

Dar-ul-Ifta

Jumma Masjid

39, Royal Street, Port Louis, Mauritius - Tel: 242-1129 / Fax: 242-7260
www.jumma Masjid.org / ✉ info@jumma Masjid.org

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

نحمده و نصلى على رسوله الكريم

LAW OF INHERITANCE & WASIYYAH

When a Muslim passes away there are 4 duties to be performed:

- Payment of funeral expenses
- Payment of his/her debts
- Execution his/her will
- Distribution of remaining estate amongst the heirs according to Shariah

LAW OF INHERITANCE IN QURAN

Verse No. 1

لِّلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ
نَصِيبًا مَّفْرُوضًا

[Nisa 4:7] *For men is a share from what the parents and near relatives leave behind, and for women is a share from what the parents and near relatives leave behind, whether the wealth (inheritance) is small or large; the share is a fixed one.*

Verse No. 2

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ فَإِن لَّمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَهُ أَبَوَاهُ فَلِأُمِّهِ الثُّلُثُ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ مِن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنِ آبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفْعًا فَرِيضَةٌ مِّنَ اللَّهِ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

[Nisa 4:11] Allah commands you concerning your children; the son's share is equal to that of two daughters; and if there are only daughters, for them is two-thirds of the inheritance, even if they are more than two; and if there is only one daughter, for her is half; and to each of the deceased's parents a sixth of the inheritance, if he has children; and if the deceased has no children but leaves behind parents, then one third for the mother; and if he has several brothers and sisters, a sixth for the mother, after any will he may have made and payment of debt; your fathers and your sons - you do not know which of them will be more useful to you; this is the share fixed by Allah; indeed Allah is All Knowing, Wise.

Verse No. 3

وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِنْ لَمْ يَكُنْ لَهُنَّ وَلَدٌ فَإِنْ كَانَ لَهُنَّ وَلَدٌ فَلَكُمْ الرُّبْعُ مِمَّا تَرَكَنَّ مِنْ بَعْدِ وَصِيَّةٍ يُوَصِّينَ بِهَا أَوْ دَيْنٍ وَلَهُنَّ الرُّبْعُ مِمَّا تَرَكَتُمْ إِنْ لَمْ يَكُنْ لَكُمْ وَلَدٌ فَإِنْ كَانَ لَكُمْ وَلَدٌ فَلَهُنَّ الثُّمُنُ مِمَّا تَرَكَتُمْ مِنْ بَعْدِ وَصِيَّةٍ يُوَصُّونَ بِهَا أَوْ دَيْنٍ وَإِنْ كَانَ رَجُلٌ يُورَثُ كَلَالَةً أَوْ امْرَأَةٌ وَلَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ مِنْ بَعْدِ وَصِيَّةٍ يُوصَى بِهَا أَوْ دَيْنٍ غَيْرِ مُضَارٍّ وَصِيَّةً مِنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَلِيمٌ

[Nisa 4:12] And from what your wives leave, half is for you if they do not have any child; or if they have a child for you is a fourth of what they leave, after any will they may have made or debt to be paid; and to the women is a fourth of what you leave behind, if you do not have any child; or if you have a child then an eighth of what you leave behind, after any will you may have made, or debt to be paid; and if a deceased does not leave behind a mother, father or children but has a brother or a sister through a common mother, then to each of them a sixth; and if they (*brothers and sisters*) are more than two, then they shall all share in a third, after any will that may have been made or debt to be paid, in which the deceased has not caused a loss (*to the heirs*); this is the decree of Allah; and Allah is All Knowing, Most Forbearing.

Verse No. 4

يَسْتَفْتُونَكَ قُلِ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ إِنْ امْرُؤٌ هَلَكَ لَيْسَ لَهُ وَلَدٌ وَلَهُ أُخْتٌ فَلَهَا نِصْفُ مَا تَرَكَ وَهُوَ يَرِثُهَا إِنْ لَمْ يَكُنْ لَهَا وَلَدٌ فَإِنْ كَانَتَا اثْنَتَيْنِ فَلَهُمَا الثُّلُثَانِ مِمَّا تَرَكَ وَإِنْ كَانُوا إِخْوَةً رِّجَالًا وَنِسَاءً فَلِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ يُبَيِّنُ اللَّهُ لَكُمْ أَن تَضِلُّوا وَاللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ

[Nisa 4:176] O dear Prophet (*Mohammed - peace and blessings be upon him*), they ask you for a decree; say, "Allah decrees you concerning the solitary person (*without parents or children*); if a man dies childless and has a sister, for her is half the inheritance; and the man is his sister's heir if the sister dies childless; and if there are two sisters, for them is two-thirds of the inheritance; so if there are brothers and sisters, both men and women, the male's share is equal to that of two females; and Allah explains clearly to you, so that you do not go astray; and Allah knows all things."

LAW OF INHERITANCE IN HADITH

Reported by Sayyiduna Ibn Abbas, the Holy Prophet 'peace be on him' said:

عن ابن عباس رضي الله عنهما قال قال رسول الله صلى الله عليه وسلم، الحقوا الفرائض باهلها،
فما بقى فهو لاولى رجل ذكر

Give the shares of the inheritance that are prescribed (in Holy Quran) to those who are entitled to receive it. Then whatever remains, should be given to the closest male relative of the deceased. [Bukhari]

AL-WASIYYAH (WILL/BEQUEST)

Will In the Holy Quran:

A Will is operated after one's death, a portion of his property be given in ownership to someone, or that the ownership of his property be transferred to someone, or that it be spent for charitable purposes, or that he appoints someone as guardian of his children and dependents.

Allah Almighty says:

كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنْ تَرَكَ خَيْرًا الْوَصِيَّةَ لِلْأَقْرَبِينَ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ

[Baqarah 2:180] It is ordained for you that when death approaches one of you, and he leaves behind wealth, he must bequeath it to parents and near relatives in accordance with tradition; this is a duty upon the pious.

Will in the Hadith:

عن عبد الله بن عمر ان رسول الله صلى الله عليه وسلم قال ما حق امرئ مسلم شي يوصي في بيت ليلتين الا ووصيته مكتوبة عنده

Narrated Abdullah bin Umar, the Holy Prophet 'peace be on him' said, "It is not permissible for any Muslim who has something to will to stay for two nights without having his last will and testament **written and kept ready with him.**" [Bukhari, Book of Wills]

NO WILL FOR INHERITORS

Narrated Abu Umaamah, The Holy Prophet 'peace be on him' said:

عن ابي امامة الباهلي رضى الله عنه قال سمعت رسول الله صلى الله عليه وسلم يقول ان الله قد اعطى كل ذى حق حقه فلا وصية لوارث

Allah has appointed for everyone who has a right what is due to him, and no bequest must be made to an heir. [Abu Dawud]

IMPLEMENTATION OF 1/3

Narrated Sa'ad Ibn Abi Waqqas: "I was stricken by an ailment that led me to the verge of death. The Holy Prophet 'peace be on him' came to pay me a visit. I said, "O Allah's Apostle! I have much property and no heir except my single daughter. Shall I give two-thirds of my property in charity?" He said, "No." I said, "Half of it?" He said, "No." I said, "One-third of it?" He said, "You may do so, though one-third is also too much, for it is better for you to leave your offspring wealthy than to leave them poor, asking others for help..." [Bukhari & Muslim and others]

Mufti Muhammad Ishaq Qadri Rizvi

Director of Dar ul Ifta

Jummah Masjid Port Louis