



BISMILLĀHIR RAHMĀNIR RAHĪM

Inheritance (Part 1)

18.01.20 - Mawlānā Suhail Manya



INTRODUCTION

The life that Allāh swt has granted us is limited. All of creation will have to return to Allāh swt one day. Our time is also limited. Everything Allāh swt has created must come to an end. There is only One Being who has no beginning, nor end, and that is Allāh swt. We entered this world and we will leave this world with the *hukm* of Allāh swt. We know our date of birth, but only Allāh swt knows our date of departure.

This is the beauty of our *dīn*. This is the beauty of our relationship with Allāh swt - a relationship of love. Allāh has kept us in suspense. We love Allāh swt and Allāh swt loves us. We await a message from our beloved. We should remain excited that Allāh swt will call us at any moment.

We live an illusion thinking we will live till 60, or we will retire at 65. We are deluded if we think we come from a family of strong genes and we will live long. If genes determined life and death, then there is no human being who had better genes than *Rasūlullāh* ﷺ. We have to understand and accept that death is a reality - and it **WAJIB** upon us to prepare for this death.

Preparing ourselves for death and the hereafter is compulsory just like we understand salah to be compulsory.

Whilst we reside in the *dunyā*, there are two rights upon us

- *Huqūqullāh* (rights of Allāh swt)
- *Huqūq ul 'ibād* (rights of fellow creation)

When death comes, the doors of fulfillment of the rights of Allāh swt will have ended. There will be no more opportunities. The moment we see the angels (of death), it will have all come to an end. It is too late to do anything then. Just like Fir'awn tried to believe in the last moment, but it was too late.

Whilst we are here, we still have time. We have strength, we have health, we have intelligence we have means, we have family members. This is the best time to realise the rights of Allāh swt and of others.

In comparison to *huqūqullāh*, *huqūq al 'ibād* are more severe. To meet the criteria of the latter is far more stringent than the rights of Allāh swt. This is because Allāh swt is All Forgiving and All Merciful. When we forget the rights of Allāh swt, He can and will still forgive us and grant us mercy. On the Day of Judgment, we will be ready to throw anyone into Jahannam to save ourselves.

Inheritance is link to both *huqūqullāh* and *huqūq al 'ibād*. The rules of inheritance were divinely revealed. They came directly from Allāh subhānahu wa ta'ālā. There is absolutely NO discretion allowed in inheritance.

If we don't fulfill a right of a fellow human being, remember on the Day of Judgement they will come to get their rights, a day where everyone will be ready to sacrifice anyone for them to be saved. Those people who were not given their right of inheritance will have a great opportunity on the Day of Judgment to take the rewards of those who took that right from him/her.

INHERITANCE (PART 1)

In our community, we make more mistakes than what we do right when it comes to inheritance.

Every inheritance case is different. The rules of inheritance are there to eliminate all arguments/fights that may occur due to inheritance.

Inheritance is the wealth distributed AFTER someone's death. If anything is distributed whilst the person is alive then that is not classed as inheritance, and hence no rules apply! The rules of gifting are different to the rules of inheritance.

The rules are not easy. You will not know everything after this course. You will need two lifetimes to understand everything. In every situation, you will require the expertise of the *'ulamā*.

We need to have a will ready. Women should have a will too, not only men.

There is no bequest for that person who is an heir. You cannot leave in your will that I leave such and such for my son/daughter; this is wrong and haram! You cannot bequest for an heir.

There is a huge difference between a will according to British law and *Shari'ah* law. We need to know the difference – this will be covered in Part 2.

Inheritance in Islam is very detailed and most comprehensive than any other religion. It is the branch which is most difficult to master. Our wealth comes from Allāh swt and belongs to Allāh swt and hence, it should be distributed according to Islam!

Why do men get two shares and women get one?

There is no financial responsibility on any women in Islam. A woman has no responsibility in terms of finance so of course it's fair. Men are responsible to financially support their family.

Importance of learning about inheritance:

The branch of inheritance is also known as *Ilm ul Faraidh* – it is called this because the laws are fixed and determined. It is *faradh* to act upon them. It comes in Hadīth that learn the knowledge of inheritance as it is half of knowledge of *Shari'ah*. *Nabi* ﷺ has also said learn it and teach it. The first branch of knowledge which will be taken away from my *ummah* is the knowledge of inheritance. *Hadrat Umar* would say that just as you learn and teach the Qur'ān with so much emphasis, in a similar manner, learn and teach the rules of inheritance.

You cannot leave instructions that you want your wealth to be distributed in the manner that you want it to, rather, you have to do it according to Islam. Otherwise, there are two big sins involved here. One is that you are usurping the rights of those who it belongs to. You will not smell the fragrance of *Jannah* until this will all be solved on the Day of Judgment. The second major sin is that we are acting more knowledgeable than Allāh swt as we think our way of distributing should take preference over the way of Allāh. It was never our wealth in the first place.



Why should we leave ourselves in such a situation where we distribute wealth wrongly - are we going to enjoy that inheritance? We will be in our graves. Our children will be spending lavishly and enjoying the money we left behind, whilst our doors of *tawbah* will be closed. So make sure you your inheritance is done according to Islam.

Aws *bin* Thabit was a *sahabi* who passed away. His two paternal cousins barged into the home and took everything, leaving nothing. The wife thought they took everything anyway so let me marry my two daughters to these two cousins so at least my daughters can benefit from the wealth. Both cousins said no. The wife of Aws *bin* Thabit went to Nabī ﷺ for advice as they had nothing left. An *āyah* was revealed:

“For men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave, be it little or much - an obligatory share.”
(Surah Nisā, Āyah 7)

Allāh swt mentioned the rights of both genders separately so he may warn the males who wanted to pounce on the wealth of their sisters. Even if your father left behind £5, there is a share for all brothers and sisters. Don't utilise your own intelligence in direct contrast to the laws of Allāh swt! Don't think the money can be distributed between the sons and the gold within the sisters. There is no such a thing! It has to be done accordingly to what Allāh swt has said!

Nabī ﷺ called the paternal cousins. The wife got 12.5%. The two daughters got 21.87% each. The son got 43.7%.

Sequence after one has died:

1. Set aside all their possessions and wealth including the most insignificant of items e.g. shaver, vests, microwave.

Everything in the property has an owner, even the spoons, sofas etc. There needs to be a sheet of paper of who owns what! Everyone has a share, even in the deceased's clothing's. You can't just decide yourself and put the clothes in charity yourself.

Hadrat Muftī Shafī Sahib when he passed away, his sons said we weren't worried at all. We knew exactly what belonged to him and our mother. Everything in his room belonged to him and he didn't allow anything that didn't belong to him in his room.

There needs to be a determined owner for everything.

When it comes to joint accounts, you need to know whose was what. The problem 'ulamā are facing is that people have joint accounts and they don't know how much belonged to the deceased and how much his spouse. The ulama CANNOT figure it out for you. You need to document how much percentage the deceased own in the joint account.
There is no such thing as 'ours'!

What to do with the deceased's wealth:

1. Funeral expenses (around £2500) - only for ghusl, kafan and burial.
2. Pay their debts off
3. Bequests (1/3)
4. Distribution according to inheritance

You need to have a clear record of what people owe you and what you owe people!

When you feed people who come from afar to visit the family of the deceased, it cannot be taken from the wealth of the deceased. This is not the time to entertain and feed people. It is not the time of catering.

If you put a gravestone, don't take it from the wealth of the deceased; there is no such thing as flowers and gravestones etc. You cannot take the money from the estate of the deceased.

Funeral expenses only incorporates the expenses of bathing, shroud, soaps and perfume, plot (grave) in the cemetery and the transportation of the hearse.

Bequests:

- You can bequest one third only!
- You can bequest to non-heirs only!

If someone hasn't got any money, who will pay for the burial expenses? If the wife was going to get 1/8, she will contribute 1/8th of the expenses. If the son was going to get 40%, he will contribute 40% of the expense. If the daughter was going to inherit 20%, she will contribute 20% of the expense. If someone has no one, we as a community should cover the costs. We should have a pot.

Debts:

After drawing the funeral expenses, ascertain whether the deceased has left any unpaid debt. Should the deceased leave behind a house of £150,000 and also have debts equal to that amount, then the house will need to be sold in order to pay off the debts. The inheritors in this case will receive nothing.

Only if anything remains after clearing the debt will be distributed amongst the inheritors in accordance to *shari'ah*. If the inheritors refuse to clear the debts, then the money they wrongfully seized will be deemed *harām*.

Family members should be notified of the debts so that they know beforehand. We live in times where people will lie and come to claim money that your deceased family members 'apparently' owned them.

If someone leaves debt behind, the children can come together and pay it off from their own assets, but they do not need to.

If someone leaves *qadhā salāhs*, fasts, *fidya*, *kaffarahs* etc - it is **WĀJIB** to have this written down. 1/3 of your wealth can be utilized to pay compensation for this. If 1/3 of your wealth isn't sufficient, then your children can pay it off and that's good, but it's not necessary for them! It is best if children dip into their own pockets to fulfill any debts of their parents – however, this is not necessary upon them.

The consent of a child is not consent, unless he or she is mature (*bāligh*).