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Dialogue on inheritance

From inheritance perspective, relatives fall into three categories.

The First Group

The deceased's parents, their offspring, and the third generation. However, by the offspring I mean the genealogical ones. In the presence of such offspring, they take precedence over the paternal and maternal grandchildren, i.e. the latter do not inherit anything.

The Second Group

The deceased's brothers and sisters; in their absence, their offspring, paternal and maternal grandfathers and grandmothers should be given their share of the inheritance. If the brother had offspring and grandchildren, the nearest to the deceased shall have precedence in the inheritance over the more remote relative.

- * Could you give me an example?
- In the presence of a nephew, he takes precedence over the son of a nephew.

The Third Group

Paternal and maternal uncles and aunts, and in their absence, their offspring shall have a right in the inheritance, according to the principle of the nearest blood relative comes first.

- * Why is it that relatives of the deceased are classified as such?
- The reason is that a person belonging to the lower category shall receive an inheritance only if there was no person in the higher category.
- * If the deceased did not have any person in all those categories, who will inherit him?
- The deceased's paternal and maternal uncles and aunts, mother, and their children or grandchildren

shall inherit him, if it is widely believed that they really relate to him. This, should, though, be applied without losing sight of the principle of the closest the relation, the more preference it warrants in getting a share of the inheritance.

- * I have noticed that, so far, you haven't mentioned the husband and wife in the three categories you told me about. Are they a special case?
- They inherit one another according to a special criterion in the presence of all those groups of relatives.
- * What if the deceased did not have any relative from the first category, except his offspring?
- They alone have the right to inherit him, even if there was one son or one daughter.
- * If they were all males or all females?
- The inheritance shall be divided equally between them.
- * If they were mixed?
- Allah, the Most High says in His Holy Book,

"Allah enjoins you concerning your children: The male shall have the equal of the portion of two females". (4/11).

- * Suppose a man died and left behind a son and a daughter. How should their inheritance be divided between them?
- The estate of the deceased should be divided into three portions, two of them go to the son and one to the daughter.
- * If the deceased did not have any relative from the first category, except one of his parents?
- The one who is alive takes all.
- * What division will be adopted, if both the parents were alive, and the deceased did not have brothers?
- His father gets the amount of two thirds and his mother gets one third.
- * What sort of allotments would the two parents and the daughter of the deceased get?
- One fifth of the estate goes to his father, a second fifth to his mother, and three fifths to his daughter.
- * In the event of the presence of one of the parents and a number of male and female children, what sort of shares would they get?

- One sixth goes to the parent, and the remainder should be divided pursuant to the principle of "the equal of the two portions of the female".
- * Can we now turn to the relatives of the deceased of the second category?
- Why not?
- * Suppose the deceased had either one brother or one sister; what shares would they get?
- The entire estate reverts to the brother or sister.
- * Should there be numerous brothers from both the parents, how would the allocation of shares be carried out between them?
- If they were all males or all females, the estate shall be divided equally between them. If the heirs were of both the sexes, the criterion of two shares for the male and one share for the female must be upheld. That is, if they all were traced to the same parents, or they were his half brothers from his father's side. If, however, they were half brothers from his mother's side, they shall receive equal shares irrespective of their number.
- * Well, paternal and maternal uncles and aunts are of the third category. Aren't they?
- Yes, they are.
- * Suppose the deceased did not have but either one paternal uncle or aunt, what would happen to the bequest?
- The entire estate reverts to that particular person.
- * Should there be numerous paternal uncles and aunts, what portions would they get?
- The bequest must be divided into three parts, two parts go to the paternal uncles and one to the maternal ones.
- * What about the inheritance of husband and wife?
- The wife has a special treatment when it comes to inheritance. She is not entitled to some items of the possessions of her dead husband. This includes capital assets such as any land, in general, or the value thereof.

She can, though, receive a share of the value of, not the corporeal, property left by her deceased husband, such as plantation and trees. She also gets her share after the property has been properly valued. The rest of the inheritors shall not have the right of disposal over any part of the estate that may yield a share to the wife, except with her approval.

- * What about other material possessions, i.e. other than those you have explained early on?
- Like other heirs, the wife inherits a share of the estate.
- * Does the husband inherit his wife?
- Yes, the husband can inherit his wife without restrictions. That is, movable or immovable property, including land.
- * In the event of the death of the wife, who had no offspring by him or from a previous marriage, what share would her husband get?
- The husband would get half of the estate, and the other half goes to the rest of the heirs.
- * If she had offspring?
- The husband takes one quarter of the estate; the rest shall be divided between the remaining heirs.
- * What share would befall a wife who had no children by her deceased husband?
- She would get one quarter of the estate, and the rest goes to the other heirs.
- * Suppose the husband had children, by her or from previous marriages, what would she get?
- She should get one eighth of the estate and the rest goes to the other heirs.

Although there are other rules governing inheritance, detailed in jurisprudence books, I should, however, mention few other points in this regard:

- 1. The eldest son of the deceased, exclusively, inherits certain items of the bequest, such as his copy of the Holy Qur'an, ring, sword, clothes, whether used or brand new. If there were more of these, [the eldest son should reach an agreement with the rest of the heirs. The same goes for other kinds of weapons, such as dagger and gun].
- 2. The murderer shall not inherit the murdered, if the murder was premeditated. Should the killing be accidental, inheritance should be upheld.
- 3. A Muslim can inherit a non-Muslim; the latter does not inherit the Muslim.

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