

**PRINCIPLES OF FARAIID: UNDERSTANDING THE RULES OF DISTRIBUTION OF
ESTATE UNDER THE ISLAMIC LAW OF SUCCESSION**

By

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ABSTRACT

The study explores the fundamental principles of Islamic inheritance law which is the Muslims law that deals with the best way an estate of a Muslim is to be distributed among his legal heirs. The study examines the underlying, key concepts, rules governing estate planning, management, allocation, will making, and sharing of a deceased property. The Islamic law of inheritance is a divine principle of inheritance ordained by Allah with each heir receiving his share directly as apportioned from the holy Quran. Under the Muslims law of succession, both male and female inherits from what parents and close relation leaves. The Quran, Sunnah, Ijma and Qiyas are the sources of Islamic inheritance law. Alfara'id refers to law of inheritance that outlines how a deceased person's estate should be share among his heirs. The Islamic inheritance law provides a framework for allocating shares among those that are entitled to inherit based on the relationship and responsibilities. The principle emphasises fairness, justice and protection of heir's rights including minors and minority. This study also has analysed the application of the principles in modern contexts, including challenges related to diverse family structures, illegitimate child, missing person, marriages and divorce, new reforms, representative system and jurisdictional complexities. By examining the principles of Islamic inheritance law, the study aims to provides insights for scholars, practitioners and individual navigating Islamic estate law, promoting deeper understanding of its implications and applications.

Keywords: Alfara'id, Principles, Islamic, Law, Inheritance

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1.1 Introduction

Islamic law of succession is a global best practice of how Muslims distribute and share their estate. In Islam, the law of succession is ordained by Allah (SWT) with each heir apportioned with his/her specific portion directly from the holy Quran. Islamic law of succession is a universal system and global practice of management, distribution of properties among all Muslims all over the world, irrespective of one's tribe, language, State or Country. The system is ubiquitous and the principles, portion are the same wherever you go, it is driven by divine instruction whereby specific portion is allocated to each legal heir. In Islam both male and female inherits from their parents and close relations whether the Property is large or little.¹

Under the Muslim law of succession, both male and female have same right. Same rights do not in anyways translate to mean same portion. In terms of distribution of estate, a male son inherits a share of two daughters,² so also a full brother received a double share of his two sisters.³ The male's heirs under the Muslim succession law (except in fewer situations)⁴ inherits above females because of the responsibility attached to males.

The Muslims law of succession is the best system of sharing and distribution of a deceased person's estate because of its fairness in ensuring that each heir is rightly given his/her due portion as ordained by Allah, unlike other systems of inheritance that are embedded with complexity, and controversy. for example, under Igbo/ Benin Customary laws in Nigeria, if a man dies and leaves only one house, automatically, the house belongs to the First Son, where is the fairness.

In Islam, the emergence of new issues, such as, representation system⁵, Muslims Nations/States⁶ laws allowing non-Muslim to inherit a Muslim estate, (against the traditional Sunni position) tax⁷ to be paid on the demised of a person/property at various probate offices and very recently some

¹Q 4v7

² Q 4 v 11

³ Q 4 v 176

⁴ Uterine Siblings.

⁵ Representation system allowed grandchildren of a son that die before his father to inherit alongside his present children.

⁶ In Particular, Pakistan, Iraq Indonesia and many countries.

⁷ Much more problems is coming to Niger Republic by its Muslim citizen who kicked against the proposed tax on deceased person property

Arabs countries enacted laws allowing Muslim woman to marry a non-Muslim husband⁸ and equally inherit from him/her. And the question of equality of sex are new trends that directly or indirectly affects traditionally Sunni method of distribution of estate.

1.2 Definition and Historical Development of Ilmul Al-faraid In Islam

Islamic law of inheritance' is that branch of Islamic knowledge which has been referred by the prophet of Islam as '**half of the entire Islamic knowledge**'. There is no doubt, the message of our prophet has manifested in every facet of Muslim life as majority of Muslims in today's generation lack adequate knowledge of **ILMUL- AL-FARAID** (obligatory knowledge) This is the more reason why the prophet was emphases in a Hadith reported by Abuhurayrah (RTA), "learn the knowledge of inheritance, it is half of the whole Islamic knowledge and those who acquired the knowledge will be the first to perish and the knowledge will be the first thing to be taking away from my Ummah"

Therefore it came to the fore that Muslims succession law by its connotations is more important than any other subject or aspect of Islamic shariah system and it is essential cum mandatory for you and I to search for this knowledge, because it has to do with the political economy of our life which involved the science of how to manage⁹ money/assets and as you know, money has a countless significance in a person's life, cum in his act of Ibadat. For example, the cloths we wear when performing Al-Salat has to be bought, the house and the mosque we pray etc. all have to be bought with money, so when inheritance has to do with money and money has to do with all of our life, the importance of inheritance can be understood in a greater way. Now we can vividly comprehend the rationale why Islam has given it such a prominent position in the knowledge of Islam.

In Islam men and women inherit from one another whether the estate is large or little. Allah (SWT) has clearly stated this in the holy¹⁰"For men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave, be it little or much - an obligatory share". Abdullahi Ibn Abbass prophet (RTA) reported that the prophet SAW says: 'Give

⁸**What are we saying?** Are we trying to legalize what Shariah illegalized? No this is a total confusion and negation of Islamic legal system and the views of all the well known respectful SUNNI scholars.

⁹ Administration of estate is tedious and time taking many laws, many actions and different different system

¹⁰ Q 4 v 7

the fara'id (the shares of inheritance that are prescribed in the Quran) to those who are entitled to receive it, and what is left should be given to the closest male relative of the deceased' The above Hadith emphasizes the essentialities of estate and how it should be distributed to those who are entitled and whatever remains goes to Asabat (residuary heir)

The Muslim succession law, undoubtedly defined what constitutes deceased's estate [be it small or large] as what a person owns at the time of his death, be it property, money, bonds, gold, shares or clothes, all falls into his estate. However, items stolen or acquired by breach of trust while alive will not be included in his estate. It is unanimously agreed by majority of ulamas that pension provided by the government or the deceased employer will be considered an award and will form part of deceased's estate.

Islamic Inheritance system was revealed to solidify family relationship, enhance cohesion, and peace if applied in accordance to how Allah [SWT] and the prophet practiced or distributed, in a way that all heirs will receive their just and legitimate share with full of satisfaction, happiness and clean-heart however, if on the other way, if the exercise is embedded with waggish, spuriously executed or poorly shared, and what follows often result to hatred, bitterness, hostility and destruction of family relationship as witnessed in most of our today's Islamic communities. Islam strongly discourages the idea of reserving or keeping any part of deceased estate, (no matter how small it could be) unshared. Nothing should be left unshared including the "so called" family house or family business" as so often in many places.

Revelation on inheritance came when companions were asking zillions of questions so much about inheritance, Allah's messenger (PBUH) while trying to give answer, Angel Gabriel brought a message of revelation concerning inheritance. The case of Sa'adu was one of the very first cases that came fore to our noble prophet and was addressed when Allah revelation came.

Narrated Jabir bin `Abdullah: I became sick so Allah's Messenger (SAW) and Abu Bakr came on foot to pay me a visit. When they came, I was unconscious. Allah's Messenger (SAW) performed ablution and he poured over me the water (of his ablution) and I came to my senses and said, "O Allah's Messenger (saw)! What shall I do regarding my property? How shall I distribute it?" The Prophet (SAW)

did not reply till the Divine Verses of inheritance were reveal 4 verses 11 Allah decree that;

They request from you a [legal] ruling. Say, “Allah gives you a ruling concerning one having neither descendants nor ascendants [as heirs].” If a man dies, leaving no child but [only] a sister, she will have half of what he left. And he inherits from her if she [dies and] has no child. But if there are two sisters [or more], they will have two-thirds of what he left. If there are both brothers and sisters, the male will have the share of two females. Allah makes clear to you [His law], lest you go astray. And Allah is Knowing of all things.¹¹

1.3 Ayatul Miraths and Prescribed Fractional Shares of Heirs in Islamic Law

Under the Muslims law of succession, there are about 35 verses¹² of the Holy that spoke about Islamic inheritance and are also referred as Ayat Al-Mawarith. However, only three verses¹³ that Allah used in actual distribution. These three Quranic verses are;

Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are [only] daughters, two or more, for them is two thirds of one’s estate. And if there is only one, for her is half. And for one’s parents, to each one of them is a sixth of his estate if he left children. But if he had no children and the parents [alone] inherit from him, then for his mother is one third. And if he had brothers [or sisters], for his mother is a sixth, after any bequest he [may have] made or debt. Your parents or your children – you know not which of them are nearest to you in benefit. [These shares are] an obligation [imposed] by Allah. Indeed, Allah is ever Knowing and Wise.¹⁴

Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are [only] daughters, two or more, for them is two thirds of one's estate. And if there is only one, for her is half. And for one's

¹¹ Q 4 v 176

¹² A. Hussain, *The Islamic Law of Succession* (Darussalam press, 2005) P. 27

¹³ Q 4 v 11,12 a& 176

¹⁴ Q 4 v 11

parents, to each one of them is a sixth of his estate if he left children. But if he had no children and the parents [alone] inherit from him, then for his mother is one third. And if he had brothers [or sisters], for his mother is a sixth, after any bequest he [may have] made or debt. Your parents or your children - you know not which of them are nearest to you in benefit. [These shares are] an obligation [imposed] by Allah. Indeed, Allah is ever knowing and Wise.¹⁵

And for you is half of what your wives leave if they have no child. But if they have a child, for you is one fourth of what they leave, after any bequest they [may have] made or debt. And for the wives is one fourth if you leave no child. But if you leave a child, then for them is an eighth of what you leave, after any bequest you [may have] made or debt. And if a man or woman leaves neither ascendants nor descendants but has a brother or a sister, then for each one of them is a sixth. But if they are more than two, they share a third, after any bequest which was made or debt, as long as there is no detriment [caused]. [This is] an ordinance from Allah, and Allah is Knowing and Forbearing.¹⁶

The fixed portion from the above three verses mentioned are $\frac{1}{2}$, $\frac{1}{3}$, $\frac{2}{3}$, $\frac{1}{4}$, $\frac{1}{6}$, $\frac{1}{8}$. Who get what depends on the existence or presence of other heirs in degree of relationship or closeness as some heirs can be partially or permanently excluded from inheriting because of the presence of other heirs. All¹⁷ those entitled to portion¹⁸ are, thus;

1. **A Half $\frac{1}{2}$:** There are five people that inherit a half of the total estate or property. These are-1. The husband if there is no surviving child or children .2. A daughter if she is alone without a brother or sister. 3.The grand daughter (daughter of the son) if she is alone and there is no son of son. 4.A full or germane sister if she is alone. (one who share the same mother and father with the deceased) 5. Consanguine sister (Who share same father) if she is alone

¹⁵ Q 4 v 11

¹⁶ Q 4 v 12

¹⁷ A, Liman, The Islamic law of Inheritance: A Comparative Perspectives (Malthouse Press, Lagos)P.22

¹⁸ A. Yusuf and E Sheriff, Succession under Islamic Law (malthouse press, Lagos) At pp.42

2. A Fourth $\frac{1}{4}$

A. There are two heir that are entitled to $\frac{1}{4}$.¹⁹ The husband and the wife are the only two that takes one fourth share of inheritance. Where the late widow has a child or children, the husband takes the share of one fourth and the wife or widows takes the share of one fourth of the estate when there is no child or children

3. An Eight $\frac{1}{8}$

Only wife or widows takes one eight shares if the deceased husband left a child or children. Whether she is alone two, three or four their share is one eight.

4. Two third $\frac{2}{3}$

There are five classes of people that inherit two thirds share of inheritance. They are; 1. Two or more daughters when inheriting alone or with son's daughter. 2. Full brothers when inheriting alone with full sister. 3. Two or more full sisters when inheriting alone with consanguine sister. 4. Two or more consanguine sister if inheriting alone. 5. Father when inheriting alongside with mother only. He takes two thirds while she takes the balance of one third.

5. One Third $\frac{1}{3}$.

There are five people that inherit one third share of the estate. These includes 1. Mother of the deceased when inheriting with husband alone. 2. Two or more uterine brothers and sisters takes one third share if the deceased does not have a child or grandchild by a son. 3. Full brother when inheriting with a daughter and son's daughter 4. Full sister when inheriting with a daughter or son's daughter. 5. Consanguine brother when inheriting as a sharer.

6. One Sixth $\frac{1}{6}$

Father and mother of the deceased if the deceased has a child. 2. Grandfather in the absence of the father. 3. Uterine brother if alone inheriting with full brother or brothers 4. Full sister when

¹⁹ A.Gurin, *An Introduction to Islamic Law of Succession* (Malthouse Lagos, 2015) p.40

inheriting as a sharer. 5. Consanguine sister if inheriting with full sister 6. Son's daughter inheriting with a daughter.

From the above explanation of how each heir get their specific share, when and how, it imperative to know that in Islam, there are about twenty-five²⁰ persons who inherit from one another. Fifteen are male while ten are female. The male heirs are as follows; 1. Father, 2. Father's father 3 Husband 4. Son 5. Son's son 6. Full brother 7. Consanguine brother 8. Full uncle 9. Consanguine uncle 10 Uterine brother, Son of full uncle 12. Son of consanguine uncle 13. Son of full brother 14. Son of consanguine uncle. 15. One who free a slave. While the female classes of heir are; 1. Mother 2. Mother's mother 3. Mother's father 4. Wife 5. Daughter 6. Son's daughter 7. Full sister 8 Consanguine sister 9. Uterine sister and 10. One who free a slave.

1.4 Classes of Heirs under Islamic Law of Inheritance

The Muslims law of succession has the way and manner it classified and gives inheritance to eligible heir. Each heir is to be given his due portion as apportioned by Allah. The Islamic law of inheritance also classified heir into different categories. Here in this category, heirs are divided into two basic classes. Namely; Al-fard (**Ashabul furud**) and Asabat²¹

1.4.1 The Al-fard²²(Ashabul furud) refers to heirs mentioned in the Holy Quran²³ and who are equally entitled to take what is called obligatory shares of inheritance²⁴. The Quran mentioned eight²⁵ thus; Father, Mother, Husband, Wife, Daughter, Full sister, Uterine brother, Uterine sister There are other secondary sharers who at times inherit and at times are excluded, partially or completely. These are, thus; Granddaughter, Consanguine sister, Paternal grandfather, Maternal grandmother. These heirs get a specific share when they are entitled to inherit and whatever that remains goes to Asabat.

Asabat. These are classes of heirs that are entitled to take residuary share or portion that remains after the Quranic heir have taken their own. They are also called heirs 'residuary'. They are in

²⁰ Alkali Muhammad khalil: askari (2nd edition) Hausa translation: Kano. 2008

²¹ Asabat or residuary by special reason (Mawla Al-Talaq)

²² Ashab al-faraid (the Quranic Sharers)

²³ They are; 1.father 2. Mother 3. Husband 4. Wife 5. Daughter 6. full sister 7.Uterine brother 8.Uterine Sister.

²⁴ *Zauro v Na-Umma & 1 Ors* (2018) 6 SQLR Pt.1. P.70

²⁵ SHAKIL AHMAD KHAN ; HOW TO CALCULATE INHERITANCE : A SIMPLE APPROACH AT 21

form of males and females.²⁶ And it al depends on the situation. Majority of the Asabat are from the male heir,

At this juncture, it is imperative to know that after knowing those entitled to inherit and their specific portion, it is imperative to know that before we commence distribution of property, there is the need for us to understand the pre-conditions to inheritance. In *Babba v Ganjarama*²⁷ the Court held among other things that Islamic law of inheritance is predicated upon the command of Almighty Allah (SAW) in the Holy Quran and Prophetic traditions, in every situation, where distribution of a deceased estate comes in Court of law, there are some hurdles or conditions which a plaintiff must satisfy. present two witnesses to prove the death of the deceased, the surviving heirs, whether the deceased own any debt and whether the deceased left a valid will. These are what is called pre-conditions to inheritance.

1.4.2 Classification of Heirs in Male and Female

There are other classifications of men and women heirs and this classification is viewed differently. For example, *Risala*²⁸ mentioned seventeen classes of heir (ten male and 7 females) while Askari mentioned twenty five classes of heirs that inherit from one another (fifteen are male while ten are female.. These are, thus;

1. Father²⁹ 2. Father's father 3 Husband 4. Son 5. Son's son 6. Full brother 7. Consanguine brother 8. Full uncle 9. Consanguine uncle 10 Uterine brother, Son of full uncle 12. Son of consanguine uncle 13. Son of full brother 14. Son of consanguine uncle. 15. One who free a slave.
2. While the female classes of heirs are; 1. Mother 2. Mother's mother 3. Mother's father 4. Wife 5. Daughter 6. Son's daughter 7. Full sister 8 Consanguine sister 9. Uterine sister and 10. One who free a slave.

²⁶ IZZIYAH mentioned 10 males and 7 females while in ASKARI and other Islamic books mentioned 15 male and 10 females as we are going to see in the later part of this work.

²⁷ (2022) *LPELR 57575 (CA)*

²⁸ A. Abuh zaid, *Risala* Pp. 148

²⁹ Alkali Muhammad khalil: askari (2nd edition) Hausa translation: Kano. 2008

1.5 Preconditions of Inheritance

Islamic inheritance system places three preconditions before distribution of an estate.³⁰ These preconditions are as follows:

1. Deceased person

The death must be established or proven. In the case of a missing person the court has to decide on the presumption of death. (See the case of Jatau³¹ v. Mailafia where the court held that there are ways in establishing the death of a missing person (1) by production of decree of death by a court (2) by evidence that show the death of the missing person.

2. Survival of the Heirs³²

It is the position of the Shariah who died before you will not inherit from you. This is why In Islam, for you to inherit from the property of any of your relatives that dies, the relative must have die before you. This is why; it is said that all that are to inherit from a deceased person must be alive³³ as at the time of the deceased death. Unborn child (embryo) will only inherit if born alive? In Islam, a Missing person will also inherit unless and until his death is certain or confirmed by court. So, therefore, an heir needs to be alive as at the times of the deceased death for him to inherit from the estate.

3. Estate

The estate is the most important portion of the law of inheritance. Without estate we cannot talk about sharing or distribution. The estate of the deceased person (be it small or large) movable or in movable property must be share.

³⁰A. Gurin, *An Introduction to Islamic Law of Succession* Malthouse Lagos, 2015)

³¹ (1998)1 NWLR (535)176 CA

³² Ibid.

³³ Read representative system which an obverse position to Sunni practice

1.6 Reasons for Inheritance

In *Shehu and Anor v Shehu*, the court stated clearly condition that any must satisfied by any heir or claimant of inheritance under Islamic Law that. He is related to the deceased in any of the following ways, Thus,

1. Blood/ Nasab/Qarab

Any person related to you by blood would inherit from you and you will also inherit from such a person. The closer in the degree of blood inherit more and also exclude those or are far. Full brother who shares same father and mother with you exclude a consanguine brother where same father with the deceased. Where a father is alive, all siblings are excluded.

2. Marriage – Nikah/ Zawaj

A husband and wife inherit from one another. Once a marriage is established between two couples both will inherit from each other, likewise their children born out of the marriage. No matter how long you cohabit with a woman in whatever name you call it, be it friendship, love or partnership. If it does to by way of Islam, there shall be no inheritance.

3. Emancipation of slave / Itaq/Walayah³⁴

One who free a slave inherit from him. All slave property belongs to the master. Even though slave dealings/ trade are no longer viable in our contemporary world, not standing that, it still formed part of our shariah law system. This explained the relationship of how each slave master supposed to treat his slave. This occurred before and today as we all know slave trade is not part of us again but it is still accommodated by our literature and part of Islamic teaching.

1.7 The basic of Inheritance

1. Payment of Burial Expenses³⁵

It is the responsibility of every Muslim to pay his funeral expenses if he leaves anything. This burial expense.³⁶ This has to do with all the process of digging the grave, buying of white cloth to

³⁴ *Karimatu v Idi* (2006) 25 WRN 129(CA)

³⁵ In some places like in abroad of some part of Eastern and Southern Nigeria, you need to buy a portion of land.

³⁶ A. Gurin, *Islamic Law of Succession* (Published by Malthouse, Lagos) P.10

cover the corpse (likafani), buying of space or portion of land for the burial, cost of transporting the corpse, tax, labour, cement, blocks, water, the food and drinks etc

2. Settlement of Debts

When a Muslims dies, it is the duty of his immediate family to ask question as to who lend money or indebted by the decease. This is why Prophet Muhammad (P.B.U.H) often declined praying for a deceased who died without paying off his/her debts. In a Hadith Abu Hurairah reported that whenever a dead man in debt was brought to the prophet, the prophet would ask, “**Has he left anything to repay his debts?**” if he was informed that he left something to repay his debts, he would offer his funeral prayer, otherwise he would tell the Muslims to offer their friends funeral prayer³⁷.

3. Execution of Will (ALwasiyyah)

Wasiyyah is the legacies that you have will out to be given to another person, group of people or a community when you are no more. Wasiyyah shall not be written in favour of an heir and must not be above 1/3 of the except. Muslim way of bequest is different with other systems. In Islam one is not allowed to shared his inheritance by Will, but under some other systems,³⁸ like Lagos³⁹ Kaduna, Edo and Ogun State, in these states, one is allowed to share all his property (in his wil) to all his heirs or anybody of his choice.

1.8 Impediments to Inheritance and Exclusion to Inheritance⁴⁰

Under the Muslims law of succession, certain categories of persons do not inherit at all. This is the more reason why Islam has formulated a clear system of assets sharing on the death of an Individual and those who cannot inherit from the estate of their deceased relatives. There are

³⁷ ASKARI LITAFIN IRSHAD ALSALIK NA ALKALI MOHD PAGE 556[HAUSA TRANSLATION]

³⁸ Will Act of 1837, Will law of 1959, States will laws.

³⁹ Will laws of Lagos 2015

⁴⁰ Also barred is a man who disowns the paternity of a pregnancy through a stipulated process called LIAN. Q24:6 and 7 cannot inherit. But the mother and the child can inherit from one another. A child born out of wedlock he is not qualified to inherit, persons dying together do not inherit from one another. 2. those that dies at the same time or drowning together which is difficult to ascertain who die first. None of them inherit from one another,

basically three basic impediments under the Muslims law of succession, though there are other heir who are also barred⁴¹ from inheriting.⁴²

1.8. 1 The impediments to inheritance are;

1. Murderer

All Muslim jurists unanimously agreed that a murderer or one who killed another cannot inherit from the deceased estate. However, distinction has been made between intentional and unintentional killings. For example, the Maliki⁴³ school of thought considers the act of a mad man, self-defence, killing according to sharia as unintentional killing and does not bar ones from inheritance etc. However, he will be barred from benefitting any compensation (Diyya) ⁴⁴

Who international killed another person cannot inherit from him nor benefit from compensation (Diyya) paid.

2. Must be a Muslim

A Muslim cannot⁴⁵ inherit from the estate of a non-Muslim nor can an unbeliever inherits from him. This is to say that by implication, if a Muslim man marry a Christian woman both will not inherit from one another. However, in the case ABBA v Mary BAIKIE⁴⁶ in this case it held that a daughter who converted to Christianity has right to inherit her Muslim father's property. This is contrary to Shariah and the verdict was strongly criticised by all Muslims as unacceptable. By Islamic personal law, the father is also barred from inheriting from his non -Muslim daughter's property. This is based on of prophetic tradition '*Neither does a Muslim inherit a non-believer nor donon believer inherit a Muslim*'

⁴¹ A Yusuf and E.E Sheriff, Succession Under Islamic Law (Malthouse Lagos,2011)

⁴² Ibid. Sherif mentioned about 10 persons that are barred.

⁴³ A .Liman, Islamic Law of Inheritance: A Comparative perspective (Malthouse

⁴⁴ Mallam Muhammad Kani: Risala Hausa translation(1994) Kano

⁴⁵⁴⁵ In September, 2017 Tunisia promulgated a law permitting a non-Muslim to marry a Muslim woman and inherit from her. This is against the Shariah system.

⁴⁶⁴⁶ Suleiman I Inci and samaila A A mohammed: Islamic personal law and practice in Nigeria (1999) genesis press jos

3. **Slavery.**

A slave will not inherit and will not be inherited. Slavery is a block to inheritance. This is because all that he owns belong to his master.

1.8.2 **Rules of Exclusion from Inheritance**

One beauty of the Islamic inheritance system ahead of other inheritance systems is that the Islamic law has provided luculent structures of estate management, sharing formula, classes of heirs, rules on exclusion and impediments as well as who is to inherit, when and how. Under the Muslims law of succession, some heirs are either partially or permanently excluded⁴⁷ due to the presence of other heirs or blood relatives that are closer to the deceased than him. For example, where a woman dies and lives her husband alone, the husband takes half of the property. However, where there is a child, the Husband share is one forth. The father and mother original shares is one sixth where there is a male child. The mother takes one third in the absent of children. Of the deceased.

Reduction in an heir share of inheritance, partial or total exclusion is referred to HUIJUBU in the field of inheritance. Huijubu is divided into two. Huijubu Hirmani/ Huijubu Nukusani. Huijubu Hirmani is a total exclusion of an heir because who is inheriting alongside with him is more stronger in blood than him and Huijubu Nukusani this is when the share of an heir would be force to reduce because of the presence of other heirs. Six heirs can never be excluded. They are, the father 2. Mother 3. Husband 4. Wife 5. Daughter. 6 Son. there are other heirs that can be partially excluded and these heirs are, Husband 2. Wife .3. Mother 4. Son's daughter 5. Consanguine sister. We also have some classes of heirs that can be excluded totally. These heirs are ;True grandfather 2. Son's daughter 3. Full sister 4. Consanguine sister 5. Uterine sister

Those who are excludedbySon or Sons OF Deceased

1. Son of son 2. Brothers 3. Sons of brother 4. Uncles 5. Sons of uncles

Those excluded by Father of the Deceased

1. Grandfather 2. Brothers 3. Son of brother 4. Uncles 5. Sons of uncles

⁴⁷ A. Doi, *Basis of Shariah* (Printed by Gaskiya Corporation Ltd, Zaria, 1980)

Those excluded by Grand Father

1. Uterine brothers
2. Sons of brothers
3. Brothers of mother
4. Uncles
5. Sons of uncles.

Those excluded by Full Brother of the Deceased

1. Brother of father
2. Son of brother
3. Uncles
4. Son of uncles

Thos excluded by Consanguine Brother

1. Son of the brother
2. Uncle
3. Son of uncle

Those excluded by Uterine Brother⁴⁸

1. Son of uterine brother
2. Son of son of uterine brother
3. Father of uterine brother
4. Grandfather of uterine brother
5. Daughter of the uterine brother
6. Daughters of the sons of the uterine brother

Those excluded by the full Paternal uncle

1. Consanguine uncle
2. Sons of consanguine uncle
3. Son of son consanguine
- Uncles of the father of the deceased
4. Son of uncle of father

Those excluded by Consanguine uncle

1. Son of uncle
2. Son son's of Consanguine uncle
3. Son of uncle of father
4. Uncle of grandfather.

1.8 Arithmetical calculations and Distribution of Estate Among Eligible Heirs

One aspect of the Islamic law of succession that is difficult, complex, tactical and above all ineffable is the arithmetic of Islamic inheritance. One need to circumspect all his focus and attention in other not to do mistake. One mistake may lead to an uproar, obfuscation, family disunity and punishment⁴⁹ (In a careless mistakes)

Sharing and distribution has no specific time to commence. It can be one or two hours, two or three weeks, month or a year after the death or burial. Islam, burial of a person supposed to be immediate,

⁴⁸ Same Mother only with the deceased

⁴⁹ Q 4 v 10

although everything depends on the circumstance and where the deceased died. The burial and settlement of debts and execution of Wasiyyah, the estate of the deceased will be share among the legal heirs. Who get what depends on his/her closeness in relation to the deceased. The shariah system has clearly defined who get what when and how as share of inheritance.

Under the Muslim law of succession,⁵⁰ it is one of the responsibility of heirs to appoint any person who is learned in Islamic law to distribute the estate and if subsequently the matter is taken to Court the Court will implement it. “it is permitted to appoint an arbitrator and to enforce what he decides”⁵¹ before the real and Actual sharing, the heirs and the person appointed must ensure that the basic rights are implemented. The basic rights are, thus;

1.8.2 COLLATION AND CLOSING OF BUSINESS

When a man dies, all his business, properties, and everything about him need to be collated together, ascertained or in some cases stop. It is the responsibility of who so ever is in charge to stop all the business, assess, collect, value and gather all the estate/property for distribution. It is to be noted that the pseudo idea of devaluing property is not allow. The property must be value in the current market value not in a useless price. Heir heirs have all the right to devalued any of the property or sale at whatever price they wish. Consent of all heirs is what matters. Skeleton sharing is allowed in the interim because difficulty in gathering or bring some items in one place.

After all this is done, a special person with the knowledge and skills of Islamic inheritance should be call upon to distribute the estate. The man shall be paid on any amount agree. This kind of professional work is not usually done free. It is an expert work which requires training, experience, time and energy. However, if the distributors (Responsible for sharing and management) decide to it free Alhamdullilah. But if the demand for their labour, payment and out of pocket expenses must be given to them.

In the sharing and management of a deceased person estate, involved lots of process. The probate, the valuation, accounting, winding up, and above all calculation which will help to allocates portion by portion to deserving legal heir.

⁵⁰*Jiddun v Abuna* (2013) 1 SQLR Pt. 1 P.40

⁵¹ As’halul mudarik irshadis salik Vol.3 P. 209

1.8.3 A good examples of how the Calculations are made

Example 1

A man dies leaving behind total estate of 900,000 Naira, 3 wives, 12 daughters, 6 sons, father, mother, 5 full brothers and a grandmother.

The sharing is as follows

Wives $\frac{1}{8}$, Father $\frac{1}{6}$, Mother $\frac{1}{6}$, Sons and daughters residue⁵² Brothers excluded by presence of father while grandmother excluded by mother.

Our denominator here will be 24.

W	F	M	S/Ds
$\frac{1}{8}$	$\frac{1}{6}$	$\frac{1}{6}$	R
$\frac{3+4+4= 11.}{24}$ The residue share is $\frac{13}{24}$			
Wives shares $\frac{1}{8}$ from 900,000 = 112500.			
Each wife takes 37500			
Father share of $\frac{1}{6}$ from 900,000 = 150000			
Mother share of $\frac{1}{6}$ from 900,000 = <u>150000</u>			
Total 412500			
The residue is <u>487500</u>			
6 sons each share from 487500 = 81250			
12 daughters each shares from 487500 = 40625			
Shares of father, mother and wives 412500			
Residue sons and daughters <u>487500</u>			
Total 900,000			

⁵²(Residue is what remain when Alfara'id heirs take their shares. it is also called asabat nasabiyyah)

EXAMPLE 2

A man dies leaving behind total estate of 300,000, mother, father, wife and a son as heirs.

Here our common denominator is 24.

Mother	Father	Wife	Son
1/6	1/6	1/8	Residue
<u>4</u>	<u>4</u>	<u>3</u>	<u>1113</u>
	24		24

M $1/6$ of 300,000 x 4 24 = 50,000

F $1/6$ of 300,000 x 4 24 = 50,000

W $1/8$ of 300,000 x 3

24 = 37500

Son residue is 300,000 x 13

24 = 162500

EXAMPLE 3

A man dies leaving a total estate of 250,000, mother, wife, two daughters and full sister.

Wife Mother two daughters full sister

Here our common denominator is 24

1/8	1/6	2/3	R
<u>3</u>	<u>4</u>	<u>16</u>	<u>1</u>
	24		24

W $1/8$ 250,000 x 3

24 = 31250

M $1/6$ 250,000 x 4

24 = 41666.66

2D $2/3$ 250,000 x 16

$$24 = 166666.66$$

$$FS \frac{1}{24} 250,000 \times \underline{1}$$

$$24 = 10416.66$$

EXAMPLE 4

A man dies leaving behind total estate of 900,000 three wives and a daughter as the only heirs.

Here our common denominator is 8

Wife daughter

$$\frac{1}{8} \quad \frac{1}{2}$$

$$\frac{1}{8} + \frac{4}{8} = \frac{5}{8} \text{ Residue} = \frac{3}{8}$$

$$\frac{1}{8} \quad \frac{4}{8} \quad \frac{3}{8}$$

$$W \frac{1}{8} \text{ of } 900,000 \times \underline{1}$$

$$8 = 112500$$

$$D \frac{1}{2} \text{ of } 900,000 \times \underline{4}$$

$$8 = 450000$$

$$\text{Residue } \frac{3}{8} \text{ of } 900,000 \times \underline{3}$$

$$8 = 240,000$$

Note that residue goes to baytul mal i.e Islamic state treasury. This is because women generally do not form part of Asabat or those entitled to residuary as mentioned above.

CONCLUSION

Islamic inheritance law is ordained by Allah. The sources of the Islamic law of inheritance are the Holy Quran, the tradition of the Prophet, Ijma, and Qiyas. In Islam, there are about 35 verses of the Quran that luculently spoke about inheritance.

There is no doubt that Islamic Inheritance system stands unique in comparatism, with all other system of inheritance. The arithmetic, the distribution, the classes of heir and their numbers can never be seen in any of the inheritance systems (be it the Will laws or Customary law) this is the only system that make provisions for, Parents, grandchildren, siblings, mothers and widows to inherit with specific portion. The mechanism and method of sharing estate to eligible heir is made

simple. The Islamic Inheritance system restrict a testator's freedom of disposing of his property to the maximum of 1/3 and that a legal heir will not benefit from the testator's Will.

In Islam, Men and Women have same rights of inheritance. By same rights, does not in any way mean equal share. The justification of given men a double share of two female/daughters is in the area of responsibility attached to head of men. Men are responsible for family support, clothing, finally, in Islam, there are about twenty persons that inherit from one another and these classes can never be found in other system. Islamic system of distribution and sharing of deceased estate is superb, fair. Just and above all a system ordained by Allah.