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The Inheritance of Brothers and Sisters

[Brothers and Sisters](#)

In the opinion of the Sunni schools, brothers and sisters inherit in the absence of the son and the father,¹ and inherit jointly with the mother and daughters. According to the Imamiyyah, they do not inherit except in the absence of parents, children and the children's children, male or female. Brothers and sisters are of three kinds:

1. full,
2. agnate (consanguine),
3. cognate (uterine).

[Full Brothers and Sisters](#)

The following situations pertain to the inheritance of full brothers and sisters:

1. Where males and females inherit together and there does not exist along with them any sharer or residuary (i.e. in the absence of the father, mother, daughter, grandmother, son and son's son), they are entitled to the whole estate and distribute it in accordance with the rule that a male receives twice a female's share.
2. Where they consist of males, or males and females, and there is along with them a uterine brother or sister, the uterine brother or sister will take one-sixth and the remainder will go to the full brothers and sisters, a male taking the share of two females. If there are two or more uterine brothers or sisters, they are entitled to one-third irrespective of their sex, with the remainder going to the full brothers and sisters.
3. Where the decedent has a full sister, she is entitled to a half as her share; if more than one, their share is two-thirds. If there does not exist along with a full sister or sisters a daughter or any uterine brothers and sisters, or *sahih* grandfathers² and *sahih* grandmothers, the remainder, according to the

Imamiyyah, will return to the sister or sisters.

The other four schools say: The remainder will return to the residuaries who are: the full paternal uncle, and in his absence the agnate paternal uncle, in his absence the full paternal uncle's son, and then the agnate paternal uncle's son, and in his absence the remainder will return, according to the Hanafi and the Hanbali schools, to the sister or sisters because only the sharers are entitled to the return conditional on the absence of residuaries; but according to the Shafi'i and the Maliki schools the remainder will escheat to the *bayt al-mal*.

To sum up, the position of full sisters is like that of daughters; a single sister takes a half, and two or more two-thirds, and if they inherit jointly with full brothers they divide the estate, with a male taking twice a female's share.

4. The Sunni schools say: If the decedent has a full and an agnate brother, the former will inherit to the exclusion of the latter, and the agnate brother will take the full brother's place in his absence.

If the decedent has full sister and one or more agnate sisters the full sister takes a half and the agnate sister or sisters one-sixth, except when there is also an agnate brother, in which case they are entitled along with their brother to a half, which they distribute in the proportion of a male taking twice a female's share.

If the decedent has full and agnate sisters, the full sisters are entitled to two-thirds and the agnate sisters receive nothing unless accompanied by an agnate brother, in which case they, along with their brother, are entitled to the remainder, which they distribute in the proportion of a male receiving twice a female's share.

To sum up, a full brother excludes an agnate brother; a single full sister does not exclude agnate sisters; and full sisters exclude the agnate sisters from inheritance when not accompanied by a male counterpart.

The Imamiyyah state: Full siblings exclude agnate siblings irrespective of their number and sex. Therefore, if the decedent leaves behind a full sister and ten agnate brothers, she will inherit to their exclusion.

5. If there is with a sister or sisters a daughter or two daughters of the deceased, the daughter or daughters will take their respective Qur'anic share of half or two-thirds, and the remainder, according to the Sunni schools, will go to the sister or sisters; a son's daughter is exactly like a daughter in this respect.

The Imamiyyah observe: The whole estate will go to the daughter or daughters and the sisters will receive nothing.

Agnate Brothers and Sisters

Agnate brothers and sisters take the place of full brothers and sisters in their absence, and the same rule applies to both. A single sister will receive a half and two or more sisters two-thirds; the principle of 'return' is similarly applicable to both in the manner mentioned earlier.

Uterine Brothers and Sisters

Uterine brothers and sisters do not inherit in the presence of the father, the mother, the paternal grandfather, children, sons' daughters (i.e. the uterine brothers and sisters are excluded by the mother, the daughter and the son's daughter). [3](#)

We have mentioned earlier while discussing the inheritance of the mother and the daughter that according to the Sunni schools full and agnate brothers and sisters inherit with the mother and the daughter. Rather, if they are present along with daughters' children, it is only they, according to the four Sunni schools, who inherit by excluding the daughters' children, even if they are males.

The uterine brothers and sisters are not excluded by the presence of full or agnate brothers and sisters, and a single uterine brother or sister inherits one-sixth; if more than one, they inherit one-third, irrespective of their sex, and, according to consensus, they share the inheritance equally, with a female receiving a share equal to that of a male.

A Subsidiary Issue

The author of *al-Mughni* observes: if there exists a full, an agnate and a cognate sister, the first will take a half, and the second and the third one-sixth, with the remainder returning to them in the proportion of their shares. This implies that the corpus be divided into five parts, the full sister taking three of them and the other two sisters one each.

The Imamiyyah say: The full sister will take a half and the uterine sister one-sixth, without the agnate sister receiving anything because of her exclusion by the full sister; the remainder will return solely to the full sister. [4](#) Here the corpus will be divided into six parts, five of them going to the full sister and one to the uterine sister.

Children of Brothers and Sisters

The four Sunni schools say: An agnate brother excludes from inheritance a full brother's son, and the full brother's sons exclude the agnate brother's sons. As to the children of sisters of all kinds (full, agnate and uterine), the uterine brothers' children and the full and agnate brothers' daughters, all of them belong to the group of distant kindred who do not inherit anything in the presence of full or agnate paternal uncles and their children. In the absence of full or agnate uncles and their children, they are entitled to inherit in the opinion of the Hanafi and Hanbali schools, while according to the Shafi'i and Maliki schools

they are not so entitled and are considered essentially incapable of inheriting and the estate escheats to the *bayt al-mal*⁵ (*al-Bidayah wa al-nihayah*, vol. 2, p. 345, and *al-Mughni*, vol. 6, p. 229).

The Imamiyyah state: The children of brothers and sisters of all kinds do not inherit in the presence of even a single brother or sister of any kind, and when no brother or sister is present, their children take their place, each taking the share of the person through whom he is related to the decedent. Hence, one-sixth is the share of the son of a uterine brother or sister, and one-third is the share of the children of uterine brothers when the number of the brothers is more than one.

The remainder goes to the children of a full or agnate brother, the full brother's children excluding the agnate brother's children. Hence an agnate brother's son does not inherit with a full brother's son. The children of uterine brothers and sisters share the inheritance equally among themselves like their parents, while the children of agnate brothers and sisters share their inheritance with disparity, a male taking twice a female's share, like their parents.

The higher in generation among the brothers' and sisters' descendants exclude those of the lower generation; hence a brother's grandson is excluded in the presence of a sister's daughter, in accordance with the rule that the nearer excludes the remote. The children of brothers, like their parents, inherit jointly with the grandparents in the absence of their parents; hence, a brother's or sister's son will inherit with the paternal grandfather, and similarly the great grandfather will inherit with the brother in the absence of the grandfather.

¹ Regarding the inheritance of brothers and sisters in the presence of the paternal grandfather, the Sunni schools differ among themselves. This is discussed in the part on grandparents of this section.

² A "sahih" grandfather, in the terminology of Sunni fuqaha', is one between whom and the decedent no female intervenes (e.g. the father's father), and a sahii grandmother is one between whom and the decedent no "fasid" grandfather intervenes (e.g. the mother's mother). The intervening of a "fasid" grandfather (e.g. the mother's father's mother) makes the grandmother also a "fasid" grandmother.

³ According to the Sunni schools, a daughter excludes uterine brothers and sisters from inheritance, though not full or agnate brothers and sisters, despite their opinion that where a sharer and a residuary are present, the distribution will start with the sharer and the remainder will go to the residuary, and a uterine brother or sister is included in sharers while full and agnate brothers or sisters are residuaries. Hence it was obligatory here that the daughter not exclude a uterine brother and sister, or if she were to affect such exclusion, to exclude all kinds of brothers and sisters as observed by the Imamiyyah.

⁴ The Imamiyyah do not give the return to a uterine brother or sister where they jointly inherit with a full or agnate brother or sister; the return goes only to the latter.

⁵ On the basis that full or agnate brother's sons are regarded as residuaries and the brother's daughters as distant kindred, the four schools concur that if the decedent leaves behind a full or agnate brother's son who is accompanied by his own full sister, he takes the whole estate to her exclusion.

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