



# **Quranic Inheritance Law and Will**

**An interpretation by**

**M. Al-Qaisey**

# Quranic Inheritance Law and Will

LAW AND WILL

In 1997, I visited, a Lawyer in his North London office to write my Will, he asked me to draft the outlines, and when I return back with specific shares to my relatives, he asked me how did I came to these specific shares? I told him it is all in the Holy Quran, and that the inheritance shares as stipulated in the Holy Quran are programmable. At this point Munir stood up and said: “if you do that, I will be the first one to buy a copy”. He gave me few photocopies of legal articles on Islamic Inheritance laws along with my will. That was the last time I spoke with him as he died few years later, (may Allah have mercy on him).

The idea of writing a computer Islamic inheritance programme remained in my mind ever since, subsequently I gathered some publications on the subject, drafted the flow charts, but between works and business travels, the Islamic Inheritance calculation computer programme remained on my action lists. In the meantime, other people wrote excellent Islamic inheritance calculation software and books, some of them were used in this study (see, reference list of this study).

In early 2012, I decided to write an introductory presentation on “[Quranic Inheritance Laws and Will](#)” for presentation to a local Dawa Centre. This study was intended to be a 30-45 minutes introductory presentation to non-Muslim members and visitors of the Dawa Centre, but it grew outside the designed slide number and presentation time frame into various aspects of Islamic Will making, Will witnessing, Will contesting and Islamic Inheritance laws.

The primary source and reference to this study is the Holy Quran, and the narrated Hadiths of the prophet Muhammad (*Pbuh*) on the same subject. In order to emphasise the progress and evolution of Quranic instructions, and the full or partial *Naskh* (superseding or abrogation) of Ayahs, I arranged the *Irth* and *Wassiyah Ayahs* in their revelation order.

Although it is in English, and intended for non-Muslims living in the Middle East, but can be used by Muslims in Muslim countries and in Western countries. However, I did not venture deeply into how to circumvent the western laws in the USA and the UK for example, to execute an Islamic will and distribute Islamic inheritance shares to your relatives without paying local inheritance taxes. I cited few legal references, and websites for UK and USA types of Islamic Will templates.

Finally, to get the full benefit of this study, I recommend reading in conjunction with the enclosed MS PowerPoint presentation “[Quranic Inheritance Law and Will](#)”.

**Muhammad Al-Qaisey,**

Arad, Bahrain.

[M.Al\\_Qaisey973@yahoo.com](mailto:M.Al_Qaisey973@yahoo.com)

Monday,9 Jumaada Al-Awal 1435 A.H. (10 February 2014)

1. **Source and Chronology of Islamic Will and Inheritance Rules**
2. **Witnessing a Wills and Guardianship Rules**
3. **Islamic Inheritance Distribution Rules**
4. **Witness Oath, Contesting Wills and Inheritance Shares**
5. **Reasons for Revelation of the Inheritance Rules**
  - A. Prophet's (Pbuh) Verdict on Wife, Two Daughters and Brother
  - B. Prophet's (Pbuh) Verdict on Sister, Wife and Granddaughter.
  - C. Prophet's (Pbuh) Verdict on Maximum Bequest
  - D. Prophet's (*Pbuh*) Verdicts and Precedence on Inheritance and Will
6. **Islamic Inheritance Calculation Software**
  - A. Priority Flow Charts of Male and Female Heirs
  - B. Test Cases: A and B
  - C. Typical Cases: 1, 2, 3 and 4
7. **Summary**
  - A. Typical Islamic Inheritance Cases
  - B. Special Islamic Inheritance Cases
8. **Conclusions**
  - A. Evolution of Islamic Will and Inheritance
  - B. Status of Will In Quran
  - C. Means of Inheritance and Reasons for Disqualification
  - D. FAQ
- E. Why the Divinely Prescribed Inheritance Shares aren't Apportioned in Percentages?
  - F. Inheritance Shares Defining and Quantifying Mathematics
9. **Selected References**
  - A. Published References
  - B. Published Inheritance Calculation Software
10. **Appendix**
  - A. Scriptural, Legal and Inheritance Accounting Terms
11. **Enclosures:**
  - A. CD Inheritance Software
  - B. Will Templates
12. **Gratitude**
13. **Epilogue**

Islamic *Shia (Jaa'fary)* Inheritance and *Khums* Calculation Software

# 1. SOURCE AND CHRONOLOGY OF ISLAMIC WILL AND INHERITANCE LAWS

## 1A.Source of Islamic Will and Inheritance Laws

- Prophet Muhammad Ibn Abdu-Allah Al-Qureshi (*Pbuh*) born in Mecca, circa 571 AD.
- Received (*Pbuh*) his first revelation “*Surah*” through Archangel Gabriel, circa 610 AD.
- The Prophet (*Pbuh*) immigrated with his disciples “*Sahabah*” to Medina in 622 AD.
- Seventy out of the 114 Quranic Chapters “*Surahs*” were revealed during the first 12 revelation years in Mecca, and 44 “*Surahs*” in the last 10 revelation years in Medina.
- God Messenger (*Pbuh*) died age 61 in Medina in 632 AD (*Age 63 Lunar years*).

## 1B.Chronology vs. Quranic Order of Inheritance Surahs

The Quranic chapters (*Surahs*) were written and memorised by the disciples during the Prophet’s (*Pbuh*) lifetime. After his death, a master copy of the Quran was compiled by orders of the three Caliphs who followed the Prophet (*Pbuh*), which was kept in Medina and became the source reference of all subsequent copies.

The master copy and all subsequent copies of the Holy Quran did not follow the revelation order of revelation (*Tanzil*) but sequenced the 114 *Surahs* according to their reference to earlier divine religions and Holy Books; the Tablets of Abraham and Moses, David’s Psalms (*Zabur*) and the Bible (*Injeel*) revealed to Jesus (Peace be upon them). Hence the second chapter *Surah “Al Baqarah”* connects to the Judaic (*Tura*) Old Testament and the third *Surah “Aal Imran”* connects with the Christian (*Injeel*) Bible or New Testament.

The overall arrangement reveals a general sequencing of *Surahs* according to their number of *Ayahs* in an exponential decreasing trend.

**Table 1, illustrates the chronological against the Quranic sequence of *Surahs*.**

- The 50<sup>th</sup> Surah (Chapter 17) and the 87<sup>th</sup> Surah (Chapter 2) includes verses on making and witnessing Wills, and guidelines to guardians.
- The 92<sup>nd</sup> Surah (Chapter 4) incorporates the main guidelines to guardians and Will executioners, prescribes heirs hierarchy and their apportioned inheritance shares.
- The 112<sup>th</sup> Surah (Chapter 5) includes verses on the fundamentals of making, witnessing, executing and contesting a Will.

**Table 1\***

**Revelation Order (Tanzil) vs. Sequence of Quranic Chapters (Surahs)**

Order of Revelation	Surah	Quranic Sequence	Type	No. of Ayahs	Note
1	Al-Alaq	96	Meccan	19	
2	Al-Qalam	68	Meccan	52	Except 17-33 and 48-50, from Medina
3	Al-Muzzammil	73	Meccan	20	Except 10, 11 and 20, from Medina
4	Al-Muddaththir	74	Meccan	56	
5	Al-Faatihah	1	Meccan	7	
6	Al-Masad	111	Meccan	5	
7	At-Takwir	81	Meccan	29	
8	Al-A'laa	87	Meccan	19	
9	Al-Lail	92	Meccan	21	
10	Al-Fajr	89	Meccan	30	
11	Ad-Dhuhaa	93	Meccan	11	
12	Ash-Sharh	94	Meccan	8	
13	Al-Asr	103	Meccan	3	
14	Al-Aadiyaat	100	Meccan	11	
15	Al-Kawthar	108	Meccan	3	
16	At-Takaathur	102	Meccan	8	
17	Al-Maa'un	107	Meccan	7	Only 1-3 from Mecca; rest from Medina
18	Al-Kaafiroon	109	Meccan	6	
19	Al-Fil	105	Meccan	5	
20	Al-Falaq	113	Meccan	5	
21	An-Naas	114	Meccan	6	
22	Al-Ikhlaas	112	Meccan	4	
23	An-Najm	53	Meccan	62	Except 32, from Medina
24	Abasa	80	Meccan	42	
25	Al-Qadr	97	Meccan	5	
26	Ash-Shams	91	Meccan	15	
27	Al-Burooj	85	Meccan	22	
28	At-Tin	95	Meccan	8	
29	Quraish	106	Meccan	4	
30	Al-Qaari'a	101	Meccan	11	
31	Al-Qiyaama	75	Meccan	40	
32	Al-Humaza	104	Meccan	9	
33	Al-Mursalaat	77	Meccan	50	Except 48, from Medina
34	Qaaf	50	Meccan	45	Except 38, from Medina
35	Al-Balad	90	Meccan	20	
36	At-Taariq	86	Meccan	17	
37	Al-Qamar	54	Meccan	55	Except 44-46, from Medina

38	Saad	38	Meccan	88	
39	Al-A'raaf	7	Meccan	206	Except 163-170, from Medina
40	Al-Jinn	72	Meccan	28	
41	Yaseen	36	Meccan	83	Except 45, from Medina
42	Al-Furqaan	25	Meccan	77	Except 68-70, from Medina
43	Faatir	35	Meccan	45	
44	Maryam	19	Meccan	98	Except 58 and 71, from Medina
45	Taa-Haa	20	Meccan	135	Except 130 and 131, from Medina
46	Al-Waaqia	56	Meccan	96	Except 81 and 82, from Medina
47	Ash-Shu'araa	26	Meccan	227	Except 197 and 224-227, from Medina
48	An-Naml	27	Meccan	93	
49	Al-Qasas	28	Meccan	88	Except 52-55 from Medina and 85 from Juhfa at the time of the Hijra
50	Al-Israa	17	Meccan	111	Except 26, 32, 33, 57, 73-80, from Medina
51	Yunus	10	Meccan	109	Except 40, 94, 95, 96, from Medina
52	Hud	11	Meccan	123	Except 12, 17, 114, from Medina
53	Yusuf	12	Meccan	111	Except 1, 2, 3, 7, from Medina
54	Al-Hijr	15	Meccan	99	Except 87, from Medina
55	Al-An'aam	6	Meccan	165	Except 20, 23, 91, 93, 114, 151, 152, 153, from Medina
56	As-Saaffaat	37	Meccan	182	
57	Luqman	31	Meccan	34	Except 27-29, from Medina
58	Saba	34	Meccan	54	
59	Az-Zumar	39	Meccan	75	
60	Al-Ghaafir	40	Meccan	85	Except 56, 57, from Medina
61	Fussilat	41	Meccan	54	
62	Ash-Shura	42	Meccan	53	Except 23, 24, 25, 27, from Medina
63	Az-Zukhruf	43	Meccan	89	Except 54, from Medina
64	Ad-Dukhaan	44	Meccan	59	
65	Al-Jaathiya	45	Meccan	37	Except 14, from Medina
66	Al-Ahqaf	46	Meccan	35	Except 10, 15, 35, from Medina
67	Adh-Dhaariyat	51	Meccan	60	
68	Al-Ghaashiya	88	Meccan	26	
69	Al-Kahf	18	Meccan	110	Except 28, 83-101, from Medina
70	An-Nahl	16	Meccan	128	Except last three verses 127-129, from Medina
71	Nooh	71	Meccan	28	
72	Ibrahim	14	Meccan	52	Except 28, 29, from Medina
73	Al-Anbiyaa	21	Meccan	112	
74	Al-Muminoon	23	Meccan	118	
75	As-Sajda	32	Meccan	30	Except 16-20, from Medina
76	At-Tur	52	Meccan	49	
77	Al-Mulk	67	Meccan	30	
78	Al-Haaqqa	69	Meccan	52	
79	Al-Ma'aarij	70	Meccan	44	
80	An-Naba	78	Meccan	40	

81	An-Naazi'aat	79	Meccan	46	
82	Al-Infitaar	82	Meccan	19	
83	Al-Inshiqaaq	84	Meccan	25	
84	Ar-Room	30	Meccan	60	Except 17, from Medina
85	Al-Ankaboot	29	Meccan	69	Except 1-11, from Medina
86	Al-Mutaffifin	83	Meccan	36	Last from Mecca
87	Al-Baqara	2	Medinan	286	Except 281 from Mina at the time of the Last Hajj
88	Al-Anfaal	8	Medinan	75	Except 30-36 from Mecca
89	Aal-i-Imraan	3	Medinan	200	
90	Al-Ahzaab	33	Medinan	73	
91	Al-Mumtahana	60	Medinan	13	
92	An-Nisaa	4	Medinan	176	
93	Az-Zalzala	99	Medinan	8	
94	Al-Hadid	57	Medinan	29	
95	Muhammad	47	Medinan	38	Except 13, from during the Hijrah
96	Ar-Ra'd	13	Medinan	43	
97	Ar-Rahmaan	55	Medinan	78	
98	Al-Insaan	76	Medinan	31	
99	At-Talaaq	65	Medinan	12	
100	Al-Bayyina	98	Medinan	8	
101	Al-Hashr	59	Medinan	24	
102	An-Noor	24	Medinan	64	
103	Al-Hajj	22	Medinan	78	Except 52-55, from between Mecca and Medina
104	Al-Munaafiqoon	63	Medinan	11	
105	Al-Mujaadila	58	Medinan	22	
106	Al-Hujuraat	49	Medinan	18	
107	At-Tahrim	66	Medinan	12	
108	At-Taghaabun	64	Medinan	18	
109	As-Saff	61	Medinan	14	
110	Al-Jumu'a	62	Medinan	11	
111	Al-Fath	48	Medinan	29	While returning from Hudaibiyya
112	Al-Maaida	5	Medinan	120	Except 3, from Arafat on Last Hajj
113	At-Tawba	9	Medinan	129	Except last two verses from Mecca
114	An-Nasr	110	Medinan	3	Last one, from Mina on Last Hajj

\*Modified after [Islamic Arabic.com](http://www.IslamicArabic.com)

Link: <http://www.eislamicarabic.com/koran-quran-surah-revelation/surah-ayat-revealed-sequence.html>

## 2. WITNESSING ISLAMIC WILLS (WASIYAH) AND GUARDIANSHIP (WESSAYAH) RULES

1. The first reference to inheritance in the Holy *Quran* was in the form of warning to guardians (*Wissey's*) in the 50th *Surah (revelation Order) (Quranic Surah Al Esraa' 17: 34)*:

**And do not approach the property of the orphan save in the fairest manner, until he is of age. And fulfil the covenant; surely the covenant shall be questioned of. 17:34**

2. The second reference to the obligation of Muslims to Will making:

**Prescribed for you, when any of you is visited by death, and he leaves behind some goods, is to make testament in favour of his parents and kinsmen honourably -- an obligation on the God-fearing. 2:180**

3. The warning to Will witnesses (*Shuhood*) were revealed in the 87th *Surah (Surah Al Baqarah 2: 180-182)*:

**Then if any man changes it after hearing it, the sin shall rest upon those who change it; surely God is All-hearing, All-knowing. 2:181  
But if any man fears injustice or sin from one making testament, and so makes things right between them, then sin shall not rest upon him; surely God is All-forgiving, All-compassionate. 2:182**

4. A reference to the obligation of the dying Muslim to make provisions for his family after his death were revealed in the 87th *Surah (Surah Al Baqarah 2: 240-242)*:

**And those of you who die, leaving wives, let them make testament for their wives, provision for a year without expulsion; but if they go forth, there is no fault in you what they may do with themselves honourably; God is All-mighty, All-wise.  
There shall be for divorced women provision honourable -- an obligation on the god-fearing. 2:241  
So God makes clear His signs for you; haply you will understand. 2:242**

5. Although not directly related to Will and inheritance, but the revelation of Ayahs 282-283 of the 87th *Surah (Surah Al Baqarah 2: 282-283)* is applicable to Will writing as well, which until the revelation of Ayahs 2:282-283 was verbal Will making only (note that *Ayah 2:282* is the longest *Ayah* of the Holy Quran):

**O believers, when you contract a debt one upon another for a stated term, write it down, and let a writer write it down between you justly, and let not any writer refuse to write it down, as God has taught him; so let him write, and let the debtor dictate, and let him fear God his Lord and not diminish aught of it. And if the debtor**

be a fool, or weak, or unable to dictate himself, then let his guardian dictate justly. And call in to witness two witnesses, men; or if the two be not men, then one man and two women, such witnesses as you approve of, that if one of the two women errs the other will remind her; and let the witnesses not refuse, whenever they are summoned. And be not loth to write it down, whether it be small or great, with its term; that is more equitable in God's sight, more upright for testimony, and likelier that you will not be in doubt. Unless it be merchandise present that you give and take between you; then it shall be no fault in you if you do not write it down. And take witnesses when you are trafficking one with another. And let not either writer or witness be pressed; or if you do, that is ungodliness in you. And fear God; God teaches you, and God has knowledge of everything. 2:282

And if you are upon a journey, and you do not find a writer, then a pledge in hand. But if one of you trusts another, let him who is trusted deliver his trust, and let him fear God his Lord. And do not conceal the testimony; whoso conceals it, his heart is sinful; and God has knowledge of the things you do. 2:283

8

6. The 92<sup>nd</sup> Surah (*Surah Al Nisaa'*4: 2) delivers clear caution to Guardians:

**Give the orphans their property, and do not exchange the corrupt for the good; and devour not their property with your property; surely that is a great crime. 4:2**

7. Then the same Surah (4:5-6) follow that with guidelines to the Guardians:

But **do not give to fools their property that God has assigned to you to manage; provide for them and clothe them out of it, and speak to them honourable words. 4:5**

**Test well the orphans, until they reach the age of marrying; then, if you perceive in them right judgment, deliver to them their property; consume it not wastefully and hastily ere they are grown. If any man is rich, let him be abstinent; if poor, let him consume in reason. And when you deliver to them their property, take witnesses over them; God suffices for a reckoner. 4:6**

## 9 3. ISLAMIC INHERITANCE (IRTH) DISTRIBUTION (TAQSIM) RULES

### 10 3A. The 92nd Surah (Surah Al Nisaa'4: 7-10) continue to set . Guidelines and cautions to will executors:

To the men a share of what parents and kinsmen leave, and to the women a share of what parents and kinsmen leave, whether it be little or much, a share apportioned. 4:7

And when the division is attended by kinsmen and orphans and the poor, make provision for them out of it, and speak to them honourable words. 4:8

And let those fear who, if they left behind them weak seed, would be afraid on their account, and let them fear God, and speak words hitting the mark. 4:9

Those who devour the property of orphans unjustly, devour Fire in their bellies, and shall assuredly roast in a Blaze. 4:10

Ayah 4:8 gives the Will Executor a license to dispense some charity (*Sadaqat*) from the deceased estate to the poor, orphans and relatives of the deceased who have not received apportioned shares according to *Ayahs* 4:11, 12 and 176. **(This after paying burial, funeral expenses, deceased debts and bequests as stated in the Will).**

**4:8 Unspecified Provision (*Sadaqat*) for the Deceased Kinsmen, Orphans and the Poor.**

### 11 3b. Basic Children, Parents and Siblings Inheritance Shares

The 92nd Surah (Surah Al Nisaa'4: 11) continue to set the first set of items of the inheritance law, the apportioned shares of deceased Muslim Estate:

God charges you, concerning your children: to the male the like of the portion of two females, and if they be women above two, then for them two-thirds of what he leaves, but if she be one then to her a half; and to his parents to each one of the two the sixth of what he leaves, if he has children; but if he has no children, and his heirs are his parents, a third to his mother, or, if he has brothers, to his mother a sixth, after any bequest he may bequeath, or any debt. Your fathers and your sons - - you know not which out of them is nearer in profit to you. So God apportions; surely God is All-knowing, All-wise. 4:11

1. The first basic children inheritance rule in Ayah 4:11 states that the deceased living son's share of his estate is equivalent to that of two living daughters. Note that no

portions were stated in this inheritance condition of Ayah 4:11 but a ratio of 1/2): (This share division leave no residue).

2. The second basic children inheritance rule of Ayah 4:11 states that the daughters share is two thirds of his estate if they are two or more living daughters: (This share division leaves 1/3 of the deceased estate as residue, but this residue may be share(s) to other surviving family members as Ayah 4:11 continues).
3. The third basic children inheritance rule of Ayah 4:11 is if he is survived by one daughter, her share is half of his estate: (This share division leaves 1/2 of the deceased estate as residue, but this residue will be share (s) to other surviving family members as Ayah 4:11 continues).
4. The first basic parents inheritance rule of Ayah 4:11 continuation from the third children inheritance rule (the share is half of his estate if he is survived by one daughter), and to each one of his surviving parents the 1/6 of his estate: (This share division leaves 1/6 of the deceased estate as residue, but this residue will be adjusted as Ayah 4:11 continues).
5. The second basic parents inheritance rule of Ayah 4:11 (the share of his estate if he has no children and survived by his parents, a third to his mother), which logically can only be completed by giving his father two thirds as in the first condition: (This share division leave no residue, unless the father is dead already).
6. The third basic parent's inheritance rule Ayah 4:11 is in conjunction with the first siblings' inheritance rule (or if he has surviving brothers) to his mother a sixth of his estate): (This estate share division leave a residue of 0.5/6).
7. The first siblings' inheritance rule of Ayah 4:11 is in conjunction with the third parent's inheritance rule: or if he has surviving brothers (to his mother a sixth of his estate); i.e. to his siblings the remaining 5/6 shares on condition that the brother will have twice (3/6) the share of the sister (1.5/6): (This estate share division may leave a residue of 0.5/6).

## **Compound Parents, Children and Siblings Inheritance Shares**

Allah knows, but in Ayah 4:8 there is a clear direction to the Will executor/estate divider to provide for the poor, non-heritor relatives and orphans off the deceased estate. In the presence of Islamic government the residue may go to the Awqaf or Bait-ul-Maal. Although living under Islamic governments in their times, they mostly opted for balancing the shares by adding the residues to the nearest male heir or dividing the residues as two to one ratios to the surviving son(s)/surviving daughter(s), thereafter:

1. The effect of surviving parents on the first basic children inheritance rule of Ayah 4:11 is that the shares of the living grandparents will reduce the living son's and daughter's shares by 2/6th: (This is an *Ijmaa'* share division, it is balanced and leave no residue

as the condition of Ayah 4:11 for the sons to the daughters is a ratio of  $\frac{1}{2}$  rather than fixed shares).

2. The effect of living parents on the second basic children inheritance rule of *Ayah* 4:11 (the shares of two thirds of the estate if there are two or more living daughters) will be taking off the  $\frac{1}{3}$  (or  $\frac{2}{6}$ ) residue, leaving the inputs equals the outputs of the deceased estate shares: (This an *Íjmaa'* share division, it is balanced and leaves no residue).
3. The effect of surviving parents of the deceased on the third basic children inheritance rule of ayah 4:11 will be by taking  $\frac{1}{6}$ th of his estate by each of the surviving parents, adding that to half of the estate to the only surviving daughter still leaves  $\frac{1}{6}$  of the estate as residue.
4. The first parents rule of Ayah 4:11 leaves  $\frac{1}{6}$  share as residue, this  $\frac{1}{6}$  is augmented to the Father's share by applying the second parent's inheritance rule of Ayah 4:11 (the above mentioned item 12:5 above): (This is an *Íjmaa'* share division, it is balanced and leaves no residue).
5. No change on the second basic parents inheritance rule of Ayah 4:11 (the share of his estate if the deceased man has no children and survived by his parents, a third to his mother) which logically can only be completed by giving his father two thirds as in the first condition is balances: (This is an *Íjmaa'* share division, it leaves no residue).
6. The third basic parent's inheritance rule of Ayah 4:11 can only be fulfilled if there is a living mother and deceased father.
7. The first basic sibling's inheritance rule in Ayah 4:11 (if the deceased has surviving brothers and a mother) leaves a residue of  $\frac{0.5}{6}$ . This is adjusted by augmenting brothers share by  $\frac{1}{18}$  and sisters share by  $\frac{0.5}{18}$ : (This is an *Íjmaa'* share division, it leaves no residue)
8. The last condition of Ayah 4:11 "***after any bequest he may bequeath, or any debt***" is a standard precondition or prerequisite before proceeding with any inheritance share divisions.

**INHERITANCE = Estate - (Debts + Bequests)**

## 12 3C. Basic Spouses Islamic Inheritance Shares

The 92<sup>nd</sup> Surah (Surah Al Nisaa' 4: 12) continue to set the second set of items of the inheritance law, the apportioned shares of deceased Muslim Estate. The first half of this Ayah decides the surviving spouse(s) shares of the deceased spouse:

**And for you a half of what your wives leave, if they have no children;  
but if they have children, then for you of what they leave a fourth, *after any***

***bequest they may bequeath, or any debt. And for them a fourth of what you leave, if you have no children; but if you have children, then for them of what you leave an eighth, after any bequest you may bequeath, or any debt.***

1. The first basic spouses' inheritance rule in Ayah 4:12 states that the husband shall have half of what his deceased wife leaves if they have no living children. (This leaves  $\frac{1}{2}$  of her estate as residue, unless there are other heirs).
2. The second basic spouses' inheritance rule in Ayah 4:12 states that the husband shall have a quarter of his deceased wife leave, if both have living children. (This leaves  $\frac{3}{4}$  of the estate to the children and other heirs).
3. Then comes the standard inheritance precondition of Ayah 4:12: **after any bequest they may bequeath, or any debt.**
4. The third spouses' inheritance rule in Ayah 4:12 states that the wife shall have  $\frac{1}{4}$  of the husband estate if they have no children. (This leaves  $\frac{3}{4}$  of the estate as residue unless there are other heirs).
5. The fourth spouses' inheritance rule of Ayah 4:12 states that the wife shall have  $\frac{1}{8}$  of the deceased husband estate if they have children. (This leaves  $\frac{7}{8}$  of the estate for the children and other heirs)
6. Then comes the first inheritance precondition of Ayah 4:12: **after any bequest they may bequeath, or any debt.**

## Compound Spouses, Children and Parents Shares

1. The first basic spouses' inheritance rule in Ayah 4:12 (husband shall have half of the deceased wife estate, if they have no living children) leaves  $\frac{1}{2}$  of her estate as residue. It is compounded as the living parents of the deceased wife can inherit the other half as  $\frac{2}{6}$  share to the father and  $\frac{1}{6}$  share to the mother. (This is an *Íjmaa'* share division and it leaves no residue).
2. The second basic spouses' inheritance rule in Ayah 4:12 (husband shall have  $\frac{1}{4}$ <sup>th</sup> of the deceased wife estate, if both have living children) leaves  $\frac{3}{4}$  of the estate to the children and possibly other heirs. Typically it is compounded by having  $\frac{1}{2}$  of the estate given as a share to the son, and  $\frac{1}{4}$  of the estate to the daughter, or in similar ratio depending on their number and ratio. If the deceased's parents are living then this will reduce the children shares by  $\frac{2}{6}$ , leaving the son with  $\frac{1.67}{6}$  share, and the daughter with  $\frac{0.83}{6}$  share of the deceased estate. (This is an *Íjmaa'* share division and it leaves no residue).
3. The third basic spouses' inheritance rule in Ayah 4:12 (wife shall have  $\frac{1}{4}$  of the husband estate if they have no children) leaves  $\frac{3}{4}$  of the estate as residue unless there are other heirs). Typically, the living parents of the deceased husband inherits

the remaining  $\frac{3}{4}$  shares, as  $\frac{2}{4}$  share to the father, and  $\frac{1}{4}$  share to the mother. (This is an *Ijmaa'* share division and it leaves no residue).

4. The fourth basic spouses' inheritance rule of Ayah 4:12 (wife shall have  $\frac{1}{8}$  ( $0.75/6$ ) of the deceased husband estate if they have children) leaves  $\frac{7}{8}$  of the estate for the children and other heirs. Typically  $\frac{4}{8}$  goes to son and  $\frac{2}{8}$  to the daughter depending on their number and ratio. This may leave  $\frac{1}{8}$  as residue that can be augmented to the son and daughter shares using a ratio of  $\frac{2}{1}$ . I.e. the son share will be  $\frac{3.5}{6}$  and the daughter will have  $\frac{1.75}{6}$ . The parents of the deceased can reduce the shares of the children by  $\frac{2}{6}$ , leading to the son receiving  $\frac{2.17}{6}$  and the daughter  $\frac{1.08}{6}$  off the estate. (This is an *Ijmaa'* share division and it leaves no residue).

### 13 3D. The 1<sup>st</sup> Basic “Kalala” Islamic Inheritance Shares

The 92<sup>nd</sup> Surah (Surah Al Nisaa' 4: 12) continue to set the second set of items of the inheritance law, the apportioned shares of deceased Muslim Estate. The second half of this Ayah decides the surviving spouse(s) and siblings shares of deceased man or woman with no heir direct:

**If a man or a woman have no heir direct, but have a brother or a sister, to each of the two a sixth; but if they are more numerous than that, they share equally a third, *after any bequest may be bequeathed, or any debt not prejudicial*; a charge from God. God is All-knowing, All-clement. 4:12\***

1. The first Kalala inheritance rule:  $\frac{1}{6}$  share of the deceased Kalala man or woman to each of their brother and the sister.
2. The second Kalala inheritance rule: If there are more than 2 siblings then they equally share  $\frac{1}{3}$  of the deceased Kalala man or woman estate.
3. Then an emphasis on the standard inheritance precondition within Ayah 4:12: *after any bequest may be bequeathed, or any debt not prejudicial*;

### Observations on 1<sup>st</sup> Kalala Inheritance Shares

1. In the absence of wife or husband, there is going to be an estate share residue of  $\frac{16}{24}$ .
2. If the deceased man has a living wife then the residue will be  $\frac{10}{24}$  of the deceased husband estate shares.
3. If the deceased man has a living husband then the residue will be  $\frac{4}{24}$  the of the deceased wife estate.

The large residue of the deceased Kalala men estate that may go to charity (*Sadaqah*) (recalling *Ayah* 4:8) or *Bait ul Maal* must have generated some discussions at the *Ayahs* revelation time.

There are two opinions on this section of *Ayah* 4:12:

**A. Residues are to fulfil *Ayah* 4:8, and**

**B. *Ayah* 4:12 has been superseded (abrogated) for Men by *Ayah* 4:176.**

I am in favour of the second opinion, and will explain the reasoning later when discussing *Ayah* 4:176.

1. The 92<sup>nd</sup> *Surah* (*Surah Al Nisaa'*4: 13-14) describes the rewards for obeying God's bounds, and warning against transgressing them:

**Those are God's bounds. Whoso obeys God and His Messenger, He will admit him to gardens underneath which rivers flow, therein dwelling forever; that is the mighty triumph.** 4:13

**But whoso disobeys God, and His Messenger, and transgresses His bounds, him He will admit to a Fire, therein dwelling forever, and for him there awaits a humbling chastisement.** 4:14

2. In the 92<sup>nd</sup> *Surah* (*Surah* 4:19) God warned Muslim men against inheriting women against their will:

**O believers, it is not lawful for you to inherit women against their will; neither debar them, that you may go off with part of what you have given them, except when they commit a flagrant indecency. Consort with them honourably; or if you are averse to them, it is possible you may be averse to a thing, and God set in it much good.** 4:19

3. In the 92<sup>nd</sup> *Surah*, *Surah Al Nisaa'* 4: 32-33, God gave specific guidance to Will executors:

**Do not covet that whereby God in bounty has preferred one of you above another.**

**To the men a share from what they have earned, and to the women a share from what they have earned.** And ask God of His bounty; God knows everything. 4:32

**To everyone We have appointed heirs of that which parents and kinsmen leave, and those with whom you have sworn compact. So give to them their share; God is witness over everything.** 4:33

## 14 3E. The 2<sup>nd</sup> (Partly Abrogated) Basic "Kalala" Islamic Inheritance Shares

In the 92<sup>nd</sup> *Surah*, *Surah Al Nisaa'* 4: 176, God partially abrogated the second half of *Surah* 4:12 regarding *Kalala* men:

They will ask thee for a pronouncement. Say: 'God pronounces to you concerning the

indirect heirs. If a man perishes having no children, but he has a sister, she shall receive a half of what he leaves, and he is her heir if she has no children. If there be two sisters, they shall receive two-thirds of what he leaves; if there be brothers and sisters, the male shall receive the portion of two females. God makes clear to you, lest you go astray; God has knowledge of everything. 4:176

1. Sister shall inherit  $\frac{1}{2}$  of the Kalala brother estate: This will leave  $\frac{1}{2}$  of the deceased estate as residue.
2. Man shall inherit  $\frac{1}{1}$  of the Kalala sister estate: This is an *Íjmaa'* share division and leaves no residue.
3. Two sisters or more shall inherit  $\frac{2}{3}$  of the Kalala brother estate: This will leave  $\frac{1}{3}$  of the estate as residue.
4. Brothers and sisters inheriting from a Kalala brother: shall inherit his estate with the brothers inheriting twice the share of the sisters. This is an *Íjmaa'* share division and leaves no residue.

### Compound "Kalala" Spouse and Siblings Inheritance Shares

1. Sister inheriting from a Kalala brother: The sister shall inherit  $\frac{4}{8}$  of his estate. This will leave  $\frac{1}{2}$  of the deceased estate as residue. But if he is married then his wife will inherit  $\frac{2}{8}$ , leaving  $\frac{2}{8}$  as residue. This  $\frac{2}{8}$  residue can be added to the sister's share to make it  $\frac{6}{8}$ . However there is no *Íjmaa'* on this issue and both versions of the sister shares are correct depending on which Mathhab one prefers.
2. Man inheriting from a Kalala sister: shall inherit  $\frac{1}{1}$  of her estate: (This is an *Íjmaa'* share division, and there is no residue issue here.
3. Two sisters or more, inheriting from a Kalala brother: shall inherit  $\frac{2}{3}$  or  $\frac{16}{24}$  of his estate. Leaving  $\frac{1}{3}$  or  $\frac{8}{24}$  of the estate as residue. But if he is married then his wife will inherit  $\frac{6}{24}$ , leaving  $\frac{2}{24}$  as residue. This  $\frac{2}{24}$  residue can be added to the sister's share to make it  $\frac{18}{24}$ . However there is no *Íjmaa'* on this issue and both versions of the sister shares are correct depending on which Mathhab one prefers.
4. Brothers and sisters inheriting from a Kalala brother: shall inherit his estate with the brothers inheriting twice the share of the sisters. Leaving no residue. But if he is married then his wife will inherit  $\frac{2}{8}$  of his estate leaving  $\frac{6}{8}$  for the brothers and sisters to share. There is an *Íjmaa'* on this share division and it leaves no residue.

## 15 3F. Revised (Partially Abrogated) 1<sup>st</sup> "Kalala" Ayah for Women

Revising Surah 92<sup>nd</sup> (Surah Al Nisaa' 4: 12). After the Revelation of 2<sup>nd</sup> "Kalala Ayah"4:176, the 1<sup>st</sup> "Kalala Ayah" is thereafter for "Kalala" Women Inheritance only.

**If a man or a woman have no heir direct, but have a brother or a sister, to each of the two a sixth; but if they are more numerous than that, they share equally a third, *after any bequest may be bequeathed, or any debt not prejudicial*; a charge from God. God is All-knowing, All-clement.4:12\***

1. The first Kalala inheritance rule: 1/6 share of the deceased Kalala woman to each of her living brother and sister (i.e. a total of 2/6).
2. The second Kalala inheritance rule: If there are more than 2 siblings then they equally share 1/3 of the deceased Kalala woman estate.
3. Then an emphasis on inheritance precondition within Ayah 4:12: ***after any bequest may be bequeathed, or any debt not prejudicial***;

**After Partial Superseding or Abrogation and removing deceased Kalala men from the Ayah, both of the following 1<sup>st</sup> Kalala women inheritance share allocations enjoy Ijmaa' and leave no residues:**

1. If a deceased woman left a living husband, he will take (3/6) of the deceased inheritance, leaving an estate share residue of (1/6) to be added to the living brother shares to make it twice that of his living sister (1/6).
2. If a deceased woman left a living husband, he will take (3/6) of the deceased inheritance leaving an estate share residue of (1/6) to be added to the brothers shares to make them twice (2/6) that of the living sisters (1/6).

## 16 4. OATH, CONTESTING WILLS AND INHERITANCE SHARES

### 17 4A. The 112<sup>th</sup> Surah (Surah Al Ma'edah 5: 106) outlines the Procedure of Verbal Will Witnessing:

O believers, the testimony between you when any of you is visited by death, at the bequeathing, shall be two men of equity among you; or two others from another folk, if you are journeying in the land and the affliction of death befalls you. Then you shall detain after the prayer, and they shall swear by God, if you are doubtful, 'We will not sell it for a price, even though it were a near kinsman, nor will we hide the testimony of God, for then we would surely be among the sinful' 5:106

### 18 4B. The 112<sup>th</sup> Surah (Surah Al Ma'edah 5: 107-108) outlines the reasons and procedure of contesting a Will:

But if it be discovered that both of them have merited the accusation of any sin, then two others shall stand in their place, these being the nearest of those most concerned, and they shall swear by God, 'Our testimony is truer than their testimony, and we have not transgressed, for then we would assuredly be among the evildoers'. 5:107

So it is likelier that they will bear testimony in proper form, or else they will be afraid that after their oaths, oaths may be rebutted. Fear God, and hearken; God guides not the people of the ungodly. 5:108

## 5A. Prophet's (Pbuh) Verdict on Wife, Two Daughters and Brother

"The wife of Sa'd Ben Al-Rabea came to the Prophet (Pbuh) with her two daughters, and said: "These are the daughters of Sa'd who died a martyr beside you at Uhud, their uncle took their money and left them with nothing, and they cannot be married without money".

The Prophet (Pbuh) said: God will decree in this.

Shortly after that the inheritances Ayahs were revealed and the Prophet (Pbuh) summoned their uncle and told him to: "Give the daughters two thirds, their mother the eighth and what is left is yours". \*

## 5B. Prophet's (Pbuh) Verdict on Sister, Wife and Granddaughter

"(Abdullah Bin Mas'ud was once asked in regard to the inheritance of a daughter, granddaughter and sister of a deceased man, he decreed after the Prophet (Pbuh): "The daughter's share is one-half that of the son's daughter is one-sixth, and whatever remains for the sister."

## 5C. Prophet's (Pbuh) Verdict on Maximum Bequest

Sa'd Bin Abi Waggas (RAA) narrated that he was struck by severe illness during the farewell Pilgrimage and felt he was close to death. The Prophet (Pbuh) visited him, and he said to him "O Messenger of Allah, I am reduced to this state because of illness. I have a vast wealth and no heirs except my daughter. Should I bequeath two thirds of my estate?" He (Pbuh) replied: "No." He said: "One half of my estate then?" He (Pbuh) replied: "No." He said: "One third of my estate then?" He (Pbuh) said: "Yes, one third; and even one third is too much. Indeed, O Sa'd, you'd better leave your inheritors rich after you than leave them as a burden, begging people. "Indeed, O Sa'd, you will never spend money seeking by it Allah's Face, but you will be rewarded for it- even for the morsel of food that you put into your wife's mouth. And if you live after me, never would you do a good deed seeking thereby Allah's Face, but will increase by it in position and elevation. Furthermore, you may live longer so that some people will benefit from you and others will be harmed. O Allah, fulfil my companions' Hijrah, and do not turn them back upon their heels. But the miserable one was Sa'd Bin Khawlah." \*\*

---

\* (After Jaber, confirmed by the five narrators except Al Nisae'y)

\*\*10. (Al-Bukhari, Muslim and Others)

## 5D. Prophet's (*Pbuh*) Verdicts and Precedence on Inheritance and Will

On the subject of inheritance, The Messenger of Allah (Pbuh) was narrated to have said:

1. "No bequest may be made to (standard) heir."
2. "Give the ordained shares to their rightful heirs, whatever left to the nearest male (to the deceased)."
3. "Allah and His Messenger are the guardians of the one who does not have a guardian; and a maternal uncle inherits who doesn't have any [closer] heirs."
4. "As soon as the baby cries (at birth), it inherits."
5. "A killer does not inherit (from his victim)."
6. "Whichever man commits Zina (adultery), the child is a child of Zina, it neither inherits nor given inheritance."
7. "The followers of two different religions cannot inherit each other's."
8. "A Kafer (Idol-Worshipper) cannot inherit a Muslim, nor a Muslim a Kafer."
9. "It is not permissible for any Muslim who has something to will to stay for two nights without having his will and testament written and kept ready with him."

---

References:

1. (Several *Sahabah*), 2. (*Ibn Abbas*), 3. (*Umar*), 4. (*Abu Hurayrah*), 5. (*Abu Hurayrah*), 6. (*Ibn Umar*), 7. *Usamah, Jaber, and Ibn Amer*), 8. (*Usamah*), 9. (*Abdallah bin Umar: Sahih Al-Bukhari*).

## 24 6. ISLAMIC INHERITANCE CALCULATION SOFTWARE

### 25 6A. Flowchart: Male Heirs Listing 14 Candidates

Shares are Decided by Marriage, and Lineage. (Modified After Al Jibaly, 1999).

Notice that the sex of the living children of the deceased Muslim dictates the shares of the husband and the parents before awarding the residues to the male siblings of the deceased Muslim.

### 26 6B. Flowchart: Female Heirs Listing 10 Candidates

Shares are Decided by Marriage and Lineage. (Modified After Al Jibaly, 1999). Notice that the sex of the living children of the deceased Muslim dictates the shares of the wife and the parents before awarding the residues to the female siblings of the deceased Muslim.

### 27 6C. Flowchart: Standard Heirs, Listing 29 Male and Female Heirs

### 28 6D. Published Islamic Inheritance Calculation Software

Published software shown in slide 32 is arranged according to their reliabilities.

In this research, I used Mawarit2 for *ijmaa'* cases, and used IRTH for backup and comparison between Irth shares according to the four *Sunni* Islamic Schools. **Mawarit2** programme does not accommodate dead son or brother cases (i.e. living sons/daughter existing along with sons/daughters of dead son/daughter of a deceased Muslim); such cases are accommodated by the IRTH inheritance calculation programme.

29 **Inputs of Test Cases A: Sa'd bin Al Rabea', leaving wife, two daughters and a brother.**

30 **Outputs of Test Case A.**

31 **Inputs of Test Case B: Granddad, leaving a daughter, granddaughter and one sister.**

32 **Outputs of Test Case B.**

33 **Inputs of Typical Case C: Deceased Man leaving wife, children and parents.**

34 **Outputs of Typical Case C**

35 **Inputs of Typical Case D: Deceased Woman leaving Husband, children and parents.**

36 **Outputs of Typical Case D.**

37 **Inputs of Typical Case E: Deceased Man leaving wife and parents.**

38 **Outputs of Typical Case E.**

39 **Inputs of Atypical Case F: Kalala Man leaving four wives.**

40 **Outputs of Atypical Case F.**

- 42 **7A. Typical “Irth” Cases 1- 6:** Are indicating the inclination of the inheritance rules in the Quran to give the largest shares to the responsible male(s) among the proximal relatives, be it the sons, husband and the father of deceased man or woman.

The larger estate share empowers the husband to hold the rest of the family together, as well as provides reasonable shares to the grandfather and grandmother to preserve their dignity in their latter years.

- 43 **7B. Special “Kalala” Cases. 1-3:** Are also illustrating the preference of the inheritance rules in the Quran to give the largest shares of the estate to the responsible males among the close relatives of the deceased, be it the husband and the brother(s) of deceased man or woman.

45 **8A. Evolution of Islamic Will and Inheritance**

Early first generation Muslims who answered and followed the Prophet (*Pbuh*) would have been able to name their heirs and decide their shares, until the revelation of Surah Al Nisaa'. Thereafter, the heirs and their shares were prescribed, and a Muslim can only bequeath up to 1/3 of his estate to non-heritor, establishment, charity, noble cause, etc.

46 **8B. Status of the Last Will & Testament (Wasiyah) in Quran**

**Justice, Zakat, Conduct and Manners:** Surely God bids to justice, charity and giving to kinsmen; and He forbids indecency, dishonour and insolence, admonishing you, so that haply you will remember. **16:90**

**1. Justice:** O believers, prescribed for you is retaliation, touching the slain; freeman for freeman, slave for slave, female for female. But if aught is pardoned a man by his brother, let the pursuing be honourable, and let the payment be with kindness. **2:178**

**2. The Last Will & Testament:** Prescribed for you, when any of you is visited by death, and he leaves behind some goods, is **to make testament** in favour of his parents and kinsmen honourably -- an obligation on the godfearing. **2:180**

**3. Fasting:** O believers, prescribed for you is the Fast, even as it was prescribed for those that were before you -- haply you will be godfearing -- **2:183**

**4. Jihad:** Prescribed for you is fighting, though it be hateful to you. Yet it may happen that you will hate a thing which is better for you; and it may happen that you will love a thing which is worse for you; God knows, and you know not. **2:216**

**5. Pilgrimage:** It is the duty of all men towards God to come to the House a pilgrim, if he is able to make his way there. **3:97**

**6. Prayers:** When you have performed the prayer, remember God, standing and sitting and on your sides. Then, when you are secure, perform the prayer; surely the prayer is a timed prescription for the believers. **4:103**

**Means of Inheritance and Reasons for Disqualification**

**There are 4 means of inheritance:** Inheritance by lineage, by marriage, by a slave obtaining freedom, and by a public body or establishment such as BaitulMal, Awqaf or the Treasury.

**There are 7 reasons for inheritance disqualification:** Inheritor responsible or having any connection with the death of the person whose heir he/she is, becoming Kafer, on other faith, illegitimacy, being missing and presumed dead, becoming a slave, and uncertainty as to who died first?

47

## Frequent Questions and Answers

### QUESTIONS

&

### ANSWERS

- Must a Muslim have a Will?
- Deceased have heirs but no Will?
- Who pays for the burial cost?
- Who pays deceased debts?
- Can a Will include bequests?
- If there is no Heir & no Will?
- Why there are share Residues?
- Can an adopted child Inherits?
- **How applicable are Islamic Inheritance Laws nowadays?**

- It is an obligation for Adult Muslim.
- Estate divided acc. to [Surah 4.](#)
- Normally off deceased estate.
- Typically off deceased estate.
- Up to 1/3 of Estate to Non-heiritor.
- Estate handed over to P/Trust.
- To be a posthumous **Sadaqah 4:8.**
- No, but can be given a bequest.
- **The Laws are logical, thorough systematic & programmable.**

48

## 8C. Question: Why the Divinely Prescribed Inheritance Shares of the Quran aren't Apportioned in Percentages?

---

49

## 8D. Islamic Inheritance Shares Defining and Quantifying Mathematics

The Slide show the evolution of Basic inheritance shares portions as specified in the Holy Quran, then with the advent of Algebra, the algebraic common denominator of 24 and higher number became and tool of Muslim Inheritance Scholars. Al Khwarizmi's contribution to the helped in simplifying inheritance shares allocation, but many remained faithful to the old algebraic method. In this study we used a combination of a common Denominator of 6 and decimal Numerators when needed.

## 9A. SELECTED REFERENCES

Abdal-Haqq, H. et.al. 1995, The Islamic Will, Dar Al Taqwa, London, UK, 72P.

Hussain, Abed, ?, Islamic Laws of Inheritance, 5P.

Link: <http://www.islam101.com/sociology/inheritance.htm>

Al-Jibaly, Muhammad, 1999, The Final Bequest: The Islamic Will & Testament. Al-Kitaab & As-Sunnah Publishing, Arlington, Texas, USA. 122p.

Arberry, Arthur, 1955, The Quran Interpreted, Oxford Univ. Press. Oxford, UK.

Link: <https://ia601706.us.archive.org/20/items/QuranAJArberry/Quran-A%20J%20Arberry.pdf>

Islamic Bulletin, ?, Islamic Last Will and Testament Template, ,USA. 5P.

Link: [http://islamicbulletin.org/free\\_downloads/last\\_will.pdf](http://islamicbulletin.org/free_downloads/last_will.pdf)

Ismail, Sufyan, 2005, Preparing an Islamic Inheritance Strategy in the Light of Inheritance Taxation laws of England and Wales, 1<sup>st</sup> Ethical Ltd., [www.1stetical.com](http://www.1stetical.com), UK. 20P.

Link: <http://muslimpersonallaw.co.za/inheritedocs/Inheritance%20strategies.pdf>

Sameer, Fazli, 2009, Inheritance According To Islamic Sharia Law, Sailan-muslim, 13P.

Link: <http://www.sailanmuslim.com/news/inheritance-according-to-islamic-sharia-law/>

UN-HABITAT, 2005, PAPER 6: ISLAMIC INHERITANCE LAWS AND SYSTEMS, ISLAM, LAND & PROPERTY RESEARCH SERIES, UN. 17P.

Link:<http://www.un+habitat+islamic+property&qs=n&form=QBRE&pq=un+habitat+islamic+property&sc=0-11&sp=-1&sk=>

## 9B. Published Islamic Inheritance Calculation Programmes

1. **Aydemir, Halis, MIRAS: (7 Heirs Web-based Simple Programme, Failed Sunnah Test)**  
Link: [http://www.kurandersleri.net/miras/en/Miras\\_en.html](http://www.kurandersleri.net/miras/en/Miras_en.html)
2. **Lubnaa, Inheritance Calculator: (10 Heirs Web-based Simple Programme, Failed Test)** Link: <http://www.lubnaa.com/money/InheritCalc.php>
3. **Anon, Al-Merath: (29 Heirs Web-based Programme, Passed Most Test Cases)**  
Links: <http://inheritance.ilmsummit.org/projects/inheritance/home.aspx>  
<http://inheritance.ilmsummit.org/projects/inheritance/testcasespage.aspx>  
<http://inheritance.ilmsummit.org/projects/inheritance/faq.aspx>  
<http://inheritance.ilmsummit.org/projects/inheritance/rules.aspx>  
<http://inheritance.ilmsummit.org/projects/inheritance/articles.aspx>
4. **Muhieddine, Ahmad, 2001, Mawarit2, (19 Heirs Prog., Passed Most *Ejmaa'*, Test Cases)**  
Link: <http://www.qsl.net/vu2sdu/download.html>
5. **Abu Mustapha, Ayman, 2013, IRTH: (25 Heirs Programme, 4 *Mathaheb*, Passed Test Cases)** Links:  
<http://www.islamchannel.tv/pages/InheritCalculator.aspx>  
<http://www.islamicsoftware.org/irth/irthhelp.html>  
<http://www.islamicsoftware.org/irth/local.html>  
<http://www.huda.tv/services/islamic-applications/inheritance-calculator>

## 10. Appendix: Scriptural, Legal and Accounting Terms

### A. Disqualification:

**Seven practical situations which causes disqualification;** they are: Kufr (Idol Worshipping) or following other faith, homicide, illegitimacy, pre-death insanity of testator, and absence or death of a heritor before the testator.

1. The Prophet (SAWS) said, "A Muslim cannot be the heir of a disbeliever, nor can a disbeliever be the heir of a Muslim." (*Sahih al-Bukhari*).
2. The majority view, a Muslim cannot inherit from a non-Muslim. Although the Hanafi fiqh does allow a Muslim to inherit from an apostate.
3. Allah's Messenger (SAWS) said, "One who kills a man cannot inherit from him." (*Tirmidhi and Ibn Majah*).
4. Illegitimate children according to Islamic law and adopted children have no part in inheritance. Incidentally legal adoption as practised in the west is forbidden in Islam.
5. The Will is null if the deceased was insane before death.
6. If the heir, is missing for more than 4 years or, 7. The heir dies before the testator, and if the heir became a slave to another person.

### B. Al-Naskh:

A later Ayah that fully or partially supersedes (abrogate) an earlier Ayah in the Holy Quran. Or the suspension or replacement of one "Shariah" ruling by another, provided that the latter is of a subsequent origin, and that the two rulings are enacted separately from one another.

### C. Al-Radd:

Under certain circumstances after allocation of the estate amongst all the heirs with fixed shares there is a residue left over but there is no residuary. This residue called al-radd is returned to those sharers who are entitled to it, in proportion to their original shares.

### D. Al-Awl:

Conversely a situation may arise when the total sum of the assigned shares of the heirs with fixed shares is greater than unity. In this situation all the shares are abated proportionately by the doctrine of al-awl which involves decreasing the fractional shares to a common denominator, and increasing the denominator in order to make it equal to the sum of the numerators.

### E. Al-Ta'jeel?:

Estate distribution may be suspended until a foetus is born, or put aside a temporary share for him/her

## 11. ENCLOSURES

### A. CD Inheritance Software

Muhieddine, Ahmad, 2001, Mawarit2, (19 Heirs Programme, *Passed most Íjmaa' Test Cases*) Link: <http://www.qsl.net/vu2sdu/download.html>

Abu Mustapha, Ayman, 2013, IRTH: (25 Heirs Programme, 4 *Mathaheb*, Passed Test Cases)

Links: <http://www.islamchannel.tv/pages/InheritCalculator.aspx>

<http://www.islamicsoftware.org/irth/irthhelp.html>

<http://www.islamicsoftware.org/irth/local.html>

<http://www.huda.tv/services/islamic-applications/inheritance-calculator>

### B. Islamic Will Templates

Abdal-Haqq, H. et.al. 1995, The Islamic Will, Dar Al Taqwa, London, UK, 72P.

Al-Jibaly, Muhammad, 1999, The Final Bequest: The Islamic Will & Testament. Al-Kitaab & As-Sunnah Publishing, Arlington, Texas, USA. 122p.

Islamic Bulletin, ?, Islamic Last Will and Testament Template, USA. 5P.

Link: [http://islamicbulletin.org/free\\_downloads/last\\_will.pdf](http://islamicbulletin.org/free_downloads/last_will.pdf)

Ismail, Sufyan, 2005, Preparing an Islamic Inheritance Strategy in the Light of Inheritance Taxation laws of England and Wales, 1<sup>st</sup> Ethical Ltd., [www.1stetical.com](http://www.1stetical.com), UK. 20P.

Link: <http://muslimpersonallaw.co.za/inheritedocs/Inheritance%20strategies.pdf>

50

## 12. GRATITUDE

سُبْحَانَ الَّذِي سَخَّرَ لَنَا هَذَا وَمَا كُنَّا لَهُ مُقْرِنِينَ ﴿٥٠﴾ وَإِنَّا إِلَىٰ رَبِّنَا لَمُنْقَلِبُونَ ﴿٥١﴾

51

## 13. EPILOGUE

The Irth Islamic Inheritance Calculation programme produce calculated shares according to Abu Haneefa, Malik, Shafe'y and Ibn Hanbal Schools "Mathheb or Ijtihadat" as well as unanimous share calculation results (i.e. Ijmaa'). For completion sake, I searched, but could not find any published "Shia (Jaa'fary) Irth" calculation software. However, a "Khums Tax calculation programme!" allegedly to fulfil Ayah 8:41 was found. According to the above website it translates as: "Know that whatever of a thing you acquire, a fifth of it is for Allah, for the Messenger, for the near relative, and the orphans, the needy, and the wayfarer---"

The Arabic Quranic "Ayah 8:41" and it's translation (see next slide) clearly specify through title (The Spoil or Booty), context and sequence that the "Khums" is not a tax paid annually to the local "Sayed" against income acquired through normal day to day work, but it is an ordained (20%) tax on spoils of war (booty) seized by Muslim Armies form defeated Kafer.

52

## Surah 8:38-42, "Al-Anfal" (The Spoil)

Say to the unbelievers, if they give over He will forgive them what is past; but if they return, the wont of the ancients is already gone! 8:38

Fight them, till there is no persecution and the religion is God's entirely; then if they give over, surely God sees the things they do; 8:39

but if they turn away, know that God is your Protector -- an excellent Protector, an excellent Helper! 8:40

Know that, whatever booty you take, the fifth of it is God's, and the Messenger's, and the near kinsman's, and the orphans', and for the needy, and the traveller, if you believe in God and that We sent down upon Our servant on the day of salvation, the day the two armies encountered; and God is powerful over everything; 8:41

when you were on the nearer bank, and they were on the farther bank, and the cavalcade was below you; and had you made tryst together, you would have surely failed the tryst; but that God might determine a matter that was done, that whosoever perished might perish by a clear sign, and by a clear sign he might live who lived; and surely God is All-hearing, All-knowing. 8:42.

