



ANNEX-I

Adopted Study titled:

**JURISPRUDENTIAL LEAFLET ON
THE DIVINE JUSTICE ON WOMEN AND MEN'S INHERITANCE IN ISLAMIC SHARIA**

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The divine miracle of the Islamic Sharia on the distribution of shares from a deceased person's estate to his/her family members is one of the most important and clearest subjects of Qur'an's miracles.

Unfortunately, some have reduced the inheritance legislations in Islam to the rule that "the male takes twice the share of the female", thereby criticizing the Islamic sharia as being unjust to women. This claim negates the intent of the divine sharia and the justice of Allah the highest.

The Islamic Sharia, unlike other laws and legislations, gives detailed rules regarding organization of inheritance and family lineage. Islam organized inheritance in accordance with power and need (such as full brother and half brother), closeness (such as brotherhood in general) and not granting inheritance to someone who does not have the right (such as a product of adultery). In addition, the Islamic law did not lose sight of kindness in regard to adopting orphans (voluntary charities) or obligations (such as zakat).

This leaflet highlights the extent of the creator's wisdom concerning the shares of heirs and Allah's justice to women and men, the young and the old. Should the researcher follow how Allah has guaranteed a woman her right –having known her weakness and vulnerability- one will find that Islam classifies a woman always among those entitled to statutory portion of inheritance, and she inherits by consociation with her brother only in one situation when "the male takes twice the share of the female." The purpose of this leaflet is to explain, clearly and briefly, the justice of Islamic legislation on the subject of women and men inheritance.

Based on the study of the Qur'anic verses regarding inheritance, it becomes clear that the rule of "the male takes twice the share of the female" is not a uniform rule. When reviewing the overall cases of inheritance, we observe the following:

1. There are many cases, in multiples of the previous ones mentioned above, where woman inherits exactly what man inherits. Such as in the case of woman who died leaving behind a husband (he gets half). If she leaves behind a mother (she gets a third). If she leaves behind a brother or sister to mother (they both get a sixth), if they are alone. But if there are more than one they share a third of what is left provided the legator has absolutely no issue or an upper line source such as father or grandfather or even higher up. This is in addition to the case of inheritance between male and female in the inheritance of siblings of mother, provided that there is no origin male heir, father or grandfather or even higher up, or a pure branch heir, son, daughter, or daughter of a son, or even lower down. Also, male and female inheritance shares are equal when the deceased leaves behind a pure sister and a half brother to father, in this case the sister gets half, and the brother to father gets half.
2. There are more than ten cases where a woman inherits more than a man. Also, there are cases where a woman inherits while a man does not inherit, like the case of a woman who died leaving behind a husband (he gets half), and a mother (she gets sixth), and two sisters of a mother (they get a third), and a brother of a father (he does not inherit anything). Or in the case of a man who died leaving behind a daughter (she gets half), and the rest is distributed to the rest of men or women, even though they were in dozens.
3. With regard to the rule of “the male takes twice the share of the female”, the Islamic law took into account the three differentiation criteria: degree and strength of kinship between the heir (either male or female) and the deceased, the level of the heir-generation in the chronology of generations, and the financial burden that is required from the heir as responsibility toward others. Note that the application of this rule (the male takes twice the share of the female) is limited to only five cases in which the female inherits one-third of the male, namely:
 - The case of a daughter with a son.
 - The case of a grandson with a granddaughter.
 - The case of full brother with full sister.
 - The case of brother to father and sister to father.
 - The case where inheritance is only for parents: the mother gets one-third and the father gets two-thirds.

Most of the provisions of the Islamic sharia on inheritance are mentioned in Surat an-Nisaa (Chapter of Women). The Islamic sharia has arranged inheritance in order of closeness to the legator. The just and divine wisdom in inheritance provisions is also clear in the consideration Allah gives to the difference in inheritance which is conditioned by three criteria:

1. Degree and strength of closeness between the heir – male or female – and the deceased legator; the closer the bond the more the share. Accordingly, comparison between the share of a male and a female in inheritance in terms of closeness must be on the same level such as fatherhood, sonship, brotherhood, marriage, etc. Distinction must also be made between full brothers and half brothers.
2. The position of the inheriting generation in the sequence of the generations. Thus generations embracing life would have a greater share of inheritance than generations leaving life behind. This is without regard to the gender of the heir – male or female – the daughter inherits more than the mother – even though both are females – indeed she inherits more than the father. The son inherits more than the father – even though both are males. From the foregoing, when considering the shares of male and female heirs in terms of the degree of closeness, the comparison must be within the same generation.
3. The size of the financial burden imposed on the heir by the law towards others. This is the criterion that necessitates variation between male and female siblings because the inheriting male, in this case, is equal in terms of the degree of closeness and generation, but he is saddled with the maintenance of his sister if she is not married (single, divorcee or widow). However, a female is not responsible or obligated to take charge of any of her relatives.

In the cases where the female inherits half the share of the male, she has the right under the Islamic sharia to be provided for in all cases as: daughter, wife, mother, sister, or otherwise (upper-level or lower-level relationship). In Islam, it is compulsory for the father to provide for his daughter; for the husband to provide for his wife; for the son to provide for his mother; and for the brother to provide for his sister as long as she is not married or she was married but divorced or widowed. As for the son, his provision is taken off the shoulder of his father once he is matured and becomes capable of providing for himself.

It is, therefore, needed to view the inheritance rules as an interconnected and complementary system in different cases, not as independent pieces.

Finally, an instance of Islam's honour for women is that it has made it a right that if a woman's husband dies before she has collected her dowry, she should be paid the dowry before the husband's estate is distributed, without her prescribed share of inheritance being affected. The Islamic sharia also protects a woman's rights in the husband's estate, for what she spent as contribution in the husband's estate when he was alive, this particular concept in the



Islamic law is called “right of the conjugal patrimony”. This is unlike many of the modern legislations that give the big brother all the inheritance.

From the above, it is clear that Islamic law does not distinguish between male and female in inheritance, it also illustrates the extent of honoring the Islamic law for women, by protecting women’s social and economic rights in all walks of life, including the right to inheritance. Islamic law, without doubt, did not undermine women’s rights at this regard. The fact that women inherit less than men in few cases, has its positive philosophy, and has nothing to do with the status of women vs. men, who are equally honored by Islam.

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