

## Section 2: Law of Inheritance

### Surah An-Nisa', Verse 11

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ فَإِن لَّمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَهُ أَبَوَاهُ فَلِأُمِّهِ الثُّلُثُ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ مِنْ بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ آبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفَعًا فَرِيضَةٌ مِّنَ اللَّهِ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

11. "Allah enjoins you concerning your children: The male shall have the equal of the portion of two females; and if they are more than two females, then they will have two-thirds of the inheritance; and if there is (only) one, she will have the half; and as for his parents, each of them shall have a sixth part of the inheritance if he has a child, but if he has no child and his parents be his heirs, then his mother shall have the third, and if he has brothers, then his mother shall have the sixth after (the payment of) a bequest he may have bequeathed or a debt. You do not know which of your parents and your children is closer to you in usefulness. (This is) an ordinance from Allah. Verily Allah is All-Knowing, All-Wise."

There are ordinances of inheritance mentioned in some other religions, too. For instance, in the Torah, the Book of Numbers, Chapter 27, verses 8 to 11 some laws of inheritance are referred to. They are as follows:

8. And thou shalt speak unto the children of Israel, saying, if a man die, and have no son, then ye shall cause his inheritance to pass unto his daughter.
9. And if he has no daughter, then ye shall give his inheritance unto his brethren.

10. And if he has no brethren, then ye shall give his inheritance unto his father's brethren.

11. And if his father have no brethren, then ye shall give his inheritance unto his kinsman that is next to him of his family, and he shall possess it: and it shall be unto the children of Israel a statute of judgment, as the Lord commanded Moses. 1

It should also be noted that Jesus (as) has approved, in the Bible, the same law of the Torah.

In Islam, the inheritance of a person, who has no inheritor, is given to the Islamic judge and Imam.

The pre-Islamic Arab deprived women and small children from inheritance.

## **The Portions of Inheritance**

In this verse, the ordinance of the first class of inheritors (children, fathers, and mothers) has been mentioned.

At first, it says:

***"Allah enjoins you concerning your children: The male shall have the equal of the portion of two females...."***

This meaning is a kind of emphasis on the portion of daughters taking from the inheritance and challenging with the traditions of the people in the Age of Ignorance who deprived women totally.

Then the verse denotes that if the heirs of the diseased are exclusively two daughters or more than that, two-thirds of the inheritance belongs to them. It says:

***"... and if they are more than two females, then they will have two-thirds of the inheritance..."***

But if there remains only one daughter, she will have half of the whole inheritance. The verse says:

***"... and if there is (only) one, she will have the half..."***

Now, the inheritance of fathers and mothers, who are also involved in the first class of inheritors and are in the same row with the children, is classified in three states:

The first state: is when the diseased person has an offspring or offsprings; then there will be one sixths of the inheritance for the father and again the same portion for mother. It says thus:

***"... and as for his parents, each of them shall have a sixth part of the inheritance if he has a child..."***

The second state: is when there exists no child and the inheritors are only the parents. In this case one thirds of the whole wealth belongs to the mother and the rest of it belongs to the father, as the verse

says:

***"... but if he has no child and his parents be his heirs, then his mother shall have the third..."***

The third state: is when the inheritors are only parents and he has no offspring but he has brother(S) from the side of his parents or only from the side of his father.

Then, the portion of the mother decreases from one third to one-sixth and the remaining five-sixth of the inheritance belong to the father. It says:

***"... and if he has brothers, then his mother shall have the sixth..."***

In fact, brothers, who do not inherit anything, prevent the additional amount of the inheritance of the mother, and that is why, in Arabic language, they are called /hajib/ '**chamberlain**'.

Then, the Qur'an says that all of these things are after fulfilling the bequest that the diseased has bequeathed, and paying his debts, saying thus:

***"... after (the payment on a bequest he may have bequeathed or a debt..."***

It should be noticed, of course, that only one third of the property can be bequeathed on. Therefore, if a person bequeaths more than that, it is not valid unless the heirs permit.

In the next sentence, it says:

***"... You do not know which of your parents and your children is closer to you in usefulness..."***

Then, at the end of the verse, it remarks that:

***"... (This is) an ordinance from Allah. Verily Allah is All-Knowing, All-Wise."***

This statement is considered as an emphasis upon the former subjects so that there remains no place for people to bargain about the laws of the portions of inheritance.

## **Why Is the Inheritance of Man Equal of the Portion of Two Women?**

With reference to the Islamic literature we realize that this question has actively existed in the minds of people since the beginning of Islam. They sometimes asked questions from the leaders of Islam on this regard.

For example, it is narrated that Imam Ali-ibn-Musa-ar-Rida, in answer to this question, said:

*"The fact that the portion of women from inheritance is equal to the half of the portion of men is for the reason that when a lady marries she takes something (dower) and man should give something."*

In addition to that, the life expenses of the wife are upon the man while a woman has no responsibility for the expenses of man as well as that of herself."<sup>2</sup>

## Surah An-Nisa', Verse 12

وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِنْ لَمْ يَكُنْ لَهُنَّ وَلَدٌ فَإِنْ كَانَ لَهُنَّ وَلَدٌ فَلَكُمْ الرَّبْعُ  
مِمَّا تَرَكَنَّ مِنْ بَعْدِ وَصِيَّةٍ يُوَصِّينَ بِهَا أَوْ دَيْنٍ وَلَهُنَّ الرَّبْعُ مِمَّا تَرَكَتُمْ إِنْ لَمْ يَكُنْ  
لَكُمْ وَلَدٌ فَإِنْ كَانَ لَكُمْ وَلَدٌ فَلَهُنَّ الثُّمْنُ مِمَّا تَرَكَتُمْ مِنْ بَعْدِ وَصِيَّةٍ تُوَصُّونَ بِهَا أَوْ  
دَيْنٍ وَإِنْ كَانَ رَجُلٌ يُورَثُ كَلَالَةً أَوْ امْرَأَةٌ وَلَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا  
السُّدُسُ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ مِنْ بَعْدِ وَصِيَّةٍ يُوصَى بِهَا  
أَوْ دَيْنٍ غَيْرِ مُضَارٍّ وَصِيَّةً مِنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَلِيمٌ

12. "And you will have half of what your wives leave, if they have no child. But if they have a child, then you shall have a fourth of what they leave after (the payment of) any bequest they may have bequeathed or a debt; and they shall have a fourth of what you leave if you have no child, but if you have a child, then they shall have an eighth of what you leave after (the payment of) a bequest you may have bequeathed or a debt. And if a man or a woman leaves property to be inherited by neither parents nor offspring, and he (or she) has a brother or a sister, then each of them two shall have a sixth, but if they are more than that, they shall be sharers in a third after (the payment of) any bequest that does not harm (others). (This is) an ordinance from Allah and Allah is Knowing, Forbearing."

### Inheritance of Spouses from Each Other

In this verse, the explanation of the heritage of spouses from each other is stated. The verse, says:

**"And you will have half of what your wives leave, if they have no child..."**

But if they have a child or children, even if they are from another husband, only one fourth of her property belongs to you. It says:

**"... But if they have a child, then you shall have a fourth of what they leave..."**

This distribution is, of course, after paying the debts of the wife and fulfilling her bequests upon financial affairs, as the verse says:

**"... after (the payment of) any bequest they may have bequeathed or a debt..."**

And, if you have not any child, there will be a fourth of your heritage for your wives. It says:

**"... and they shall have a fourth of what you leave if you have no child..."**

Then, the portion of your wives will be one eighth of your property, except for the land the explanation of which is stated in jurisprudential books. It is in the case that you have a child, even though this child is from another wife. It says:

**"... but if you have a child, then they shall have an eighth of what you leave..."**

This division, similar to the previous division, is also done after the fulfilment of the bequest you have bequeathed and paying the debts. The verse continues saying:

**"... after (the payment of) a bequest you may have bequeathed or a debt..."**

Then, it states the ordinance of the inheritance of sisters and brothers, when it says:

**"... And if a man or a woman leaves property to be inherited by neither parents nor offspring, and he (or she) has a brother or a sister, then each of them two shall have a sixth..."**

The Arabic term /kalalah/ is used for the maternal sisters and brothers who have inheritance from the deceased person. This situation is in the condition that there remains a maternal brother and sister from the deceased person. But if they are more than one, they will have, on the whole, one third. That is they must divide one third of the property among themselves.

**"... but if they are more than that, they shall be sharers in a third..."**

Then it adds that this is in the case that the bequest be performed formerly and the debts be separated from the property.

**"... after (the payment of) any bequest ..."**

And, it is in the condition that it does not harm the inheritors through the bequest or confessing a debt.

**"... that does not harm (others)..."**

So, at the end of the verse, for an emphasis; it says:

**"... (This is) an ordinance from Allah and Allah is Knowing, Forbearing."**

That is, this is a divine order which you must respectfully observe and He, Who has enjoined you these ordinances, is cognizant of your interests and expedients, and He is also aware of the intentions of the testators; yet, in the meantime, He is Forbearing and does not punish promptly those who treat against His command.

## Surah An-Nisa', Verse 13

تِلْكَ حُدُودُ اللَّهِ وَمَنْ يُطِعِ اللَّهَ وَرَسُولَهُ يُدْخِلْهُ جَنَّاتٍ تَجْرِي مِنْ تَحْتِهَا الْأَنْهَارُ  
خَالِدِينَ فِيهَا ذَلِكَ الْفَوْزُ الْعَظِيمُ

**13. "These are limits (set) by Allah; and whoso obeys Allah and His Messenger, He will admit him into gardens beneath which rivers flow, to abide therein forever; and this is the great success."**

Following the discussion of inheritance in the previous verse, here, in this verse, the concerning laws are referred to as '*the divine limits*', where it says:

**"These are limits (set) by Allah..."**

These are some limits which are forbidden to pass over or transgress. Therefore, those who transgress and break the bounds of these laws are known as sinners and criminals.

Then, it speaks about those who respect these limits by observing them, saying:

**"...and whoso obeys Allah and His Messenger, He will admit him into gardens beneath which rivers flow, to abide therein forever..."**

And, at the end of the verse, it adds:

**"... and this is the great success,"**

## Surah An-Nisa', Verse 14

وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَهُ يُدْخِلْهُ نَارًا خَالِدًا فِيهَا وَلَهُ عَذَابٌ مُهِينٌ

**14. "And whoso disobeys Allah and His Messenger, and transgresses His limits, He will admit him in Hell-Fire, to abide therein, and he shall have an abasing torment."**

In this verse, other side of the coin is discussed about and those groups, who are opposite to the people mentioned in the previous verse, are referred to. It says:

**"And whoso disobeys Allah and His Messenger, and transgresses His limits, He will admit him in Hell-Fire, to abide therein..."**

Then, at the end of the verse, the final fate of such people is pointed out, where it says:

**"... and he shall have an abasing torment."**

In the former sentence, the bodily punishment of the Lord was referred to, while in this concluding sentence, which speaks about abasing torment, the spiritual aspect of that punishment is pointed out.

## **Surah An-Nisa', Verse 15**

وَاللَّاتِي يَأْتِينَ الْفَاحِشَةَ مِنْ نِسَائِكُمْ فَاسْتَشْهَدُوا عَلَيْهِنَّ أَرْبَعَةً مِّنْكُمْ فَإِنْ شَهِدُوا  
فَأَمْسِكُوهُنَّ فِي الْبُيُوتِ حَتَّىٰ يَتَوَفَّاهُنَّ الْمَوْتُ أَوْ يَجْعَلَ اللَّهُ لَهُنَّ سَبِيلًا

**15. "And as for those of your women who are guilty of lewdness, call to witness four of you (Muslims) against them; then if they bear witness (to the fact), confine them to the houses until death takes them away or Allah makes some way for them."**

The punishment of filthy women who have husband and are polluted with lewdness is pointed out in the above verse, where it says:

**"And as for those of your women who are guilty of lewdness, call to witness four of you (Muslims) against them..."**

Then, the verse continues saying:

**"... then if they bear witness (to the fact), confine them to the houses until death takes them away ..."**

Thus, the punishment of lewdness for the women who have husband has been assigned **'life imprisonment'** in this verse.

But, immediately after that, it says:

**"... or Allah makes some way for them."**

From the above mentioned sense, it is understood that this ordinance had been a temporary ordinance, because later the holy Prophet (S) issued the divine ordinance of **'stoning'**, the explanation of which is found in Islamic literature and the books of jurisprudence where you may refer to it.

## Surah An-Nisa', Verse 16

وَالَّذَانَ يَأْتِيَانَهَا مِنْكُمْ فَادُّوهُمَا فَإِنْ تَابَا وَأَصْلَحَا فَأَعْرِضُوا عَنْهُمَا إِنَّ اللَّهَ كَانَ  
تَوَّابًا رَحِيمًا

**16. "And when two of you commit it (lewdness) punish them both, but if they repent and amend, then turn aside from them. Verily Allah is Oft-returning (to mercy), the Merciful."**

In this verse the ordinance of fornication is stated. It indicates that the man and woman, who have not spouses and commit this indecent action, lewdness, both must be punished. It says:

**"And when two of you commit it (lewdness) punish them both..."**

The punishment mentioned in this verse is a general punishment, while verse No.2 from Surah Nur, No.221, which assigns one hundred stripes for each of the two parties, can be an explanation upon the above verse.

At the bottom of the verse, it points to the matter of repentance and forgiveness about these kinds of sinners, and says:

**"... but if they repent and amend, then turn aside from them. Verily Allah is Oft-returning (to mercy), the Merciful."**

In the meantime, it is understood from this ordinance that the persons who have repented of their faults should never be blamed for their former sins.

## Surah An-Nisa', Verse 17

إِنَّمَا التَّوْبَةُ عَلَى اللَّهِ لِلَّذِينَ يَعْمَلُونَ السُّوءَ بِجَهَالَةٍ ثُمَّ يَتُوبُونَ مِنْ قَرِيبٍ فَأُولَئِكَ  
يَتُوبُ اللَّهُ عَلَيْهِمْ وَكَانَ اللَّهُ عَلِيمًا حَكِيمًا

**17. "Verily repentance with Allah is only for those who do evil ignorantly and then repent soon. So, these are they toward whom Allah returns (mercifully) and Allah is All-Knowing, All-Wise."**

In the previous verse, the subject of the fulfilment of stripes upon those who commit indecency, fornication, as their punishment with repentance, was clearly stated. In the above verse, some of its conditions are mentioned, too. It says:

***"Verily repentance with Allah is only for those who do evil ignorantly..."***

The purpose of the usage of the term '*ignorantly*' in the above mentioned verse is the violence of instincts and the domination of the strong low desires, and their conquest over the strength of intellect and faith.

In this state, the knowledge of man about sins, although does not vanish completely, under the influence of those strong instincts becomes affected and, actually, remains futile. So, when the knowledge of man loses its effect, it will practically be equal to ignorance.

In the next sentence, the Qur'an has pointed to one of other conditions of repentance, where it says:

***"... and then repent soon..."***

That is, they regret from their actions soon and return to *Allah*, since a complete repentance is that which, on the whole, wipes out the remaining effects of sins from the spirit and mind of the person.

After mentioning the conditions of repentance, the verse concludes as such:

***"... So, these are they toward whom Allah returns (mercifully) and Allah is All-Knowing, All-Wise."***

## **Surah An-Nisa', Verse 18**

وَلَيْسَتِ التَّوْبَةُ لِلَّذِينَ يَعْمَلُونَ السَّيِّئَاتِ حَتَّىٰ إِذَا حَضَرَ أَحَدَهُمُ الْمَوْتُ قَالَ إِنِّي تُبْتُ الْآنَ وَلَا الَّذِينَ يَمُوتُونَ وَهُمْ كُفَّارٌ أُولَٰئِكَ أَعْتَدْنَا لَهُمْ عَذَابًا أَلِيمًا

***18. "And repentance is not for those who go on doing evil deeds until death comes to one of them, he says: 'Verily now I repent', nor for those who die while they are disbelievers. Those are they for whom We have prepared a painful torment."***

Those whose repentance is not accepted is referred to in this verse. It says:

***"And repentance is not for those who go on doing evil deeds until death comes to one of them, he says: 'Verily now I repent,'..."***

The second group whose repentance is also not accepted are those who pass away while they are infidels. The verse says about them:

***"... nor for those who die while they are disbelievers..."***

In fact, the verse indicates that those who have repented from their sins and they had been safe and sound and had a good faith, but at the time of death they were not faithful, their former repentance is futile, too.

At the end of the verse, it says about both groups:

**"... Those are they for whom We have prepared a painful torment."**

## **Surah An-Nisa', Verse 19**

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَحِلُّ لَكُمْ أَنْ تَرِثُوا النِّسَاءَ كَرِهًا وَلَا تَعْضُلُوهُنَّ لِتَذْهَبُوا  
بِبَعْضِ مَا آتَيْتُمُوهُنَّ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُّبَيِّنَةٍ وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ فَإِنْ  
كَرِهْتُمُوهُنَّ فَعَسَى أَنْ تَكْرَهُوا شَيْئًا وَيَجْعَلَ اللَّهُ فِيهِ خَيْرًا كَثِيرًا

**19. "O' you who have Faith! It is not lawful for you to inherit the women against their will, and do not straiten them in order that you may take a part of what you have given them, unless they are guilty of manifest lewdness; but deal kindly with them, and if you hate them, it may be that you dislike a thing while Allah has placed abundant good in it."**

### **Occasion of Revelation**

It is narrated from Imam Baqir (as) that the above verse was revealed about the men who used to keep their wives without treating with them as a spouse, waiting for their death in order to possess their properties.<sup>3</sup>

The verse may hint to the fact that only the wealth is heritable, and the wife of a man after his death does not belong to anyone as heritage. After the death of her first husband, a woman can choose another husband with her own decision.

### **Explanations**

1. Islam is the defender of the rights of women.

**"O' you who have Faith! It is not lawful for you to inherit the women against their will..."**

2. Women have the right of possession.

**"...to inherit the women..."**

3. Conjugal life should be based on mutual love, not on taking possession of wealth.

4. Taking back the dower forcefully is unlawful.

*"... and do not straiten them in order that you may take a part of what you have given them..."*  
*"... unless they are guilty of manifest lewdness..."*

5. Women should be treated well.

*"... but deal kindly with them ..."*

6. Many of goodnnesses lie among the unpleasant things.

*"... and if you hate them, it may be that you dislike a thing while Allah has placed abundant good in it."*

## Surah An-Nisa', Verse 20

وَإِنْ أَرَدْتُمْ اسْتِبْدَالَ زَوْجٍ مَّكَانَ زَوْجٍ وَآتَيْتُمْ إِحْدَاهُنَّ قِنطَارًا فَلَا تَأْخُذُوا مِنْهُ شَيْئًا  
أَتَأْخُذُونَهُ بُهْتَانًا وَإِثْمًا مُّبِينًا

**20. "And if you intend to take one wife in place of another and you have given one of them a considerable property then do not take anything of it. Would you take it by slandering (her) and with manifest wrong? "**

At the Age of Ignorance, when some men desired to marry another wife, he would denigrate his first wife so that she had to remit her dower in order that the husband might divorce her. After that, the husband could marry another woman with the same dower that he had taken back. This verse blames the custom of the pagans of that time.

### Explanations

1. Remarriage is admissible from the point of Islam.

*"And if you intend to take one wife in place of another..."*

2. Divorce is in the authority of man.

3. Islam is the defender of the rights of women, and prohibits it if the second marriage might waste the rights of the first wife.

*"... and you have given one of them considerable property ..."*

4. Wives have possession and their whole wealth must be given to them completely.

*"... then do not take anything of it..."*

5. One of the worst sorts of transgression is taking the property of others by justifying, denigrating and defaming them.

*"... would you take it by slandering (her) and with manifest wrong? "*

## Surah An-Nisa', Verse 21

وَكَيْفَ تَأْخُذُونَهُ وَقَدْ أَفْضَىٰ بَعْضُكُمُ إِلَىٰ بَعْضٍ وَأَخَذْنَ مِنكُم مِّيثَاقًا غَلِيظًا

**21. "And how can you take it (back) when one of you has already gone in to the other and they have taken from you a firm covenant?"**

This verse indicates that in the fulfilment of propagations and forbidding wrong, human's affections should be utilized either. (You that, for a long time, have had a whole relationship with your wife and have obtained your wishes, why do you take back her dower unjustly now?) Then, at the time of misfortunes of life, former pleasures should be remembered, too.

*"And how can you take it (back) when one of you has already gone in to the other? ..."*

The marriage contract is a firm covenant; therefore, breach of promise is not proper.

*"... and they have taken from you a firm covenant."*

## Surah An-Nisa', Verse 22

وَلَا تَنْكِحُوا مَا نَكَحَ آبَاؤُكُمْ مِنَ النِّسَاءِ إِلَّا مَا قَدْ سَلَفَ إِنَّهُ كَانَ فَاحِشَةً وَمَقْتًا وَسَاءَ سَبِيلًا

**22. "And do not marry women whom your father married, except what has already passed; verily it is indecent and hateful and it is an evil way."**

One of the customs in the pre-Islamic era of Ignorance was that whenever a person passed away, his offspring would marry their step mother (*their fathers' wife*).

It happened that one of the Helpers, called Abu-Qays, passed away and his son suggested to marry his step mother. The woman said that she should ask the matter from the Messenger of *Allah* (S). When she went to the Prophet (S) and told him the matter, this verse was revealed and prohibited the marriage with step mother.

***"And do not marry women whom your father married, except what has already passed;  
Verily it is indecent and hateful and it is an evil way."***

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1. The Holy Bible containing the Old and New Testaments, Printed by: London, the British and Foreign Bible Society.

2. Al-Burhan, vol. 1, p. 347

3. Al- Tafsir-ul-Burhan, vol. 1. p. 426; & Al-Tafsir-us-Safi, vol. 1, p. 480

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