



## Inheritance: No, Women Did Not Get the Short End of the Stick

### OVERVIEW OF THE ELEVEN INHERITANCE VERSES

This chapter and Chaps. 13, 14 and 15 will cover women’s socio-economic rights in the Qur’an. We begin with the subject of inheritance, which may appear a strange place to start rather than the more obvious topics of marriage or divorce, for example. But in building a socio-economic identity for women, the Qur’an introduces their right to inherit as a pillar of its vision for a just society, so it is a good place to start.

There are several critical things to understand about the **eleven Qur’anic verses** dealing with the subject of inheritance:

- The introduction of new inheritance rules **occurs upfront in the chapter entitled “Women”, and expands the pre-existing pool of beneficiaries from adult men only to now include women and children.**
- It is **woven into an impassioned defence of orphans** (4:2–4:12) which begins immediately after the very first verse 4:1 on the creation and nature of women, regarding which I argued earlier that reference to “the wombs” must refer to *all* human beings and not just blood ties (an understanding that is reinforced by this ensuing emphasis on orphans).
- The three verses referencing inheritance allocations (4:7, 4:11, 4:12) that are interspersed within this defence of **orphans—who were understood to be women who lacked supporting menfolk,**

**widows as well as bereaved children**—make reference to the following groups of beneficiaries, facts and behaviours:

- men and women, parents and kinsfolk, sons and daughters, **orphans** and **the needy**, husbands and wives, brothers and sisters
  - **allocations** to the official beneficiaries, i.e. close blood relatives and spouses
  - **charity** and **kindness**
  - **usurpers of orphans’ rightful inheritances**
  - **special bequests** and **debts**
- Another three verses refer to the morality and etiquette that God expects at the distribution of an inheritance (4:8, 4:9, 4:10) and are also interspersed within this same defence of orphans, including **an instruction to offer some of one’s inheritance to non-inheriting relatives, orphans and the needy who may be present at the division, accompanied by appropriate words of kindness addressed to them.**
  - Yet another three verses (4:32, 4:33, 4:34) a little later on in the same chapter, some of which I have already touched upon, speak of the principle of fairness behind the new inheritance rules and specifically about **men inheriting more so long as they (continue to) support their womenfolk, establishing a clear conditionality for the 2:1 ratio for sons-to-daughters** laid out earlier in 4:11.
  - A tenth verse on inheritance (4:176) comes as the very last verse in the chapter “Women”, and speaks of specific allocations in additional scenarios, including mention of a 2:1 ratio for brothers-to-sisters when they are eligible for inheritance.
  - Finally, a verse (2:240) that appears in the middle of a lengthy discussion of divorce in a different chapter specifies what a widow must receive as a minimum, namely one year’s maintenance and a residence until she re-marries.

So 10 of these 11 verses on inheritance appear in the fourth chapter of the Qur’an, entitled “Women”.

Below are excerpts from these verses on inheritance just cited that touch upon the non-numerical aspects, namely the **Qur’anic morality behind the inheritance system**:

Women, 4:7

Unto men is a share of what parents and kinsfolk leave, and unto women a share of what parents and kinsfolk leave, be it little or much—a share ordained.

In yet another example of God’s attentiveness in the Qur’an to injustices suffered by women, it is recorded that verse 4:7 was revealed in connection to a widow with three daughters who had been left destitute by her husband’s male heirs under the pre-Qur’anic inheritance laws.<sup>1</sup>

Women, 4:8–10

And when kinsfolk and orphans and the needy are present at the division, make provision for them from it, and speak to them kind (*maarroof*) words.

And let those who may leave behind them weak offspring fear that they may have (reason) to fear for them; so let them reverence God, and speak justly.

(For) Those who consume the wealth of orphans unjustly are only consuming fire in their bellies, and will endure a blazing flame.

Incidentally, **adopted children inherit the same as biological children**, in case there is any doubt. First, because the Prophet had proclaimed loudly of his adopted son Zayd, a former slave: “All ye who are present, bear witness that Zayd is my son; I am his heir and he is mine.”<sup>2</sup> And second, because the Qur’an’s pronouncement on adoption many years later was simply that the surname of an adoptee not be changed so that their lineage can be known for the purpose of licit marriage, but no other change in prevailing custom was decreed (more on this in Chap. 14, in the section “Muhammad’s Marriages”).

<sup>1</sup>Nasr, Seyyed Hossein (editor-in-chief) et al. 2015. *The Study Quran: A New Translation and Commentary*. New York: HarperCollins Publishers, 192. Typically, pre-Islamic Arabia practised primogeniture—restricting inheritance to the eldest son—which “concentrated wealth in a limited number of enormous estates”, which the Qur’an now flatly outlawed—see Smith, Huston. 2001. *Islam: A Concise Introduction*. New York: HarperOne, 61.

<sup>2</sup>Lings, Martin. 1988. *Muhammad: His Life based on the Earliest Sources*. London: Unwin Hyman Limited, 38.

Women, 4:11–12

[a long section listing specific allocations]...after paying any bequest he may have bequeathed or any debt...

[another long section listing further specific allocations]...after paying any bequest they (women) may have bequeathed ... after paying any bequest you (men) may have bequeathed ... after paying any bequest he may have bequeathed or any harmless debt...

Regarding 4:11 above, which first mentioned the inclusion of women as heiresses: “When the verse was first revealed, there was much resistance to it among the Prophet’s followers, who were stunned that women and minor children, who could not fight and were not entitled to shares of booty obtained in battle, should inherit a significant portion from their husbands and fathers.”<sup>3</sup>

The Qur’an itself does not give further guidelines or mention any limitations on bequests and debts beyond mentioning them in 4:11 and 4:12. However it is said that the Prophet instructed the following: (a) that a deceased person’s legitimate debt to another (but that is not overly burdensome to their heirs) be paid first from their estate; (b) that special bequests never exceed one-third of what remains after debt; and (c) that bequests not be made to someone who is already guaranteed a legal share, e.g. a favourite child, for example.<sup>4</sup>

Women, 4:32

And do not covet what God has favoured some of you with over [at the expense of] others: for men is a share for what they have earned, and for women is a share for what they have earned. But ask God of His bounty, for God is the Knower of all things.

Verse 4:32 was already cited in Chap. 11’s sections “Work” and “Activism”, when **the Qur’an recognised women’s contributions to the survival and wellbeing of the community as work after they lobbied for it to be so**, which meant that they would henceforth also be able to inherit.

Women, 4:33–34

...Those to whom you have given your oath, give them their share, for God is a witness over everything.

<sup>3</sup>Nasr et al. *Op. Cit.*, 193.

<sup>4</sup>Ibid., 194–5.

Men are upholders/maintainers (*qawwamūn*) of women with whatever God has favoured some with over others [other men], and with whatever they spend of their wealth [on them]...

And finally to round off the substantive inheritance references in this chapter comes verse 4:34 above, which leaves no doubt that this verse relates to inheritance allocations and corresponding responsibilities and not to men's "guardianship" over women because they are "preferred" or "better", as previously pointed out. The tenth verse on inheritance in this chapter is the last verse, 4:176, and simply lists further specific allocations relating to siblings.

As a matter of fact, elsewhere in the Qur'an a verse on parenting after divorce reinforces the point made in 4:34, namely that inheritance allocations correspond directly to family responsibilities and not to any favouritism on the part of God of one gender over another:

The Cow, 2:233

And mothers may nurse their children for two whole years, for those who wish to complete the nursing; and it is incumbent on the father to provide for them [the mothers] and clothe them in a kindly (*maarroof*) manner...And what was incumbent (upon the father) is incumbent upon the heir...

which means that if the father dies, his primary male heir/s has/have a duty to provide for his still-nursing ex-wife. For example, if the father leaves behind one son as primary heir, then he would be responsible for the upkeep even of his father's nursing ex-wife, i.e. his ex-stepmother and half-sibling.

But perhaps most interestingly and tellingly, **the Qur'an allocates no financial responsibilities to women the way it does to men—even as it assures them, like men, of an independent economic identity with multiple potential sources of inheritance income.**

The eleventh verse on inheritance which can be found in another chapter addresses the minimum that a widow must receive, with her total potential inheritance being a function of applying the inheritance verses above:

The Cow, 2:240

And (for) those of you who die leaving behind wives, a bestowal to their wives of provision for a year and (there is to be) no expulsion [from the dead husband's property]. But if they move out [i.e. re-marry], there is no blame

upon you (pl.) in whatever they may do with themselves honourably. For God is Mighty, Wise.

Unfortunately some have interpreted the above to mean that a widow's residence in her late husband's home is also capped at one year,<sup>5</sup> not just the maintenance she is entitled to while she remains single, despite the wording.

### THE BIG "WHY"

For nearly three weeks as I contemplated the inheritance topic as laid out in the Qur'an, determined to understand mathematically the three verses that specify allocations (4:11, 4:12, 4:176), my questions only mounted. I am a huge fan of Excel spreadsheets and love financial modelling of all kinds, but this exercise was doing my head in. Eventually I got it, and was relieved to find that my understanding of how to allocate an inheritance converged more or less with how it appears to be done in practice in my admittedly limited experience. I also got why it is said that: "The specificity of these Quranic injunctions led to a whole science called the 'science of inheritance' and played an important role in the development of the science of algebra by Muslim mathematicians",<sup>6</sup> and marvelled at the kind of mind that can visualise the whole without the help of Excel!

But understanding "how" to divvy up an inheritance is not the same as understanding "why" the rules were drawn up as they were. Too many questions swirled in my head:

- Why do the prescribed allocations often not seem to add up to 100%, either overshooting or undershooting?
- Why is there a mention of bequests, when the rules are telling us exactly who is eligible for inheritance and how much they should get?
- Why is the allocation to a deceased person's mother, but not father, specified in six scenarios, with only one scenario mentioning both parents, basically to say that they would inherit equally in that case?

In other words while I had come to understand how the rules are to be implemented—and that there is room for society to decide on *how* to

<sup>5</sup> Ibid., 105.

<sup>6</sup> Ibid., 194.

implement them in some instances to be discussed further on—I still did not truly understand **why the complexity within seemingly finite boundaries, precision within apparent elasticity, or the special attention to mothers** when daughters, on the face of it at least, did not get much.

As mentioned in the Preface, the process of writing this book has been a spiritual journey for me, one filled with joyful surprises. Sometimes new insights would develop gradually as my investigation progressed and then climaxed in an overwhelming sense of grateful certainty. Sometimes confirmation of a verse’s meaning would come suddenly with startling clarity of thought, or with a novel angle that underscored and refined the track I was on. And at other times, a thought would come in what would feel like a direct message planted in my head out of nowhere, like a lightning bolt shot through my mind as I sat in silent invocation, asking for help in understanding something.

The word “pagoda” was one of those lightning bolts. After days of agonising over the “why” of the Qur’anic inheritance system and yearning to understand it more fully, I knew exactly what was meant when I sensed the word suddenly light up in my mind. I knew what a pagoda was, and I remembered reading an interesting article about Japanese pagodas and earthquakes in *The Economist* magazine once, though I had not thought of them since. So I went online and searched *The Economist’s* website and found the article: to my amazement, I realised that I had read it over 20 years ago.

The article begins by asking how Japan’s approximately 500 and very tall wooden pagodas could have remained intact for centuries in the face of the typhoons and earthquakes that plague its lands. After arriving from China in the sixth century, apparently the Japanese extended the eaves significantly away from the building so that heavy rainfall would not wash down the walls and into the ground below, softening it and eventually weakening the pagoda’s foundation. There is a pillar in the centre called a *shinbashira* and despite appearances, it is not like the trunk of a tall tree that flexes with the elements to avoid snapping in two, but carries no weight at all: in fact, it is often suspended from above and may not even touch the ground, for the entire building is supported by sturdy pillars forming two concentric squares, a large outer square and a smaller inner one. Meanwhile since pagodas are multi-storey and are shaped somewhat like pyramids, a lower floor has a greater surface area than the floor above it so the sturdy pillars at the base that carry the weight of the building do

not connect with their corresponding pillar above, no matter how many storeys there are! Nor are the individual storeys attached to one another, but are simply stacked on top of each other with nothing more than loose wooden brackets for joints to allow the floors to glide around.

So the question that arises is why the *shinbashira* is there in the first place if it has no structural role to play. If a massive force were to hit the pagoda from one side, the loosely stacked storeys would glide around independently of one another, with each floor moving in the opposite direction to the floors just above and below it, as if the building were doing a snake dance. What this massive column running through a hole in the centre of the building does is prevent each storey from swinging too far in one direction as it bangs up against the *shinbashira*'s steadying force, which additionally then absorbs some of that kinetic energy and disperses it safely into the ground. The extra-wide and heavily tiled eaves that extend out on all sides, meanwhile, allow the pagoda to maintain its balance in the face of a violent thrust, through a gentle swaying. As the article concludes:

...So the secret of the Japanese pagoda's enduring strength and stability is out. It is in effect the sum of three mutually reinforcing factors: the inertia of its extra wide eaves, the freedom of the loosely-stacked storeys to slither to and fro independent of one another, and, above all, the energy-absorbing capacity of the ingenious *shinbashira*.<sup>7\*</sup>

As I re-read this article after more than two decades, I felt that I understood the fundamental “whys” of the Qur’anic inheritance rules. Simply put, it is **a system designed to distribute wealth** (rather than energy) in a manner that ultimately:

- **benefits every member of society irrespective of gender and age**, by including both the vertical beneficiaries, i.e. children and parents, as well the horizontal beneficiaries, i.e. spouses and siblings (the wide eaves)
- **confers a measure of economic freedom and security** upon a deceased person’s relatives, in accordance with their relationship to the deceased *and* their socially accepted familial responsibilities (the loosely stacked storeys)

<sup>7</sup>The Economist. 1997. An Engineering Mystery: Why pagodas don't fall down. December 18.



- **promotes stability** by narrowing economic differences within society across gender and age (the stabilising *shinbashira*)

### THE TECHNICAL “WHYS”

If the pagoda analogy is one way of understanding the fundamental “whys” of the inheritance system, where does that leave the technical “whys” that had swirled in my head, especially the three questions I mentioned earlier? With the image of a pagoda now in mind, consisting of **verticality and horizontality, fluidity and stability**, I could begin to imagine why inheritance instructions may have been framed the way they were.

- **On allocations not adding up to 100%**

When the specified allocations to legal heirs fall short of 100%, they open up **room for human agency** to determine what to do. For example in the early days the balance went to the surviving father of the deceased, who was still regarded as the primary heir, on top of his legal share, but there are other possibilities: the Shiite view and a minority Sunni one is typically in favour of an only daughter as the primary heir rather than the father (assuming both are in play), who would then receive the balance on top of whatever her legal share is.<sup>8</sup> This is just one scenario to show the kind of complex decision-making involved.

When the specified allocations to legal heirs exceed 100%, again human agency must come into play and the way this has typically been done is to decide whose allocation gets calculated first, so that the rest follows as a proportion of the reduced estate that remains. The early view and typical Sunni approach has been to prioritise the calculation for spouses and then parents, while the typical Shiite one has been to prioritise surviving mothers, then spouses, then fathers.<sup>9</sup> (The Qur’an has children receiving their portions only after spouses and parents have received their specified allocations, which is clearly indicative of its moral hierarchy.)

<sup>8</sup> Nasr et al. *Op. Cit.*, 193.

<sup>9</sup> *Ibid.*, 193.

All these approaches have merits and make sense to me at some level, though my initial thought was that a pro rata approach to make everything add up to 100% would have been the most straightforward. But even so, the question would still be “why”: why such specific allocations if they don’t settle the distribution once and for all?

I believe the specified allocations to legal heirs are meant to serve as both minimums and maximums, so that when the distribution falls short of 100% we as heirs are nudged to **redirect any balance remaining towards those who seemed uppermost in God’s mind as He revealed in those verses on inheritance: the orphans, the needy, and non-inheriting relatives who could use a hand.**

It is this explanation that speaks to my heart, because it would mean **taking into consideration the totality of what the inheritance verses convey, namely the morality behind them and not only the allocations to the legal heirs indicated.**

I also believe that God left us room to adapt the rules to the situation of our time and place and perhaps even our particular family, so that when the allocations *exceed* 100% we can prioritise as we deem appropriate, so that it is up to us to decide whose portion to calculate first, spouse’s or parent’s. Perhaps it is a matter of culture, or the age of the parents. The point is, room for interpretation could not have accidentally been built into these allocation verses and must have been intentional.

Lastly, I believe that by not limiting the number of heirs to a narrow few such as spouses, parents and children but making others contingent heirs, such as siblings when there are no children<sup>10</sup> and grandchildren,

<sup>10</sup>For references to when siblings inherit, see 4:12 and 4:176. In both verses, siblings inherit only when the deceased has no children. In 4:12, brothers and sisters inherit equally, but in 4:176, brothers and sisters inherit in a 2:1 ratio, as with sons and daughters. Early/classical commentators took 4:12 to refer to half-siblings (probably since it specifically cites the absence of direct heirs), and 4:176 to refer to full siblings (see Asad, Muhammad. 2003. *The Message of the Qur’an*. Bristol, England: The Book Foundation, 120). Others, however, say that 4:12 is *replaced* by 4:176 on this issue (see Nasr et al., *Op. Cit.*, 194), i.e. that part of it is abrogated or cancelled so that brothers always inherit twice as much as sisters whether “full” or “half”, a concept I am personally uncomfortable with as I believe every word in the Qur’an has its rightful place, and because the context of 4:12 of there being no direct heirs implies that half-siblings only inherit if there are no full siblings (who would constitute direct/blood heirs). This question of abrogation, i.e. of one verse supposedly cancelling out another, will be revisited with regard to another, more controversial topic in Part V, namely the question of sex outside marriage.

in the customary view, when there is no direct heir in the vertical line,<sup>11</sup> we are deliberately left with a non-finite system that can stretch when needed to ensure that an inheritance is not concentrated in the hands of a mere few.

- **Bequests**

And what of bequests? I could understand right away the Qur’anic instruction to honour a deceased person’s debt from their estate as the very first step, so long as it is not overly burdensome or too infringing upon the estate so as to disadvantage the heirs too severely. But with such an extended and seemingly elastic family entitled to an official share in any inheritance, is there room really for bequests by the deceased to an unrelated stranger, typically through a will, by up to as much as a third of the estate?

Once again, to my mind **this points to the value system that the Qur’an tries to promote even as it guarantees rightful creditors and heirs their due.** Perhaps one wants to say “thank you” to a friend who had stood by one in a time of need by leaving that friend a gift. Perhaps one empathises with a neighbour’s challenges in life and would like to make a contribution from their estate to ease things for them. Or perhaps one wants to leave a donation to an organisation that does good work in tackling a social problem close to one’s heart. By formally including personal bequests in the Qur’anic vision for the division of an inheritance, it is as if **every human being is called upon to continue to exercise their free will and choose their own legacy in the final act of their life on earth.**

- **Mothers**

Verse 4:11 is striking in that it mentions that the parents of a deceased person each inherit one-sixth of the estate if the deceased also leaves behind children; but that the *mother’s* share doubles to one-third if there are no children, though if there are no children but there are siblings her share remains at one sixth—*without mention of the father in either case*. What this means in practice (when combined with siblings’

<sup>11</sup>The Qur’an does not make reference to grandchildren as heirs. If there are no children or other direct heirs, it does however make reference to siblings or half-siblings then inheriting. But custom has interpreted the absence of a “direct heir” in 4:12 to refer to the vertical line of ascendants and descendants only, i.e. excluding siblings, which can then open the way to a grandchild also inheriting in lieu of their deceased parent and great-grandparent, although I did not come across a reference that clarified the portion they would then receive or if that then left any siblings out altogether.

shares per 4:176) is that when there are no children a father's share is calculated as a balance or remainder *after* the mother and/or mother-plus-siblings (and of course spouse) have been allocated their share, with the mathematical result being that **a surviving father may receive the same as the surviving mother, twice as much, or half as much.**

What this manner of formulating the share of parents conveys to me is **a clear desire by God to secure a bereaved mother first, over and above a bereaved father—a remarkably symbolic gesture and acknowledgement of the special place that motherhood holds in creation** that cannot possibly be overlooked. Of course, it also underscores women's independent financial identity in the Qur'anic worldview by not lumping both parents into a single inheriting entity.

#### HOW FAIRNESS TURNS TO INJUSTICE OVER TIME WHEN WE OVERLOOK JUST ONE VERSE

If I were to take stock of what I have learnt from looking into the question of inheritance in the Qur'an, I would say this: that the entire system of inheritance is constructed so as to sway while keeping society stable, **by allowing for human agency within a pragmatic framework meant to reduce poverty/income inequality and support one's responsibilities, while weaving women deliberately and specifically into every single pronouncement on allocations.**

Even a preliminary review by the reader, if they are willing to play around with pen and paper or Excel a bit, of the specific allocation verses will show that **there are occasions when women would receive the same or more than men, despite the headline instruction that a daughter receive only half of a son's inheritance (within a particular social construct where men support women—verse 4:34, which is reconfirmed in 2:233).** The instructions readily point to scenarios where surviving parents would receive the same inheritance, a bereaved mother would receive more than the father, a lone sister would receive the same as what a lone brother would, and where inheriting brothers and sisters receive the same thing.

The Qur'anic system of inheritance, in other words, is somewhat fairer and certainly more progressive than the headline "daughter gets half the son's share" would have us believe. There is no question that it is a system

that has served a huge swathe of humanity well over the centuries, men and women alike.

But we have a huge number of instances where **women today do contribute to the welfare of their families, community and society in a direct, monetary way and not only in-kind, as had been the case at the time** of the Qur'anic revelation.

A **daughter** today may literally be contributing financially to support her parents' household or to educate a younger sibling or support an unemployed one, for example. In such a context, surely the Qur'anic paradigm of linking inheritance shares to family responsibilities (4:34) itself requires that her share be at least the same as her brother's. Likewise for a **sister**, when there are no children and siblings inherit in their place (though in the case of half-siblings when there are neither children nor full-siblings, half-sisters and half-brothers already receive an equal share—see footnote 149).

Likewise a **wife** today may be a contributor to household income alongside her husband. In such a context, surely the Qur'anic paradigm of linking inheritance shares to family responsibilities (4:34) again itself requires that her share as a widow be the same as her husband's as a widow, i.e. 50% of her husband's estate, and not just 25% (4:12).

It is my personal view that religious authorities responsible for divvying up inheritances should consider the particular case of the family in question to ensure that inheritance shares to men and women broadly correlate with the heirs' responsibilities, so as to determine if the 2:1 ratio should apply or if indeed a 1:1 ratio in the case of daughters and sons, for example, would be more compatible with the Qur'anic message. I believe this is a necessary step at this time for any society that genuinely cares about complying with the Qur'anic directive on inheritance.

It really is as simple as that. **Just as there is no body without soul, there is no scripture without morality, and the Qur'an actually spells out its moral and values system for us with regard to inheritance:** it relates to sharing our good fortune with orphans, the needy, and hard-up relatives; it is about charity and kindness; it is about safeguarding the property of defenceless orphans; it is about honouring our debts and the freedom to make bequests only after we have done so; **and it is about understanding that we receive less or more inheritance in a manner that corresponds to a) our relationship to the deceased and b) whether or not we find ourselves supporting our family members.**

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