

Illustrations

A study of the above discussion will show that in many cases the four Sunni schools exclude women and those related through them from inheritance. The daughter's children, paternal aunts, uterine paternal uncles, the maternal grandfather, maternal uncles and maternal aunts are not entitled to inheritance in the presence of any of the residuaries who are relatives of the deceased through the father.

A full, or agnate, brother's daughter does not inherit with her own brother, and similarly a paternal uncle's daughter does not inherit with her own brother. Had there not been an explicit mention in the Qur'an of the inheritance of daughter, agnate sister, or sisters, and uterine brothers and sisters, their situation would have been similar to that of other female relatives and those related through them.

This was the practice during the *Jahiliyyah* during which the system of inheritance was biased in favour of males and the practice of restricting inheritance to the eldest son who bore arms and fought was prevalent. Where there was no child capable of bearing arms, they gave the inheritance to the relatives of the father.

The reader has observed throughout the discussion of the Sunni system of inheritance that a woman inherits only where her share has been specifically mentioned in the Qur'an or where *qiyas* leads to her being considered equal to a female sharer --such as where a son's daughter is considered equivalent to a daughter. Apart from this, women are deprived from inheritance.

The Imamiyyah have considered both males and females as equally entitled to inherit, and the following examples illustrate this.

1. Where the decedent has left behind a daughter and a full or an agnate brother:

The four schools: Daughter: $\frac{1}{2}$ Brother : $\frac{1}{2}$

The Imamiyyah: The whole estate goes to the daughter to the exclusion of the brother.

2. Where the heirs are a daughter and the mother:

The four schools: Mother: $\frac{1}{6}$ Daughter: $\frac{3}{6}$

The remaining $\frac{2}{6}$ will be taken by the paternal grandfather if present, otherwise by the full brother, in their absence by the agnate brothers, and so on in the descending order of residuaries.

The Imamiyyah: Mother: $\frac{1}{4}$ Daughter: $\frac{3}{4}$

The residuaries receive nothing.

3. Where the deceased is survived by the parents and daughter's children:

The four schools: Mother (in the absence of a *hajib*): $\frac{2}{6}$ Father: $\frac{4}{6}$

The daughter's children receive nothing.

The Imamiyyah: Mother: $\frac{1}{6}$ Father: $\frac{2}{6}$ Daughter's children: $\frac{3}{6}$

4. Where a woman is survived by her parents and husband:

The four schools: Husband: $\frac{6}{12}$ Mother: $\frac{2}{12}$ Father: $\frac{4}{12}$

The Imamiyyah: Husband: $\frac{3}{6}$ Mother: $\frac{2}{6}$ Father: $\frac{1}{6}$

5. Where the heirs are the parents and a wife:

The four schools: Wife: $\frac{3}{12}$ Mother: $\frac{3}{12}$ Father: $\frac{6}{12}$

The Imamiyyah: Wife: $\frac{3}{12}$ Mother: $\frac{4}{12}$ Father: $\frac{5}{12}$

6. Where the father and daughter inherit:

The four schools: Father: $\frac{1}{2}$ Daughter: $\frac{1}{2}$

The Imamiyyah: Father: $\frac{1}{4}$ Daughter: $\frac{3}{4}$

7. Where the daughter and the paternal grandfather are present:

The four schools: Daughter: $\frac{1}{2}$ Grandfather: $\frac{1}{2}$

The Imamiyyah: The daughter inherits the whole estate to the exclusion of the grandfather.

8. Where the decedent is survived by a wife, the mother, and the paternal grandfather:

The four schools: Wife: $\frac{3}{12}$ Mother: $\frac{4}{12}$ Grandfather: $\frac{5}{12}$

The Imamiyyah: Wife: $\frac{1}{4}$ Mother: $\frac{3}{4}$

The grandfather receives nothing.

9. Where the decedent is survived by the paternal and maternal grandfathers:

The four schools: The whole estate is inherited by the paternal grandfather with the maternal grandfather receiving nothing.

The Imamiyyah: Paternal grandfather: $\frac{2}{3}$ Maternal grandfather: $\frac{1}{3}$

10. Where the decedent is survived by the maternal grandmother and the maternal grandfather:

The four schools: The whole estate is inherited by the maternal grandmother to the exclusion of the maternal grandfather.

The Imamiyyah: Maternal grandmother: $\frac{1}{2}$ Maternal grandfather: $\frac{1}{2}$

11. Where the decedent is survived by the maternal and paternal grandmothers:

The four schools: They will together inherit $\frac{1}{6}$ which they will distribute equally, and the remainder will go to the highest in the order of residuaries, and in their absence it will revert to the grandmothers in the opinion of the Hanafi and Hanbali schools, and escheat to the *bayt al-mal* in the opinion of the Maliki and the Shafi'i schools.

The Imamiyyah: Maternal grandmother: $\frac{1}{3}$ Paternal grandmother: $\frac{2}{3}$

12. Where the decedent leaves behind a son's daughter and a daughter's daughter.

The four schools: The son's daughter is entitled to a half and the remainder is given to the residuary without anything being given to the daughter's daughter.

The Imamiyyah: Each one of them will take the share of the person through whom they are related;

Son's daughter: $\frac{2}{3}$ Daughter's daughter: $\frac{1}{3}$

13. Where the decedent leaves behind a daughter's son and a son's daughter:

The four schools: The son's daughter gets a half and the remaining half goes to the residuary, without the daughter's son receiving anything.

The Imamiyyah: Daughter's son: $\frac{1}{3}$ Son's daughter: $\frac{2}{3}$

14. Where the decedent leaves behind a daughter and a son's daughter:

The four schools: Daughter: $\frac{3}{6}$ Son's daughter: $\frac{1}{6}$

The remainder goes to the residuary.

The Imamiyyah: The daughter takes the whole estate to the exclusion of the son's daughter.

15. Where the decedent is survived by two daughters and a son's daughter:

The four schools: Two or more daughters receive two-thirds and the remainder goes to the residuary, with the son's daughter receiving nothing.

The Imamiyyah: The whole estate goes to the daughters.

16. Where the decedent leaves behind two daughters, son's daughters and a son's son:

The four schools: The two daughters receive two-thirds and the remaining one-third goes to the son's daughters and son's son who distribute it with a male receiving twice the share of a female.

The Imamiyyah: The whole estate goes to the two daughters without the son's children receiving anything.

17. Where the decedent is survived by a daughter and a full or agnate sister:

The four schools: Daughter $\frac{1}{2}$ Sister $\frac{1}{2}$

The Imamiyyah: The whole estate goes to the daughter and the sister receives nothing

18. Where the decedent leaves behind 10 daughters and a full or agnate sister:

The four schools: Sister: $\frac{1}{2}$ 10 daughters: $\frac{1}{2}$

The Imamiyyah: The 10 daughters are entitled to the whole estate without the sister receiving anything.

19. Where the decedent is survived by a daughter and a uterine brother:

The four schools: The daughter receives a half as the sharer and the remainder goes to the residuaries.

The uterine brother receives nothing.

The Imamiyyah: The whole estate goes to the daughter.

20. Where the decedent leaves behind a daughter, a full or an agnate sister, and a full or an agnate paternal uncle:

The four schools: Daughter $\frac{1}{2}$ Sister $\frac{1}{2}$

The paternal uncle receives nothing.

The Imamiyyah: The daughter receives the whole estate.

21. Where the decedent is survived by a full or an agnate paternal uncle and a similar aunt:

The four schools: The uncle receives the whole estate to the exclusion of the aunt.

The Imamiyyah: Uncle: $\frac{2}{3}$ Aunt: $\frac{1}{3}$

22. Where the decedent leaves behind a daughter and a full or an agnate paternal uncle:

The four schools: Daughter: $\frac{1}{2}$ Uncle: $\frac{1}{2}$

The Imamiyyah: The whole estate goes to the daughter.

23. Where the decedent is survived by a daughter, a full or an agnate paternal uncle's son and a uterine paternal uncle:

The four schools: Daughter: $\frac{1}{2}$ Uncle's son: $\frac{1}{2}$

The uncle receives nothing.

The Imamiyyah: The whole estate goes to the daughter.

24. Where the decedent leaves behind maternal uncles and aunts and a full or an agnate paternal uncle's son:

The four schools: The paternal uncle's son receives the whole estate without the maternal uncles and aunts receiving anything.

The Imamiyyah: The maternal uncles and aunts will take the whole estate without the paternal uncle's son receiving anything. The method of distributing the estate between the maternal uncles and the maternal aunts has been mentioned earlier while discussing their inheritance.

25. Where the decedent is survived by a paternal uncle's daughter and a full or an agnate paternal uncle's son:

The four schools: The whole estate goes to the paternal uncle's son without the paternal uncle's daughter receiving anything, even where she is the full sister of the paternal uncle's son.

The Imamiyyah: Uncle's daughter: $\frac{1}{3}$ Uncle's son: $\frac{2}{3}$

26. Where the decedent leaves behind a maternal grandfather and a full or an agnate paternal uncle:

The four schools: The paternal uncle takes the whole estate to the exclusion of the maternal grandfather.

The Imamiyyah: The whole estate is inherited by the grandfather to the exclusion of the paternal uncle.

26. Where the decedent is survived by a full or an agnate brother's son and five sons of another full or agnate brother.

The four schools: The estate will be divided according to the number of sons and not as per the number of fathers. Hence the estate will be divided into six parts with each receiving one part

The Imamiyyah: The estate will be divided into as many parts as there are fathers and not into as many parts as there are heirs; each will receive the share of the person through whom he is related to the deceased. Hence one brother's son will receive five-tenths and the other brother's five sons will together receive five-tenths, each getting one-tenth.

27. Where the decedent leaves behind a brother's son and a full or an agnate brother's daughter:

The four schools: The male will inherit not the female, even though she is his full sister.

The Imamiyyah: They inherit jointly, the male receiving twice a female's share.

These examples are enough to give a complete picture of the intrinsic difference between the rules of inheritance of the Imamiyyah and the rules of inheritance of the Sunni schools.

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