the burial please refer to our publication, "What to do when a Muslim Dies".

The deceased's estate will not be distributed among his/her heirs immediately upon his death, as there is a procedure that leads to it. The procedure is outlined as follows:

1. The shrouding and burial.
2. The repayment of all debts.
3. Bequest of up to one third of the remaining wealth.
4. Mīrāth - Inheritance as in accordance to the Shari` ah.

The order of these comes from the Qur`ān and Aḥādīth. In the Qur`ān it becomes clear to us, that while Allāh is describing the allotment of an heir, He states,

"(The distribution in all cases is) after the payment of legacies (bequests) and debts." *al-Qur`ān 4:11*

Through this, we know that inheritance comes last. In the Aḥādīth, it is reported that the Prophet ﷺ had buried Muṣ`ab ibn `Umayr ؓ in a shroud that belonged to Muṣ`ab ؓ (al-Bukhārī, at-Tirmidhī). Scholars have noted that the Messenger ﷺ, did not ask as to whether or not he had any debts, as was his usual custom, thus, they deduce that it comes first. Thereafter the Prophet ﷺ gave preference to the owed rights of others over the bequest (at-Tirmidhī).

Note: If the deceased was holding any items (including money) in trust, it should be returned to the rightful owner as it is not part of the deceased's estate. Even burial costs cannot be taken from this.

SHROUDING AND BURIAL

Islām stipulates a burial procedure that is to be applied to every Muslim, wherever they are in the world. This procedure may be costly in certain places. e.g. in England when a person is to be buried, the land for the grave has to be bought, which, can cost hundreds of pounds. The cost of these are to be paid for from the deceased's own wealth. If, however, someone, e.g. a friend or an heir wishes to pay for it from their own wealth then this is permitted, although it should not be thought of as a duty by anyone or imposed upon anyone.

When purchasing the necessary items for burial one must not go to the extremes of being extravagant or miserly. The Islāmic requirement is three plain (cotton) sheets for a man and five for a woman. These should be of acceptable quality and size, neither being too expensive nor too substandard. Also, if it is necessary to use a coffin, (e.g. it becomes law or any other reason) then a simple wooden box must be used instead of the wasteful coffins that sell for thousands of pounds.

If a deceased person was poor and the cost of these cannot be fully met from their own wealth, then it is the person's children's duty to get together and contribute towards it. If not (for whatever reason) then the father, if not (again for whatever reason) then the deceased's brothers. If not then the next closest relatives. Lastly if for whatever reason there is no one to pay for these costs then (originally it was permitted for the money to be taken from the Muslim Treasury, but since this does not apply) it can be received as Şadaqah.

Please note that in the UK one can get a funeral payment grant from one's local social security office (ask for leaflet SB-16, which is only available if the deceased's estate did not contain enough for burial procedures). This should only be resorted to if the responsible heirs (mentioned above) cannot or refuse to pay the costs.

REPAYMENT OF DEBTS

If a person had died owing money to a person or institute, then his debts should be paid off from his own wealth. The person who takes the responsibility of the execution (distributing and carrying out) of the estate will sift through the accounts of the deceased and pay off any outstanding debt. (refer to preface for UK legal requirements.)

If a debt is claimed by anyone whose details are not in the accounts of the deceased, the executor will validate these claims, reviewing the relevant witnesses (this can include the bank), and signatures, as well as the relevant stocks and accounts.

If a debt is claimed but cannot be proven, it will not be paid out. regardless of how close the person may have been to the deceased or how reliable.

If the debt can be covered by the deceased's estate then it must be paid out from there, regardless of how great a percentage it may be or even if it takes up the entire estate (Yes, this does include the house, if it belongs to the deceased, regardless of who's "name" it may be under as long as the deceased's ownership was established/accepted).

If the deceased's debts were to exceed his estate, and a relative were to take on the responsibility of paying them, he may do so, although this is not necessary on him. If the debt cannot be paid, then the person is liable to Allāh. In this case the debtors will take what is available.

Zakāh which can be used to pay the legitimate debts of a living person cannot be used to pay off the debts of a dead person, as a requirement of Zakāh (i.e. passing ownership of wealth) cannot be established. The use of Ṣadaqah for the repayment of such debts is allowed, but will not necessarily save the person from accountability in the hereafter.

If there are numerous debts which in total accumulate to more than the estate, and there is no way of full repayment for all of them, then the creditors will all receive payment in proportion to each other. E.g.

Zayd owes Aḥmād £2,000

Zayd owes Ḥāmid £3,000

Zayd owes `Umar £4,000

Zayd owes Khālid £5,000

In Zayd's estate (after a simple burial) there is only £2,000

Aḥmad cannot claim everything saying that at least his debt is covered, nor can Khālid take everything saying that he was owed the most. But instead the money will be distributed proportionately. (In this case the method will be to divide £2,000 into 14 parts ($5+4+3+2=14$) which means £142.85 is one part. Aḥmad will get £285.70, Ḥāmid will get £428.55, `Umar will get £571.40, and Khālid will get £714.25. This equals £1999.90. The remainder (£0.10) will be considered indivisible (and disposed of as Ṣadaqah).

BEQUEST OF UP TO ONE THIRD OF THE REMAINING WEALTH

This is known as Waṣiyyah. Waṣiyyah is what is translated as bequest. This is when the deceased has left instruction for the spending of money from his estate in any way besides being distributed amongst the receiving heirs. There are, however, some conditions:

1. The bequest cannot be given from more than one third of the wealth, even if the deceased explicitly states that he wants more (or all) of it to be spent in a certain way. If more than one third is allotted, then too only one third will be given, and the surplus returned to the estate to be distributed amongst the heirs.

Zayd's estate (after all debts have been paid) is valued at £300,000

Zayd has a young adopted son, `Amr, who cannot inherit. Zayd has two biological sons, Khālid and Mūsā. Zayd has no other inheritors.

From his estate, Zayd wishes to leave his house, worth £120,000, to `Amr. Zayd cannot do this. As only one third of Zayd's wealth, namely £100,000 can be taken by `Amr.

If Zayd's two sons permit they can accept the bequest and forfeit £10,000 each for `Amr, in which case `Amr will get the house.

If one or both refuse, then `Amr can agree to pay £10,000 to each who refused, and in this way keep the house. If he cannot pay each claimant £10,000, then the house will be sold, (or bought by one of the other brothers) for the full price and `Amr will have one third of the inheritance of £300,000 (namely £100,000, or proportionately more if the house is sold for more).

Even if the cause for which the deceased wishes to make a bequest is charitable and his dependants are all well off then too. He can only bequeath a third of his wealth to the cause, and the remainder will be to the discretion of the inheritors. If any of them were to agree on its donation to the charity, then an amount proportional to their allotted share would be added to what can be given.

Both of these points have been clarified by the Messenger ﷺ when asked by Sa`d ibn Abī Waqqās ؓ, when the latter thought that he was about to die. The Prophet ﷺ allowed a bequest of a third (in his case for charity) saying that even that was too much. The Prophet ﷺ thereafter reassured him that the spending on one's family was also Ṣadaqah.

al-Bukhārī, Muslim

Some may argue saying that the deceased should have full right in what he does with his wealth. Islām allows and accommodates this view and says that, yes, he is at liberty to do whatever he wishes with his money, as long as it remains his money. Islām says that a dead man has no ownership of anything. As long as he spends it in his lifetime Islām does not intervene in who he gives it to. Upon his death, Islām intervenes in stopping the wealth becoming ownerless, and due to Islām's strong stance on the upkeep of family roles and responsibilities, it acknowledges the needs of the dependants, regardless of whether or not they liked each other.

2. The bequest cannot be given to an inheriting heir to increase his/her share. This is because it is unfair on other heirs. If one wanted to express gratitude to any one family member over others, then provided that the cause and method of giving is legitimate then they should do it within their lifetime not after it.

3. The bequest can only be for something permitted by Shari`ah. If a bequest is made for some thing that goes against the teachings of the Shari`ah, then it will be ignored and if no other legitimate bequests (of a third of the entire estate) are made then that amount will be returned to the estate to be distributed amongst the heirs.

THE ORDER IN WHICH INHERITANCE IS DISTRIBUTED

When the wealth has passed the first three procedures, it is to be distributed amongst the heirs. The heirs are of different categories and thus an order must be followed to ensure that none of the rightful claimants are left out. This order is as follows:

1. **Dhawil Furūd** - These are the immediate family members who inherit set proportions as outlined in the Qur'ān and Sunnah.
2. **Relative `Aṣabah** - Residuary heirs, who are strongly related to

the deceased, that take the remainder of the estate after the Dhawil Furūd.

3. **`Aṣabah Through Emancipation** (This no longer applies) Residuary heirs that the deceased was a slave to and freed by.
4. **Radd `alā Dhawil Furūd** - If there are no residuary heirs after the Dhawil Furūd were given their allotted shares, then the estate is returned to the Dhawil Furūd in accordance with their due proportions. The spouses are, however, exempt from this, and will only get their initial allotted proportion.
5. **Dhawil Arḥām** - Blood relations who are not in the above categories but are so closely related to the deceased that marriage between them and the deceased is not possible.
6. **Mawlal Muwālāt** - In an environment where a person may be alone and without family and support, he may opt to nominate someone as his guardian. They both will be responsible for each other in the case of any penalties being imposed on either of them and in the case of one dying, then provided that none of the above are present, the other will inherit his estate.
7. **Muqirr Lahū Bin-Nasab `Alal-Ghayr** - This means that a person calls someone a biological relative of the father i.e. his brother, sister or uncle, and cannot establish it, due to an absence of proof or the person to whom the child is being attributed is not there to acknowledge the claim. (One must remember that if the parentage can be proven, then the person will be classified as an inheritor and would no longer be in this category.) The proclaimed relative (male or female) will inherit the entire estate. (Note: A person's attributing a child to oneself biologically is classed as proof to lineage and the child will inherit as one's own child.)
8. **Mūṣā Lahū Bi Jamī`il Māl** - A person to whom the deceased bequeathed the entire estate. If it is any less than the entire estate that was specified in the will (e.g. half), then only that much will be given, and no more.

9. **Islāmic treasury** - In a Muslim country the estate of a person who has no inheritors will be placed in the treasury for the use of the needy. Due to this option not being present, an executor of the estate may place the money in the care of a reputable charity with Shari`ah compliant objectives.
10. **Radd `Alā Zawjain** - This is when the Islāmic treasury is not available and the deceased has absolutely no relatives besides his/her spouse, who become residuary heirs. Some have placed this above the Islāmic treasury's equivalent in the order.

From these, the fields that are most applicable are, Dhawil Furūd, `Aṣabah, Radd, and (rarely) Dhawil Arḥām. The order of the first two is intertwined, as some of the Dhawil Furūd become `Aṣabah and many of the `Aṣabah outrank some of the Dhawil Furūd. Radd, is a manner of keeping the estate within the Dhawil Furūd.

CAUSES OF DEPRIVATION

There are factors which cause relatives of the deceased who would ordinarily inherit, to become deprived from receiving anything from the deceased's wealth. These situations are:

1. **Riqq.** (This no longer applies.) This is when a person is a slave. This follows the principle that a slave's wealth is his master's and thus because he does not have the capacity to possess anything material, he cannot be made owner of inheritance and thus will be deprived of getting it, because it will go to his master, who is not related to the deceased. One must also remember that if slaves could inherit, and their money would be the possession of their masters, in this manner inheritance would not be promoting the emancipation of slaves, as more people would keep slaves hoping that whatever they would inherit would also become theirs. Historically, Islām did not want this but taught of the benefits of emancipating slaves.

2. **Qatl**. This is when the person who would have inherited, is the cause of death of the person from whom he would have inherited, and the manner of killing would necessitate Qiṣāṣ (capital punishment) or compensation (for the expiation of the sin). The general ruling is taken from the Ḥadīth, “The killer does not inherit.” at-Tirmidhi

The different classifications of an illegal killing and their rulings with regards to inheritance are (very briefly) as follows:

a) **`Amad** - To kill with intent with the usage of any means that would normally kill a person. e.g. bullets, knives, fire, poisons, dropping from a great height, etc. This type of killing would necessitate capital punishment, unless the family of the killed waived the death penalty and accepted blood-money. In either case the killer will not inherit.

b) **Shibh `Amad** - To kill with intent using any means that would not normally kill a person. e.g. punching, hitting with a stick, etc. This type of killing would necessitate compensation, therefore the killer will not inherit.

c) **Khaṭa'** - This is where the killing is a mistake, regardless of whether the means that were used were what can normally be seen as what can kill or not. Whether the mistake was an error in judgement (e.g. an unidentified person on private property being shot and later identified as innocent, mis-diagnosis of illness and prescription of wrong/fatal treatment), or a mistake in actions, where the original focus of one's action were not on the subject who died, (e.g. a stray bullet, running over a pedestrian, a car crash, etc.) the ruling is the same for all accidental killings. There would be compensation that is incumbent upon the killer. In all the cases of Khaṭa' the killer will not inherit.

d) **Jarī Majrā Khaṭa'** - This is when the killing is done by someone who is in a state where he is not accountable/blameworthy of his deeds, e.g. a sleeping person falls off a bunk-bed onto someone else, killing him; or a minor or insane person killing someone without understanding what was happening. In this situation too, compensation is necessary (the blood-money would be necessary upon the relatives, in case of a minor/insane person). The killer, in this case too, will not inherit.

e) **Sabab** - This is when the “killer” was a passive cause of someone’s death, e.g. a person broke something of use on property other than his own which caused someone’s death. There will be blood-money in this case, but no compensation for atonement. The “killer” would not be prevented from inheriting.

Note: These guidelines are very brief, and general. Additional punishments or even concessions can be granted by a judge when the case is more complex than the above guidelines.

3. **Differences of religion.** Islām stipulates that if between the deceased and an heir there is a difference in religion, then the heir will not inherit through the Shar`ī system, even if they be father and son. This is from the Ḥadīth, “A Muslim does not inherit from a non-Muslim, nor does a non-Muslim inherit from a Muslim.” al-Bukhārī, Muslim

Note: Those who may think that the above ruling is discriminating, should first understand that it works both ways, in the sense that Muslims also cannot be inheritors (in the terminology of the Qur`ān) of a non-Muslim. The reason being that the laws of Shari`ah regarding inheritance cannot be forced upon non-Muslims. Those who argue the point about compassion will be appeased by the fact that Islām does not nullify inheritance par se, as a Muslim may include a non-Muslim in his bequest and also may be included in their bequest.

4. **Differences in states of residence.** This means that money cannot be passed from one state/country to another. This is only applicable at times of war between the two states/countries. (This is for practical purposes, as it stops money going into a country to be potentially used against the country of the deceased. This is only mildly implied under Islāmic law, but also by other nations that put sanctions on other countries)

Note: One must remember that a deprived person will neither inherit nor cause any other heir to lose or lessen their share.

MĪRĀTH

INHERITANCE IN ACCORDANCE TO THE SHARĪ`AH

INTRODUCTION TO TERMINOLOGIES USED

Inheriting Relatives

Important: All relatives are shown with their relationship to the deceased only, and never as their relationship with other heirs.

Descendants

Son: This refers to a biological male offspring of the deceased. It includes those born through the deceased's spouse at the time of his death, and also those from a previous marriage. Sons who are estranged or disowned cannot be prevented from gaining inheritance.

Daughter: As that of a **son** but female.

Grandson: The **son** of the deceased's **son** (this line continues

downwards). (The right to inherit only passes through male offspring. Regarding female offspring the situation is more complicated and will be explained in due course).

Granddaughter: The **daughter** of the deceased's **son** (This line continues through the male line, e.g. the son's son's daughter, the son's son's son's daughter, but not the son's daughter's daughter, etc).

Note: Non-biological children i.e. Step children, adopted children, fostered children, and also surrogate children, will not inherit through Mirāth, although can inherit through Waṣiyyah.

Note: The children of the daughter are not amongst those that inherit through Mirath. They may, however, inherit through Waṣiyyah. (They will inherit through Mirāth from their paternal grandfather, not their maternal grandfather.)

Note: Regarding children of illegitimate or disputed parentage the Prophet ﷺ has said, "They neither inherit nor are inherited from." (at-Tirmidhi) This means they will neither inherit from nor will they be inherited from, by those to whom parentage is denied. This scenario generally means inheriting from neither "parent" if they both claim the child was adopted; or from only one parent if the other claims that the child is not biologically his/her's but was illegitimate. In any of these disputes, if parentage is accepted then the child inherits from the parent; but if it is not established, then the child is not an heir (but is eligible to receive bequests).

Ancestors

Father: This refers to the deceased's biological father. Whether he has provided for the deceased or not will not alter his status for inheriting.

Mother: The deceased's biological mother. Even if the deceased's father has had multiple marriages, only the biological mother inherits.

Grandfather: The **father** of the **father** (this line continues upwards). Any male antecedent (ancestor) besides those in this line will not inherit.

Grandmother: This is not as restricted as the **grandfather**. But any female antecedent of the deceased, who does not have, in her relationship to the deceased, a non-inheriting male, can be an inheritor. Thus, both maternal and paternal grandmothers may inherit.

Uncle: Only the **father's brother** is meant by this term.

Siblings - Brothers and Sisters

Brother: A male who shares both **father** and **mother** with the deceased, (i.e. full brother).

Sister: A female who shares both **father** and **mother** with the deceased, (i.e. full sister).

Consanguine Brother: A male who shares only the same **father** with the deceased, not the same **mother**.

Consanguine Sister: A female who shares only the same **father** with the deceased, not the same **mother**.

Uterine Brother: A male who shares only the same **mother** with the deceased, not the same **father**.

Uterine Sister: A female who shares only the same **mother** with the deceased, not the same **father**.

Note: If the deceased's father refuses parentage of a sibling then uterine relationship will be established.

Matrimonial

Husband: The female deceased's male spouse, who was still married to the deceased at the time of her death.

Wife: The male deceased's female spouse, who was still married to the deceased at the time of his death or was in her waiting period.

Note: The ex-wife of the deceased who was in her waiting period (of three menstrual cycles) at the time of her husband's death will inherit from him if he died, but he will not inherit from her in the instance that she had died in her waiting period. One may say that upon the termination of the marriage neither spouse are related to the other and thus neither should inherit from the other. This shift in the wife's favour is because her marriage is not completely terminated until the end of her waiting period and until that time she has full access to maintenance benefits also.

Proportions

There are six portions that have been mentioned in the Qur'an. These make the numbers with which the estate is divided. These are:

Two-thirds (**2/3**),

One third (**1/3**),

One sixth (**1/6**);

One half (**1/2**),

One quarter (**1/4**),

One eighth (**1/8**).

Note: At times, the strength of the relationship of some heirs prevent others from inheriting. Their names and relationships will still be noted

and they will be labelled as **bereft**. People who do not inherit because they are not Dhawil Furūd or residuary heirs, are also labelled as such. They are labelled differently from those who are deprived (who will be labelled as **deprived**) as their presence may affect the allotments of others.

Note: There are times when an heir is or becomes a residuary heir, in which case they will inherit the remainder of the estate (or at times the full estate). This will be labelled as **residue**. If the residue is to be shared with another heir then it will be labelled as **shared residue**.

THE INHERITANCE OF THE DHAWIL FURŪD

The Dhawil Furūd total 12 in number, of which 4 are male and 8 are female. They males are:

1. Husband
2. Father
3. Grandfather
4. Uterine Brother

Note: Other relatives of the deceased are residuary heirs. This may seem odd as relatives such as the deceased's sons and brothers are included in that group. This does not affect their shares as their relationship is strong enough to ensure that they inherit.

The females are:

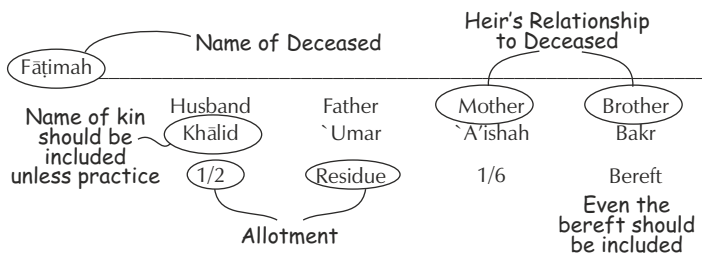
1. Wife
2. Mother
3. Grandmother
4. Uterine Sister
5. Sister

6. Consanguine Sister
7. Daughter
8. Granddaughter

Note: The following lists will show a break down of an heir's allotments and who these allotments are affected by. In addition, the people who are affected by the particular heir's presence will also be listed.

Note: Allotments of a particular heir are decreased because of the presence of another heir who has a stronger claim to a larger portion.

The Spread Used For Inheritance Calculations



The Male Heirs

1. Husband

“In what your wives leave, your share is a half if they leave no child. But if they leave a child, you get a quarter; after the payment of legacies (bequests) and debts.” al-Qur’an 4:12

The husband of the deceased has two separate allotments depending on the circumstance.

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	1/2	Prevailing Allotment	-
2	1/4	Son, Daughter, Grandson, Granddaughter	Children may even be from a previous marriage or illegitimate

Examples:

Fāṭimah	_____			
	Husband	Father	Mother	Brother
	1/2			

Fāṭimah	_____			
	Husband	Son	Daughter	
	1/4			

Note: The husband's presence does not affect the allotments of any other heir.

2. Father

“For parents a sixth share of the inheritance to each, if the deceased left children.” al-Qur’an 4:11

The father of the deceased has three separate allotments depending on the circumstance. Two of them (One in totality, the other partially) can be proven through the above verse, the remaining situations are self-proved when one understands that the father is a `Aṣabah.

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	Residue	Prevailing Allotment	-
2	1/6 and Residue	Daughter, Granddaughter	-
3	1/6	Son, Grandson	-

Fāṭimah	Husband 1/2	Father Residue	Mother	Brother	Grandfather
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Fāṭimah	Husband 1/4	Father 1/6 & Residue	Mother	Granddaughter (Son's daughter)
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Fāṭimah	Husband 1/4	Father 1/6	Mother	Son
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The father's presence affect's the following:

Affected Heirs	Allotments Changed To
All The Deceased's Siblings	Bereft
The Deceased's Father's Ancestors Male or Female	Bereft

Fāṭimah	Father Residue	Brother Bereft	Sister Bereft	Consanguine Brother Bereft	Consanguine Sister Bereft	Uterine Brother Bereft
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Ādam	Father Residue	Grandfather Bereft	Grandmother (Father's mother) Bereft
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3. Grandfather

The Prophet ﷺ has mentioned the part of one sixth for a person (in the absence of his son) from the wealth of his deceased son's son. at-Tirmidhi

The grandfather of the deceased has four separate allotments depending on the circumstance. The above Ḥadīth mentions a portion that makes him a Dhawil-Furūd, as well as a `Aṣabah, similar to the father, in his absence.

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	Residue	Prevailing Allotment	-
2	1/6 and Residue	Daughter, Granddaughter	-
3	1/6	Son, Grandson	-
4	Bereft	Father	-

Fāṭimah	Husband 1/2	Mother	Brother	Grandfather Residue
Fāṭimah	Husband 1/4	Grandfather 1/6 & Residue	Mother	Granddaughter (Son's daughter)
Fāṭimah	Husband 1/4	Grandfather 1/6	Mother	Son
Ādam	Father Residue	Grandfather Bereft	Great-grandfather Bereft	

Affected Heirs	Allotments Changed To
All The deceased's Siblings*	Bereft*
The Deceased's Grandfather's Ancestors	Bereft

Fāṭimah _____					
Grandfather	Brother	Sister	Consanguine Brother	Consanguine Sister	Uterine Brother
Residue*	Bereft*	Bereft*	Bereft	Bereft	Bereft

Ādam _____		
Grandfather	Great-gandfather (grandfather's father)	Great-grandmother (grandfather's mother)
Residue	Bereft	Bereft

*Note: The allotment of the grandfather in relationship to the deceased's brother is subject to a major debate and will be explained on page 53.

4. Uterine Brother

“If the man or woman, whose inheritance is in question, is a kalālah (one without descendants and male antecedents), but has left a brother or a sister - from the mother, each one of the two gets a sixth, but if more than two they share in a third, after the payment of legacies (bequests) and debts;” al-Qur’ān 4:12

The word kalālah has been interpreted as such on the commentary of Abū Bakr رضي الله عنه. Ibn Kathir

The uterine brother (and sister) of the deceased has three separate allotments depending on the circumstance.

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	1/6	Prevailing Allotment	This is when only one is present
2	1/3	Two or more Uterine Siblings present	Can be uterine brothers or sisters
3	Bereft	Son, Grandson, Daughter, Granddaughter, Father, Grandfather.	-

Fāṭimah	Husband 1/2	Uterine Brother 1/6	Mother
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Fāṭimah	Husband 1/2	Uterine Brother 1/3	Uterine Sister	Mother
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Fāṭimah	Uterine Brother Bereft	Father 1/6	Son Residue	Grandfather Bereft
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Affected Heirs	Allotments Changed To
Mother	1/6 (If there Are Two Or More Siblings)

Fāṭimah	Uterine Brother 1/6	Consanguine Sister	Mother 1/6
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The Female Heirs

1. Wife

“In what you leave their (your wives’) share is a quarter if you leave no child. But if you leave a child, they get an eighth (between them), after the payment of legacies (bequests) and debts.” al-Qur’ān 4:12

The wife of the deceased has two separate allotments depending on the circumstance. If there are more than one wife then they will share in the allotment, between them. This has been clearly pointed out in the wording of the verse above even without the brackets.

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	1/4	Prevailing Allotment	If husband was polygynous then all current wives will share one allotment between themselves
2	1/8	Son, Daughter, Grandson, Granddaughter	Children may even be from a previous marriage

Fāṭimah

Wife
1/4

Father
Residue

Mother

Brother

Fāṭimah

Wife
1/8

Son

Daughter

Note: The wife's (or wives') presence does not affect the allotments of any other heir.

2. Mother

**“If no children, and the parents are heirs,
the mother has a third,
If the deceased left siblings,
the mother has a sixth.”** al-Qur’ān 4:11

The mother of the deceased has three separate allotments depending on the circumstance. Two allotments have been mentioned in the above verse. The third allotment is to ensure that the mother gets an allotment proportionate to that of the father.

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	1/3	Prevailing Allotment	-
2	1/6	Any inheriting offspring or Two or more siblings present.	The siblings may be of any type, even if Bereft
3	*1/3 of residue after spouse	Only the parents and spouse(s) are present.	**This only applies in two situations.

Fāṭimah

Husband	Mother	Brother
1/2	1/3	Residue

Ādam

Wife	Mother	Brother	Consanguine Brother
1/4	1/6	Residue	Bereft

* 1/3 of residue after spouse, means that after the spouse is given his/her share, the mother will get a third of the remainder.

** This only applies in two situations, these are when only the following are present:

The deceased's husband and parents.

The deceased's wife and parents.

Fāṭimah

Husband	Mother	Father
1/2	1/6	Residue

1/3 of 1/2 is 1/6

Ādam

Wife	Mother	Father
1/4	1/4	Residue

1/3 of 3/4 is 1/4

Affected Heirs	Allotments Changed To
All Grandmothers	Bereft (even if only getting 1/6 herself)

Ādam

Mother	Grandmother (mother's mother)	Grandmother (father's mother)	Son
1/6	Bereft	Bereft	Residue

3. Grandmother

A grandmother came to Abū Bakr ؓ and asked about what she may get from her grandchild's inheritance ؓ. Abu Bakr said, "I do not see anything for you in the Qur'ān nor the Sunnah. Come back later." Abū Bakr ؓ then asked around to see if anyone knew more on this point. Mughīrah ibn Shu`bah ؓ responded by saying he was present when the Messenger ﷺ gave her (i.e. a grandmother) one sixth. Abū Bakr ؓ asked if anyone could consolidate this, to which Muḥāmmad ibn Salamah ؓ replied that he was also present to witness this. Abū Bakr ؓ applied this rule. Later, `Umar ؓ was presented with a similar situation to which he responded, "This is that sixth, if there are more than one (grandmothers) gathered all will inherit from this one portion. If any one of you is closest then it is for her." at-Tirmidhī, Aḥmad, Mālik, Abū Dawūd

The grandmother of the deceased has two separate allotments depending on the circumstance. Her status of inheriting is mentioned above, and her causes of being bereft are subject to the general principles of inheritance (i.e. the near cause the remote to be bereft - which has been highlighted by `Umar's ؓ statement above - and that the link excludes the linked).

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	1/6	Prevailing Allotment	If more than one then all will share
2	Bereft	All grandmothers by the mother and all paternal grandmothers by the father	If more than one then the closest ones to the deceased will make the others bereft.

Fāṭimah _____

Husband	Grandmother (mother's mother)	Son	Father
1/4	1/6	Residue	1/6

Fāṭimah _____

Husband	Grandmother (father's mother)	Son	Father
1/4	Bereft	Residue	1/6

Ādam _____

Mother	Grandmother (mother's mother)	Grandmother (father's mother)	Son
1/6	Bereft	Bereft	Residue

4. Uterine Sister

“If the man or woman, whose inheritance is in question, is a kalālah (one without descendants and male antecedents), but has left a brother or a sister (from the mother), each one of the two gets a sixth, but if more than two they share in a third, after the payment of legacies (bequests) and debts;” al-Qur’ān 4:12

The word kalālah has been interpreted as such on the commentary of Abū Bakr رضي الله عنه. Ibn Kathir

The uterine sister of the deceased has three separate allotments depending on the circumstance, identical to the uterine brother's, i.e:

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	1/6	Prevailing Allotment	This is when only one is present
2	1/3	Two or more Uterine Siblings present	Can be uterine brothers or sisters
3	Bereft	Son, Grandson, Daughter, Granddaughter, Father, Grandfather.	-

Fāṭimah _____

Husband 1/2	Uterine Sister 1/6	Mother 1/3
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Fāṭimah _____

Husband 1/2	Uterine Brother 1/3	Uterine Sister	Mother 1/6
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Fāṭimah _____

Uterine Brother Bereft	Father 1/6	Son Residue	Grandfather Bereft
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Affected Heirs	Allotments Changed To
Mother	1/6 (If there Are Two Or More Siblings)

Fāṭimah _____

Husband 1/2	Uterine Brother 1/3	Uterine Sister	Mother 1/6
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5. Sister

“If it is a man that dies, having no child but leaving a sister, she shall have half the inheritance...

...If there are two sisters, they shall have two thirds of the inheritance (between them);

If there are brothers and sister (they share), the male having twice the share of the female,” al-Qur`ān 4:176

The sister of the deceased has five separate allotments depending on the circumstance. The above verse mentions three separate situations, and from deduction a fourth can also be extracted, i.e. if in the absence of offspring she inherits, then in their presence she does not inherit. This is what the verdict is in regards to male offspring, The situation when the deceased also had a daughter is derived from the following Aḥādīth:

Mu`ādh ibn Jabal ؓ, in the era of the Messenger ﷺ, gave the verdict of a daughter getting half of the estate and a sister getting the remaining half. al-Bukhārī

The Messenger of Allāh ﷺ gave the judgement that for a daughter there is half, for a granddaughter there is one sixth and for a sister there is the remainder. al-Bukhārī, at-Tirmidhī

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	1/2	Prevailing Allotment	This is when only one is present
2	2/3	If two or more are present then they will share	-
3	Shared Residue	If a brother is present they will share the residue.	The female will get one part and the male will get two parts.
4	Residue	Daughter, Granddaughter	Female offspring make sisters residuary heirs
5	Bereft	Son, Grandson, Father, Grandfather	Even if sisters were made residuary they will still be bereft.

Fāṭimah

Sister
1/2

Uterine Brother

Uterine Sister

1/3

6. Consanguine Sister

**“If it is a man that dies, having no child but leaving a sister,
she shall have half the inheritance...**

**...If there are two sisters, they shall have two thirds of the
inheritance (between them);**

**If there are brothers and sister (they share), the male having
twice the share of the female,”** al-Qur`an 4:176

The consanguine sister of the deceased has seven separate allotments depending on the circumstance. The consanguine sister's situation is by and large based on the proofs used to determine the allotments of the sister. Further to that, through the usage of the principle that the more strongly related (due to having more ties) excludes the lesser, the remaining situations can also be understood. This is corroborated by what can be learnt from the following Ḥadith (even though it mentions brother; it is, with limitations, applicable to the sisters as well):

“A person will inherit from his full brother but not from his consanguine brother (i.e. if he has a full brother).”
at-Tirmidhi, Aḥmad

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	1/2	Prevailing Allotment	This is when only one is present
2	2/3	If two or more are present then they will share	-
3	Shared Residue	If consanguine brother is present they will share residue	The female will get one part and the male will get two parts.
4	Residue	Daughter, Granddaughter	Female offspring make sisters residuary heirs
5	1/6	One Sister	Provided sister is not a residuary heir

6	Bereft	Two sisters or one sister who is a residuary heir	-
7	Bereft	Son, Grandson, Father, Grandfather, Brother	-

Fāṭimah _____

Consanguine Sister	Uterine Brother	Uterine Sister
1/2		1/3

Fāṭimah _____

Consanguine Sister	Consanguine Sister	Uterine Brother	Uterine Sister
	2/3		1/3

Fāṭimah _____

Consanguine Sister	Consanguine Brother
Shared Residue	
1	2

Fāṭimah _____

Consanguine Sister	Daughter
Residue	1/2

Fāṭimah _____

Sister	Consanguine Sister
1/2	1/6

Fāṭimah _____

Sister	Sister	Consanguine Sister
	2/3	Bereft

Fāṭimah _____

Consanguine Sister	Son	Father	Brother
Bereft	Residue	1/6	Bereft

Affected Heirs	Allotments Changed To
Mother	1/6 If there are two or more siblings

Fāṭimah _____

Consanguine Sister	Uterine Sister	Mother
1/2	1/6	1/6

Affected Heirs	Allotments Changed To
Father	1/6 and Residuary
Mother	1/6
Sister, Consanguine Sister	Residuary
Uterine Siblings	Bereft
All Siblings, and Grandchildren	Bereft - When daughter is a residuary heir
Granddaughter	Bereft - When daughter is two or more in number
Husband	1/4
Wife	1/8

Fāṭimah	Daughter	Father	Mother
	1/2	1/6 & Residue	1/6
Fāṭimah	Daughter	Daughter	Consanguine Sister
	2/3		Residuary
Fāṭimah	Daughter	Uterine Brother	Uterine Sister
	1/2	Bereft	
Fāṭimah	Daughter	Daughter	Granddaughter
	2/3		Granddaughter
	Bereft		
Fāṭimah	Daughter	Husband	
	1/2	1/4	
Ādam	Daughter	Wife	
	1/2	1/8	

8. Granddaughter

The granddaughter of the deceased has six separate allotments depending on the circumstance. Her situation is mainly based on that of the daughter. Her being made bereft is through the principles of inheritance, and her getting one sixth in the presence of a daughter is through the following Ḥadīth:

The Messenger of Allāh ﷺ gave the judgement that for a daughter there is half, for a granddaughter there is one sixth and for a sister there is the remainder.

al-Bukhārī, at-Tirmidhī

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	1/2	Prevailing Allotment	This is when only one is present
2	2/3	If two or more are present then they will share	-
3	Shared Residue	If grandson is present they will share residue	The female will get one part and the male will get two, even if daughters are present
4	1/6	Daughter	Daughter will get 1/2 and granddaughter will get 1/6 to make 2/3
5	Bereft	Two or more daughters	-
6	Bereft	Son	Even if through a different son

Fāṭimah _____

Granddaughter

1/2

Uterine Brother

Bereft

Uterine Sister

Fāṭimah _____
 Granddaughter Granddaughter Uterine Brother Uterine Sister
 $\frac{2}{3}$ Bereft

Fāṭimah _____
 Daughter Daughter Granddaughter Grandson
 $\frac{2}{3}$ Shared Residue 1 2

Fāṭimah _____
 Daughter Granddaughter
 $\frac{1}{2}$ $\frac{1}{6}$

Fāṭimah _____
 Daughter Daughter Granddaughter
 $\frac{2}{3}$ Bereft

Ādam _____
 Son Granddaughter
 Residue Bereft

Affected Heirs	Allotments Changed To
Father	$\frac{1}{6}$ and Residue
Mother	$\frac{1}{6}$
Sister, Consanguine Sister	Residuary
Uterine Siblings	Bereft
All Siblings	Bereft - When granddaughter is a residuary heir
Husband	$\frac{1}{4}$
Wife	$\frac{1}{8}$

Fāṭimah _____
 Granddaughter Father Mother
 $\frac{1}{2}$ $\frac{1}{6}$ & Residue $\frac{1}{6}$

Fāṭimah	Granddaughter		Sister
	2/3		Residuary
Fāṭimah	Granddaughter	Uterine Brother	Uterine Sister
	1/2	Bereft	
Fāṭimah	Granddaughter	Husband	
	1/2	1/4	
Ādam	Granddaughter	Wife	
	1/2	1/8	

Some Important Notes

The details of the son, grandson, brother and consanguine brother have not been mentioned. This is because they do not have specific allotments as prescribed by the Qur'ān, but they are residuary heirs. Being a residuary heir does not mean that one will get meagre leftovers, but rather, a residuary very often gets the greatest part, depending on the circumstance. Their details are briefly outlined here, and will be further explained in due course.

Son

**“Allāh directs you as regard to your children's (inheritance),
For the male is a portion equal to that of two females.”**

al-Qur'ān 4:11

The son of the deceased is a residuary and his allotment will be what is left after the other heirs take their proportions. If, however, there is a daughter, then the above verse applies.

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	Residue	Prevailing Allotment	If more than one then all will share
2	Shared Residue	Daughter	The female will get one part and the male will get two parts.

Ādam _____

$$\frac{\text{Son} \quad \text{Son}}{\text{Residue}}$$

Ādam _____

$$\frac{\text{Son} \quad \text{Son} \quad \text{Daughter}}{\text{Shared Residue}}$$

$$2 \quad 2 \quad 1$$

Affected Heirs	Allotments Changed To
Father, Grandfather	1/6
Mother	1/6
All Siblings	Bereft
All Grandchildren	Bereft
Husband	1/4
Wife	1/8
Daughter	Residuary

Fāṭimah _____

$$\text{Son} \quad \text{Father} \quad \text{Mother}$$

$$\text{Residue} \quad 1/6 \quad 1/6$$

Ādam						
Son	Brother	Sister	Consanguine Brother	Consanguine Sister	Uterine Brother	Uterine Sister
Residue	Bereft		Bereft		Bereft	

Ādam				
Son	Grandson	Granddaughter		
Residue	Bereft			

Fāṭimah				
Son			Husband	
Residue			1/4	

Ādam				
Son			Wife	
Residue			1/8	

Fāṭimah				
	Daughter	Daughter	Son	
	Shared Residue			
	1	1	2	

Grandson

The grandson (son's son) is a residuary heir and is similar to the son in all aspects in his absence, apart from that he is not on the same level as the daughter so as to make her a shared residuary, although he will make the granddaughter a sharing residuary. And as according to the principles of inheritance he will be made bereft by the deceased's son.

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	Residue	Prevailing Allotment	Even if daughter is present. If more than one then all will share
2	Shared Residue	Granddaughter	The female will get one part and the male will get two parts.
3	Bereft	Son	-

Ādam	Grandson	Wife
	Residue	1/8

Ādam	Grandson	Grandson	Granddaughter
	Shared Residue		
	2	2	1

Brother

**“They ask you for a legal decision, Say;
Allāh directs (thus) about Kalālah as heirs...
...If (such a deceased was) a woman who left no child,
her brother takes her inheritance...
...If there are brothers and sister (they share), the male
having twice the share of the female,”** al-Qur’ān 4:176

The brother of the deceased is a residuary heir and his allotment will be what is left after others take their proportions. The above verse does not restrict the deceased to only being a woman, but the same will apply if the deceased were a man. The brother being made bereft by a stronger residuary is found in the above verse, as a kalālah is one without descendants and male antecedents, who are stronger residuary heirs than the brother.

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	Residue	Prevailing Allotment	Even if daughter is present. If more than one then all will share
2	Shared Residue	Sister	The female will get one part and the male will get two parts.
3	Bereft	Son, Grandson Father, Grandfather	-

Ādam _____
 Brother Brother Daughter Daughter
 Residue 2/3

Fāṭimah _____
 Sister Sister Brother
 Shared Residue
 1 1 2

Fāṭimah _____
 Brother Son Father Grandfather Grandson
 Bereft Residue 1/6 Bereft Bereft

Affected Heirs	Allotments Changed To
Mother	1/6 (If two or more siblings)
Sister	Residuary - even if there is a daughter or granddaughter
Consanguine Siblings	Bereft

Fāṭimah _____
 Brother Uterine Sister Mother
 Residue 1/6 1/6

Ādam _____
 Daughter Granddaughter Brother Sister
 1/2 1/6 Shared Residue
 2 1

Fāṭimah _____
 Brother Consanguine Brother Consanguine Sister
 Residue Bereft

Consanguine Brother

The consanguine brother of the deceased is also a residuary heir, and is based on the allotments of the brother. He will not, however, make a

sister a sharing residuary heir. He will, however, be made bereft by the presence of a brother who is a stronger residuary heir and also by a full sister if she were to become a residuary heir.

Scenario No.	Proportion	Allotment Caused By	Additional Details
1	Residue	Prevailing Allotment	Even if daughter is present. If more than one then all will share
2	Shared Residue	Consanguine Sister	The female will get one part and the male will get two parts.
3	Bereft	Son, Grandson Father, Grandfather Brother	-
4	Bereft	Sister - when residuary	Sister can be made Residuary by (Grand)Daughter as well as Brother

Fāṭimah

Consanguine Brother Residue	Uterine Sister 1/6	Mother 1/6
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Fāṭimah

Consanguine Brother 2	Consanguine Sister Shared Residue 1
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Fāṭimah

Consanguine Brother Bereft	Son Residue	Father 1/6	Grandfather Bereft	Grandson Bereft
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Ādam

Daughter 1/2	Sister Residue	Consanguine Brother Bereft	Consanguine Sister
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Affected Heirs	Allotments Changed To
Mother	1/6 (If two or more siblings)
Consanguine Sister	Residuary - even if there is a daughter or granddaughter

Fāṭimah

Consanguine Brother Residue	Uterine Sister 1/6	Mother 1/6
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Fāṭimah

Consanguine Brother	Consanguine Sister
Shared Residue	
2	1

Why does the female get only half of what her male counterpart gets?

In many instances the words, “The female will get one part and the male will get two parts” accompany the instances when some female heirs become residuary. Some may have also noticed that very often the female gets only half the amount of her male counterpart, e.g. a wife’s prevailing share is a quarter compared to a husband’s prevailing allotment of a half. This to many would seem very unfair.

Firstly, one must note that historically, the world over, inheritance would never go to a female if even a distant male relative was present. Even now, in many “modern” countries the estate will go exclusively to the first born male descendant of the deceased. Islām was the first to instate the rights of women in inheritance. This, unreservedly, does not answer the accusation, but as a preliminary is mentioned.

Regarding Islām, as well as any other state or systematic law, one may not always understand the reason why a decree was given, if one does

not look at the broader picture. If one considers this, then one will see that the Islāmic implications are extremely accommodating (at times very favourable) of the rights of women.

Islām, while allowing women to work, does not impose this upon them. Islām ordains that the responsibility of providing provision and fulfilling the needs of a woman are given to her male relatives as an incumbent duty, in this particular order:

Husband - as long as a woman is married, all her needs are to be fulfilled by her husband.

Son - If a woman is not married but has sons who are capable of working, the responsibility of providing for her is placed upon her son(s).

Father - In the absence of the first two, the responsibilities are the father's. This is irrespective of the woman's age.

Brother - If the woman does not have the above's support for whatever reason, then the responsibility of her maintenance is upon her brother (firstly the full brother, then the consanguine, then the uterine).

At no time does Islām impose any sort of expenses upon her, but rather ensures that all her needs and expenses are catered for, by her male relatives. It is these same relatives that have a responsibility to look after her and her female counterparts. Islām has given to the males the advantage of gaining more from the inheritance, coupled with the added responsibility.

THE `AṢABĀT - RESIDUARY HEIRS

Residuary heirs are predominantly male. The only time when females are residuary heirs is either if they are sharing with their male

counterparts or when a sister or consanguine sister is present with a daughter or granddaughter, and takes the residue after they take their share.

GENERAL PRINCIPLES AND GUIDELINES

Due to the nature of residuary heirs taking all the wealth or the remainder, sometimes one is faced with the difficulty of finding out which residuary heir will inherit and cause the others to be bereft. There is an order of priority which can be seen from the following principles.

1. The order of the categories.
2. The near exclude the remote (within this is the sub-principle that the link excludes its following chain, i.e. if one heir, who is a link for others is present all those who are related to the deceased through that link are excluded).
3. The stronger ties exclude the weaker ties.

Note: The order of these principles must also be followed.

THE ORDER OF THE CATEGORIES

There are four categories of residuary heirs. They are all of males only and are the following:

- a. The descendants of the deceased.
- b. The antecedents of the deceased.
- c. The descendants of the father.
- d. The descendants of the grandfather.

The Descendants Of The Deceased

The inheriting descendants of the deceased are of the line of sons, i.e. The son, the son's son, the son's son's son, etc.

This is the most deserving category of inheritors. Within this category the son is the closest, then the grandson, then the great-grandson. If the second principle (The near exclude the remote) is followed, it can be ascertained that in the presence of the son, those more than one generation away from the deceased will not get, regardless of whether they are that particular son's offspring or another, non-inheriting or deceased son's offspring.

It is through the sub-principle, "the link excludes its following chain" that we can understand that the deceased's granddaughter is bereft of inheritance in the presence of a son.

The Antecedents Of The Deceased

The inheriting antecedents of the deceased is the line of fathers, i.e. the father, the father's father, the father's father's father, etc.

This is the second most deserving category of residuary heirs. Through the principles outlined above, we would realise that in the presence of a son, the father would not inherit. The Qur'ān, however has made the father exceptional; declaring that he would, in the presence of a son, still get a sixth of the deceased's wealth. The grandfather, in the absence of the father, inherits this exception.

Following the principle of the near excluding the remote, it can be deduced that in the presence of the father, those above him will not get, and with the grandfather, those above him will not get.

Note: In the details of the father, that are mentioned under the Dhawil-Furūd, one may notice that he has an allotment of 1/6 and residue. The benefit of this is that in the situation that there is any residue left after he and the other Dhawil-Furūd have been given their share, there would be no dispute in him getting it. The 1/6 has been mentioned for the opposite situation, where a father may be bereft if there is no residue left. This will become apparent in the ensuing pages.

Note: Some may argue that the father may be more deserving than the children and it is unfair to give him (and also the mother only one sixth) if children are present. There are two ways of answering this point; one is that the command of Allāh is present and offers the reason:

**You know not, whether your parents or your children
are nearest to you in benefit.**

**These are settled portions ordained by Allāh,
and Allāh is all knowing, all wise.** al-Qur'an 4:11

The second answer brings us back to the point that Islām enforces a complete system of responsibilities which include the welfare of the elderly, of women and of children, as well as each other at the time of need. This would mean that even if the children get the majority of the estate (let us not forget that the father/grandfather are not made bereft by them - but they do still have a considerable share), they still are required to provide for and maintain their parents, grandparents and uncles and aunts (even those who do not inherit).

The Descendants Of The Father

The descendants of the father are the brothers and consanguine brothers and their sons. This is the third most deserving category of residuary heirs.

This is one place that both the second and third principles are actuated. Through the second principle we know that the brothers are more closer to the deceased than their offspring and thus they will inherit and their sons will be bereft in their presence.

Thereafter, through the third principle (The stronger ties exclude the weaker ties), we see that in the presence of the (full) brother, the consanguine brother is bereft. So the order in this would be that of the brother, then the consanguine brother, then the brother's son, then the consanguine brother's son, then the brother's grandson, etc.

One can also note that in the presence of a sister who is a residuary heir, the consanguine brother will not inherit, as her status will be akin to that of a brother, whose tie is stronger.

Note: One may notice that a (full) brother does not prevent a uterine brother or sister from inheriting. Scholars, by consensus, have stated that uterine siblings are mentioned in the Qur'ān as having a share in the event of the deceased being a Kalālah - one without male antecedents and no descendants at all. No other relative has been mentioned who would exclude them from inheritance. This is the Zāhir (apparent meaning) of the Qur'ān.

In addition to that, the following Aḥādīth also explain the situation:

The Messenger ﷺ had ordained, "...Indeed the siblings of the mother's offspring inherit when the consanguine siblings do not. at-Tirmidhī

It has been authentically transmitted that Zayd ibn Thābit, one of the most prominent Ṣaḥābah in the field of inheritance, used to give the above verdict (Fatwā). al-Ḥakīm

Thus, this is a unanimous ruling.

Grandfather vs Brothers

The appropriation of the grandfather as a residuary heir that leaves all siblings bereft is based on the principle of the antecedents being closer in relationship to the deceased than the descendants of the father. However, this is disputed. There is equally strong cause to place full brothers equal to the grandfather in relationship to the deceased.

For this reason some scholars (even some judicial systems of entire countries) prefer another approach. That is to give the grandfather an equal share to the brother only. (Uterine brother will be made bereft by the grandfather, and consanguine brothers are made bereft by the brother.) Sisters will only inherit in the presence of a grandfather if a brother makes her a residuary heir too. It is entirely acceptable that the scholars of a country decide on this course of action over the method included in this book.

The alternative method would appear as:

Fāṭimah _____

Grandfather	Brother	Consanguine	Consanguine	Uterine
Residue	Residue	Brother	Sister	Brother
1	1	Bereft	Bereft	Bereft

Fāṭimah _____

Grandfather	Brother	Sister
Residue		
2	2	1

The Descendants Of The Grandfather

The inheriting descendants of the grandfather are the deceased's paternal uncles and their sons, i.e. the deceased's father's brothers and nephews (through their brothers).

This is the last category of residuary heirs. They inherit in the absence of the first three categories. As in the previous categories, only the males will be eligible to inherit. Here, one must remember that even though the uncles may be a generation above the deceased, while their sons are of the same generation, the relationship to the deceased is through the uncle first, i.e. the uncle (or the deceased's father's father's son) has three links, while cousin (or the deceased's father's father's son's son) has four links. So the uncle is more deserving than the cousin, and would (through the second principle) exclude him, in the case of the residue being between them.


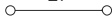
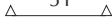

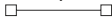


The third principle (The stronger ties exclude the weaker ties) would also be implied here, i.e. The father's full brother will be more deserving than the father's consanguine brother, after whom the full uncle's son will be more deserving than the consanguine uncle's son.

THE METHOD OF PUTTING THE PROPORTIONS TOGETHER

As we begin to get a clearer idea of how much a person gets, we need to know how this would look in relationship to others in the total estate. i.e. how do the portions fit together?

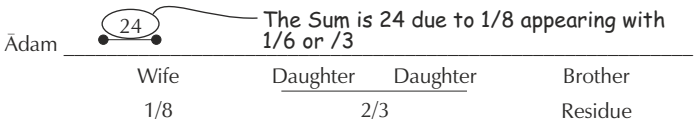
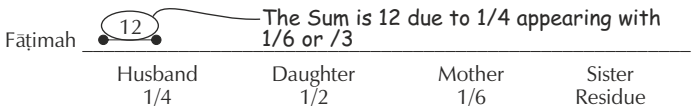
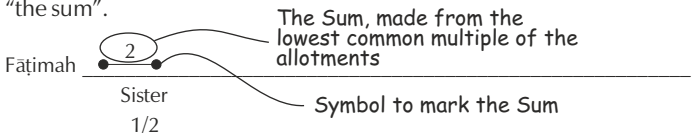
This too is done systematically. The process involves determining the lowest common multiple (the smallest number in which all allotments fit as whole numbers) which will become the total number of allotments. The proportions will then be taken from this number. Initially, this number will be one of seven possible numbers. These are: 2, 3, 4, 6, 8, 12, and 24. Of these the first five are the denominators of the six portions that are used in inheritance ($1/3$ and $2/3$ share the same denominator, thus from the six, only five denominators are present). These five numbers are used when they are alone, or themselves represent the lowest common multiple, e.g. if $1/2$ and $1/8$ come together, 8 is the lowest multiple.

KEY TO SYMBOLS USED TO REPRESENT TERMS

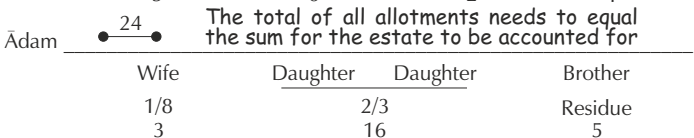
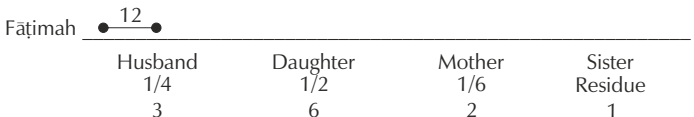
-  2 The Sum - This is the original number used when allocating, as the portions (e.g. quarter, sixth, etc all relate to this number).
-  27 `Awl - When the number of allotments exceed the Sum, `Awl is done to make the numbers tally. `Awl is to increase the number of the Sum to equal the allotments. (see section on `Awl)
-  51 Taşhih - When trying to make the allotments whole numbers they will need to be multiplied. The Sum too needs to be multiplied, and its result is the Taşhih. (see section on Taşhih)
-  3 The Multiplier - When trying to make the allotments whole numbers they will need to be multiplied by this number. This number is made in various ways. (see section on Taşhih)
-  1 Radd - When the number of allotments is less than the Sum, the Sum will be reduced to the number of allotments. (see section on Radd)
-  3 Şulh - If one or more heirs draw out of the will after an agreement is made, then the estate will be worked out with their presence, and then they will be drawn off and their allotment deducted from the Sum. The result will be what is written as the Şulh.
- 6 Sisters  3 Wifq - When trying to work out what multiplier to use, sometimes the Wifq of a number needs to be found. Wifq is a result of using a common denominator. This will be fully explained in the section on Taşhih.

Of the other two numbers, when $1/4$ comes with either $1/3$ or $1/6$, twelve will be used as it is the lowest common multiple, and when $1/8$ appears with either $1/3$ or $1/6$, then the lowest common multiple is 24 (which all allotments can fit into).

This lowest common multiple, for practical purposes, will be called "the sum".




Once this is done, one can write down the amount of parts that each heir will receive under their allotments. The total of these parts must equal the sum for the inheritance to be complete at this level.



If the number of allotments does not equal the sum then, provided no mistake has been made, either `Awl or Radd will take place. Radd is when the number of allotments does not reach the sum. This due to its intricacies will be explained further on. If however the number of allotments exceeds the sum, `Awl (adjustment of the sum) will take place, wherein the sum will be altered to fit the allotments.

If Allotments are more than sum (24), `Awl (Adjustment) will be made to equal allotments


Ādam 

Wife		<u>Daughter</u>	<u>Daughter</u>	Mother	Father
1/8		2/3		1/6	1/6
3		16		4	4


Allotments equal 27

Note: `Awl can only be made from three specific sums. These are 6, 12, and 24. `Awl cannot be made from the other numbers.


If `Awl is made from 6 it can result in the new sum being 7, 8, 9, or 10.

Fāṭimah 


		<u>Husband</u>		<u>Sister</u>	<u>Sister</u>
		1/2		2/3	
		3		4	

Fāṭimah 

		<u>Husband</u>		<u>Sister</u>	<u>Sister</u>	
		1/2		2/3		Mother
		3		4		1/6
						1

Fāṭimah 

		<u>Husband</u>		<u>Sister</u>	<u>Sister</u>		
		1/2		2/3		Mother	Uterine Brother
		3		4		1/6	1/6
						1	1

Fāṭimah 

		<u>Husband</u>		<u>Sister</u>	<u>Sister</u>			
		1/2		2/3		Mother	<u>Uterine Brother</u>	<u>Uterine Brother</u>
		3		4		1/6	1/3	1/3
						1	2	2

If $\bar{A}wl$ is made from 12, it can result in the new sum being from 13, 15, and 17 only.

$\bar{A}dam$													
	<table style="margin: auto; border-collapse: collapse;"> <tr> <td style="padding: 0 10px;">Wife</td> <td style="padding: 0 10px;"><u>Sister</u></td> <td style="padding: 0 10px;"><u>Sister</u></td> <td style="padding: 0 10px;">Mother</td> </tr> <tr> <td style="padding: 0 10px;">$\frac{1}{4}$</td> <td style="padding: 0 10px;">$\frac{2}{3}$</td> <td></td> <td style="padding: 0 10px;">$\frac{1}{6}$</td> </tr> <tr> <td style="padding: 0 10px;">3</td> <td style="padding: 0 10px;">8</td> <td></td> <td style="padding: 0 10px;">2</td> </tr> </table>	Wife	<u>Sister</u>	<u>Sister</u>	Mother	$\frac{1}{4}$	$\frac{2}{3}$		$\frac{1}{6}$	3	8		2
Wife	<u>Sister</u>	<u>Sister</u>	Mother										
$\frac{1}{4}$	$\frac{2}{3}$		$\frac{1}{6}$										
3	8		2										

$\bar{A}dam$																
	<table style="margin: auto; border-collapse: collapse;"> <tr> <td style="padding: 0 10px;">Wife</td> <td style="padding: 0 10px;"><u>Sister</u></td> <td style="padding: 0 10px;"><u>Sister</u></td> <td style="padding: 0 10px;">Mother</td> <td style="padding: 0 10px;">Uterine Brother</td> </tr> <tr> <td style="padding: 0 10px;">$\frac{1}{4}$</td> <td style="padding: 0 10px;">$\frac{2}{3}$</td> <td></td> <td style="padding: 0 10px;">$\frac{1}{6}$</td> <td style="padding: 0 10px;">$\frac{1}{6}$</td> </tr> <tr> <td style="padding: 0 10px;">3</td> <td style="padding: 0 10px;">8</td> <td></td> <td style="padding: 0 10px;">2</td> <td style="padding: 0 10px;">2</td> </tr> </table>	Wife	<u>Sister</u>	<u>Sister</u>	Mother	Uterine Brother	$\frac{1}{4}$	$\frac{2}{3}$		$\frac{1}{6}$	$\frac{1}{6}$	3	8		2	2
Wife	<u>Sister</u>	<u>Sister</u>	Mother	Uterine Brother												
$\frac{1}{4}$	$\frac{2}{3}$		$\frac{1}{6}$	$\frac{1}{6}$												
3	8		2	2												

$\bar{A}dam$																			
	<table style="margin: auto; border-collapse: collapse;"> <tr> <td style="padding: 0 10px;">Wife</td> <td style="padding: 0 10px;"><u>Sister</u></td> <td style="padding: 0 10px;"><u>Sister</u></td> <td style="padding: 0 10px;">Mother</td> <td style="padding: 0 10px;"><u>Uterine Brother</u></td> <td style="padding: 0 10px;"><u>Uterine Brother</u></td> </tr> <tr> <td style="padding: 0 10px;">$\frac{1}{4}$</td> <td style="padding: 0 10px;">$\frac{2}{3}$</td> <td></td> <td style="padding: 0 10px;">$\frac{1}{6}$</td> <td colspan="2" style="padding: 0 10px;">$\frac{1}{3}$</td> </tr> <tr> <td style="padding: 0 10px;">3</td> <td style="padding: 0 10px;">8</td> <td></td> <td style="padding: 0 10px;">2</td> <td colspan="2" style="padding: 0 10px;">4</td> </tr> </table>	Wife	<u>Sister</u>	<u>Sister</u>	Mother	<u>Uterine Brother</u>	<u>Uterine Brother</u>	$\frac{1}{4}$	$\frac{2}{3}$		$\frac{1}{6}$	$\frac{1}{3}$		3	8		2	4	
Wife	<u>Sister</u>	<u>Sister</u>	Mother	<u>Uterine Brother</u>	<u>Uterine Brother</u>														
$\frac{1}{4}$	$\frac{2}{3}$		$\frac{1}{6}$	$\frac{1}{3}$															
3	8		2	4															

If $\bar{A}wl$ is made from 24, it will result in the new sum being from 27.

$\bar{A}dam$																
	<table style="margin: auto; border-collapse: collapse;"> <tr> <td style="padding: 0 10px;">Wife</td> <td style="padding: 0 10px;"><u>Daughter</u></td> <td style="padding: 0 10px;"><u>Daughter</u></td> <td style="padding: 0 10px;">Mother</td> <td style="padding: 0 10px;">Father</td> </tr> <tr> <td style="padding: 0 10px;">$\frac{1}{8}$</td> <td style="padding: 0 10px;">$\frac{2}{3}$</td> <td></td> <td style="padding: 0 10px;">$\frac{1}{6}$</td> <td style="padding: 0 10px;">$\frac{1}{6}$</td> </tr> <tr> <td style="padding: 0 10px;">3</td> <td style="padding: 0 10px;">16</td> <td></td> <td style="padding: 0 10px;">4</td> <td style="padding: 0 10px;">4</td> </tr> </table>	Wife	<u>Daughter</u>	<u>Daughter</u>	Mother	Father	$\frac{1}{8}$	$\frac{2}{3}$		$\frac{1}{6}$	$\frac{1}{6}$	3	16		4	4
Wife	<u>Daughter</u>	<u>Daughter</u>	Mother	Father												
$\frac{1}{8}$	$\frac{2}{3}$		$\frac{1}{6}$	$\frac{1}{6}$												
3	16		4	4												

Note: The original sum will only be different to 2, 3, 4, 6, 8, 12, and 24 if only sharing residuary heirs exist, without any allotment inheriting heir. In such a situation the sum will be made from the total number of heirs (one will be added for each female and two will be added for each male).

$\bar{A}dam$													
	<table style="margin: auto; border-collapse: collapse;"> <tr> <td style="padding: 0 5px;"><u>Son</u></td> <td style="padding: 0 5px;"><u>Son</u></td> <td style="padding: 0 5px;"><u>Son</u></td> <td style="padding: 0 5px;"><u>Son</u></td> <td style="padding: 0 5px;"><u>Son</u></td> <td style="padding: 0 5px;"><u>Daughter</u></td> </tr> <tr> <td style="padding: 0 5px;">2</td> <td style="padding: 0 5px;">2</td> <td style="padding: 0 5px;">2</td> <td style="padding: 0 5px;">2</td> <td style="padding: 0 5px;">2</td> <td style="padding: 0 5px;">1</td> </tr> </table>	<u>Son</u>	<u>Son</u>	<u>Son</u>	<u>Son</u>	<u>Son</u>	<u>Daughter</u>	2	2	2	2	2	1
<u>Son</u>	<u>Son</u>	<u>Son</u>	<u>Son</u>	<u>Son</u>	<u>Daughter</u>								
2	2	2	2	2	1								

Note: If the original sum is not 2, 3, 4, 6, 8, 12, or 24 or the `Awl is not of 7, 8, 9, 10, 13, 15, 17, or 27, and the situation is not of only sharing residuary heirs, then one should realise that there is an error in the issuing of allotments or the working out.

Note: There are some people who (either through ignorance or malice) have said that in the allocation of allotments, the Qur'an does not add up. Quoting the following arguments:

“Verse 4:11-12 and 4:176 state the Qur'anic inheritance law. When a man dies, and is leaving behind three daughters, his two parents and his wife, they will receive the respective shares of 2/3 for the 3 daughters together, 1/3 for the parents together [both according to verse 4:11] and 1/8 for the wife [4:12] which adds up to 27/24, i.e. more than the available estate. A second example: A man leaves only his mother, his wife and two sisters, then they receive 1/3 [mother, 4:11], 1/4 [wife, 4:12] and 2/3 [the two sisters, 4:176], which again adds up to 15/12 of the available property.”

There are many ways of answering this, of which one argument is that the accusers have missed the obvious. The Qur'an is not only relating one circumstance but is providing the formula for the working out of the allotments in proportion to all heirs, not the exact parts in all situations. If the Qur'an was trying to teach the latter, then there would be millions of combinations that the Qur'an would have to explain. This would be both pointless and an issue that would show imperfection. The Qur'an showed the formula to the Muslims, who understood it and implemented it immediately. The example given previously of `Awl, i.e.

Ādam	● $\frac{24}{\quad}$ ●	○ $\frac{27}{\quad}$ ○			
	Wife	<u>Daughter</u>	<u>Daughter</u>	Mother	Father
	1/8	2/3		1/6	1/6
	3	16		4	4

Is known as the Mas'alah al-Mimbariyyah, (the question of the pulpit) which was when `Ali ؑ was asked the same question and without pause he answered it exactly as depicted (without the use of even pen and paper).
as-Sarakhsi in his Mabsūt

`Abdullah ibn Mas`ūd ؑ also gave verdicts using `Awl.

Raddul-Muḥtār of Ibn `Ābidin

If `Awl was not done and the proportions had to be exact, then the allotment in the case of the previous example would be:

Wife	3/27
Daughter	8/27
Daughter	8/27
Mother	4/27
Father	4/27

Ādam	●	12	●	○	17	○	△	51	△	▲	3	▲
Wife				Sister		Sister	Sister		Mother	Uterine Brother	1/3	Uterine Brother
1/4				8	8	8		1/6	6	4	6	
$\frac{3}{9}$				8	8	8		$\frac{2}{6}$	6	4	6	

(This will be explained in the section on Taṣḥīḥ) And for the situation above, the exact proportions would be:

Wife	3/17	
Mother	2/17	
Uterine Brother	4/17	(for each uterine brother)
Sister	8/51	(for each sister)

With each different example that we can choose there will be different fractions that will represent the exact allotment of any given heir. It would thus not be possible to include such (almost infinite)

representations in the Qur'ān. The formula that the Qur'ān gives, is thus mathematically ingenious. It is what we can consider as a convenient way of working out. This, instead of being a point for criticism, warrants praise, for being so concise yet so complete.

“Mohammadan [sic] Law of heritance comprises beyond question, the most refined and elaborate system of rules for the devolution of property that is known to the civilised world.”

Amaric Rumsey, The Mohammedan Law of Inheritance

“Juristically, the law of succession is a solid technical achievement, and Muslim scholarships take a justifiable pride in the mathematical precision with which the right of the various heirs, in any given situation, can be calculated.”

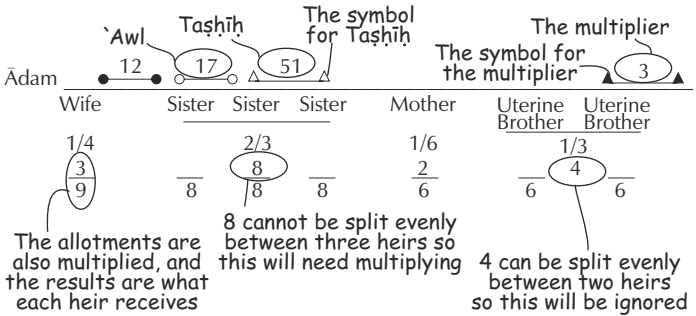
N. J. Coulson, Islamic Law

TAŞHĪḤ - MAKING THE NUMBERS ADD UP

What has been learnt so far is how to make the sum equal to or divisible by the allotments. There are, however, times when the number of inheritors or their shares exceeds the sum and would mean using fractions. For this situation is the process of Taşhīḥ (correction /completion as this facilitates the use of whole numbers).

Taşhīḥ is, basically, to multiply the sum and the allotments by a number which will result in each individual heir getting a portion that is represented by full numbers. The number that is used to multiply is called the Maḍrūb (multiplier) and the sum (be it original or through `Awl), when multiplied, will be called the Taşhīḥ.

Note: This chapter is purely mathematical and aims to avoid complex fractions. Due to calculators it is possible to work out the shares using the decimal system, and thus not resorting to this method. This is a section that is included for academic completeness and should be learnt as a means to cross check complicated inheritance problems.



Note: Before explaining the different types of *Taṣḥīḥ*, as a preliminary, the different relationships between numbers are briefly explained.

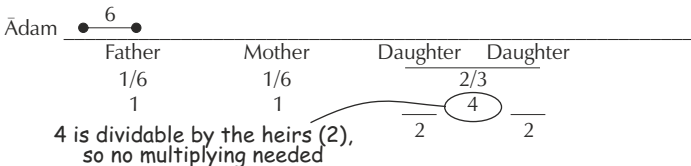
- Tamāthul** Identical numbers e.g. 3 and 3.
- Tadākhul** The greater number is a multiple of the lesser, e.g. 3 and 9.
- Tawāfuk** Both/all numbers are multiples of another number (any number besides 1), e.g. 15, 21 and 114 are multiples of 3.
- Tabāyun** Neither number shares any common divisor with the other (besides 1), e.g. 7, 8, 15 and 29.

Thereafter one should realise that there are seven different relationships between numbers, in regards to how *Taṣḥīḥ* may be performed. Of these, three are between the heirs and their portions and four are when there are more than one set of heirs whose allotments are not divisible in whole numbers between them.

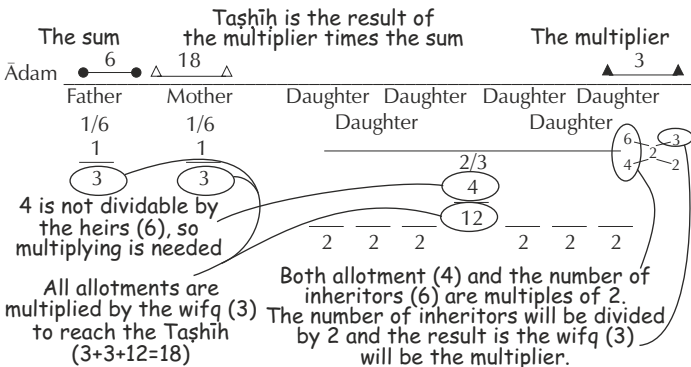
The three situations that are between heirs and their allotments are: either (a) there are no problems of distributing the allotments or there

are. If there is a problem, then the relationship between the number of heirs and the allotment can be of (b) Tawāfuk or (c) Tabāyūn.

(a) If the number of allotments can be split equally amongst the heirs, due to either the numbers being the same or the number of allotments being greater and equally dividable, then there will be no need for Taṣhīh.



(b) If the allotments cannot be split amongst the heirs, but the number of inheritors and the allotments are multiples of another number. Then this other number (if there are many numbers that can fit into both then the largest number) will be used to divide the number of heirs and the result, called the Wifq, will be the multiplier, of both the sum and all the allotments.



Note: The same principle will apply if `Awl is done, but instead of the multiplier times the sum, the multiplier times the `Awl will be what is used to get the Taṣḥīḥ. This will be in all scenarios.

Taṣḥīḥ is the result of the multiplier times `Awl

The sum	`Awl	Taṣḥīḥ				The multiplier
Fāṭimah ● 6 ● ○ 8 ○	○ 8 ○	△ 24 △				▲ 3 ▲
Husband	Mother	Sister	Sister	Sister	Sister	Sister
$\frac{1}{2}$	$\frac{1}{6}$				$\frac{2}{3}$	
3	1				4	
9	3				12	
4 is not dividable by the heirs (6), so multiplying is needed						
All allotments are multiplied by the wifq (3) to reach the Taṣḥīḥ (9+3=24)		Both allotment (4) and the number of inheritors (6) are multiples of 2. The number of inheritors will be divided by 2 and the result is the wifq (3) will be the multiplier.				
		$\frac{9}{3}$	$\frac{3}{3}$	$\frac{12}{3}$	$\frac{4}{2}$	$\frac{6}{2}$
		3	1	4	2	3

(c) If the allotments cannot be split amongst the heirs, and the number of inheritors and the allotments have no relationship to each other, then the number of heirs will be taken as the multiplier to make the Taṣḥīḥ.

2:1 ratio between male and female residuary heirs which makes total number of heirs 6

Fāṭimah ● 12 ●	△ 72 △					▲ 6 ▲
Husband	Father	Mother	Son ²	Son ²	Daughter ¹	Daughter ¹
$\frac{1}{4}$	$\frac{1}{6}$	$\frac{1}{6}$			Shared Residue	
3	2	2			5	
$\frac{3}{6}$	$\frac{2}{6}$	$\frac{2}{6}$	$\frac{10}{6}$	$\frac{10}{6}$	$\frac{5}{6}$	$\frac{5}{6}$
18	12	12	10	10	5	5

All allotments are multiplied by the wifq (6) to reach the Taṣḥīḥ (72)

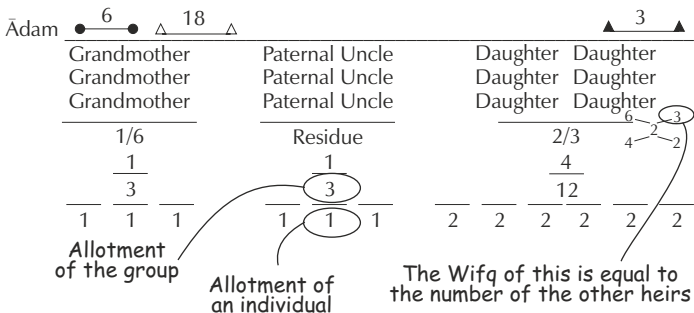
The number of heirs and their allotments do not have any common divisor so the full number of heirs is made the multiplier

Note: The benefit of using lower numbers as the multiplier is only seen when the scenario is complicated by very large numbers.

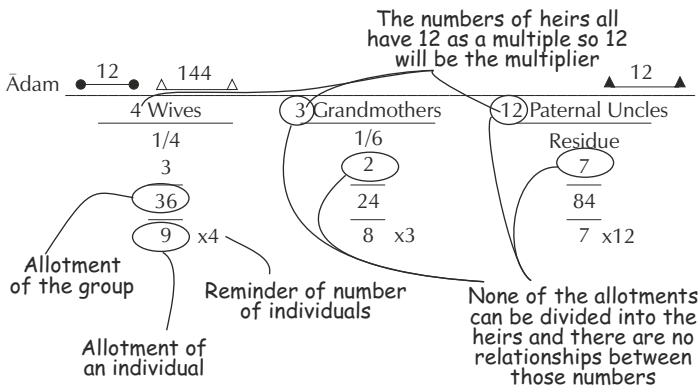
Of the four situations between the numbers of different inheritors, either the different heirs (whose allotments cannot be split) are (1) the same in number, or not. If they are different numbers, (2) the larger may be a multiple of the lesser numbers or (3) the numbers may be multiples of a common number. (4) If none of these, the numbers will be considered as having no relationship with each other.

Note: If any of the numbers of a group of heirs and their allotments are multiples of a common number, then it is always the Wifq of the number of heirs that will be held in relationship to the other heirs.

(1) This is a situation when there are multiple types of heirs whose allotments are indivisible in full numbers, and the number (or the Wifq) of all these heirs are the same then that common number will be taken as the multiplier to be multiplied by the sum (or by the `Awl if the situation has `Awl) to make the Taṣḥīḥ.



(2) This is a situation when there are multiple types of heirs whose allotments are indivisible in full numbers, and the greater number (or the Wifq) of a group of heirs is a multiple of a lesser number. In this case the larger number (in full) will be made the multiplier.



Note: The larger number may be the multiple of only one number and share a common divisor with others, in which case the following rule i.e. (3) will then be applied between the larger number and the other numbers besides the number which the larger number was a multiple of. e.g. 3, 6, and 9. 9 is a multiple of 3 but not of 6. 3 can then be ignored and between 9 and 6 the following rule will apply.

(3) This is a situation when there are more than one type of heirs whose allotments are indivisible in full numbers, and the numbers of heirs (or their Wifqs) are not multiples of each other, but of another number. In this case the Wifq of one (when compared to another heir) will be multiplied into the full of another. e.g. from 6 and 9 the Wifq of one (of 9, 3 is the Wifq) will be multiplied into the full of 6. (If done the other way round, then too the same answer will be reached.)

If there are more than two numbers which share Wifqs ("A" may have a Wifq that fits with "B" and "C", while "B" and "C" have no Wifq between them, e.g. 6, 9, and 4) then the Wifq of one of two related numbers will be multiplied by the whole of the latter, and the result will

be multiplied into the Wifq of the third if there is a common divisor between that and the first result (e.g. $6 \times 3 = 18$ (3 is the wifq of 9) this is not divisible by the remaining number 4 but 2 is a common wifq. so $18 \times 2 = 36$). If there is not, then the result will be multiplied by the full third number, and so on if there are yet more such heirs.

Note: If any of these numbers were Wifqs compared to their allotment, then these Wifqs will be treated as the new full numbers when compared to other heirs.

ĀAdam	$\bullet \xrightarrow{12} \bullet \quad \Delta \quad 432 \quad \Delta$	$\blacktriangle \quad 36 \quad \blacktriangle$	
	4 Wives	9 Uterine Brothers	6 Brothers
	$\frac{1}{4}$	$\frac{1}{3}$	Residue
	$\frac{3}{\quad}$	$\frac{4}{\quad}$	$\frac{5}{\quad}$
	$\frac{108}{\quad}$	$\frac{144}{\quad}$	$\frac{180}{\quad}$
	27 x4	16 x9	30 x6

Note: It does not matter with which pair of numbers one starts, as the end result will be the same in all cases. e.g. $3 \times 3 \times 4$, or $9 \times 2 \times 2$, or $3 \times 6 \times 2$ as long as one remembers to use the full number of one.

6 and 9 have a common divisor i.e. 3, thus the wifq of one (of 9 the wifq is 3) is multiplied into 6 (the other number) the result is 18, that will be multiplied by the wifq of the remaining 4 heirs (2). The result from that i.e. 36 is made the multiplier.

(3) This is a situation when there are more than one type of heirs whose allotments are indivisible in full numbers, and the numbers of heirs (or their Wifqs) have no relationship to each other. In this situation the full number of one of the inheritor groups will be multiplied with the full number of the other(s), that is if the results bear no relationships with the other number(s) of heirs.

If the result bears any common divisor with the remaining numbers then the full amount of the result will be multiplied by the Wifq of the remaining number to make the Taṣḥīḥ.

Ādam ● 24 ●	△ 5040 △	▲ 210 ▲	
<u>2 Wives</u>	6 <u>Grandmothers</u> ₃	10 <u>Daughters</u> ₅	7 <u>Paternal Uncles</u>
<u>1/8</u>	<u>1/6</u>	<u>2/3</u>	Residue
3	4	16	1
<u>630</u>	<u>840</u>	<u>3360</u>	<u>210</u>
315 x2	140 x6	336 x10	30 x7

210 is the total of 2 (wives), 3 (the wifq of 6 grandmothers), 5 (the wifq of 10 daughters), and 7 (uncles) all multiplied together, as they have no relationship with each other or the results of the progressive multiplying.

Note: Even if one were to multiply the full number of all the groups of heirs, whose allotments cannot be divided equally, in the situation of there being a relationship between them, then too the answer will be correct. The problem with that however, is that the lowest number useable for making the allotment total is not used, and often ridiculously high Taşhihs are reached. e.g. the two situations below are the same. If one does not look for the Wifqs, then one will arrive at the first conclusion, otherwise the second and more manageable conclusion is what is reached.

Ādam ● 24 ●	△ 77760 △	Result of 4x6x15x9 ▲ 3240 ▲	
<u>4 Wives</u>	6 <u>Grandmothers</u>	15 <u>Daughters</u>	9 <u>Brothers</u>
<u>1/8</u>	<u>1/6</u>	<u>2/3</u>	Residue
3	4	16	1
<u>9720</u>	<u>12960</u>	<u>51840</u>	<u>3240</u>
2430 x4	2160 x6	3456 x15	360 x9

Ādam ● 24 ●	△ 4320 △	Result of 4x3x5x3 ▲ 180 ▲	
<u>4 Wives</u>	6 <u>Grandmothers</u> ₃	15 <u>Daughters</u> ₅	9 <u>Brothers</u> ₃
<u>1/8</u>	<u>1/6</u>	<u>2/3</u>	Residue
3	4	16	1
<u>540</u>	<u>720</u>	<u>2880</u>	<u>180</u>
125 x4	120 x6	192 x15	20 x9

Note: As mentioned previously, the section of Taṣḥīḥ is a method of getting one common multiple for the entire estate. People may prefer other methods to arrive at the same conclusion. e.g. one may not wish to look for a Taṣḥīḥ but wish to work out the entire estate in percentages, fractions or decimal format. This too is valid and can be done very simply after the original sum is made. This is entirely up to the discretion of the individual, but care must be taken and cross-checking must be done to avoid errors.

RADD - RETURNING THE UNCLAIMED

Radd is the next applicable step in the order of the distribution of inheritance (see page 29) and (as mentioned on page 55) is done when the number of allotments does not reach the sum. This is due to there not being any residuary heirs and also because of the Dhawil Furūd's allotments not combining to take up the estate. In this situation the remainder of the estate is redistributed amongst the heirs, proportionate to what their allotments are. Due to their being heirs who do not qualify for this (namely the spouses) there are four (practically three) different scenarios that have different workings out.

If there are no spouses of the deceased, then there is either (1) one type of heir or (2) more. If the deceased's spouse(s) are also present then there may be (3) one type of heir or (4) more.

(1) and (2) are when there are no spouses and either there is only one type of heir or there are more than one type. Some have mentioned these points separately, but the end result is the same. Once the proportions are determined and one can see that there is a remainder, then one only needs to lessen the sum to the amount of allotments accounted for. This will keep the shares and get rid of the remainder. Also Taṣḥīḥ can be done thereafter if the allotments do not divide equally amongst the heirs.

$\bar{A}dam$ $\frac{2}{1}$ $\frac{1}{1}$

Daughter

$\frac{1}{2}$

1

If only one heir then the sum will be changed to the heir's allotment

$\bar{A}dam$ $\frac{6}{4}$ $\frac{4}{1}$

Daughter Mother

$\frac{1}{2}$ $\frac{1}{6}$

3 1

If more than one heir then the sum will be changed to the total of the allotments

$\bar{A}dam$ $\frac{3}{3}$ $\frac{3}{1}$

Daughter Daughter Daughter

$\frac{2}{3}$

2

$\frac{2}{1}$

1 1 1

If one heir is to receive an allotment that will not be divided by it then the sum will be changed to the total number of heirs

$\bar{A}dam$ $\frac{6}{5}$ $\frac{5}{1}$ $\frac{15}{3}$

Sister Sister Sister Mother

$\frac{2}{3}$

$\frac{4}{12}$

$\frac{4}{4}$

$\frac{1}{3}$

4 4 4 3

If the allotment will not divide by the amount of heirs then Taṣhīḥ will be made after the Radd.

(3) If the deceased's spouse(s) are present and there is only one type of heir, then the remainder will return fully to that heir. If Taṣhīḥ needs to be done then it will be done after Radd.

$\bar{A}dam$ $\frac{4}{1}$

Husband Daughter

$\frac{1}{4}$ $\frac{1}{2}$

1 $\frac{2}{3} + 1$

3

The remainder is added to the allotment of the heir who the Radd can be given to

Ādam	● $\frac{12}{3}$ ● □ $\frac{12}{9}$ □ △ $\frac{24}{9}$ △	▲ $\frac{2}{9}$ ▲
	Husband	Daughter Daughter
	$\frac{1}{4}$	$\frac{2}{3}$
	3	$\frac{8}{9} + 1$
	—	—
	6	18
	—	—
	6	9

The remainder is added to the allotment of the heir who the Radd can be given to then Taṣhīḥ is performed.

(3) If the deceased's spouse(s) are present and there are more than one type of heirs, then the procedure of Radd is more complex.

Ādam	● $\frac{12}{3}$ ●	1 Remainder
	Wife	Sister Uterine Brother
	$\frac{1}{4}$	$\frac{1}{2}$ $\frac{1}{6}$
	3	6 2

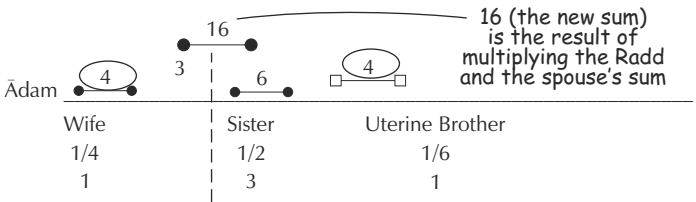
One will first check to see if a situation needs Radd to be applied

Once one knows that Radd needs to be done, then one will first separate the spouse and deal with their allotment first, separating the remainder. Thereafter making a separate sum for the remaining heirs, with the lessening of the sum to fit the allotments.

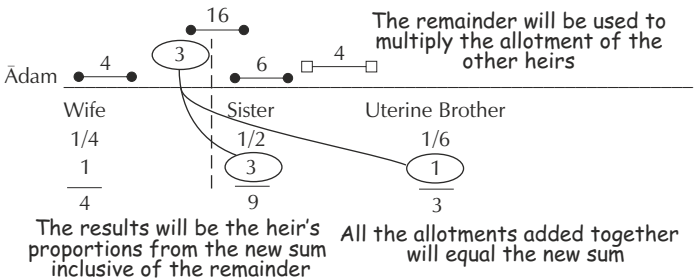
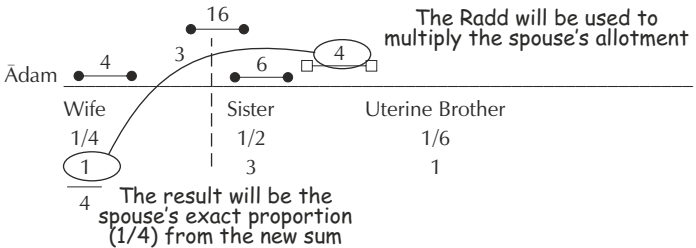
Ādam	● $\frac{4}{3}$ ●	3		● $\frac{6}{3}$ ●	□ $\frac{4}{1}$ □
	Wife		Separating line	Sister	Uterine Brother
	$\frac{1}{4}$			$\frac{1}{2}$	$\frac{1}{6}$
	1			3	1

3 is the remainder 4 is the Radd

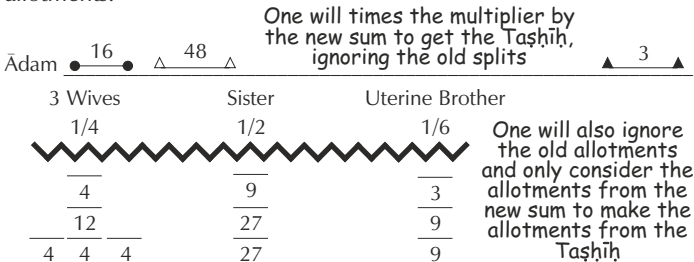
Thereafter one will multiply the Radd with the sum of the spouse's split to make the new sum for both the splits.



For one to now achieve the correct allotments, one will multiply the spouse's allotment by the Radd, and the allotments of the other heirs by the remainder of the spouse's split. This way the spouse will have their proportion from the new sum, and the other heir's will have their allotments increased proportionately.



If Taṣḥīḥ has to be performed, then one will perform that at this stage. One will ignore everything apart from the new sum and the final allotments.



Note: As from their definitions, one will notice that `Awl and Radd are opposites and thus cannot come together in one scenario.

MAKING THE ALLOTMENTS MATCH THE ESTATE

As one will have noticed, in none of the examples given has an estate actually been divided. What has been done is that each individual has got an allotment (or share) from a total sum (original or reached through `Awl, Radd or Taṣḥīḥ). This total, more often than not, bears no resemblance to the actual estate or its value. e.g. A sum may be of 5040 shares (allotments), whereas the actual estate may be £100,000 or £1,000. Thus if one wishes to know what the actual inheritance is for each heir then one will have to convert this allotment into an actual portion of the estate. This is done by applying the following formula.

$$\text{Individual Inheritance} = \text{Individual Allotment} \times \frac{\text{Estate Total}}{\text{Total Allotments}}$$

Which in simple terms is, the total value of the estate will be divided by the total number of allotments (i.e. the sum). The resulting number will

show the value of one part in that scenario. Simply multiply this by the amount of parts each heir has to calculate his allotment in currency.

Adam	● $\frac{24}{216}$ ●	△ $\frac{216}{216}$ △					▲ $\frac{9}{216}$ ▲
Wife	Father	Mother	Son	Son	Son	Son	Daughter
$\frac{1}{8}$	$\frac{1}{6}$	$\frac{1}{6}$	Shared Residue				
<u>3</u>	<u>4</u>	<u>4</u>					<u>13</u>
27	36	36					117
<u>27</u>	<u>36</u>	<u>36</u>	<u>26</u>	<u>26</u>	<u>26</u>	<u>26</u>	<u>13</u>

If the estate in the above scenario was totalled at £270,000, which includes the value of the deceased's houses cars and business, one would first divide £270,000 in 216 equal parts. The result would be £1,250 equalling one part. Multiplying £1,250 by the allotment of each heir will show that particular heir's inheritance. The above scenario gives us these amounts for each heir:

The deceased's wife will get	£33,750
The deceased's father will get	£45,000
The deceased's mother will get	£45,000
Each of the deceased's sons will get	£32,500 (x4)
The deceased's daughter will get	£16,250

The total of the above portions equal £270,000

Note: One must always remember that it is only the deceased's own possessions that are included in his estate. If the deceased was utilising any item belonging to someone else, even if for indefinite use, it would not belong to the deceased or be counted as part of his inheritance, unless it was established (either by the deceased or the lender) that ownership had actually changed hands.

ŞULH - AGREEMENTS OR COMPROMISES

If any heir wishes to forgo his/her share of the inheritance, then their portion will be kept within the estate for distribution. One will not ignore their presence nor exclude them from the working out, but instead one will include them in the inheritance and then deduct their share from the sum. The reason for this is that their presence may affect the inheritance of others.

Fāṭimah ● $\xrightarrow{6}$ ● $\xrightarrow{3}$

The allotment of the person who has done Şulh will be taken away from the sum. This will keep the allotments of the other heirs in proportion

Husband	Mother	Brother
1/2	1/3	Residue
3	2	1

Draw a box around the person who has done Şulh to show that he has been excluded

If this is not done and instead one ignores the person who has pulled out, then the allotments may sway to the disadvantage of those who are more worthy.

Fāṭimah ● $\xrightarrow{3}$ ●

Mother	Brother	In this situation the brother gets twice the portion of the mother
1/3	Residue	
1	2	

Note: If the heir wishes his/her share to be used elsewhere then they must take possession of it and then do as they wish. One cannot control any of the estate after withdrawing from it.

One may also make an agreement on taking a specific part of the wealth. e.g. the car. If in such a situation the withdrawing heir seeks

less (in cash) than what his/her allotment would be then permission of the other heirs is not necessary. If what is wanted is a particular, sought-after item or what amounts to more than the heir's portion then permission is needed from all the heirs for the agreement to be made.

E.g. a wife's allotment may be £100,000 from an £800,000 estate, she may wish to not take money but rather she may want the house (worth £70,000). She can forgo the £30,000 in order to appease the other heirs who may not have been willing to relinquish their share of it.

In a similar scenario, if the value of the house is worth £150,000, the other heirs (especially her own children) may agree because they do not wish to see her go through the difficulties of buying a new house.

Note: One must remember that the distribution of inheritance is not the distribution of charity. Therefore, if one were to be in a situation where one wishes for a particular object and has one's wishes ruled against, it should never be that this is taken as offensive, as the other heirs are not doing any injustice in not relinquishing their rights.

DHAWIL ARḤĀM

Dhawil Arḥām are those relatives who either share a common ancestor or either the heir or the deceased is an ancestor of the other, i.e. they are so close that marriage is not permissible but are not closely related enough to be among the heirs. If there is an absence of the first categories (or the deceased left only a spouse, for whom Radd cannot be done) then the closest amongst the Dhawil Arḥām will inherit the full estate. The Dhawil Arḥām also has principles and categories as did the `Aṣabah. The principles are:

1. The order of the categories.

2. The near exclude the remote (within this is the sub-principle that the link excludes its following chain, i.e. if one heir, who is a link for others is present all those who are related to the deceased through that link are excluded).
3. The stronger ties exclude the weaker ties.

Note: These principles must be followed in the order listed.

There are four categories of Dhawil Arḥām. They can be either male or female and are in the following order:

- a. The descendants of the deceased.
- b. The antecedents of the deceased.
- c. The descendants of the deceased's parents.
- d. The descendants of the deceased's grandparents

The descendants of the deceased

These are all those who were not amongst the Dhawil Furūd or `Aṣabah, e.g. the daughter's son and daughter, etc.

The antecedents of the deceased

All those grandparents who did not qualify as heirs qualify as Dhawil Arḥām. e.g. The mother's father, etc.

The descendants of the deceased's parents

The children of the deceased's siblings who are not `Aṣabah. e.g. The sister's children, or the brother's daughter, etc.

The descendants of the deceased's grandparents

The deceased's uncles and aunts who were not amongst the heirs or residuary heirs. e.g. the father's sister or the mother's siblings and their offspring, etc (Note: Cousins are not prohibited from marrying).

Note: If any one relative is found who is more closely related than other relatives (e.g. the offspring of an heir compared to an heir's grandchildren), then the closer will inherit the entire estate and exclude the farther.

Note: In books on inheritance this class (i.e. Dhawil Arḥām) has been covered more extensively. What has been included in this booklet is very basic information on the Dhawil Arḥām, as it is extremely rare that a person does not have any close relatives who qualify as primary heirs. If a person does find him/her self in this situation, then it is recommended that a scholar be consulted for this.

MISCELLANEOUS ISSUES

THE RIGHTS OF THE UNBORN CHILD

If at the time of a person's death his wife (or mother or daughter-in-law, etc) are pregnant and the child could be an heir when born, then a share is set aside for the baby. As a precaution the estate would be drawn up twice and in one case the unborn will be classed as a boy and in the other as a girl, (it has also been recommended that a third working out of the estate should also be drawn up where the unborn is a miscarriage or still-born). All the heirs will be given their lowest share (or not given anything if excluded) and the remainder will be set aside for the baby, if the child is born dead or if the baby would not depreciate their inheritance, then they will be given their higher allotments. If the child born does cause their allotments to be lowered then they will keep their allotment. If however, there were twins born

and the heirs allotments were to be further decreased (due to `Awl), then the heirs will be ordered to give the deficit back.

\bar{A} Adam	● $\frac{24}{\rule{1.5cm}{0.4pt}}$ ●			
Wife	Daughter	Unborn child (male)	Brother	
$\frac{1}{8}$	$\frac{1}{7}$	$\frac{1}{14}$	Bereft	
$\frac{3}{3}$	$\frac{7}{7}$	$\frac{14}{14}$	Shared Residue	

The brother will initially be given nothing, but if the child born is a girl, he will be his share of $\frac{5}{24}$

\bar{A} Adam	● $\frac{24}{\rule{1.5cm}{0.4pt}}$ ●			
Wife	Daughter	Unborn child (female)	Brother	
$\frac{1}{8}$	$\frac{1}{8}$	$\frac{2}{3}$	Residue	
$\frac{3}{3}$	$\frac{8}{8}$	$\frac{8}{8}$	5	

The wife's allotment does not change in either condition so she will get her part

The sister will initially be given $\frac{7}{24}$, but if the child born is a girl, she will be an extra part

\bar{A} Adam	● $\frac{8}{\rule{1.5cm}{0.4pt}}$ ● $\frac{24}{\rule{1.5cm}{0.4pt}}$ △	Multiplied by 3 to make the sum equal the previous two sums		▲ $\frac{3}{\rule{1.5cm}{0.4pt}}$ ▲
Wife	Daughter	Unborn child (dead)	Brother	
$\frac{1}{8}$	$\frac{1}{2}$	Deprived	Residue	
$\frac{1}{3}$	$\frac{4}{12}$	Will not affect the shares of others	$\frac{3}{9}$	

Only if the baby is still born or was a miscarriage will it be considered deprived from inheritance and not affect the allotments of the other heirs

Note: If the child was born alive then it will be a valid heir even if the child was alive for a few seconds. The child's allotment will be put under the child's name and redistributed to its heirs. (They are different to the child's father's relatives, and so will get different parts, e.g. the wife is now the mother, the brothers are now the uncles, etc.)

Note: This method should only really be used if the immediate dissolution of the estate is necessary. If it can wait until the child is delivered, then that is the better option. However, if any or the deceased's heirs die before the estate is distributed, they will still be counted among the heirs and their share will be added to their estate.

HERMAPHRODITES/ANDROGYNES

On condition that the gender of the hermaphrodite cannot be established, or one gender cannot be deemed as given precedence over the other, then the allotment of the hermaphrodite is that of its female counterparts. This is the ruling given by Imām Abū Ḥanīfah and many of the Ṣaḥābah. This is the general ruling given.

Fāṭimah	● $\frac{12}{\quad}$ ● $\triangle \frac{48}{\quad} \triangle$			$\blacktriangle \frac{4}{\quad} \blacktriangle$
Husband	Son ₂	Daughter ₁	Hermaphrodite offspring ₁	
$\frac{1}{4}$	Shared Residue			
$\frac{3}{\quad}$			$\frac{9}{\quad}$	
$\frac{12}{\quad}$			$\frac{36}{\quad}$	
$\frac{12}{\quad}$	$\frac{18}{\quad}$	$\frac{9}{\quad}$	$\frac{9}{\quad}$	

Note: If a gender can be established or medically resorted to, then that will be the gender of the person, and their allotment will be according to that.

MAFQŪD - A MISSING PERSON

Being missing in the terminology of the Sharī`ah is that a person's whereabouts are not known and there is no news as to the state of the missing person, i.e. is he/she dead, alive, settled, lost, captive, etc. Due to the uncertain nature of the person being alive or dead, it is difficult to give any general rule as to what to do. If a person gives a ruling of his

death then it is possible that he may be alive and in need of all his possessions which have been given away. If he is considered alive then his family (including his wife) will find it difficult to continue life in his absence, as they are dependant on someone fulfilling that role.

In regards to inheritance the missing person is deemed as alive in his/her own wealth and as dead in regards to the wealth of others. This means that until the missing is decreed dead, his/her wealth will not be distributed amongst his heirs.

When the estate of another family member is distributed the missing person will be totally ignored. Each of the other heirs will get their shares as though the missing person was not an heir.

The wealth of the missing person cannot be distributed until either the missing person's death is confirmed, or until the missing's death is decreed.

Note: A missing person can only be decreed as dead on the fourth year of him/her being reported as missing and throughout the four years there is absolutely no knowledge of his/her whereabouts or state. This is according to the opinion of Imām Mālik, and it is one of the verdicts of many of the contemporary Ḥanafī scholars. The other verdict is that the Qaḍī's (judge's) verdict on this is also acceptable.

Note: If, however, the missing person is discovered or returns after a decree of his/her death has been passed, then the ruling is that all his/her wealth and rights are returned to him/her: even if they were distributed, the recipients will be obliged to return them.

Note: It is appropriate in the case of a missing person that records are kept of all actions that would involve him. This is to make sure that all his wealth and rights can be traced.

APOSTASY / BLASPHEMY

It has already been established that Muslims do not inherit from non-Muslims and vice versa. It is an accepted view that an apostate does not inherit from Muslims, however, the estate of any person who has renounced his/her faith warrants many different opinions as to its method of disposal.

Some say that the estate in its entirety should be disposed as Ṣadaqah, as the person is a non-believer and cannot be inherited from unless he made a bequest. Others say that the apostate's entire estate is for his/her heirs. The third opinion of the Ḥanafī school of thought is that whatever was earned by the apostate while he/she was a Muslim is subject to the laws of Mīrāth, while the remainder is to be disposed of. Another opinion still is that the estate is subject to the laws of the land, and the method local law uses to distribute intestate wealth will be acceptable.

All of the above opinions are valid and strong in analogical representation. For the answer to this one should thus ask one's local scholars.

CAPTIVE

A captive has the same ruling as an ordinary living person, that his/her wealth is not distributed in his/her lifetime and also that he/she inherits from his/her relatives.

This state will remain as long as the captive's living is established. If the captive's death is ascertained then the rules of inheritance will apply. If the captive's state becomes unknown then the rules of a missing person will be applicable to him/her.

MULTIPLE SIMULTANEOUS DEATHS

Multiple simultaneous deaths are when many people die and it is not known who amongst them died first, e.g. through a car crash, a boating accident, an earthquake, etc.

In regards to inheritance, if any were relatives of another the question would rise as to how would their inheritance be calculated. It would be incorrect to assume any one as dying first and include the other deceaseds in that estate as it would affect other heirs. It would also be impossible to assume all of them as alive in each other's inheritances as that would mean going in circles in regards to allotments.

This can be seen from an example of a father and son dying together, and none can tell who died first.

Ādam				
	Wife	Mother	Brother	Dead Son (Zaid)
Zaid				
	Mother	Dead Father (ĀAdam)	Grandmother	Uncle

If one is counted as dying first, who would that be and how would it be fair? E.g. If we were to consider Zaid as having died first the estate would look like this:

Zaid				
	Mother A	Father (ĀAdam)	Grandmother B	Uncle C
	1/3	Residue	Bereft	Bereft
	1	2		
ĀAdam				
	Wife A	Mother B	Brother C	
	1/4	1/3	Residue	
	3	4	5	


Only the mother (person A) inherits from Zaid's estate, the rest goes into Adam's estate for redistribution

If we were to consider $\bar{\text{Adam}}$ as having died first, then the estates would look like this:

*Adam's brother gets nothing from Adam's estate,
Most goes into Zaid's estate for redistribution*

$\bar{\text{Adam}}$	● — 24 — ●			
	Wife A	Mother B	Brother C	Son (Zaid)
	1/8	1/6	Bereft	Residue
	3	4		17
$\bar{\text{Zaid}}$	● — 3 — ●			
	Mother A	Grandmother B	Uncle C	
	1/3	Bereft	Residue	
	1		2	

If both were considered alive in each other's estates then there would be a loop which the money would keep going through.

There is one remaining way that is employable, that is to assume all the dead relatives as dead in each other's estates. The question that is raised in this approach is this; are the deceaseds all considered as bereft (but still affect the allotments of others), or are they deprived of inheritance (and not affect the allotments of others). The verdict chosen by scholars, generally, is that they are deprived, i.e. totally ignored in the calculation of the estate.

If this was applied in the same example, the estates would be like this, when the deceaseds are ignored:

$\bar{\text{Adam}}$	● — 12 — ●			
	Wife A	Mother B	Brother C	
	1/4	1/3	Residue	
	3	4	5	

Zaid $\frac{3}{1}$

Mother A	Grandmother B	Uncle C
1/3	Bereft	Residue
1		2

This is the general, but not universal, view given by scholars.

If they were considered as bereft and affecting the allotments, the estates will look like this:

Zaid $\frac{3}{1}$

Mother A	Father (Ādam)	Grandmother B	Uncle C
1/3	Bereft	Bereft	Residue
1			2

Ādam $\frac{24}{17}$

Wife A	Mother B	Brother C	Son (Zaid)
1/8	1/6	Residue	Bereft
3	4	17	

There is a second opinion amongst the scholars due to the opinions of `Abdullāh ibn Mas`ūd رضي الله عنه and `Alī رضي الله عنه. Their opinion is that if only one was a receiving heir to the other then they will be counted as heirs and wealth from the estate of one will go into the estate of the dead heir and will be distributed from that.

Note: If the times of death can be medically established and are far enough apart to avoid probability of error, then this can be used to establish one having died first and being inherited from by the other.

Inheritors are listed in this column, the portions listed are what these inheritors get

	The heirs below get the shown portions in the presence of the relatives listed along the top	Husband	Wife / Wives	Son	Daughter	2(+) Daughters	Grandson	Granddaughter	2(+) Granddaughters	Mother
1	Husband			1/4	1/4	1/4	1/4	1/4	1/4	1/2
2	Wife / Wives			1/8	1/8	1/8	1/8	1/8	1/8	1/4
3	Son	Rsd	Rsd		S. Rs	S. Rs	Rsd	Rsd	Rsd	Rsd
4	Daughter	1/2	1/2	S. Rs			1/2	1/2	1/2	1/2
5	2(+) Daughters	2/3	2/3	S. Rs			2/3	2/3	2/3	2/3
6	Grandson	Rsd	Rsd	Brft	Rsd	Rsd		S. Rs	S. Rs	Rsd
7	Granddaughter	1/2	1/2	Brft	$\frac{1/6}{\text{Brft}}$	Brft	S. Rs			1/2
8	2(+) Granddaughters	2/3	2/3	Brft	$\frac{1/6}{\text{Brft}}$	Brft	S. Rs			2/3
9	Mother	$1/3^{\ddagger}$	$1/3^{\ddagger}$	1/6	1/6	1/6	1/6	1/6	1/6	
10	Father	Rsd	Rsd	1/6	$1/6^+$	$1/6^+$	1/6	$1/6^+$	$1/6^+$	Rsd
11	Grandfather	Rsd	Rsd	1/6	$1/6^+$	$1/6^+$	1/6	$1/6^+$	$1/6^+$	Rsd
12	Grandmother(s)	1/6	1/6	1/6	1/6	1/6	1/6	1/6	1/6	Brft
13	Brother	Rsd	Rsd	Brft	Rsd	Rsd	Brft	Rsd	Rsd	Rsd
14	Sister	1/2	1/2	Brft	Rsd	Rsd	Brft	Rsd	Rsd	1/2
15	2(+) Sisters	2/3	2/3	Brft	Rsd	Rsd	Brft	Rsd	Rsd	2/3
16	Consanguine Brother	Rsd	Rsd	Brft	Rsd	Rsd	Brft	Rsd	Rsd	Rsd
17	Consanguine Sister	1/2	1/2	Brft	Rsd	Rsd	Brft	Rsd	Rsd	1/2
18	2(+) Cons. Sisters	2/3	2/3	Brft	Rsd	Rsd	Brft	Rsd	Rsd	2/3
19	Uterine Brother/Sister	1/6	1/6	Brft	Brft	Brft	Brft	Brft	Brft	1/6
20	2(+) Utr. Bro/Sis	1/3	1/3	Brft	Brft	Brft	Brft	Brft	Brft	1/3
21	Uncle	Rsd	Rsd	Brft	Rsd	Rsd	Brft	Rsd	Rsd	Rsd

Rsd Residue

S. Rs Shared Residue

Brft Bereft

$1/6^+$ 1/6 and Residue

$\frac{1/6}{\text{Brft}}$ 1/6 if affecting heir does not have residue otherwise bereft

Heirs who affect the inheritor's allotments are listed in this row

	Father	Grandfather	Grandmother(s)	Brother	Sister	2(+) Sisters	Consanguine Brother	Consanguine Sister	2(+) Cons. Sisters	Uterine Brother/Sister	2(+) Utr. Bro/Sis	Uncle
1	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2
2	1/4	1/4	1/4	1/4	1/4	1/4	1/4	1/4	1/4	1/4	1/4	1/4
3	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd
4	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2
5	2/3	2/3	2/3	2/3	2/3	2/3	2/3	2/3	2/3	2/3	2/3	2/3
6	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd
7	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2	1/2
8	2/3	2/3	2/3	2/3	2/3	2/3	2/3	2/3	2/3	2/3	2/3	2/3
9	1/3 [‡]	1/3	1/3	1/6 if there are 2(+) of any of the above heirs otherwise 1/3								1/3
10		Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd
11	Brft		Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd
12	1/6 ^{*/} Brft	1/6		1/6	1/6	1/6	1/6	1/6	1/6	1/6	1/6	1/6
13	Brft	Brft	Rsd		S. Rs	S. Rs	Rsd	Rsd	Rsd	Rsd	Rsd	Rsd
14	Brft	Brft	1/2	S. Rs			1/2	1/2	1/2	1/2	1/2	1/2
15	Brft	Brft	2/3	S. Rs			2/3	2/3	2/3	2/3	2/3	2/3
16	Brft	Brft	Rsd	Brft	Rsd ^{*/} Brft	Rsd ^{*/} Brft		S. Rs	S. Rs	Rsd	Rsd	Rsd
17	Brft	Brft	1/2	Brft	1/6 ^{*/} Brft	Brft	S. Rs			1/2	1/2	1/2
18	Brft	Brft	2/3	Brft	1/6 ^{*/} Brft	Brft	S. Rs			2/3	2/3	2/3
19	Brft	Brft	1/6	1/6	1/6	1/6	1/6	1/6	1/6			1/6
20	Brft	Brft	1/3	1/3	1/3	1/3	1/3	1/3	1/3			1/3
21	Brft	Brft	Rsd	Brft	Rsd ^{*/} Brft	Rsd ^{*/} Brft	Brft	Rsd ^{*/} Brft	Rsd ^{*/} Brft	Rsd	Rsd	

1/3[‡]

Please Refer To
Mother's Share

Rsd^{*/}
Brft

Bereft if Heirs
are Residuary

1/6^{*/}
Brft

1/6 if from the mother's side,
Bereft if from the father's side

MAKING A WILL

The importance of making a will cannot be overemphasised. The reason for this is that if a person were to die without leaving a will, his/her estate would be distributed according to UK law, which is not compatible with Islāmic law. This does not mean that to implement the Islāmic inheritance system one will be going against the law. As long as one specifies that one bequeaths the relevant proportion of the value of the estate to each relative. i.e. The sum and each heir and their allotments should all be mentioned as a bequest.

Unfortunately, it is not enough for a person to write in his will that he wishes it to be distributed in accordance to Shari`ah. This will not stand in court. It is essential that a person works out who his inheriting relatives are and mentions them in his/her will. This will not need doing every time a person makes or loses money, but it will have to be altered in the event of the birth or death of a close relative.

The reason why this publication is emphasising the making of a will is twofold. The first is that the Prophet ﷺ ordained it.

`Abdullāh ibn `Umar ؓ narrates that the Messenger of Allāh ﷺ said, 'A man does not have a right that three nights pass by but that his will is with him (i.e. made).'

`Abdullāh ؓ further said, 'A single night did pass by after I heard the Prophet of Allah say this but my will was with me.' an-Nasa'i, al-Bayhaqi

The second reason is that it presents a safe way of acting upon Shari`ah in the all-too-common event that family squabbles turn nasty; when people do not think that they are getting enough from the estate and others are getting too much.

For a person's will to be legally valid, they must be:

- 'mentally capable' (which means they fully understand what they are doing in writing their will);
- and at least 18 years old (though you can make a will if you are younger and on active military service).

The will must:

- have been made without 'undue influence' (for example, without a threat from someone);
- be in writing;
- be signed by the person whose will it is (the 'will-maker' or 'testator') and by two witnesses, who must all be together when the signing is done;
- and be dated when it has been signed. No amendments or additions can be made after the will has been signed.

Any person who is over 18 can sign as a witness. However, the witnesses and executors must not be people who benefit from bequests in the will. If you witness a will and you are named as a beneficiary through a bequest, you will lose your right to that bequest when the person dies.

The following example is being used to explain what goes in the will.

Khalid $\overset{24}{\bullet\text{---}\bullet}$

Wife	Mother	Father	Son	Sister	Brother	Aunt
1/8	1/6	1/6	Residue		Bereft	
3	4	4	13			

1. I am: (e.g.)

KHALID ABDULLAH of 4 Anon Street, Anonyville, AA2 2ZZ

2. I appoint the following as my Executors to carry out the wishes of Will:

My wife RABIAH and my father ZAYD

3. When my debts, funeral expenses, inheritance tax, and testamentary expenses have all been settled, I make the following Specific Gift (Keep this as the Wasıyyah/bequest e.g.):

My sister KHAWLAH, my brother DHIRAR, and my aunt FATIMA, will share equally one third of full estate as compliant to the Wasıyyah (bequest) of Islamic law

4. After these legacies, my RESIDUARY ESTATE will be distributed in the following shares :-

12.5% to my wife RABIAH

16.65% to my father ZAYD

16.65% to my mother MARYAM

54.2% to my son MUHAMMAD

Note: We are unable to draft a full will here for the reason that copying it and applying one's own details will generally not suffice to make it a valid will. However, one should keep the above points in mind when getting a legal representative to draft a will. This should make drafting an Islamic will relatively simple.

Note: If at any time there is a death in the family or a birth of an inheriting heir the Will must be redrafted.

Note: Inheritance tax is charged in the UK at +/- 40% of the estate, provided that it is worth more than £325,000. Below that one is

exempt from inheritance tax. One must however remember that the value of the house (if it is included in the estate) is also included in this and also the total of all gifts of more than £250 if they accumulate to be more than £3,000 a year, for the past seven years will also be added to make this total reach £325,000.

Note: The figure of £325,000 as a threshold for inheritance tax in the UK is correct at the time of publication. However, this figure periodically changes. Please check the HMRC website for the correct figure.

Note: Testamentary charges and inheritance taxes where applicable classify as debts on the estate. They will be paid out before the bequests and inheritance are distributed.

Note: If one is attempting to make one's own will according to Islām based on this publication, we still urge that everyone utilises the services of the scholars to verify the working out, and to ensure that other points or issues which have not been covered in this short publication are not omitted. Thereafter, the will should be checked/properly drafted by a qualified solicitor.

ADVICE

A person must make his/her will as soon as possible. The reason for the urgency is that death is unpredictable. The reason for the necessity is that it ensures the rightful people inherit. Not making a will in a country where intestate laws (laws pertaining to the estate of a person who left no will) are against Islamic principles is an oppressive act against one's heirs.

As we had mentioned in the preface, in UK law if a person dies intestate (without making a will or has their will rejected for whatever reason), in regards to who gets what, things are fairly complex. For example, if the deceased left an estate of up to £250,000 then the spouse gets everything and the children and parents get nothing.

Islamically, this is a crime against the other heirs. It is a sin that will leave the deceased person accountable in the Hereafter.

Anas رضي الله عنه related that the Prophet صلى الله عليه وسلم said, "He who deprives an heir of his inheritance, Allāh will deprive him of his inheritance in Paradise on the Day of Resurrection." Ibn Mājah

On a separate note, in the UK the family of the deceased also have other responsibilities that may affect the inheritance. e.g. If the deceased received welfare benefits, then the family must apply to stop this otherwise Ḥarām money would be included within the inheritance.

Similarly, if the family know that the deceased had borrowed things of others then they must return this. It would not only be a debt for which the deceased may be accountable, but again would be Ḥarām for the heirs to benefit from without permission.

GLOSSARY

Allotments	The amount of divided parts an heir receives.
Analogy	A form of proof used in making jurisprudential rulings.
Ancestors	Parents, grandparents great-grandparents, etc. e.g. father, mother, grandfather, grandmother, etc.
Androgynes	A person who is neither male nor female, or is both.
Antecedent	See ancestors.
`Aṣabah	Relatives who are residuary heirs.
`Awl	`Awl - When the number of allotments exceed the Sum, `Awl is done to make the numbers tally. `Awl is to increase the number of the Sum to equal the allotments.
Bequest	A fixture in the will leaving a specific object or amount to a specific individual or institute.
Bereft	To not receive a share from the deceased's estate due to other closer relatives.
Burial (and shrouding)	The disposal of the body including all rites of passage. The costs of this.
Chattels (personal)	Personal belongings, including jewelry, furniture, pictures, antiques, books, and cars (but not money, investments, property, or business assets). In an Islāmic context this too is part of the estate. According to UK intestate law this is all given to the spouse.
Consanguine	Sharing the same father but not the same mother.
Debts	All monies that one owes to people and has to pay.
Deprived	Inability to inherit from a relatives estate due to one of four reasons. (see "causes of deprivation" page 13)
Denominators	Numbers below line in fraction, number used to divide another number.
Descendants	the opposite of ancestor, i.e. children, grandchildren, great-grandchildren, etc.

- Dhawil Arḥām** Blood-related, sharing common ancestors.
- Dhawil Furūd** People mentioned in the Qur'ān and Sunnah to get a specific portion in inheritance.
- Estate** The total wealth that is to be distributed in inheritance.
- Exclude** To make someone lose their share.
- Execution** To settle the deceased's estate, paying off the debts collecting owed money and distributing the estate.
- Funeral payment grant** In the circumstance that a deceased person does not have adequate money in his/her estate for burial costs, social services may contribute towards it. For more details contact local Social Security Office (ask for leaflet SB-16).
- Heirs** People who get money from the deceased person's left wealth.
- Hermaphrodite** See androgyne.
- Inheritance** See estate.
- Inheritor** See heir.
- Kalālah** Person without any offspring (male or female) and also without male antecedents.
- Life interest** The right to receive the income or benefit from a property or capital sum (but not the capital sum itself) for life.
- London Gazette** A weekly government publication that contains various legal notices. In addition to a local paper the estate administrator also needs to announce the death of a person, in this paper, to see if the deceased owed or was owed by anyone anything.
- Maḍrūb** Arabic for multiplier
- Mafhūm Mukhālif** Analogy reached by implication of double negatives. (e.g. if it is sunny, go out. Mafhūm Mukhālif here is, if it is not sunny, don't go out.)
- Maintenance** Right of wife that her husband provides for her food,

clothing, and shelter. (During the first four months and ten days after her husband's demise her maintenance will be taken from the estate, e.g. clothes, groceries, rent, etc (all within reason) are given from the estate. This is as a debt and comes before the will is executed).

Mirāth Inheritance, Islāmic Laws pertaining to the distribution of inheritance.

Multiple (lowest common) See Sum (the)

Multiplier The number used to multiply the Sum and the allotments to ensure each heir gets whole parts.

Polygyny The ability of a Muslim man to legally marry up to four wives. In terms of inheritance, the wives will all equally share a portion ($\frac{1}{4}$ or $\frac{1}{8}$ depending on the circumstance) between them.

Prevailing allotment The maximum possible allotment an heir can receive provided there are none who will cause them to be bereft or their share to lessen.

Proportions Specified amount from the Qur'ān or Sunnah.

Radd When the number of allotments is less than the Sum, the Sum will be reduced to the number of allotments, or the remainder will be redistributed amongst the heirs (besides the spouses).

Residuary Heirs who will take the residue

Residue The remainder of the estate after the Dhawil Furūd take their shares.

Settlement Agreement an heir can make for a specific item or amount from the will.

Shared residue The reminder that is to be shared on a 2:1 ratio between one type of male and female relatives, (two parts for male and one part for female) e.g. son and daughter.

Shrouding and burial See Burial.

Siblings	Full brothers and sisters. Or any type of brother and sister if not in comparison to consanguine or uterine.
Split	Used in Radd, When one estate initially needs two Sums which only affect specific heirs, each section is called a split.
Ṣulḥ	See Settlement
Sum (the)	This is the original number used when allocating. It is the lowest common multiple of the proportions (e.g. quarter, sixth, etc) which all relate to this number.
Tabāyūn	The relationship between two or more numbers that share no common denominator between them. (e.g. 8, 9 and 11)
Tadākhul	The relationship between two or more numbers where the lesser numbers are denominators of the greater. (e.g. 3, 4, 6, and 12)
Tamāthul	Two or more numbers that are identical. (e.g. 3, and 3)
Taṣḥīḥ	When trying to make the allotments whole numbers they will need to be multiplied. The Sum too needs to be multiplied, and its result is the Taṣḥīḥ.
Tawāfuk	The relationship between two or more numbers that share a common denominator. (e.g. 6, 9, and 15)
Uterine	Relating to the womb, sharing the same mother but not the same father.
Waṣīyyah	See bequest, This under Islāmic Law can only be made out of one third of the estate.
Wifq	Denominator, often it means the result of dividing a number by its highest common denominator with another number, as used to make the Multiplier.
Will	Legal document leaving instructions on how one's wealth should be spent after one's demise.
Zāhir	Apparent meaning. This is taking the meaning of the Qur'ān or Sunnah as it is. It is not a form of analogy.