

WOMEN INHERITANCE IN ISLAM AND OBLIGATIONS OF MEN



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Introduction:

The inheritance laws are an important part of a country's legislature. It is a source which assures equitable transfer of a deceased's resources. In most of the cases, these inheritance shares are a major source of sustenance for the younger generations. Its significance is further augmented in developing and agrarian under developed economies; in countries like Pakistan, the livelihoods of a large number of people dependent on the inherited farms and businesses. Since Pakistan is an Islamic state, its law of inheritance has been established according to the directives of the Holy Quran and Sunnah. Though the Islamic law deals with matters of inheritance in an exhaustive manner its practice in Pakistan is much different; women are often deprived of this fundamental right especially when it comes inheritance of immovable assets i.e. land.² The susceptibility of women for numerous reasons has been obstructing them in the exercising their right to inheritance; viz.- patriarchal set-ups, misinterpretation of the divine mandate, inadequate implementation of the land laws.³ This phenomenon of deprivation is deeply rooted in the country's cultural practices underpinned by its patriarchal setup. Cultural practices such as considering dowry as an alternative to inheritance often have nothing to do with religious commandments, which can be seen in case of West Bengal⁴ and China⁵ where female inheritance is denied on the basis of a similar reasoning.

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² Mehdi, Rubya and Gordon R Woodman. Gender and Property Law in Pakistan: Resources and Discourses. Lahore: Vanguard, 2002.

³ Zakriya, Zakir and Saeed Wattoo. Women's right to inheritance in Pakistan: role of culture, customs and creed. Lahore: Department of Sociology, University of the Punjab, 2005.

⁴ McCreery, John L. "Women's Property Rights and Dowry in China and South Asia." *Ethnology* 15, No. 2 (April 1976): 163. doi:10.2307/3773327.

Islamic Concept of Inheritance Explained in the Holy Quran and Sunnah:

Allah, the Exalted, stated in the Glorious Qur'an:

(Allah commands you as regards to your children's (inheritance); to the male, a portion equal to that of two females.) [4:11]

The Holy Quran is seen as the ultimate source of guidance and knowledge in Islam. It defines inheritance as the automatic transfer of possessions by which the estate of deceased person transfers to the heirs as successors. The law of inheritance is formulated in Islam such that property left by the deceased cannot be concentrated in one place. It is distributed in such a way that all near relatives get their share first. In the absence of nearer kin, the property would be transferred to the next kin (Maududi, 1960).⁶

In this regard, the primary and most noteworthy instruction in the Quran with regards inheritance is offered in *Sūrat l-Baqarah*:

“It is prescribed for you, when death approacheth one of you, if he leaves wealth, that he bequeath unto parents and near relatives in kindness. (This is) a duty for all those who ward off (evil).”⁷

The concept of inheritance is further supported by *Sūrat al-Māidah*:

“O ye who believe! Let there be witnesses between you when death draweth nigh unto one of you, at the time of bequest - two witnesses, just men from among you, or two others from another tribe, in case ye are campaigning in the land and the calamity of death befall you. Ye shall empanel them both after the prayer, and, if ye doubt, they shall be made to swear by Allah (saying): We will not take a bribe, even though it were (on behalf of) a near kinsman nor will we hide the testimony of Allah, for then indeed we should be of the sinful.”⁸

Both the quoted verses show how much emphasis is placed by Islam on immediate distribution of property among the relatives of the deceased.

According to Islamic law of inheritance, there is no distinction between movable and immovable property or between familial and self-acquired property. For claiming inheritance the only requirement is kinship with deceased person. In Islam the right of an heir either apparent or presumptive comes into existence for the first time on the death of ancestor.⁹ It is

⁵ Accessed December 21, 2019. http://www.landesia.org/wp-content/uploads/2011/01/RDI_116.pdf

⁶ Maullana Maududi. Towards Understanding Islam. English version, translated by Khurram Murad, accessed at Google: <http://www.scribd.com/doc/61954634/Maulana-Maududi-Towards-Understanding-Islam-Translated-by-Khurram-Murad>.

⁷ *Sūrat l-Baqarah* (2:180)

⁸ *Sūrat l-Māidah* (5:106)

⁹ Faridunji Mulla. Mulla's Mohamendan Law. 16thed. Mansoor Book House Law Book Publishers & Book Sellers, Lahore.

evident from Quranic teachings that inheritance is not a birth right but it shall only be claimed after the ancestor's death. Furthermore, claiming inheritance is a right of both male and female heirs and or relatives of the deceased according to their shares designated by Islam. The shares of property as determined by Quran should not be altered as commanded in *An-Nisā'*(4: 33) and:

*“And unto each We have appointed heirs of that which parents and near kindred leave; and as for those with whom your right hands have made a covenant, give them their due. Lo! Allah is ever Witness over all things.”*¹⁰

The Holy Quran has dealt with the matters regarding inheritance comprehensively by defining the shares of kinsmen in accordance of relationship with the deceased. According to Islamic law, the estate of a deceased Muslim is to be applied successively in many matters as laid down by Islam: in Payment of (1) the deceased's funeral expenses; (2) expenses of obtaining probate, letters of administration, or succession certificates; (3) wages due for services rendered to the deceased within three months next preceding his/her death by any laborer, artisan or domestic servant, (4) other debts of the deceased according to their respective priorities (if any); (5) legacies not exceeding one-third of what remains after all the above payments have been made. The remaining is to be distributed among the heirs of the deceased according to the law of the sect the deceased belonged to, at the time of death.¹¹

Those who misunderstand Islam claim that Islam does injustice to women in terms of inheritance. They opine that it is unfair to grant the male a double to that of the female even though they are children of the same parents. Allah, the Exalted, offered a full and detailed method of women's inheritance in the Qur'an and *Sunnah*, and if an unbiased student of knowledge reflects on the details, he or she will discover the fault of this opinion.

In Islam, women are entitled the right of inheritance,¹² though generally, Islam allots women half the share of inheritance available to men who have the same degree of relation to the decedent. For example, where the decedent has both male and female children, a son's share is double that of a daughter's.¹³ Additionally, the sister of a childless man inherits half of his property upon his death, while a brother of a childless woman inherits all of her property.¹⁴ However, this principle is not universally applicable, and there are other circumstances where women might receive equal shares to men. For example, the share of the mother and father of a decedent who leaves children behind.¹⁵ Also the share of a brother who shares the same mother is equal to the share of a sister who shares the same mother, as do the shares of their descendants.

¹⁰ *An-Nisā'* (4: 33)

¹¹ Faridunji Mulla. *Mulla's Mohamendan Law*. 16thed. Mansoor Book House Law Book Publishers & Book Sellers, Lahore.

¹² From what is left by parents and those nearest related there is a share for men and a share for women, whether the property be small or large, determinate share."Sura 4:7

¹³ Qur'an, [Quran 4:11]

¹⁴ Qur'an, [Quran 4:126]

¹⁵ If the deceased left children behind, each of the parents shall get one sixth of the estate, but if the deceased left no children and the parents are the only heirs, the mother shall get one third of the estate..."Sura 4:11

There are some who say women are entitled to equal inheritance in Islam. In seventeenth century Ottoman cities, such as Bursa, inheritance issues were commonly resolved in courts, with the defendants even being family members of women that were suing them.¹⁶

Sometimes, women get double the share as that of men; for example, if there are only parents and husband, husband will receive half, father gets 1/6 and mother gets 2/6. This is according to Ibne Abbas's interpretation of verses 11, 12 of Surah An-Nisa.

Also, the Qur'an does not discriminate between men and women in cases of *kalalah* relation.¹⁷¹⁸ *Kalalah* describes a person who leaves behind neither parents nor children; it also means all the relatives of a deceased except his parents and children, and it also denotes the relationships which are not through [the deceased's] parents or children. Islamic scholars hold that the original reasons for these differences are the responsibilities that are allotted to spouses. A husband in Islam must use his inheritance to support his family while a wife has no support obligations. Additionally, Arab society traditionally practiced the custom of bride price or dower rather than dowry; i.e., the man paid a gift to his wife or her family upon marriage, rather than the opposite, placing a financial burden on men where none existed on women. This custom was continued but changed materially by Islam. The divine injunction stipulated that the dowry (*mahr*) is due to the wife only not her family. It can also be deferred thereby reducing the burden if the husband is unable to afford the requested dowry at the time of the marriage. The wife can defer it till a stipulated date or it can become a debt on the estate when the husband dies. [4] And give their dowries willingly to women (as an obligation), but if they, of their own accord, remit a portion of the dowry, you may enjoy it with pleasure.¹⁹

To begin with, Allah has determined all the shares of all the relatives in respect to their relationship to the deceased. As He the Most Wise said:

(There is a share for men and a share for women from what is left by parents and those nearest related, whether the property is small or large, an obligatory share.) [4:7]

Allah has stated three types of shares for a woman's inheritance as follows:

1. A woman will have an equal share as that of the man.
2. A woman will have an equal share to that of the man, or a little less.

¹⁶ Gerber, Haim. "Social and Economic Position of Women in an Ottoman City, Bursa, 1600 1700." *International Journal of Middle East Studies*, vol. 12, no. 3, 1980, pp. 231–244. JSTOR, www.jstor.org/stable/163000

¹⁷ If a man or a woman is made an heir on account of his [or her] *kalalah* relationship [with the deceased] and he [or she] has one brother or sister, then the brother or sister shall receive a sixth, and if they be more than this, then they shall be sharers in one-third, after payment of any legacies bequeathed and any [outstanding] debts without harming anyone. This is a command from God, and God is Gracious and All-Knowing." Qur'an, ^[Qur'an 4:12]

¹⁸ People ask your pronouncement. Say: God enjoins you about your *kalalah* heirs that if a man dies childless and he has only a sister, then she shall inherit half of what he leaves and if a sister dies childless, then her brother shall be her heir; and if there are two sisters, then they shall inherit two-thirds of what he [or she] leaves. If there are many brothers and sisters, then the share of each male shall be that of two females. God expounds unto you that you err not and God has knowledge of all things." Qur'an, ^[Qur'an 4:176]

¹⁹ Surah An Nisa verse 5

3. A woman will have half the share of a man.

This means that the minimum of her shares is half, and considering that a female has no continual financial responsibilities as a child, sister, wife or mother, and these responsibilities are always on the men of the family, this is very generous indeed.

In contrast to all the other societies, Islamic Jurisprudence stipulates the rules and regulations about all the affairs of a man, from big to small, to bring harmony to their lives. Just like a person has specific instructions for how to live and use his money in his lifetime, his wealth after his death is dealt with the same way. Unlike other social systems, a person can generally do with his wealth in his life however he wants but his will has certain restrictions according to the Islamic Law. Through his will he can only give 1/3 of his wealth to whoever he wants, all the rest is distributed according to the law of inheritance derived from the Qur'an.

In the famous tradition; the companion Sa'ad ibn Abi Waqqas was ill and requested to bequest the majority of his wealth as charity, or a half of it since he was wealthy and only had one daughter. The Messenger of Allah (Peace be upon Him) forbade him and only allowed him to give a third, and said:

"A third and a third is a lot, and it is better that you leave your heirs wealthy rather than leave them needy begging from the people. You will not spend anything seeking Allah's countenance but you receive a reward for that expenditure, even the morsel of food you put into your wife's mouth." [Bukhari No. 2591 & Muslim No. 1628]

An important point to note is that in many civilizations, man-made laws of inheritance are at the whim of a powerful individual; to give or deprive, as one will, however unjustly. Moreover, in these societies often there is no law that obligates a man with financial responsibilities and relieves the women from them. On the other hand, according to Islam, a male is required to take care of the entire financial needs of the female dependents of the family until they are married. From the time a female marries, her financial responsibilities are her husband's obligation. After the death of the husband, the son or other male relative is obliged to care for the widow.

Therefore, demanding a "fair," "just" or "equal" share of inheritance for both male and female Muslims, who do not have equal financial obligations and responsibilities, is an unfair and unjust demand. It is only fair and just to give preference to a male heir, in light of his financial responsibilities, over the female heir from the inheritance of the father, mother or others. Considering all this, the fact that a female is still entitled by the Islamic law to a half share of the portion of inheritance received by the male, and sometimes an equal share, is indeed fair, just, and generous.

Gustave Le Bon says in his book *Arab Civilization*:

"The principles of inheritance which have been determined in the Qur'an have a great deal of justice and fairness. The person who reads the Qur'an can perceive these concepts of justice and fairness in terms of inheritance through the verses I quoted. I should also point out the great level of efficiency in terms of general laws and rules derived from these verses. I have compared British, French and Islamic Laws of inheritance and found that Islam grants the wives the right of inheritance, which our laws are lacking while Westerners consider them to be ill-treated by the Muslim men."

Women Rights of Inheritance in ancient World:

In the ancient world woman inherited nothing and, even when she inherited, she was treated like a minor. She had no independent legal personality. According to certain ancient legal systems, a daughter received an inheritance but her children did not. On the other hand, a son not only received an inheritance himself, but his children also inherited the property left by their grandfather. Certain other legal systems allowed woman to inherit but not in the form of a definitely prescribed share, or in the language of the Qur'an 'an appointed share'. They simply allowed a progenitor to make a bequest in her favour, if he so desired. Historians and Investigators have given detailed accounts of the various laws of inheritance found in the ancient world, but we need not go into all their details. For our purpose, the above given summary is enough.

The main reason of the deprivation of woman of inheritance was the prevention of transfer of wealth from one family to another. According to the old belief, the women's role in procreation was insignificant. The mothers served only as receptacles, where the seed of the father developed into a child. On this account, they believed that the children of a man's son were his own children and a part of his family, but the children of a man's daughter were not a part of his family, for they were a part of the family of their paternal grandfather. Thus, had a daughter received an inheritance, which would have meant the transfer of property to her children, who belonged to a family unconnected with that of the deceased.

Dr. Musa `Ameed says that in the olden days religion, and not any natural relationship, was the basis of the formation of a family. The grandfather, besides being the social head of his children and grandchildren, used to be their religious head also. The execution of religious ceremonies and rituals was handed down to succeeding generations through the male descendants only. The ancients regarded only men as the means of preserving progeny. The father of the family not only gave life to his son, but also passed to him his religious beliefs and rituals. According to the Hindu Vedas and the Greek and the Roman laws, the power of procreation was confined to men only, and hence family religions were the monopoly of men, and women had no hand in religious affairs except through their fathers or husbands. As they could not take part in the execution of religious ceremonies, they were naturally deprived of all family privileges. Hence, when the system of inheritance came into being, they were excluded.

The exclusion of woman from inheritance had other reasons also, one of them being that she was not fit to be a good soldier. In a society in which great value was attached to the heroic deeds and the power of fighting, and a warrior was regarded superior to a hundred thousand non-fighters, woman was deprived of inheritance, because she lacked the fighting capacity. For this very reason, the pre-Islamic Arabs were opposed to inheritance by woman, who could not inherit as long as a male member of the family, howsoever distant, existed. That is why they were greatly surprised, when the Qur'an expressly said:

"For men is a share of what the parents and the near relatives leave, and for women is a share of what the parents and the near relatives leave, whether it be little or much-an appointed share", (Surah an-Nisa, 4:32)

It so happened that the brother of Hassan Bin Thabit, the famous poet, died in those very days, leaving behind a wife and several daughters. His paternal cousins appropriated all his property and did not give anything to his widow or daughters. The widow complained to the

Holy Prophet who called her deceased husband's cousins. They said that a woman was unable to carry arms and to fight the enemy. It was the men who defended themselves and the women. Hence, they alone had the right to inherit the property. Thereupon, the Holy Prophet conveyed to them the command of Allah, as revealed in the above quoted verse.

The Holy Quran has dealt with the matters regarding inheritance comprehensively by defining the shares of kinsmen in accordance of relationship with the deceased. According to Islamic law, the estate of a deceased Muslim is to be applied successively in many matters as laid down by Islam: in Payment of (1) the deceased's funeral expenses; (2) expenses of obtaining probate, letters of administration, or succession certificates; (3) wages due for services rendered to the deceased within three months next preceding his/her death by any laborer, artisan or domestic servant, (4) other debts of the deceased according to their respective priorities (if any); (5) legacies not exceeding one-third of what remains after all the above payments have been made. The remaining is to be distributed among the heirs of the deceased according to the law of the sect the deceased belonged to, at the time of death.²⁰

Classes of Heirs According to Sunni Law of Inheritance:

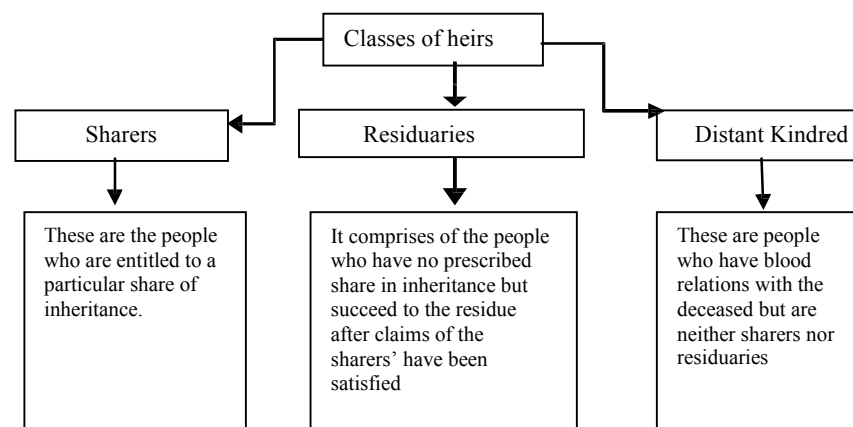


Figure 1: Classes of heirs in Sunni law of inheritance

The Holy Quran, Surat-un-Nisa explains about inheritance in a just manner that is due to each individual, male and female. This chapter of The Quran very clearly specifies that women should no longer be treated as chattels and commodities, but as individuals, they have the legal right to inherit. It is enjoined:

*“O ye who believe! It is not lawful for you forcibly to inherit the women (of your deceased kinsmen)”*²¹

Contrary to pre-Islamic practices (where women, slaves and minors could never inherit), Islam not only recognizes women as free individuals, but also gives legal insight regarding their right to inherit property.

The Quran mentions this plainly in Al- Nisa:

²⁰ Faridunji Mulla. Mulla's Mohamendan Law. 16thed. Mansoor Book House Law Book Publishers & Book Sellers, Lahore.

²¹ Surat An-Nisā' (4:19)

“Unto the men (of a family) belonged a share of that which parents and near kindred leave, and unto the women a share of that which parents and near kindred leave, whether it be little or much - a legal share.” (Surat An-Nisā’ - 4:7)²²

Those fix and determined shares of relatives are described in the next verses of Surat An-Nisa:

“Allah charged you concerning (the provision for) your children: to the male the equivalent of the portion of two females, and if there be women more than two, then theirs is two-thirds of the inheritance, and if there be one (only) then the half. And to each of his parents a sixth of the inheritance, if he has a son; and if he has no son and his parents are his heirs, then to his mother appertaineth the third; and if he has brethren, then to his mother appertaineth the sixth, after any legacy he may have bequeathed, or debt (hath been paid). Your parents and your children: Ye know not which of them is nearer unto you in usefulness. It is an injunction from Allah. Lo! Allah is Knower, Wise.”²³ In the very next verse the shares of spouses are very clearly defined: “And unto you belonged a half of that which your wives leave, if they have no child; but if they have a child then unto you the fourth of that which they leave, after any legacy they may have bequeathed, or debt (they may have contracted, hath been paid). And unto them belonged the fourth of that which ye leave if ye have no child, but if ye have a child then the eighth of that which ye leave, after any legacy ye may have bequeathed, or debt (ye may have contracted, hath been paid). And if a man or a woman have a distant heir (having left neither parent nor child), and he (or she) have a brother or a sister (only on the mother's side) then to each of them twain (the brother and the sister) the sixth, and if they be more than two, then they shall be sharers in the third, after any legacy that may have been bequeathed or debt (contracted) not injuring (the heirs by willing away more than a third of the heritage) hath been paid. A commandment from Allah. Allah is Knower, Indulgent.”²⁴ The shares of distant kindred are further explained in last verse of Surat An-Nisa: “They ask thee for a pronouncement. Say: Allah hath pronounced for you concerning distant kindred. If a man dies childless and he have a sister, hers is half the heritage, and he would have inherited from her had she died childless. And if there be two sisters, then theirs are two-thirds of the heritage, and if they be brethren, men and women, unto the male is the equivalent of the share of two females. Allah expounded unto you, so that ye err not. Allah is Knower of all things.”²⁵ Although Islam further elaborates about the rights of all heirs including the residuary class, the researcher’s major focus is on the right to inheritance of women as nearest kin of the deceased. The figures below briefly illustrate shares of women in inheritance as mother, daughter, sister and wife.

²² Surat An-Nisā’ (4:7)

²³ Surat An-Nisā’ (4:11)

²⁴ Surat An-Nisā’ (4:12)

²⁵ Surat An-Nisā’ (4:176)

Figure 2: Shares of women as nearest kin of the deceased in Sunni sect

Relationship with the deceased	Share in property (In accordance with Sunni law)
Daughter	In case of brother(s): 1/2 of the share of the brother. In case of only daughter(s): 2/3 of the total inheritance. The remaining is directed towards the residuary class.
Wife	In case of children: 1/8 th of the property. In case of no children: 1/4 th of the deceased's property.
Mother	Inherits 1/6 th of the property in some cases and 1/3 rd in others.

Woman's Inheritance in Islam:

The Islamic law of inheritance is free from all the shortcomings and defects of the past. The only thing, which is objectionable in the eyes of the upholders of equality between man and woman, is that the share of woman is half that of man. According to the Islamic law, a son receives twice as much as a daughter, a brother twice as much as a sister and a husband twice as much as a wife does. The case of father and mother is the only exception.

If a deceased has children and his parents are alive, each of his parents will get one-sixth of the property left by him. It is because of woman's special position with regard to dower, maintenance, military service and some of the criminal laws, that her share has been fixed at half that of man.

For reasons mentioned earlier, Islam considers dower and maintenance essential and effective in the consolidation of a marriage. They ensure domestic harmony and coherence. The abolition of them is likely to shake the family structure and to push woman to prostitution. The dower and maintenance being compulsory, naturally, woman's financial commitments have been reduced and man's burden has proportionately increased. To compensate man for his extra burden, his share in inheritance has been fixed at twice that of woman. It is dower and maintenance, which have reduced woman's share.

Sunni and the Shia schemes of Inheritance:²⁶

There is a fundamental divergence between the Sunni and the Shia schemes of inheritance. Sunni law is essentially a system of inheritance by male agnate relatives or *'asabah*-i.e. relatives who, if they are more than one degree removed from the deceased, trace their connection with him through the male links. Among the *'asabah*, priority is determined by:

(1) class, descendants excluding ascendants, who in turn exclude brothers and their issue, who in turn exclude uncles and their issue;

²⁶ *The New Encyclopaedia Britannica*. 1989. 15th ed. Vol. 22. Edited by Philip W. Goetz. "Islam: The Culture of Islam: Islamic Law, Shari'ah." Chicago: Encyclopaedia Briannica, Inc.

- (2) degree, within each class the relative nearer in degree to the deceased excluding the more remote;
- (3) strength of blood tie, the germane, or full blood, connection excluding the half blood, or consanguine, connection among collateral relatives.

This agnatic system is mitigated by allowing the surviving spouse and a limited number of females and nonagnates-the daughter; son's daughter; mother; grandmother; germane, consanguine, and uterine sisters; and uterine brother-to inherit a fixed fractional portion of the estate in suitable circumstances. But the females among these relatives only take half the share of the male relative of the same class, degree, and blood tie, and none of them excludes from inheritance any male agnate, however remote. No other female or non-agnatic relative has any right of inheritance in the presence of a male agnate. Where, for example, the deceased is survived by his wife, his daughter's son, and a distant agnatic cousin, the wife will be restricted to one-fourth of the inheritance, the grandson will be excluded altogether, and the cousin will inherit three-fourths of the estate.

Shi'i law rejects the criterion of the agnatic tie and regards both maternal and paternal connections as equally strong grounds of inheritance. In the Shia system, the surviving spouse always inherits a fixed portion, as in Sunni law, but all other relatives, including females and non-agnates, are divided into three classes:

- (1) parents and lineal descendants;
- (2) grandparents, brothers and sisters, and their issue;
- (3) uncles and aunts and their issue.

Any relative of class one excludes any relative of class two, who in turn excludes any relative of class three. Within each class the nearer in degree excludes the more remote, and the full blood excludes the half blood. While, therefore, a male relative normally takes double the share of the corresponding female relative, females and nonagnates are much more favourably treated than they are in Sunni law. In the case mentioned above, for example, the wife would take one-fourth, but the remaining three-fourths would go to the daughter's son, or indeed to a daughter's daughter, and not to the agnatic cousin.

Objections by the Westernized People:

Some Westerners, while criticizing woman's lesser share in inheritance and using it as a propaganda weapon against Islam, assert that, after all, there is no necessity of lessening woman's share in inheritance and compensating her for the loss by allowing her dower and maintenance. Is there any need of going into by lanes and adopting out-of-the-way methods? Why should not woman's share, from the beginning, be equal to that of man so that we may not be compelled to compensate her by allowing her dower and maintenance?

The gentlemen, who happen to be more loyalists than the king, have mistaken the cause for the effect and the effect for the cause. They think that the dower and the maintenance are the effects of women's peculiar position with regard to inheritance, whereas the real position is just the reverse. Further, they seem to be under the impression that the financial aspect is the only consideration. Had that been the only consideration, obviously there would have been neither the need of the system of dower and maintenance nor that of disparity between the shares of man and woman. As we have mentioned earlier, Islam has taken into consideration many aspects, some of them natural and others psychological. It has considered woman's

special needs, arising out of her procreative function. Man, naturally has no such needs. Besides, on the one hand, woman's earning capacity is less than that of man and, on the other; her consumption of wealth is more. In addition, there are several other finer aspects of their respective mental make-up. For example, man always wants to spend for the sake of the woman of his choice. Other psychological and social aspects, which help in the consolidation of the domestic relations, have also been considered. Considering all these points, Islam has made dower and maintenance obligatory. Thus, it is not simply a financial question, so that it may be said that there is no need of reducing woman's share at one place and compensating her at another.

Objection of the heretics of the early Islamic era:

We have said that the dower and the maintenance are a cause and the peculiar position of woman with regard to inheritance is its effect. This point is not a new discovery. It came up even in the early days of Islam.

In the second century of the Hijri era there lived a man named Ibn Abi al-'Awja, who did not believe in religion. Taking advantage of the religious freedom of that period, he openly gave expression to his atheistic ideas. Sometimes he even came to the Masjid al-Haram (in Mecca) or Masjid al-Nabi (in Madina) and engaged in arguments on the principles of Islam with the scholars of that time. One of his objections against Islam concerned inheritance. He used to say:

"What is the fault of the poor woman that she gets one share whereas the man gets two".

According to him, this was injustice to woman, the Imam Ja'far as-Sadiq (P), in reply to him, said that it was so, because woman was exempted from performing military service. Further, Islam had enjoined upon man to pay her dower and maintenance and, in certain criminal cases where the kinsmen of the offender had to contribute to the blood-money, she was exempted from such payment. These were the reasons why her share had been reduced. Thus, Imam Sadiq expressly attributed woman's peculiar position, with regard to inheritance, to the existence of the law regarding dower and maintenance and her exemption from military service and the payment of blood-money.

Female Inheritance in Islam and the Judeo-Christian Tradition:

One of the most important differences between the Quran and the Bible is their attitude towards female inheritance of the property of a deceased relative. Rabbi Epstein has succinctly described the Biblical attitude: "The continuous and unbroken tradition since the Biblical days gives the female members of the household, wife and daughters, no right of succession to the family estate. In the more primitive scheme of succession, the female members of the family were considered part of the estate and as remote from the legal personality of an heir as the slave. Whereas by Mosaic enactment the daughters were admitted to succession in the event of no male issue remained, the wife was not recognized as heir even in such conditions." *Why were the female members of the family considered part of the family estate?* Rabbi Epstein has the answer: *"They are owned-before marriage, by the father; after marriage, by the husband."*

The Biblical rules of inheritance are outlined in Numbers 27:1-11.

A wife is given no share in her husband's estate, while he is her first heir, even before her sons. A daughter can inherit only if no male heirs exist. A mother is not an heir at all while the father is. Widows and daughters, in case male children remained, were at the mercy of the male heirs for provision. That is why widows and orphan girls were among the most destitute members of the Jewish Society.

Christianity has followed suit for long time. Both the ecclesiastical and civil laws of Christendom barred daughters from sharing with their brothers in the father's patrimony. Besides, wives were deprived of any inheritance rights. These iniquitous laws survived until late in the last century.

Among the pagan Arabs before Islam, Inheritance rights were confined exclusively to the male relatives. The Quran abolished all these unjust customs and gave all the female relatives inheritance shares:

"From what is left by parents and those nearest related there is a share for men and a share for women, whether the property be small or large-a determinate share" (4:7).

Muslim mothers, wives, daughters, and sisters had received inheritance rights thirteen hundred years before Europe recognized that these rights even existed. The division of inheritance is a vast subject with an enormous amount of details (4:7,11,12,176). The general rule is that the female share is half the male's except the cases in which the mother receives equal share to that of the father. This general rule if taken in isolation from other legislations concerning men and women may seem unfair. In order to understand the rationale behind this rule, one must take into account the fact that the financial obligations of men in Islam far exceed those of women. A bridegroom must provide his bride with a marriage gift. This gift becomes her exclusive property and remains so even if she is later divorced. The bride is under no obligation to present any gifts to her groom. Moreover, the Muslim husband is charged with the maintenance of his wife and children. The wife, on the other hand, is not obliged to help him in this regard. Her property and earnings are for her use alone except what she may voluntarily offer her husband. Besides, one has to realize that Islam vehemently advocates family life. It strongly encourages youth to get married, discourages divorce, and does not regard celibacy as a virtue. Therefore, in a truly Islamic society, family life is the norm and single life is the rare exception. That is, almost all marriage-aged women and men are married in an Islamic society. In the light of these facts, one would appreciate that Muslim men, in general, have greater financial burdens than Muslim women have and thus inheritance rules are meant to offset this imbalance so that the society lives free of all gender or class wars. After a simple comparison between the financial rights and duties of Muslim women, one British Muslim woman has concluded that Islam has treated women not only fairly but also generously.

Apart from recognition of woman as an independent human being acknowledged as equally essential for the survival of humanity, Islam has given her a share of inheritance. Before Islam, she was not only deprived of that share but was herself considered as property to be inherited by man. Out of that transferable property Islam made an heir, acknowledging the inherent human qualities in woman. Whether she is a wife or mother, a sister or daughter, she receives a certain share of the deceased kin's property, a share, which depends on her degree of relationship to the deceased, and the number of heirs. This share is hers, and no one can

take it away or disinherit her. Even if the deceased wishes to deprive her by making a will to other relations or in favor of any other cause, the Law will not allow him to do so. Any proprietor is permitted to make his will within the limit of one-third of his property, so he may not affect the rights of his heirs, men and women. In the case of inheritance, the question of quality and sameness is fully applicable. In principle, both man and woman are equally entitled to inherit the property of the deceased relations but the portions they get may vary. In some instances, man receives two shares whereas woman gets one only. This is no sign of giving preference or supremacy to man over woman. The reasons why man gets more in these particular instances may be classified as follows:

First man is the person solely responsible for the complete maintenance of his wife, his family and any other needy relations. It is his duty by Law to assume all financial responsibilities and maintain his dependents adequately. It is also his duty to contribute financially to all good causes in his society. All financial burdens are borne by him alone.

Secondly, in contrast, woman has no financial responsibilities whatsoever except very little of her personal expenses, the high luxurious things that she likes to have. She is financially secure and provided for. If she is a wife, her husband is the provider; if she is a mother, it is the son; if she is a daughter, it is the father; if she is a sister; it is the brother, and so on. If she has no relations on whom she can depend, then there is no question of inheritance because there is nothing to inherit and there is no one to bequeath anything to her. However, she will not be left to starve; maintenance of such a woman is the responsibility of the society as a whole, the state. She may be given aid or a job to earn her living, and whatever money she makes will be hers. She is not responsible for the maintenance of anybody else besides herself. If there were a man in her position, he would still be responsible for his family and possibly any of his relations who need his help. So, in the hardest situation her financial responsibility is limited, while his is unlimited.

Thirdly, when a woman gets less than a man does, she is not actually deprived of anything that she has worked for. The property inherited is not the result of her earning or her endeavors. It is something coming to them from a neutral source, something additional or extra. It is something that neither man nor woman struggled for. It is a sort of aid, and any aid has to be distributed according to the urgent needs and responsibilities especially when the distribution is regulated by the Law of God.

Now, we have a male heir, on one side, burdened with all kinds of financial responsibilities and liabilities. We have, on the other side, a female heir with no financial responsibilities at all or at most with very little of it. In between we have some property and aid to redistribute by way of inheritance. If we deprive the female completely, it would be unjust to her because she is related to the deceased. Likewise, if we always give her a share equal to the man's, it would be unjust to him. So, instead of doing injustice to either side, Islam gives the man a larger portion of the inherited property to help him to meet his family needs and social responsibilities. At the same time, Islam has not forgotten her altogether, but has given her a portion to satisfy her very personal needs. In fact, Islam in this respect is being more kind to her than to him. Here we can say that when taken as a whole the rights of woman are equal to those of man although not necessarily identical (see Qur'an, 4:11-14, 176).

The superiority of the Qur'an's commandment over the modern one with respect to the female Inheritance:

The Qur'an decrees that the male shall receive the portion of two females (in inheritance). The Qur'anic injunction of inheritance is perfectly just and a perfect mercy for women. It is just because, in the majority of cases, and according to the Islamic Law, the husband provides both for the wife's and the children's livelihood, whereas the wife is not under any legal obligation to provide either for him or for herself. Thus, she is compensated for the half-share less that she is allocated from any inheritance than the man. It is a perfect mercy because a girl is delicate, vulnerable and so is held in great affection by her father who, thanks to the Qur'anic injunction, does not see her as a child who will cause him loss by carrying away to others half of his wealth. In addition, her brothers feel compassion for her and protect her without feeling envy of her, as they do not consider her as a rival in the division of the family possessions. Thus, the affection and compassion, which the girl enjoys through her family, compensate for her apparent loss in the inheritance.

It is for this reason that it is severe injustice, far from being kindness, to institute more for the girl than her due out of unrealistic feelings of compassion-unrealistic because no one can be more compassionate than God. Rather, if the Qur'anic bounds are exceeded, women may become, for the reasons we have given, vulnerable to exploitation and tyranny in the family, especially in view of the barbaric selfishness of modern times which can be as bad as the tyranny of the jahiliyya (the pre-Islamic age of ignorance) when infant girls were buried alive. As for the Qur'anic injunctions, all of them, like those pertaining to inheritance, prove the truth expressed in the verse, we have not sent you (Muhammad), save as a mercy unto all beings.

Modern civilization, which, in essence, is a system of savagery because it lacks real human values, wrongs mothers more than girls by depriving them of their rights. Being the purest and finest reflection of Divine compassion, the affection of mothers is the most revered reality in the creation. A mother is so compassionate, self-sacrificing and intimate a friend that she sacrifices all she has including her life for her children. A timid hen, for instance, whose motherliness represents the lowest degree, has been observed to attack a dog in order to protect her chicks.

It is, for this reason, plain to those who are really human, if not to those who appear human but are bestial in essence, what a great injustice and shameful disrespect, what a heart-rending ingratitude and a harmful poison for social life it is, to deprive such a respected, dear being of her rightful share in the wealth of her son. As for the Qur'anic injunction, this gives the mother one sixth of her son's inheritance, as in the verse, and to his mother a sixth, it is in perfect accordance with justice and universal truths.

The Issue of Financial Security:

One aspect of the world-view of Islam is that everything in heaven and earth belongs to Allah:

“To Allah belongs all that is in the heavens and on earth...” (Qur'an 2:284)

As such, all wealthy and resources are ultimately "owned" by Allah. However, out of Allah's mercy He created humankind to be, collectively, his trustees on earth. In order to help

humanity, fulfill this trustee-ship, he made the universe serviceable to humanity:

“And He (Allah) has subjected to you, as from Him, all that is in the heavens and on earth: behold, in that are signs indeed for those who reflect.” (Qur'an 45:13)

It is the human family that is addressed in the above and in other verses of the Qur'an. And since that family includes both genders, it follows that the basic right to personal possession of property (as Allah's trustees) applies equally to males and females. More specifically:

The Shari'ah (Islamic Law) recognises the full property rights of women before and after marriage. They may buy, sell or lease any or all of their properties at will. For this reason, Muslim women may keep (and in fact they have traditionally kept) their maiden names after marriage, an indication of their independent property rights as legal entities.

Financial security is assured for women. They are entitled to receive marital gifts without limit and to keep present and future properties and income for their own security, even after marriage. No married woman is required to spend any amount at all from her property and income on the household. In special circumstances, however, such as when her husband is ill, disabled or jobless, she may find it necessary to spend from her earnings or savings to provide the necessities for her family. While this is not a legal obligation, it is consistent with the mutuality of care, love and cooperation among family members. The woman is entitled also to full financial support during marriage and during the waiting period ('iddah) in case of divorce or widowhood. Some jurists require, in addition, one year's support for divorce and widowhood (or until they remarry, if remarriage takes place before the year is over).

A woman who bears a child in marriage is entitled to child support from the child's father. Generally, a Muslim woman is guaranteed support in all stages of her life, as a daughter, wife and mother or sister. The financial advantages accorded to women and not to men in marriage and in family have a social counterpart in the provisions that the Qur'an lays down in the laws of inheritance, which afford the male, in most cases, twice the inheritance of a female. Males inherit more but ultimately, they are financially responsible for their female relatives: their wives, daughters, mothers and sisters. Females inherit less but retain their share for investment and financial security, without any legal obligation to spend any part of it, even for their own sustenance (food, clothing, housing, medication, etc.).

It should be noted that in pre-Islamic society, women themselves were sometimes objects of inheritance. In some Western countries, even after the advent of Islam, the whole estate of the deceased was given to his/her eldest son. The Qur'an however, made it clear that both men and women are entitled to a specified share of the estate of their deceased parents or close relations:

“From what is left by parents and those nearest related, there is a share for men and a share for women, whether the property be small or large-a determinate share” (Qur'an 4:7)

Employment:

With regard to the woman's right to seek employment, it should be stated first that Islam regards her role in society as a mother and a wife as her most sacred and essential one. Neither house cleaners nor baby sitters can possibly take the mother's place as the educator of an upright, complex-free and carefully reared child. Such a noble and vital role, which largely shapes the future of nations, cannot be regarded as idleness. This may explain why a married

woman must secure her husband's consent if she wishes to work, unless her right to work was mutually agreed to as a condition at the time of marriage.

However, there is no decree in Islam that forbids women from seeking employment whenever there is a necessity for it, especially in positions, which fit her nature best, and in which society needs her most. Examples of these professions are nursing, teaching (especially children), medicine, and social and charitable work. Moreover, there is no restriction on benefiting from women's talents in any field. Some early jurists, such as Abu-Hanifah and Al-Tabari, uphold that a qualified Muslim woman may be appointed to the position of a judge. Other jurists hold different opinions. Yet, no jurist is able to point to an explicit text in the Qur'an or Sunnah that categorically excludes women from any lawful type of employment except for the headship of the state. Omar, the second Caliph after the Prophet (P), appointed a woman (Um Al-Shifaa' Bint Abdullah) as the marketplace supervisor, a position that is equivalent in our world to "director of the consumer protection department."

In countries where Muslims are a numerical minority, some Muslim women, while recognizing the importance of their role as mothers, may be forced to seek employment in order to survive. This is especially true in the case of divorcees and widows and in the absence of the Islamic financial security measures outlined above.

Economic Rights of Women in Pakistan: Rhetoric and Reality:

It may be argued that Islamic law in recognizing a wide range of economic rights for women, in effect, transcends the public/ private dichotomy. This includes the rights to earn, acquire, access and dispose of their property, both movable and immovable. An adult Muslim woman may not be coerced into dealing with her possessions by anyone, including close male relatives such as her father, brother, husband and son. But these rights appear to have remained for the large part in the domain of theory; reality being at variance with this formal equality. In this section, it is proposed to look into the reality of economic rights available to women in Pakistan.

It may be argued that economic independence is an important means to achieving empowerment. But, the problem of acquiring some measure of economic rights for women in Pakistan is that religion and custom are used to reinforce women's 'protected' and hence economically dependent position. Though, Islam allows women to own and inherit property, yet the fact that the share in inheritance is invariably half that of men in similar relationships, is itself a crucial drawback. It is estimated that very few women get even their half share of inheritance.

In the rural areas of Pakistan, in particular, a clear violation of the rights to inheritance takes place where agricultural land is often not given to daughters and kept "in the family". Dowry is considered as an appropriate share of daughters in parental property and women rarely have access to or control over property in their names. Where women do inherit property, the same is mostly taken over and controlled by male heirs through general power of attorney, gift deeds or relinquishment deeds in favour of the male heirs.

Access to credit, the right to bank loans, mortgages and other forms of financial credit are rights that in theory are available to both men and women in Pakistan. But a number of social, cultural and economic barriers mitigate against the exercise of these rights and access

to existing sources of credit. First, there is the general impression about women that they need the support of a male relative to guide them as financial concerns fall outside the domain of women's perceived roles and function. Then there is the general environment and unwritten rules of the 'public' sphere inhibiting women's access and participation in economic activity. Obstacles of women's mobility in terms of transport in reaching banks and other lending institutions during daylight hours are numerous. Beyond certain hours, it is 'improper' for women to be seen outside the house and women therefore are restricted in reaching these. Financial institutions such as the Agricultural Development Bank of Pakistan, the industrial Development Bank of Pakistan, and other banks do not have enough female staff to cater to women borrowers. Women get deterred when dealing with male staff of these institutions.

The First Women Bank was set up by the Government in 1989 as a first step towards improving the socio-economic status of women. This Bank caters specifically to the needs of women by offering both traditional and non-traditional credit and banking facilities. This Bank is controlled, managed and run by women. It is difficult to assess the extent of impact that the First Women Bank has had in integrating women as active partners into the mainstream of socio-economic life of the country.

Finally, although no religious injunction makes any overt suggestion to this effect, State policies very often fail to recognize women as primary earners or as heads of household, the number of women in both categories is on the increase. While official figures estimate about 5% of women headed households as intensive study carried out in Karachi, Lahore and Islamabad about 5 years ago indicating 10% household as being headed by women. This state of affairs results in further problems for women as the burden of provider and head of household's entails being more 'visible' and in the public sphere, a situation not looked upon with great favour by societal norms.

Conclusion:

The basic aim of this research paper is to create awareness among women regarding the Islamic laws governing inheritance. Inheritance laws are an important part of a state's legislature. Awareness about the existing policies governing any matter plays a pivotal role in the successful implementation of those laws, and empowerment of the target group. Non-acknowledgment and giving of inheritance to women is a major dilemma facing the Pakistani society, which is lack of knowledge and awareness regarding Shariah law and state legislature due to rampant illiteracy and dominant role of custom and culture which greatly affects utilization of female friendly policies. The religious leaders have failed to play their role to convince the families (especially male) in forming popular opinions, and believes that their utilization in creating mass awareness with regards to female inheritance rights is instrumental and thus it should be encouraged. Generally, there is the lack of awareness amongst women about their legal rights has been perpetrated by low level of female education along with the misinterpretation of religious commandments, which is a common practice in patriarchal setups. The women themselves consider dowry as an alternative to inheritance and furthermore, have been socialized to believe that the Islamic notion of purdah also encompasses restriction of female mobility and thus women shouldn't have access and control over properties if they own any; making property ownership and control a male dominated affair. Similarly, knowledge about state laws protecting female inheritance, which are based on Islamic guidelines, is also limited. It is strongly recommended religious leaders should be utilised in spreading knowledge about inheritance laws owing to the fact that religious gatherings constitute a major source of knowledge for Muslims especially those

residing in rural areas. Moreover, mass awareness through electronic and print Media should be created by disseminating this knowledge in local languages. Lastly not to ignore that, female literacy should be encouraged by establishing strong frameworks supporting these endeavours.