

Islamic Wills and Inheritance (part 1 of 2)

Description: The definition of a will and a list of those who are entitled to inherit from a deceased's estate.

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Objectives

- To understand the rules of *Shariah* compliant wills and inheritances.

Arabic terms

- *Shariah* " Islamic Law.
- *Sunnah* - The word *Sunnah* has several meanings depending on the area of study however the meaning is generally accepted to be, whatever was reported that the Prophet said, did, or approved.
- *Hadith* - (plural " *ahadith*) is a piece of information or a story. In Islam it is a narrative record of the sayings and actions of Prophet Muhammad and his companions.
- *Al-wasiyah* " This is the Arabic term for an Islamic will. It distributes up to 1/3rd of the deceased's estate. Bequests in the will are not to be left for those who are entitled to inherit.
- *Mahr* " dowry, bridal gift, given from a man to his wife.
- *Irth* " Inheritance law.
- *Warith* " one who inherits, the heir or successor.

Islam is more than a religion to be practised sporadically; it is a guide for life. Every day and in every situation Muslims worship Allah and they do this by following the guidance set out in the Quran and the *Sunnah* of Prophet Muhammad. Not surprisingly Islam tells us exactly how to behave when faced with death and dying and it goes on to explain how to dispose of our wealth

after we have died. Death is something that we cannot avoid. Paying attention to our wealth, and disposing of it and distributing it an Islamically acceptable way, is something



that is essential for every sane, adult Muslim.

It is the duty of a Muslim who has anything to bequeath not to let two nights pass without writing a will.” [1]

What is a Will?

Sometimes when a person hears the term will they assume that it is a document that distributes a person’s wealth after he or she has died. In Islam wealth is distributed strictly according to the instructions in the Quran and the *Sunnah*. A person is only able to choose where his wealth goes for up to one third of that wealth. Thus when a Muslim uses the word ~will~ he is talking about just this portion of wealth. In Islam, a will is known as *al-wasiyah*. Islamic law allows for a person to bequeath some of his wealth to beneficiaries who are not from amongst those who are entitled to inherit the other two thirds of his estate. Those who are permitted to inherit are set out clearly in the 4th chapter of the Quran.

Thinking carefully before preparing your *wasiyah* gives you a chance to help many people or organisations. It is an opportunity to bequeath something to charities or a poor relative who does not otherwise inherit. It is also a fortuitous opportunity to leave something for a person or family member of another faith who is unable to inherit. The following *hadith* affirms to the importance of preparing *al-wasiyah*.

“A man may do good deeds for seventy years but if he acts unjustly when he leaves his last testament, the wickedness of his deed will be sealed upon him, and he will enter the Fire. If, (on the other hand), a man acts wickedly for seventy years but is just in his last will and testament, the goodness of his deed will be sealed upon him, and he will enter the Garden.” [2]

After the death of a believer there are four duties that need to be observed.

1. The funeral expenses must be paid.
2. All debts must be paid.
3. Any *mahr* [3] owed to the deceased’s wife must be paid.
4. The provisions of *al-wasiyah* must be implemented.
5. The remaining estate must be distributed according to the laws of the *Shariah*.

Inheritance

Inheritance is the transfer of legal ownership of a deceased’s assets to his or her heirs. Verses eleven and twelve of chapter four of the Quran are the verses from which Islamic scholars derive most of the essential instructions about *al-wasiyah* and inheritance. Inheritance law in Islam is referred to as *irth*. The person who inherits is called *warith* which

means heir, inheritor or successor.

Who are the Inheritors?

The estate of a deceased Muslim is distributed according to the principles laid out in the Quran and *Sunnah*. In addition to passing wealth down to the next generation Allah has decreed that there are shares for the previous generations as well. In fact the estate is able to be distributed two generations up and two generations down. Across the family tree there are certain inheritors who block others from inheriting. For instance, the presence of a son will block the inheritance to the deceased's siblings. This is a prime example of why *al-wasiyah* is a very important provision. Perhaps the deceased would like to provide something for his elderly sister but is unable to do so without the generosity inherent in *al-wasiyah*.

As a general rule the estate is divided as follows. These are considered the primary heirs. (The verse from the Quran is shown in brackets.)

- 1.** Parents. If the deceased has children, then parents will get $1/6^{\text{th}}$ each. If the deceased has no spouse or children, then the mother will get $1/3^{\text{rd}}$ and the father will get $2/3^{\text{rd}}$. If the deceased has siblings, then the mother will get $1/6^{\text{th}}$ (Quran 4:11).
- 2.** Husband. If the wife dies without children, the husband will get $1/2$ of the estate. If the wife had children, the husband will get $1/4^{\text{th}}$ (Quran 4:12).
- 3.** Wife. If the husband dies without children, the wife will get $1/4^{\text{th}}$. If he had children, the wife will get $1/8^{\text{th}}$ (Quran 4:12).
- 4.** Daughters. If the deceased had two or more daughters and no sons, they will get $2/3^{\text{rd}}$ of the total. If there is only one daughter and no son, she will get $1/2$ (Quran 4:11).
- 5.** Sons. Although the son is not mentioned in the verses of inheritors in the Quran he is the most important heir. Prophet Muhammad said, "Whatever is left after giving away the share to the mandatory heirs goes to the son. A son's share is twice that of a daughter (Quran 4:11)

Endnotes:

[\[1\]](#) Saheeh Al-Bukhari

[\[2\]](#) Imam Ahmad

[\[3\]](#) This is an amount of money or good given to the bride by the groom. There is no concept of dowry in Islam, though the English term "dowry" is sometimes used and that can be misleading.

A more accurate translation is bridal gift. It does not put a price on the bride instead it gives her financial security and a sense of respect.

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