

TYPES OF HEIRS

There are two types of heirs in Islam. These are fixed heirs and residual heirs.

FIXED HEIRS

Fixed heirs are the closest family members to the deceased who inherit a fixed share of the estate. Under no circumstances can these individuals be denied their fixed share because their rights are outlined in the Quran and cannot be taken away regardless of family dynamics.

They include husband, wife, son, daughter, father, mother, grandfather, grandmother, full brother, full sister, and various half-siblings.

Exceptions to this automatic, “fixed” inheritance include disbelievers i.e Muslims do not inherit from non-Muslim relatives, no matter how close, and vice versa.

Also, a person who is found guilty of homicide (either intentional or unintentional) will not inherit from the deceased. This is meant to discourage people from committing crimes in order to benefit financially.

The share that each person inherits depends on a formula which is described in the Quran. It also depends on the degree of relation, and the number of other fixed heirs.

RESIDUAL HEIRS

These are more distant relatives who may have a share in the deceased’s estate. They include aunts, uncles, nieces, and nephews, or other distant relatives if no other living close relatives remain.

Once the calculations are done for the fixed heirs, the estate may have a remaining balance. This balance is then further divided to “residual heirs”.

MALE HEIRS

Male heirs of a deceased are fifteen (15):

1. Son. This refers to a legitimate male child. A man can only have a legitimate child after contracting a legally acceptable marriage with a woman outside his prohibited degree; while a woman can have a legitimate child with or without a formal marriage contract.

Allah says in **Q (4:2)**; *“Give orphans the property which belongs to them. Do not exchange their valuables for worthless things or devour their possessions adding them to yours; for this would surely be a great sin.”*

2. Grandson or his descendant. Everyone has two categories of relatives: agnates and cognates. Agnates are relatives whose connection is traceable through the father or male line such as paternal grandparents, paternal uncle, paternal aunt, etc.

Cognates are relatives whose connection is traceable through the mother or the female line like maternal grandparents, maternal uncle, maternal aunt and so on.

Now, only agnates are eligible to inherit the estate of a deceased; meaning that all cognates are **NOT bona-fide heirs** except uterine brothers/sisters and maternal grandmother to whom the Qur'an assigns a share. Therefore, the grandson referred to here as a male heir is the one through a son. The grandson through a daughter is a non-heir.

3. Father. This is straight forward. A father shall inherit from his son or daughter.
4. Paternal grandfather or his ascendant. By now it's clear that maternal grandfather is a non-heir. So, a paternal grandfather will inherit from his grandson or granddaughter in the absence of his son.
5. Full brother. This is a person who has the same father and same mother with the deceased.
6. Consanguine brother. This is a person who has the same father but different mother with the deceased. (Related by blood with the deceased).
7. Uterine brother. This is a person who has the same mother but different father with the deceased.
8. Full brother's son or his male descendant. In the absence of the son, the grandson replaces him. If the grandson is also absent, the great-grandson "jumps" and take the place of the son.

If a female appears, she equally has the privilege of "jumping," then the line terminates. The difference here is that the descendants all have to be males; such that when a full brother is absent, his son replaces him and the trend continues. Whenever a female emerges, she is not entitled to "jump," and the line terminates. That is what is meant by "male descendants."

9. Consanguine brother's son or his male descendant.
10. Full paternal uncle. Father's elder or younger brother from the same father and mother.
11. Half paternal uncle. Father's elder or younger brother from the same father but different mother.
12. Full paternal uncle's son or his male descendant.
13. Half paternal uncle's son or his male descendant.
14. Husband. A husband will inherit from his wife if she dies before him. Likewise, if a man divorces his wife with one or two pronouncements (i.e. revocable divorce) and she dies WHILE in her *Iddah* (i.e. waiting period), he will inherit from her because technically, she remains his wife. However, if the divorce is irrevocable (three pronouncements), he will **not** inherit from her whether the *Iddah* has expired or not.

Allah says in **Q (4:12)**;

"You shall inherit the half of what your will leave if they die childless. If they leave children, a quarter of what they leave shall be yours after payment of any bequest they may have bequeathed or debt."

15. Patron. A man who sets a slave free will inherit from the slave if the later has no heir.

FEMALE HEIRS

Female heirs are nine (9):

1. Daughter. A daughter will inherit from her father and mother. This provision does not extend to her children. That is to say, her children cannot replace or represent her to inherit from their (maternal) grandfather or (maternal) grandmother in her absence.
2. Son's daughter. If a son has a daughter, she will inherit from the son's father or mother (her paternal grandparents) in the absence of the son. The rule also applies to son's son's daughter, son's son's son's daughter, and so on. This has been explained earlier under "grandson or his descendants."
3. Mother. When a son or daughter passes on, his/her mother is entitled to a part of his/her estate. She cannot be excluded no-matter what happens.
4. Either grandmother. In the absence of mother, both grandmothers i.e. maternal and paternal will inherit from a deceased. Here, the "ascendant rule" applies, such that if one or both grandmothers is/are absent, the great-grandmothers will take their place(s) and inherit from the deceased.
5. Full sister. Allah says in **Q (4:176)**;
"They ask you. Say 'Thus Allah instructs you regarding the person who has neither parents nor children. If a man dies and has a sister, she shall inherit half of what he leaves...'"
6. Consanguine sister.
7. Uterine sister.
8. Wife. A wife will inherit from her late husband. She cannot be excluded.

Allah says in **Q (4:12)**;

"Your wives shall inherit one quarter of what you leave if you die childless. If you leave children, they shall inherit one eighth, after payment after payment of any bequest you may have bequeathed or debt."

She will also inherit from him if he dies after divorcing her with one or two pronouncements (revocable divorce) provided her *Iddah* has **not** elapsed. But if the divorce is irrevocable (three pronouncements), she will not inherit from him whether her *Iddah* has elapsed or not.

However, if the husband were to be "insensitive" and divorces his wife irrevocably DURING his final illness in which he dies, the four schools of Islamic jurisprudence have divergent opinions:

- a) As-Shafi'i - She will NOT inherit from him whether or not the *Iddah* has expired.
- b) Abu-Hanifa - If the *Iddah* has not expired, she will inherit from him, otherwise, she will become a non-heir.
- c) Ahmad ibn Hambal - She has the right to inherit from him whether the *Iddah* has expired or not provided she has not married another person.

- d) Malik - She will inherit from him even if the *Iddah* has expired or she has married another person.
9. Patroness. A woman who sets a slave free will inherit from him/her so long as he/she has no heir.

NON-HEIRS

Non-heirs are those relatives not entitled to any part of the deceased's estate. They include:

1. Daughter's sons and daughters and their descendants.
They will inherit through their father's (daughter's husband's) line only. Their mother's line is cognate.
2. Sister's sons and daughters and their descendants.
This refers to all the three types of sisters: full, consanguine and uterine. Their children will inherit through their father's line only as the case with daughter's children.
3. Daughters of full brother.
4. Daughters of consanguine brother.
5. Daughters of full brother's son.
6. Daughters of consanguine brother's son
7. Sons and daughters of uterine brother.
8. Sons and daughters of uterine sister.
9. Daughters of full paternal uncle.
10. Daughters of half paternal uncle.
11. Daughters of full paternal uncle's son.
12. Daughters of half paternal uncle's son.
13. Paternal aunt, her children and their descendants.
14. Maternal uncle, his children and their descendants.
15. Maternal aunt, her children and their descendants.
16. Maternal grandfather's mother.
Given that maternal grandmother (the wife of maternal grandfather) is an heir in the absence of mother, if the maternal grandmother is also absent, who takes her place? Her mother. Not her husband's mother. Therefore, maternal grandfather's mother is a non-heir.
17. Paternal grandmother's father.
A paternal grandmother is an heir in the absence of mother; but in her absence, her mother replaces her, not her father.