



THE PERFECTION AND SELF-SUFFICIENCY OF THE QUR'ĀN IN THE LAW OF INHERITANCE (PART ONE)

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ABSTRACT

This paper addresses the law of inheritance detailed in the Book of Allah, the *Qur'ān*. It is about a system that Allah took complete responsibility of its explanation in detail. This is different from the norm, whereby Allah gives the general ruling and its details or explanation will be given by the Prophet (*ṣal-Allāhu 'alayhi wa sallam*). This attitude itself indicates the great position held by this knowledge. Islam values family unity and integration. Family disputes, disintegration and severing of ties can occur if shares of the estate are not placed in their correct position. Allah The Almighty has taken the said responsibility of explaining it in detail to the *Ummah* to prevent dysfunctional and broken families. The researcher relies solely on the *Qur'ān* and some sources which are also relying on the *Qur'ān*. The work aims to expose the beauty of the concise information about inheritance mentioned in the *Qur'ān*. The method of the *Qur'ān* is so comprehensive covering all the heirs of the deceased (with the exception of the grandmother) even though the *āyāt* that tackled the issue are not more than four. This research is comprised of two separate articles: PART ONE which discusses the first type of inheritance (inheritance with *Farḍ*) and PART TWO where the second type (inheritance with *Ta'ṣīb*) is discussed. In this article each set of conditions that qualify an heir to inherit a fixed share is accompanied by a table that illustrates their application.

JEL classification: K00, K1, K2, K3, K4.

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1. INTRODUCTION

One of the main objectives of *Shari'ah* is the attainment of societal peace. However, a society that has factors that cause internal conflict presents an un conducive environment for achieving that objective. Hence, *Shari'ah* mitigates and resolves the conflict by granting, and protecting the rights of individuals and the society collectively. One of those rights that have to be preserved is the right of the heirs after the death of their relative (e.g. father, son and brother). This is an area where injustice is highly prevalent. Therefore it is only appropriate that *Shari'ah* has set strict laws regarding this matter. Allah says (interpretation of the meaning):

“And let those (executors and guardians) have the same fear in their minds as they would have for their own, if they had left weak offspring behind. So, let them fear Allah and speak right words. Verily, those who unjustly eat up the property of orphans, they eat up only fire into their bellies, and they will be burnt in the blazing Fire!” (*Qur'an* 4:9-10)

Most of the principles used in distributing the estate to the heirs are detailed in the *Qur'an*. This fact illustrates the responsibility that Allah has taken upon Himself in this matter due to its sensitivity. There are three main places in the *Qur'an* where inheritance is expounded on; the first place is *ayah* No. 11 of *Surah al-Nisa'*. An important point of benefit is that Allah concludes this *ayah* by saying (interpretation of the meaning):

“You know not which of them, whether your parents or your children, are nearest to you in benefit; (these fixed shares) are ordained by Allah. And Allah is Ever All-Knower, All-Wise.” (*Qur'an* 4:11)

This means that we should not use our intellect to interfere or try to have an input in distributing the estate with other than what Allah has prescribed. And whoever does so transgresses the limits set by Allah and treads on a dangerous path. The *ayah* also shows that the One Who distributes in that way is The All-Knowing, He knows all that benefits man which they are unaware of and do not have the intellect to fathom. The second place is from *ayah* No. 13 to 14 of

the same *Sūrah* and Allah concludes them with the following (interpretation of the meaning):

“These are the limits (set by) Allah (or ordainments as regards laws of inheritance), and whosoever obeys Allah and His Messenger (Muhammad [*ṣal-Allāhu ‘alayhi wa sallam*]), will be admitted to Gardens under which rivers flow (in Paradise), to abide therein, and that will be the great success. And whosoever disobeys Allah and His Messenger (Muhammad [*ṣal-Allāhu ‘alayhi wa sallam*]), and transgresses His (set) limits, He will cast him into the Fire, to abide therein; and he shall have a disgraceful torment.” (*Qur’ān* 4:13-14)

In the above mentioned *āyah* there is a stern and clear warning from Allah the Almighty for anyone who transgresses the limits He has set with regard to this matter. This goes to further emphasize what the previous *āyah* showed that the distribution of inheritance is one of the rights of Allah. Therefore no entity can transgress His law nor alter it even to the lowest degree. In the last place which is the last *āyah* in the same *Sūrah* Allah says (interpretation of the meaning):

“(Thus) does Allah make clear to you (His Law) lest you go astray. And Allah is the All-Knower of everything.” (*Qur’ān* 4:176)

The lesson learned is that abandoning the laws of Allah especially in the issue of inheritance is an act of deviation which leads to going astray, and this usually leads to the punishment of Allah in the hereafter. Unfortunately, regardless of the extreme importance and sensitivity of this issue, the contributions written in English by contemporary scholars in the field of inheritance are very low in comparison to those in Arabic. This knowledge gap is a causative factor in the increasing number of laymen speaking without knowledge who do not know the statement Allah made in the *Qur’ān* about this evil attitude (interpretation of the meaning):

“And follow not (O man, i.e., say not or do not or witness not) that of which you have no knowledge. Verily, the

hearing, and the sight, and the heart of each of those ones will be questioned (by Allah).” (*Qur’ān* 17:36)

In another place *Qur’ān* says (interpretation of the meaning):

“Say (O Muhammad [*ṣal-Allāhu ‘alayhi wa sallam*]): “(But the things that my Lord has indeed forbidden are *Al-Fawāḥish* (great evil sins and every kind of unlawful sexual intercourse) whether committed openly or secretly, sins (of all kinds), unrighteous oppression, joining partners (in worship) with Allah for which He has given no authority, and saying things about Allah of which you have no knowledge.” (*Qur’ān* 7:33)

The sole focus of this article is on the method used by the *Qur’ān* to distribute inheritance. The *Sunnah* of the Prophet [*ṣal-Allāhu ‘alayhi wa sallam*] will not be included here as the writer has another title dealing with inheritance in the *Sunnah*. This article is divided into four parts: *Āyāt* on *Irth*, definition of *Irth*, and distribution of estates in the *Qur’ān* and the conclusion which will involve some recommendations and advice to the Muslim community. The said topics are discussed in two separate articles. Part one discusses the first type of inheritance (inheritance with *Fard*) and Part two discusses the second type (inheritance with *Ta’ṣīb*). In this article each set of conditions is accompanied by a table that illustrates their application. The case of *waṣīyyah* is not included in both articles, although the *Qur’ān* points out its existence in the following statement:

“After payment of legacies he (or she) may have bequeathed or debt, so that no loss is caused (to anyone)” (*Qur’ān* 4:12).

The details on *waṣīyyah* are given by the *Sunnah* of the Prophet [*ṣal-Allāhu ‘alayhi wa sallam*] and are aptly discussed in the *Sunnah* part of this series. Similarly the issue of the *ḥajb* is also discussed.

1.1 ĀYĀT ON IRTH

Below is a list of Quranic verses that are related to *Irth* (interpretation of the meaning):

“There is a share for men and a share for women from what is left by parents and those nearest related, whether, the property be small or large – a legal share. And when the relatives and the orphans and *Al-Masākīn* (the needy) are present at the time of division, give them out of the property, and speak to them words of kindness and justice. And let those (executors and guardians) have the same fear in their minds as they would have for their own, if they had left weak offspring behind. So, let them fear Allah and speak right words. Verily, those who unjustly eat up the property of orphans, they eat up only fire into their bellies, and they will be burnt in the blazing Fire!” (*Qur’ān* 4:7-10)

“Allah commands you as regards your children's (inheritance): to the male, a portion equal to that of two females; if (there are) women (only daughters), two or more, their share is two-thirds of the inheritance; if only one (daughter), her share is a half. For parents, a sixth share of inheritance to each if the deceased left children; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers or (sisters), the mother has a sixth. (The distribution in all cases is) after the payment of legacies he may have bequeathed or debt. You know not which of them, whether your parents or your children, are nearest to you in benefit; (these fixed shares) are ordained by Allah. And Allah is Ever All-Knower, All-Wise.” (*Qur’ān* 4:11)

“In that which your wives leave, your share is a half if they have no child; but if they leave a child, you get a fourth of that which they leave after payment of legacies that they may have bequeathed or debt. In that which you leave, their (your wives) share is a fourth if you leave no child; but if you leave a child, they get an eighth of that which you leave after payment of legacies that you may have bequeathed or debt. If the man or woman whose inheritance is in question has left neither ascendants nor descendants, but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third, after payment of legacies he (or she) may have bequeathed or debt, so that no loss is caused (to anyone). This is a Commandment from Allah; and Allah is Ever All-Knowing, Most Forbearing.” (*Qur’ān* 4:12)

“These are the limits (set by) Allah (or ordinances as regards laws of inheritance), and whosoever obeys Allah and His Messenger (Muhammad [*ṣal-Allāhu ‘alayhi wa sallam*]), will be admitted to Gardens under which rivers flow (in Paradise), to abide therein, and that will be the great success. And whosoever disobeys Allah and His Messenger (Muhammad [*ṣal-Allāhu ‘alayhi wa sallam*]), and transgresses His (set) limits, He will cast him into the Fire, to abide therein; and he shall have a disgraceful torment.” (*Qur’ān* 4:13-14)

“They ask you for a legal verdict. Say: "Allah directs (thus) about *Al-Kalālah* (those who leave neither descendants nor ascendants as heirs). If it is a man that dies leaving a sister, but no child, she shall have half the inheritance. If (such a deceased was) a woman, who left no child, her brother takes her inheritance. If there are two sisters, they shall have two-thirds of the inheritance; if there are brothers and sisters, the male will have twice the share of the female. (Thus) does Allah make clear to you (His Law) lest you go astray. And Allah is the All-Knower of everything." (*Qur’ān* 4: 176)

“But kindred by blood are nearer to one another (regarding inheritance) in the decree ordained by Allah. Verily, Allah is the All-Knower of everything.” (*Qur’ān* 8: 75)

1.2 DEFINITION OF *IRTH*

Irth is an Arabic word which is derived from the words: *waritha*, *yurithu*, *irthan*. The word in all of its derivatives literally means to physically or spiritually transfer something. In terms of the Islamic legal definition, the word *Irth* is defined as: a monetary right given to the one who deserves it after the death of the person who is related to him either through marriage, or close relationship, or *Walī* (the right to guardianship of one’s freed slave) (Al-Kātib, 1423 & Ibn Bāz, 1392).

1.3 CAUSES AND PILLARS OF INHERITANCE

The scholars have mentioned that there are three causes of inheritance and three pillars of inheritance. The causes of inheritance

are *nikāḥ*, (marriage), *nasab* (blood relation) *wala'* (right of guardianship over a freed slave). The three pillars of inheritance as stated by the scholars are *Al-Wārith* (the heir), *Al-Muwarrith* (the deceased) and *Al-Mawrūth* (the estate). *Al-Mawrūth* includes everything left by the deceased whether it is money, land, property, furniture, gold or right. This is taken from the statement of Allah “*Mimmā tarak*” which means from whatever the deceased has left. This is a general statement that does not exclude anything left by the deceased. (Al-Sa’dī, 1424). *Al-Wārith* (the heir) in Islam is either a male or a female from among the relatives as shown in Table 1.

TABLE 1
The Heirs

Male	Female
Son	Daughter
Grandson no matter how much he descends (through male heirs)	Son’s Daughter no matter how much she descends through her father
Father	Mother
Father’s father no matter how much he ascends (through male heirs)	Full sister
Full brother	Consanguine Sister
His son no matter how much he descends (through male heirs)	Uterine Sister
Consanguine Brother	Wife
His son no matter how much he descends (through male heirs)	Maternal Grandmother (Mother’s mother)
Uterine Brother	Paternal Grandmother (Father’s mother)
Full uncle	<i>Mu’tiqah</i> (the woman who gives freedom to a slave)
Paternal Uncle	
His son no matter how much he descends (through male heirs)	
Husband	
<i>Al-Mu’tiq</i> or <i>al-Maulā</i> (the one who gets guardianship of his freed slave)	

The scholars have divided the above mentioned list of eligible people into three categories of heirs: the *Uṣūl* (Roots) which

are the father, mother, grandfather and grandmother no matter how much they ascend, the *Furū'* (Branches) which are the son, daughter, son's son and son's daughter, no matter how much they descend (through male heirs), and lastly the *Ḥawāshī* (Collaterals): Anyone other than those mentioned in *Uṣūl* and *Furū'* (Al-Kātib, 1423).

These are the people who are supposed to inherit and the only things that can deprive them from inheritance are slavery, murder and difference in religion.

i. Slavery (a slave cannot inherit)

The *Qur'ān* has indicated through inferences that a slave is not included in any issue of inheritance. It is common knowledge in Islam that a slave has no right to ownership; any material wealth he acquires belongs to his master. This state of inability to own consequently means he cannot inherit and he cannot be inherited. The *Qur'ān* allocated those selected portions of inheritance to the heirs as long as they can own (interpretation of the meaning):

“Allah commands you as regards your children's (inheritance): to the male, a portion equal to that of two females...” (*Qur'ān* 4:11)

This is not possible in the case of a slave because whatever property or wealth a slave acquires belongs to his master. Hence in congruence with that, if a share of the estate is given to the slave, the master would be its owner. However Islamically this is forbidden because the master is not an heir of the deceased. Any property he acquires as inheritance would be unlawful for him. Likewise if a slave is to be inherited by any of his heirs, that heir would be inheriting what does not belong to his deceased. Thus it can be concluded that according to the *Qur'ān* a slave does not inherit nor is he inherited. This is due to his lack of the ability to own and the *Qur'ān* only granted inheritance to those who possess the ability to own. (Al-Sa'dī, 1424).

ii. Murder (the killer of the deceased cannot inherit)

The *Qur'ān* also does not give a share of inheritance to the murderer through the way of inferences. This is deduced from the saying of the *Qur'ān* (interpretation of the meaning):

“You know not which of them, whether your parents or your children, are nearest to you in benefit...” (*Qur'ān* 4:11)

It is obviously known that the murderer did not seek to benefit the deceased instead he sought and brought a great harm to him. By killing his relative the murderer loses his right to inherit. This is because the quality that the murderer has that entitles him to a share of the estate is not powerful enough to surpass this evil and illegal action. This is the reason the scholars mentioned that murder is the greatest preventer of inheritance. Furthermore, murder cuts off and breaks every tie and bond between a person and his relatives. According to the law of inheritance these ties and bonds have to be in existence for a person to be entitled to inheritance. The *Qur'ān* says (interpretation of the meaning):

“But kindred by blood are nearer to one another (regarding inheritance) in the decree ordained by Allah.” (*Qur'ān* 8:75)

This shows that the tie has to be strong enough to enable a person to inherit. (Al-Sa'dī, 1424)

iii. Difference in religion (Muslims cannot inherit *Kuffār*)

In the case of a difference in religion, the *Qur'ān* has also indicated that there is no inheritance between a Muslim and a *Kāfir*. Here there is a conflict between a causative factor (i.e., what entitles a person to inherit) and a preventative factor (i.e., being of different religions). In this situation preference is given to the prevention. In many places the *Qur'ān* established that the rights of Muslims among themselves is far greater than their rights in relation to non-Muslims. Whenever a Muslim dies his rights will automatically be transferred to those who are closer to him, and these are the Muslims. Therefore, the saying of Allah: “But kindred by blood are nearer to one another (regarding inheritance) in the decree ordained by Allah,” (*Qur'ān* 8:75) is understood to mean that they are nearer to one another if they are equal in religion, and whenever the religions are different, the tie of religion is given preference over the tie of blood relation (Al-Sa'dī, 1424).

Ibn al-Qayyim *rahimahullāh* said, “Pay attention to this deep meaning contained in the *āyah* of *Mawārith* (inheritance), Allah based the inheritance of the spouse upon a legal marital relation, He

used the word *al-Zawjah* (wife) instead of using the word *al-Mar'ah* (woman). This is seen obviously in the following *āyah*: “In that which your wives leave, your share is a half if they have no child...” (*Qur'ān* 4:12). This is a clear indication that the basis of inheritance among the spouses is nothing but the fact of marital relationship which makes both spouses to be compatible to each other and look alike, whereas this type of tie does not exist in the case of a Muslim and a *Kāfir*, there is no compatibility, similarity and appropriation between Muslim and *Kāfir*. Thus there cannot be inheritance between them. The amazing secrets of the *Qur'ān* are always beyond the comprehension of the creation.” (Ibn Al-Qayyim, 1987).

2. TYPES OF INHERITANCE

There are two types of *Irth* in the *Qur'ān*: *Farḍ* which is a fixed portion of inheritance given to a specific heir by the *Qur'ān* and *Ta'ṣīb* which is inheritance without a fixed portion. These two are discussed by the *Qur'ān* when Allah says (interpretation of the meaning):

“Allah commands you as regards your children's (inheritance): to the male, a portion equal to that of two females; if (there are) women (only daughters), two or more, their share is two-thirds of the inheritance; if only one (daughter), her share is a half.” (*Qur'ān* 4:11)

The statement of *Qur'ān*: to the male, a portion equal to that of two females; indicates the existence of the second type of inheritance, ‘*Ta'ṣīb*.’ The *āyah* does not give a specific amount for the children of the deceased if they are a mixture of males and females.

The first type of inheritance, which is the focus of this article, is stated in the second part of the *āyah*: “if only one (daughter), her share is a half.” This shows that the daughter's portion, half of the estate, is fixed by the *Qur'ān*. The *Farḍ* in *Qur'ān* are of six types: *Niṣf*, *Rubū'*, *Thumn*, *Thuluth*, *Suds* and *Thuluthān*. (‘Abd Al-Malik al-Fatna, 1949 and Al-Raḥabī 2002).

The recipients of each type of *Farḍ* in *Qur'ān* are illustrated in Table 2.

TABLE 2
The Recipients of Each Type of *Farḍ* in *Qur'ān*

<i>Nisf</i> (1/2)	<i>Rubu'</i> (1/4)	<i>Thumn</i> (1/8)	<i>Thuluth</i> (2/3)	<i>Thuluthān</i> (2/3)	<i>Suds</i> (1/6)
Daughter	Husband	Wife/ Wives	Mother	More than one daughter	Father
Son's daughter	Wife/ Wives		Group of Uterine siblings	More than one granddaughter	Uterine brother/sister
Full sister				More than one full sister	Son's daughter
Consan- guine sister				More than one consanguine sister	Consanguine sister
Husband					Grandmother Grandfather Mother

The following section will discuss each type and the conditions to be fulfilled in order for the heir to qualify to inherit accordingly.

2.1 THE *QUR'ĀN* AND *NIṢF*

There are five heirs given *Nisf* by the *Qur'ān* and they are the daughter, granddaughter (Son's daughter), full sister, consanguine sister and the husband. The first heir *Qur'ān* has given $\frac{1}{2}$ is the daughter and she gets it if there is no son to inherit with her as *'āṣib* and if there is no other daughter to share the inheritance with her. As it can be seen from Table 3 the daughter takes $\frac{1}{2}$ due to the fact that she is alone. The deceased did not leave a son or another daughter to inherit with her. The *Qur'ān* says (interpretation of the meaning):

“If only one (daughter), her share is a half.” (*Qur'ān* 4:11)

From this statement the portion of inheritance Allah has given the daughter is extracted. Furthermore, all the conditions

required in order for her to be entitled to $\frac{1}{2}$ are also mentioned. The statement “If only one” shows that a daughter can only deserve $\frac{1}{2}$ of the estate of her father if there is no other daughter in the same level with her to be her co-partner in the inheritance. It is also known from the same *āyah* that if the daughter is accompanied by a son of the deceased she will move from inheriting $\frac{1}{2}$ to inheritance with *Taʿṣīb*.

TABLE 3
A Daughter

Fixed Share	Heir	Portion	The Estate RM 30
		6 ^a	
$\frac{1}{2}$	Daughter	3	15 ^b
$\frac{1}{6}$	Mother	1	5 ^c
ʿ <i>Āṣīb</i>	Uncle	2	10 ^d

^aLCD- Lowest Common Denominator is the smallest number that can be divided exactly by all the numbers below the lines in a group of two or more fractions. (LCD of $\frac{1}{2}$ and $\frac{1}{6}$)

^bDaughter: $30 \div 6 = 5$. $5 \times 3 = 15$

^cMother: $30 \div 6 = 5$. $5 \times 1 = 5$

^dUncle here is ʿ*Āṣīb* which means he takes the balance (which is RM 10 in this case) after the portions of those who inherit with *Farḍ*.

The second heir who has been also given $\frac{1}{2}$ by the *Qurʾān* is the granddaughter (Son’s daughter) with the following four conditions: lack of a son whose level is higher than hers to deprive her from inheritance, lack of a daughter whose level is higher than hers to deprive her from inheriting $\frac{1}{2}$ to another *Farḍ* which is a $\frac{1}{6}$, lack of a grandson (son’s son) at the same level as her to inherit with her as ʿ*aṣābah*, and lack of another granddaughter (son’s daughter) to share the inheritance of $\frac{2}{3}$ with her.

In Table 4 the daughter of the son got $\frac{1}{2}$ of the estate due to the absence of a son, daughter or any grandson or granddaughter to inherit with her. Whenever one of these aforementioned people exists in a case, the granddaughter will either not inherit anything or she will move to another portion instead of $\frac{1}{2}$. That is what ‘being alone’ means as mentioned by the *Qurʾān*. The *Qurʾān* says (interpretation of the meaning):

“If only one (daughter), her share is a half.” (*Qurʾān* 4:11)

It has been mentioned above that son’s daughter is considered a daughter; therefore she inherits the portion of a

daughter if all those conditions are met. The *Qur’ān* says (interpretation of the meaning):

“Allah commands you as regards your children’s (inheritance): to the male, a portion equal to that of two females; if (there are) women (only daughters), two or more, their share is two-thirds of the inheritance; if only one (daughter), her share is a half.” (*Qur’ān* 4:11)

Since she is replacing the closer daughter, she should also be alone in order for her to deserve ½ just as the closer daughter would inherit half if she existed and was alone. In a case where there is another son’s daughter to inherit with her or a son’s son to move her from ½ to inheritance with *Ta ‘ṣīb* (non-fixed amount) then she will not inherit ½. This is what the *āyah* indicates.

TABLE 4
A Son’s Daughter

Fixed Share	Heir	Portion	The Estate RM 48
		24 ^a	
½	Son’s Daughter	12	24 ^b
⅛	Wife	3	6 ^c
⅙	Mother	4	8 ^d
‘ <i>Āṣīb</i>	Full Brother	5	10 ^e

^aLCD for ½, ⅙ and ⅛

^bGranddaughter: 48÷24=2. 2×12=24

^cWife: 48÷24=2. 2×3=6

^dMother: 48÷24=2. 2×4=8

^eFull brother: 48÷24=2. 2×5=10 (Full brother here is ‘*Āṣīb* which means he takes the balance (which is RM 10 in this case) after the portions of those who inherit with *Farḍ*).

Full Sister is the third category that has also been given ½ by the *Qur’ān* if she fulfils six conditions. There should be lack of a son or a grandson (no matter how much he descends through the male heirs) who will deprive her from inheritance, lack of a daughter or a granddaughter (no matter how much her father descends through the male heirs) who will move her from inheriting with *Farḍ* to inheriting with *Ta ‘ṣīb*, lack of the father who will deprive her from inheritance, lack of a grandfather (no matter how much he ascends through the male heirs) who will either deprive her from inheritance or be her co-partner in whatever she inherits, lack of a full brother

who will move her from inheriting with *Farḍ* to inheriting with *Ta ṣīb*, and lack of another full sister who will be her share partner in the inheritance. When she fulfils these six conditions then she inherits $\frac{1}{2}$ of the estate.

As it can be seen from Table 5 that in this case the Full Sister gets $\frac{1}{2}$. This is because the deceased did not leave neither *far'* (branch) nor *aṣl* (root). In addition, there is no Full Brother or Sister to share the inheritance with her. The *Qur'ān* says about the inheritance of a Full Sister (interpretation of the meaning):

“They ask you for a legal verdict. Say: "Allah directs (thus) about *Al-Kalālah* (those who leave neither descendants nor ascendants as heirs). If it is a man that dies leaving a sister, but no child, she shall have half the inheritance. If (such a deceased was) a woman, who left no child, her brother takes her inheritance. If there are two sisters, they shall have two-thirds of the inheritance; if there are brothers and sisters, the male will have twice the share of the female. (Thus) does Allah make clear to you (His Law) lest you go astray. And Allah is the All-Knower of everything." (*Qur'ān* 4:176)

The statement “If it is a man that dies leaving a sister, but no child, she shall have half the inheritance” directs that she takes $\frac{1}{2}$ of the estate if she is alone and all of the above mentioned conditions have been met. These conditions are also extracted from the above stated *āyah*. The scholars have mentioned that the word ‘*Kalālah*’ in the statement, “They ask you for a legal verdict. Say: "Allah directs (thus) about *Al-Kalālah* (those who leave neither descendants nor ascendants as heirs)” describes a person who has no father, grandfather or descendants. This means that she can only inherit if the deceased has no male *Uṣūl* (father or grandfather) or *Furū'* (these are the descendants of the deceased). The first four conditions are therefore extracted from the word *Kalālah*.

The fifth condition is extracted from the statement, “if there are brothers and sisters, the male will have twice the share of the female”. This shows that if there is a full brother to inherit with her she will not inherit $\frac{1}{2}$. Instead he will move her from the *Farḍ* to *Ta ṣīb*. The last condition was extracted from the statement, “If there are two sisters, they shall have two-thirds of the inheritance”. This shows that if there is more than one sister they will share $\frac{2}{3}$ of the estate. This is the meaning of the *Qur'ān* statement: “If it is a man

that dies leaving a sister, but no child, she shall have half the inheritance.” She has to be alone without being in the company of any of those mentioned in the conditions above.

TABLE 5
Full Sister

Fixed Share	Heir	Portion	The Estate RM 48
		12 ^a	
½	Full Sister	6	24 ^b
¼	Wife	3	12 ^c
⅙	Mother	2	8 ^d
‘ <i>Āṣib</i>	Consanguine Brother	1	4 ^e

^aLCD for ½, ¼ and ⅙

^bFull sister: 48÷12=4. 4×6=24

^cWife: 48÷12=4. 4×3=12

^dMother: 48÷12=4. 4×2=8

^eConsanguine Brother: 8÷12=4. 4×1=4 (Consanguine Brother here is ‘*Āṣib* which means he takes the balance (which is RM 4 in this case) after the portions of those who inherit with *Fard*).

Consanguine Sister is also given ½ by the *Qur'an* with seven conditions: lack of a son or grandson (no matter how much he descends through male heirs) who will deprive her from inheritance, lack of a daughter or granddaughter (no matter how much her father descends through male heirs) who will move her from inheriting with *Fard* to inheriting with *Ta‘ṣīb*, lack of her father who will deprive her from inheritance, lack of her grandfather (no matter how much he ascends through male heirs) who will either deprive her from inheritance or be her partner in whatever she inherits, lack of a full brother or sister, lack of a consanguine brother who will move her from inheriting with *Fard* to inheriting with *Ta‘ṣīb*, and lack of another consanguine sister who will be her share partner in the inheritance of ⅓.

As illustrated in Table 6, the consanguine sister inherits ½ of the estate with the same conditions as the full sister. She has to be alone for her to deserve it. This means that there should not be a full or consanguine sibling in existence. The *Qur'an* says (interpretation of the meaning):

“They ask you for a legal verdict. Say: "Allah directs (thus) about *Al-Kalālah* (those who leave neither descendants nor ascendants as heirs). If it is a man that dies leaving a sister,

but no child, she shall have half the inheritance. If (such a deceased was) a woman, who left no child, her brother takes her inheritance. If there are two sisters, they shall have two-thirds of the inheritance; if there are brothers and sisters, the male will have twice the share of the female. (Thus) does Allah make clear to you (His Law) lest you go astray. And Allah is the All-Knower of everything." (*Qur'ān* 4:176)

All that was said about the full sister is also applicable to the consanguine sister. Hence the conditions applicable to this sister are extracted in the same way as the full sister.

TABLE 6
Consanguine Sister

Fixed Share	Heir	Portion	The Estate RM 48
		6 ^a	
$\frac{1}{2}$	Consanguine Sister	3	24 ^b
$\frac{1}{3}$	Mother	2	16 ^c
<i>Āṣib</i>	Uncle	1	8 ^d

^aLCD for $\frac{1}{2}$ and $\frac{1}{3}$ is 6

^bConsanguine Sister: $48 \div 6 = 8$. $8 \times 3 = 24$

^cMother: $48 \div 6 = 8$. $8 \times 2 = 16$

^dUncle: $48 \div 6 = 8$. $8 \times 1 = 8$ (Uncle here is *Āṣib* where he takes the balance (which is RM 8 in this case) after the portions of those who inherit with *Farḍ*).

The Husband is the fifth and last heir given $\frac{1}{2}$ by the *Qur'ān* and he gets when there is no son and no grandson (no matter how much he descends through male heirs). The husband (as in Table 7) fulfils the two conditions takes $\frac{1}{2}$ because there is no one to deprive him from inheriting it. The deceased did not leave any of her *furū'* (son or daughter, or any of the descendants of the son, no matter how much they descend through male heirs). The *Qur'ān* says (interpretation of the meaning):

“In that which your wives leave, your share is a half if they have no child; but if they leave a child, you get a fourth of that which they leave after payment of legacies that they may have bequeathed or debt.” (*Qur'ān* 4: 12)

This *āyah* explains the inheritance of the husband. It is understood that the husband deserves $\frac{1}{2}$ of the inheritance if his deceased wife does not leave behind a child. The word ‘child’ here

includes both the son and the grandson, daughter and granddaughter no matter how much they descend through male heirs. Similarly the word ‘child’ mentioned by the *Qur’ān* includes daughter and the son’s daughter.

TABLE 7
Husband

Fixed Share	Heirs	Portion	The Estate RM 48
		2 ^a	
$\frac{1}{2}$	Husband	1	24 ^b
<i>‘Āṣib</i>	Father	1	24 ^c

^aLCD for $\frac{1}{2}$

^bHusband: $48 \div 2 = 24$. $24 \times 1 = 24$

^cFather: $48 \div 2 = 24$. $24 \times 1 = 24$ (Father here is *‘Āṣib* hence he takes the balance (which is RM24 in this case) after portions of those who inherit with *Farḍ*).

2.2 THE RUBU‘ IN THE QUR’ĀN

The following are the two people given *Rubu‘* by the *Qur’ān*. The Husband (see Table 8) is the first heir to be given $\frac{1}{4}$ by the *Qur’ān* with the existence of a child of the deceased being the only condition required. The husband did not take $\frac{1}{2}$ as he did in the previous example and instead takes $\frac{1}{4}$ of the estate. This happens to him because of the existence of a child of the deceased as clearly mentioned in the *Qur’ān*.

TABLE 8
Husband

Fixed Share	Heir	Portion	The Estate RM 48
		12 ^a	
$\frac{1}{4}$	Husband	3	12 ^b
$\frac{1}{6}$	Father	2	8 ^c
<i>‘Āṣib</i>	Son	7	28 ^d

^aLCD for $\frac{1}{4}$ and $\frac{1}{6}$

^bHusband: $48 \div 12 = 4$. $4 \times 3 = 12$

^cFather: $48 \div 12 = 4$. $4 \times 2 = 8$

^dSon here is *‘Āṣib* who takes the balance (which is RM28 in this case) after the portions of those who inherit with *Farḍ*.

The *Qur'ān* says (interpretation of the meaning):

“In that which your wives leave, your share is a half if they have no child; but if they leave a child, you get a fourth of that which they leave after payment of legacies that they may have bequeathed or debt.” (*Qur'ān* 4:12)

From this it is understood that if the wife leaves a child, then the husband moves from the inheritance of *Niṣf* (half) to *Rubu'* (fourth) (...but if they leave a child, you get a fourth of that which they leave after payment of legacies that they may have bequeathed or debt).

The Wife or Wives are the second heirs given $\frac{1}{4}$ by the *Qur'ān* on condition that there is no child or grandchild of the husband. In this case the wife/wives take $\frac{1}{4}$ of the estate of the deceased. This is because the deceased did not leave any of his *Furū'* (son or daughter, or any of the descendants of the son, no matter how much they descend). Table 9 illustrates this situation.

TABLE 9
Wife or Wives

Fixed Share	Heir	Portion	The Estate RM 48
$\frac{1}{4}$	Wife or Wives	4 ^a	
		1	12 ^b
<i>Āṣib</i>	Father	3	36 ^c

^aLCD for $\frac{1}{4}$

^bWife/Wives: $48 \div 4 = 12 \times 1 = 12$

^cFather: $48 \div 4 = 12 \times 3 = 36$. Father here is *Āṣib* which means he takes the balance (which is RM 36 in this case) after those who inherit with *Fard*.

The *Qur'ān* says (interpretation of the meaning):

“In that which you leave, their (your wives) share is a fourth if you leave no child; but if you leave a child, they get an eighth of that which you leave after payment of legacies that you may have bequeathed or debt.” (*Qur'ān* 4:12)

This clearly shows that if a man dies leaving a wife, she will get $\frac{1}{4}$ of his wealth provided that there is no child (which includes all of the above mentioned persons in the condition) of the deceased. This ruling is extracted from the statement “In that which you leave, their (your wives) share is a fourth if you leave no child”. It shows

that if the deceased did not leave any of his *Furū'* the portion of the wife or wives is $\frac{1}{4}$ of the estate left by the deceased.

2.3 THE *THUMUN* IN *QUR'ĀN*

The only one who takes *thumun* is the wife or wives and they get it with one condition: there should be no one from the *furū'* (son or daughter, or any of the descendants of the son, no matter how much they descend through male heirs). In this case as illustrated in Table 10, the wife or wives take $\frac{1}{8}$ of the estate, due to the existence of a *Far'* (son or daughter, or any of the descendants of the son, no matter how much they descend through male heirs). This is exactly what *Qur'ān* says (interpretation of the meaning):

“ In that which you leave, their (your wives) share is a fourth if you leave no child; but if you leave a child, they get an eighth of that which you leave after payment of legacies that you may have bequeathed or debt.” (*Qur'ān* 4:12)

The statement “but if you leave a child, they get an eighth of that which you leave” means that if the husband dies leaving a son, the wife will get $\frac{1}{8}$ of the inheritance and if there are more wives then they will share $\frac{1}{8}$ of his estate. This statement shows that if the deceased left a *Far'*, the wife or wives will get $\frac{1}{8}$ of what was left by the deceased.

TABLE 10
Wife or Wives

Fixed Share	Heir	Portion	The Estate RM 48
$\frac{1}{8}$	Wife or Wives	1	6 ^b
<i>Āṣib</i>	Son	7	42 ^c

^aLCD for $\frac{1}{8}$ is 8

^bWife or wives: $48 \div 8 = 6$. $6 \times 1 = 6$

^cSon: $48 \div 8 = 6$. $6 \times 7 = 42$. Son here is *Āṣib* who takes the balance (which is RM 42 in this case) after the portions of those who inherit with *Farq*.

2.4 THE *THULUTH* IN THE *QUR'ĀN*

There are only two people that the *Qur'ān* gave *thuluth*. The first person to inherit $\frac{1}{3}$ is the Mother and she gets it when there is a lack

of a child (no matter how much he descends) and lack of more than one sibling (either full, consanguine, or uterine). In Table 11 the mother gets $\frac{1}{3}$ of the estate because the deceased did not leave neither *Far'* (son or daughter, or any of the descendants of the son no matter how much they descend through male heirs) nor a group of more than one sibling.

TABLE 11
Mother

Fixed Share	Heir	Portion	The Estate RM 48
		12 ^a	
$\frac{1}{3}$	Mother	4	16 ^b
$\frac{1}{4}$	Wife	3	12 ^c
<i>Āṣib</i>	Full Brother	5	20 ^d

^aLCD for $\frac{1}{3}$ and $\frac{1}{4}$

^bMother: $48 \div 12 = 4$. $4 \times 4 = 16$

^cWife: $48 \div 12 = 4$. $4 \times 3 = 12$

^dFull brother here is *Āṣib* who takes the balance (which is RM 20 in this case) after the portions of those who inherit with *Fard*.

Allah says in the *Qur'ān* (interpretation of the meaning):

“For parents, a sixth share of inheritance to each if the deceased left children; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers or (sisters), the mother has a sixth.” (*Qur'ān* 4:11)

From the statement, “if no children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers or (sisters), the mother has a sixth” it is clear that a mother is entitled to $\frac{1}{3}$ of the estate if the deceased does not leave any of his *furū'* (son or daughter, or any of the descendants of the son, no matter how much they descend) or a group of more than one sibling. The word “children” in the *āyah* involves son, daughter and the descendants of the son. A group of more than one uterine sibling are the second people the *Qur'ān* gives $\frac{1}{3}$ if the following conditions are fulfilled: They have to be more than one, lack of a son or daughter who will deprive them from inheritance, lack of a grandson or granddaughter (no matter how much she descends through male heirs) that will also deprive them from inheritance, lack of the Father who will deprive them from inheritance, and lack of a grandfather (no matter how much he ascends through male heirs) who will deprive them from

inheritance. In Table 12 the two uterine brothers receive $\frac{1}{3}$ of the estate left by the deceased, since they have no one to deprive them from that.

TABLE 12
A Group of More Than One Uterine Sibling

Fixed Share	Heirs	Portion	The Estate RM 48
		6 ^a	
$\frac{1}{3}$	2 Uterine Brothers	2	16 ^b
$\frac{1}{6}$	Mother	1	8 ^c
‘ <i>Āṣib</i>	Full Brother	3	24 ^d

^aLCD for $\frac{1}{3}$ and $\frac{1}{6}$

^bTwo Uterine Brothers: $48 \div 6 = 8$. $8 \times 2 = 16$

^cMother: $48 \div 6 = 8$. $8 \times 1 = 8$

^dFull brother here is ‘*Āṣib* who takes the balance (which is RM 24 in this case) after the portions of those who inherit with *Fard*.

Allah says in the *Qur’ān* (interpretation of the meaning):

“If the man or woman whose inheritance is in question has left neither ascendants nor descendants, but has left a brother or a sister, each one of the two gets a sixth; but if more than one, they share in a third.” (*Qur’ān* 4:12)

Here there is no *Aṣl* (Father or grandfather no matter how much he ascends) or *Far’* (son or daughter, or any of the descendants of the son, no matter how much they descend) this is understood from the statement, “If the man or woman whose inheritance is in question has left neither ascendants nor descendants,” this is what is known to be the “*Kalālah*” mentioned by the *Qur’ān* in two places: (*Qur’ān* 4:12 & 176). Similarly the deceased left more than one uterine sibling. The *āyah* says (interpretation of the meaning): “but if more than one, they share in a third,” by this it can be confirmed that the *āyah* did not leave any of the above mentioned conditions out.

2.5 THULUTHĀN IN THE QUR’ĀN

There are four groups of people that the *Qur’ān* gave *Thuluthān*: a group of more than one daughter, a group of more than one granddaughter, a group of more than one full sister and a group of more than one consanguine sister. A group of more than one daughter is the first group to be given $\frac{2}{3}$ by the *Qur’ān* based on two

conditions which are that they have to be more than one and there should be no son to inherit with them. The two daughters as in Table 13 get $\frac{2}{3}$ of the estate, as they are more than one, and the deceased has no son to share the inheritance with them. The *Qur'ān* says (interpretation of the meaning):

“If (there are) women (only daughters), two or more, their share is two-thirds of the inheritance.”

TABLE 13
A Group of More Than One Daughter

Fixed Share	Heirs	Portion	The Estate RM 48
		6 ^a	
$\frac{2}{3}$	2 Daughters	4	32 ^b
$\frac{1}{6}$	Mother	1	8 ^c
‘Āṣib	Full Brother	1	8 ^d

^aLCD for $\frac{2}{3}$ and $\frac{1}{6}$

^bTwo daughters: $48 \div 6 = 8$. $8 \times 4 = 32$

^cMother: $48 \div 6 = 8$. $8 \times 1 = 8$

^dFull brother here is ‘Āṣib who takes the balance (which is RM 8 in this case) after the portion of those who inherit with *Fard*.

From this *āyah* it is clearly understood that if the daughters are two or more, their portion in the inheritance is $\frac{2}{3}$ of the estate. In addition the *āyah* also says that these $\frac{2}{3}$ are only if there is no son to share the inheritance with them. The *Qur'ān* says (interpretation of the meaning):

“Allah commands you as regards your children's (inheritance): to the male, a portion equal to that of two females;” (*Qur'ān* 4:11)

Hence according to the *āyah* if the deceased left a son, their portion of inheritance will not be $\frac{2}{3}$; instead it will be inheritance with *Ta ṣīb* together with the son.

2.5.1 COMMENTARY ON THE STATEMENT OF THE QUR'ĀN

“*Fa'in kunna nisā'an fawqa ithnataini falahunna thuluthā mā tarak*”

“If (there are) women (only daughters), two or more, their share is two-thirds of the inheritance.” (*Qur'ān* 4:11)

The key phrase in this *āyah* is *fawqa ithnataini* which is originally supposed to mean ‘more than two’ and not ‘two and above’. The question is why is the understood and accepted meaning ‘two and above’ instead of the literal meaning. This can be extracted from the following place in the *Qur’ān*: The saying of Allah (interpretation of the meaning):

“If only one (daughter), her share is a half.” (*Qur’ān* 4:11)

This shows that if you have more than one daughter the portion will increase and move from $\frac{1}{2}$ to the next stage and there is nothing more than $\frac{1}{2}$ in the *farā'id* except *Thuluthain* $\frac{2}{3}$. Similar to the statement of Allah (interpretation of the meaning):

“To the male, a portion equal to that of two females” (*Qur’ān* 4:11)

This is in the case where a person leaves a son and a daughter. The son will take $\frac{2}{3}$ which Allah describes as ‘the portion of two females.’ Therefore it shows that if they are alone without a son/brother they take $\frac{2}{3}$. Similarly if the daughter takes $\frac{1}{3}$ in the presence of her brother and he is more harmful to her than her sister, it will be more appropriate to get it with her sister who is less harmful to her. Lastly the saying of Allah (interpretation of the meaning):

“If there are two sisters, they shall have two-thirds of the inheritance;” (*Qur’ān* 4:176)

This is a text from Allah which shows that two sisters take $\frac{2}{3}$ of the estate even though they are further from the deceased than the daughters, it is even more appropriate to give two daughters $\frac{2}{3}$.

The wisdom behind Allah saying ‘*fawqa ithnataini*’ instead of saying its alternative ‘when they are two or more’. Allah knows best, the answer could be that He was indicating that the *Farḍ* or the fixed portion of $\frac{2}{3}$ will never increase due to an increase in the number of daughters. The daughters will receive it starting from two and above without an upper limit to their number. (See Al-Sa’dī, 1424 & Ibn Kathīr, 2006).

The second group given $\frac{2}{3}$ by the *Qur’ān* is a group of more than one granddaughter. They need to fulfil three conditions in order

to get it which are that they have to be more than one, the lack of a son or a daughter and the lack of a grandson at their level.

The granddaughters (see Table 14) also inherit $\frac{2}{3}$ of the estate because all the conditions necessary for them to receive that amount have been fulfilled. They are also considered to be daughters, therefore, the explanation of the *āyah* (interpretation of the meaning): “Allah commands you as regards your children's (inheritance): to the male, a portion equal to that of two females; if (there are) women (only daughters), two or more, their share is two-thirds of the inheritance; if only one (daughter), her share is a half” (*Qur’ān* 4:11) is also applicable to them.

TABLE 14
A Group of More Than One Granddaughter

Fixed share	Heirs	Portion	The Estate RM 48
		6 ^a	
$\frac{2}{3}$	2 Son's Daughters	4	32 ^b
$\frac{1}{6}$	Mother	1	8 ^c
‘ <i>Āṣib</i>	Full Brother	1	8 ^d

^aLCD for $\frac{2}{3}$ and $\frac{1}{6}$

^bTwo granddaughters: $48 \div 6 = 8$. $8 \times 4 = 32$

^cMother: $48 \div 6 = 8$. $8 \times 1 = 8$

^dFull brother here is *Āṣib* thus he takes the balance (which is RM 8 in this case) after the portions of those who inherit with *Far’d*.

The third group that *Qur’ān* has given $\frac{2}{3}$ is a group of more than one full sister. The six conditions they need to fulfil are that they have to be more than one, the lack of a son or grandson (no matter how much he descends through the male heirs) that will deprive them from inheritance, the lack of a daughter or granddaughter (no matter how much her father descends) who will move them from inheriting with *Far’d* to inheriting with *Ta’ṣīb*, the lack of their father who will deprive them from inheritance, the lack of a grandfather (no matter how much he ascends through the male heirs) who will either deprive them from inheritance or be their partner in whatever they inherit and the lack of a full brother who will move them from inheriting with *Far’d* to inheriting with *Ta’ṣīb*.

In Table 15 the two full sisters get $\frac{2}{3}$ of the estate because the deceased did not leave neither *Aṣl* (from the male's side) nor *Far’* (son or daughter, or any of the descendants of the son, no matter how much they descend through the male heirs). Similarly, there is no full brother to be their partner in *Ta’ṣīb*.

TABLE 15
A Group of More Than One Full Sister

Fixed Share	Heirs	Portion	The Estate RM 48
		6 ^a	
$\frac{2}{3}$	2 Full Sisters	4	32 ^b
$\frac{1}{6}$	Mother	1	8 ^c
' <i>Āṣib</i>	Uncle	1	8 ^d

^aLCD for $\frac{2}{3}$ and $\frac{1}{6}$

^bTwo full sisters: $48 \div 6 = 8$. $8 \times 4 = 32$

^cMother: $48 \div 6 = 8$. $8 \times 1 = 8$

^dUncle here is '*Āṣib*' and thus takes the balance (which is RM 8 in this case) after the portions of those who inherit with *Fard*.

The *Qur'ān* says (interpretation of the meaning):

“They ask you for a legal verdict. Say: "Allah directs (thus) about *Al-Kalālah* (those who leave neither descendants nor ascendants as heirs). If it is a man that dies leaving a sister, but no child, she shall have half the inheritance. If (such a deceased was) a woman, who left no child, her brother takes her inheritance. If there are two sisters, they shall have two-thirds of the inheritance; if there are brothers and sisters, the male will have twice the share of the female. (Thus) does Allah make clear to you (His Law) lest you go astray. And Allah is the All-Knower of everything." (*Qur'ān* 4: 176)

As previously mentioned the word '*Kalālah*' means: 'those who leave neither descendants nor ascendants as heirs', and from here the first and fifth condition are extracted. The statement: "If there are two sisters, they shall have two-thirds of the inheritance;" is evidence for the first condition as it shows that the portion of two sisters and above is $\frac{2}{3}$ of the estate. The last condition is taken from the statement: "if there are brothers and sisters, the male will have twice the share of the female." Therefore if there is a full brother among the heirs, the sisters whether one or more will share with him whatever he inherits with *Ta'ṣīb* and not the *Fard* of $\frac{2}{3}$.

A group of more than one consanguine sister is the fourth group that *Qur'ān* has given $\frac{2}{3}$ when they are more than one, the lack of a son or grandson (no matter how much he descends through the male heirs) who will deprive them from inheritance, the lack of a daughter or granddaughter (no matter how much her father descends) who will move them from inheriting with *Fard* to inheriting with

Ta ʿṣīb, the lack of the father who will deprive them from inheritance, the lack of a grandfather (no matter how much he ascends through the male heirs) who will either deprive them from inheritance or be their partner in whatever they inherit, the lack of a full brother or sister who will deprive them from inheritance or move them to something else and lastly the lack of a consanguine brother who will move them from inheriting with *Farḍ* to inheriting with *Ta ʿṣīb*. Only upon fulfilment of these seven conditions do they get $\frac{2}{3}$ of the estate.

Consanguine sisters as in Table 16 get $\frac{2}{3}$ of the estate due to the existence of all the above mentioned conditions.

TABLE 16
A Group of More Than One Consanguine Sister

Fixed Share	Heirs	Portion	The Estate RM 48
		6 ^a	
$\frac{2}{3}$	2 Consanguine Sisters	4	32 ^b
$\frac{1}{6}$	Mother	1	8 ^c
ʿAṣīb	Uncle	1	8 ^d

^aLCD for $\frac{2}{3}$ and $\frac{1}{6}$

^bTwo consanguine sisters: $48 \div 6 = 8$. $8 \times 4 = 32$

^cMother: $48 \div 6 = 8$. $8 \times 1 = 8$.

^dUncle here is *Aṣīb* who takes the balance (which is RM 8 in this case) after the portions of those who inherit with *Farḍ*.

These conditions are extracted from the same *āyah* used to extract those for the full sister as previously mentioned. Condition no. 6 says that there should not be a full brother or sister, this is because if the full brother exists he takes what is left and deprives them from inheritance. This is extracted from the saying of Allah (interpretation of the meaning):

“But kindred by blood are nearer to one another (regarding inheritance) in the decree ordained by Allah. Verily, Allah is the All-Knower of everything.”

This *āyah* encompasses all relatives, not only the degrees of relatives who do not have a fixed designated share in the inheritance. The *āyah* shows that nobody should inherit the deceased except the relatives of the deceased whether they inherit with *Farḍ* or *Ta ʿṣīb*, and this is done according to their levels, the closest among *ʿaṣabah* deprives the farthest from inheritance (Al-Kātib, 1423).

2.6 THE *SUDS* IN THE *QUR'ĀN*

There are seven people who inherit suds and they are the Father, Mother, Granddaughter, Grandfather, Grandmother, Consanguine Sister and Uterine brother or Uterine Sister.

The father is the first heir to be given $\frac{1}{6}$ by the *Qur'an* provided that there is a *Far'* (Son or daughter or grandson or granddaughter no matter how much they descend through the male heirs). The father as in Table 17 gets $\frac{1}{6}$ of the inheritance because of the existence of a son of the deceased and such is the case if there is a grandchild instead of a child. The *Qur'an* says (interpretation of the meaning): “For parents, a sixth share of inheritance to each if the deceased left children;” (*Qur'an* 4:11).

TABLE 17
Father

Fixed Share	Heirs	Portion	The Estate RM 48
		6 ^a	
$\frac{1}{6}$	Father	1	8 ^b
$\frac{1}{6}$	Mother	1	8 ^c
$\frac{1}{3}$	<i>Āṣib</i> Son	4	32 ^d

^aLCD for $\frac{1}{6}$ and $\frac{1}{6}$

^bFather: $48 \div 6 = 8$. $8 \times 1 = 8$

^cMother: $48 \div 6 = 8$. $8 \times 1 = 8$

^dSon here is *Āṣib* who takes the balance (which is RM 32 in this case) after the portions of those who inherit with *Fard*

The Mother is the second person to be given $\frac{1}{6}$ by the *Qur'an* if there is a *Far'* (Son or daughter or grandson or granddaughter no matter how much they descend) or the existence of more than one brother or/and sister from any direction related to the deceased. In Table 18 the mother gets a $\frac{1}{6}$ of the wealth instead of $\frac{1}{3}$, because of the existence of a group of more than one brother (i.e., uterine brothers and a full brother). The *Qur'an* says (interpretation of the meaning):

“For parents, a sixth share of inheritance to each if the deceased left children; if no children, and the parents are the

(only) heirs, the mother has a third; if the deceased left brothers or (sisters), the mother has a sixth”. (*Qur’ān* 4:11)

TABLE 18
Mother

Fixed Share	Heirs	Portion	The Estate RM 48
		6 ^a	
1/6	Mother	1	8 ^b
1/6	Uterine Brother	1	8 ^c
‘Āṣib	Full Brother	4	32 ^d

^aLCD for 1/6 and 1/6

^bMother: $48 \div 6 = 8$. $8 \times 1 = 8$

^cUterine Brother: $48 \div 6 = 8$. $8 \times 1 = 8$

^dFull brother here is ‘Āṣib who takes the balance (which is RM 32 in this case) after the portions of those who inherit with *Farḍ*.

Henceforth, based on the *āyah* a mother may be deprived from inheriting 1/3 by a group of more than one brother and she will inherit 1/6 of the estate instead. In the second example, she still gets a 1/6 because of the existence of a *Far’* (i.e., the child). The *Qur’ān* says (interpretation of the meaning), “For parents, a sixth share of inheritance to each if the deceased left children;” This shows that his child or grandchild also moves a mother from 1/3 to 1/6 of the estate.

Table 19 shows a situation where a Son exists instead of Siblings. In this table the mother is also given 1/6 instead of 1/3 due to the existence of a child of the deceased. This is in accordance with the previous *āyah* which says: “For parents, a sixth share of inheritance to each if the deceased left children”. The same application goes to a grandchild if he/she appears in a case together with the mother.

TABLE 19
Mother

Fixed Share	Heirs	Portion	The Estate RM 48
		6 ^a	
1/6	Mother	1	8 ^b
‘Āṣib	Son	5	40 ^c

^aLCD for 1/6

^bMother: $48 \div 6 = 8$. $8 \times 1 = 8$

^cSon here is ‘Āṣib hence he takes the balance (which is RM 40 in this case) after the portions of those who inherit with *Farḍ*.

The Granddaughter (Son's Daughter) is the third heir to be given $\frac{1}{6}$ by the *Qur'an*. She takes this if there is no son whose level is higher than hers to deprive her from inheritance, if there is existence of only one daughter whose level is higher than hers to deprive her from inheriting $\frac{1}{2}$ to $\frac{1}{6}$ and the lack of a grandson (son's son) at the same level as her to inherit with her as *Āṣib*. When these three conditions have been met then she has to inherit $\frac{1}{6}$.

As illustrated in Table 20, since there is only one daughter she gets $\frac{1}{2}$ but this leaves $\frac{1}{6}$ from the portion *Qur'an* has given a group of more than one daughter as it has allotted to them up to $\frac{2}{3}$ of the estate. Thus the granddaughter will take the remaining $\frac{1}{6}$ in order to complete the $\frac{2}{3}$.

TABLE 20
Son's Daughter

Fixed Share	Heirs	Portion	The Estate RM 48
		6 ^a	
$\frac{1}{2}$	Daughter	3	24 ^b
$\frac{1}{6}$	Son's Daughter	1	8 ^c
Āṣib	Uncle	2	16 ^d

^aLCD for $\frac{1}{2}$ and $\frac{1}{6}$

^bDaughter: $48 \div 6 = 8$. $8 \times 3 = 24$

^cGranddaughter: $48 \div 6 = 8$. $8 \times 1 = 8$

^dUncle here is *Āṣib* who takes the balance (which is RM 16 in this case) after the portion of those who inherit with *Farḍ*.

The daughter in the given case takes only $\frac{1}{2}$ which is less than $\frac{2}{3}$ of the estate that *Qur'an* has given a group of daughters. The wealth is divided into 6 which is the lowest common denominator of 2 and 3. Hence $\frac{1}{2}$ of 6 is 3, and $\frac{2}{3}$ of 6 is 4, therefore, by taking $\frac{1}{2}$ the daughter takes only 3 from the 4 (which is $\frac{2}{3}$ of 6). Therefore the remainder is 1 which is $\frac{1}{6}$. The *Qur'an* says in this regard (interpretation of the meaning):

“Allah commands you as regards your children's (inheritance): to the male, a portion equal to that of two females; if (there are) women (only daughters), two or more, their share is two-thirds of the inheritance; if only one (daughter), her share is a half.” (*Qur'an* 4:11)

To complete the amount allocated to the daughters the granddaughter is given $\frac{1}{6}$ because she is also called a daughter. That

is the reason why this portion of hers is called *Takmilat al-Thuluthain* (which means the completion of the $\frac{2}{3}$) (Abu Bakr ibn Abdurrahman, 2012; Muhammad Salim Muhammad, 2012).

The granddaughter is also considered a daughter, but she cannot share the same amount with the close daughter because their levels are not the same. Thus the closest takes $\frac{1}{2}$ while the lowest takes what completes the $\frac{2}{3}$ given to the daughters. It should be noted here that there is no son of the deceased to deprive her from inheritance, and no other daughter of the deceased to complete the $\frac{2}{3}$. Likewise, there is no grandson to change the nature of their inheritance from *Farq* to *Ta'sib*.

The Grandfather is the fourth heir given $\frac{1}{6}$ by the *Qur'an* as long as there is a *Farq* (son or daughter or grandson or granddaughter no matter how much they descend through the male heirs) and no father who would deprive him from inheritance. The grandfather as in Table 21 gets $\frac{1}{6}$ of the estate because he represents the father since the father does not exist. In this case the father is not there, and the deceased left a child who is the son.

TABLE 21
Grandfather

Fixed Shares	Heirs	Portion	The Estate RM 48
$\frac{1}{6}$	Grandfather	6 ^a	8 ^b
<i>Asib</i>	Son	5	40 ^c

^aLCD for $\frac{1}{6}$

^bGrandfather: $48 \div 6 = 8$. $8 \times 1 = 8$

^cSon here is *Asib* who takes whatever is left (which is RM 40 in this case) after the portion of those who inherit with *Farq*.

This is precisely what is stated when the *Qur'an* says: "For parents, a sixth share of inheritance to each if the deceased left children;" the *ayah* gives the father a $\frac{1}{6}$ because of the existence of the son. For this reason the grandfather who replaces the father takes the same portion.

The Grandmother is the fifth person *Shar'ah* has given $\frac{1}{6}$ if there is no mother. This situation is illustrated in Table 22.

TABLE 22
Grandmother

Fixed Share	Heirs	Portion	The Estate RM 48
		6	
$\frac{1}{6}$	Grandmother	1	8
‘ <i>Āṣib</i>	Uncle	5	40

Note: The author has intentionally excluded details about the grandmother since she is the only one who is not included in the *Qur'an*. The portion of the Grandmother is provided by the *Sunnah* of the Prophet [*ṣal-Allāhu ‘alayhi wa sallam*].

The Consanguine sister is the sixth person *Qur'an* has given $\frac{1}{6}$ if the following six conditions have been met: lack of a son or grandson who will deprive her from inheritance, or a daughter or granddaughter who will move her to *Ta‘ṣīb*, lack of the father who will deprive her from inheritance, lack of the grandfather (no matter how much he ascends through the male heirs) who will either deprive her from inheritance or be her partner in whatever she inherits, lack of a full brother who will deprive her from inheritance, the existence of a full sister who takes *Niṣf*, and lack of a consanguine brother who will move her from inheriting with *Fard* to inheriting with *Ta‘ṣīb*.

The consanguine sister in Table 23 gets $\frac{1}{6}$ because all of the six conditions have been met in this case. The *Qur'an* says (interpretation of the meaning):

“They ask you for a legal verdict. Say: "Allah directs (thus) about *Al-Kalālah* (those who leave neither descendants nor ascendants as heirs). If it is a man that dies leaving a sister, but no child, she shall have half the inheritance. If (such a deceased was) a woman, who left no child, her brother takes her inheritance. If there are two sisters, they shall have two-thirds of the inheritance; if there are brothers and sisters, the male will have twice the share of the female. (Thus) does Allah make clear to you (His Law) lest you go astray. And Allah is the All-Knower of everything." (*Qur'an* 4:176)

The *Qur'an* has also given sisters up to $\frac{2}{3}$ of the estate. The full sister as in Table 23 is alone without any other full sibling so she gets $\frac{1}{2}$ of the estate. The $\frac{2}{3}$ allotted to sisters is incomplete. Thus the consanguine sister gets the remainder which is $\frac{1}{6}$ and this completes the $\frac{2}{3}$ of the sisters. She also gets the $\frac{1}{6}$ because the deceased has no

consanguine brother who will make her *‘aṣibah*. The *Qur’ān* says: “if there are brothers and sisters, the male will have twice the share of the female.” This shows that if she is accompanied by a brother, her share of inheritance will no longer be *Fard*, instead it will turn to *Ta‘ṣīb*.

TABLE 23
Consanguine Sister

Fixed Share	Heirs	Portion	The Estate RM 48
		6 ^a	
½	Full Sister	3	24 ^b
⅙	Consanguine Sister	1	8 ^c
<i>‘Aṣīb</i>	Uncle	2	16 ^d

^aLCD for ½ and ⅙

^bFull sister: $48 \div 6 = 8$. $8 \times 3 = 24$

^cConsanguine Sister: $48 \div 6 = 8$. $8 \times 1 = 8$

^dUncle here is *‘Aṣīb* who takes the balance (which is RM 16 in this case) after the portions of those who inherit with *Fard*.

Consanguine Sister only takes ⅙ of the inheritance if the deceased has no *Aṣl* or *Far‘*; this is deduced from the meaning of the word *Kalālah* mentioned by the *āyah*: “They ask you for a legal verdict. Say: “Allah directs (thus) about *Al-Kalālah* (those who leave neither descendants nor ascendants as heirs). In cases where there is more than one full sister they will be entitled to the full ⅔, and this will make the consanguine sister lose everything because there is no remainder for her, the ⅔ has been completed by the full sisters. For her to get a ⅙ there should not be a full brother, because if he does exist with the full sister, Full Sister will be *‘aṣibah* in this case sharing with Full Brother whatever is left after the *Ashāb al-furūd*, and obviously there will be no remainder for Consanguine Sister. Similarly, if the Full Brother is alone without being in the company of a full sister, the case will be the same; the consanguine sister will be deprived from inheritance because the full brother is stronger and closer to the deceased than her. The *Qur’ān* says (interpretation of the meaning):

“But kindred by blood are nearer to one another (regarding inheritance) in the decree ordained by Allah. Verily, Allah is the All-Knower of everything.” (*Qur’ān* 8:75).

The *āyah* encompasses all relatives, not only the degrees of relatives who do not have a fixed or designated share in the inheritance. No one should inherit the deceased except the relatives of the deceased whether they inherit with *Farḍ* or *Taʿṣīb*, and this is done according to their levels meaning the closest among *ʿAṣabah* deprives the farthest from inheritance. Finally, with the existence of all the above mentioned conditions, the consanguine sister has to be alone without being in the company of a consanguine brother who will turn them from *Ashāb al-furūd* to *ʿAṣabah*. The following *āyah* shows that if a brother exists he will turn their inheritance to *Taʿṣīb* instead of *Farḍ*. The *Qurʾān* says (interpretation of the meaning):

“If there are brothers and sisters, the male will have twice the share of the female.” (*Qurʾān* 4:176)

The seventh heir to be given $\frac{1}{6}$ by the *Qurʾān* is the Uterine Brother or Uterine Sister if five conditions have been fulfilled: He/she has to be alone, lack of a son or daughter who will deprive him/her from inheritance, lack of a grandson or granddaughter (no matter how much he descends through the male heirs) who will deprive him/her from inheritance, lack of the father who will deprive him/her from inheritance, and lack of the grandfather (no matter how much he ascends through the male heir) who will deprive him/her from inheritance.

The Uterine Sister/Uterine Brother as in Table 24 gets $\frac{1}{6}$ of the estate due to fulfillment of all of the conditions. She/he is alone, in addition to the fact that there is no *Farʿ* or *Aṣl* of the deceased.

TABLE 24
Uterine Sibling (One)

Fixed Share	Heirs	Portion	The Estate RM 48
$\frac{1}{6}$	Uterine Brother/Sister	1	8 ^b
<i>ʿAṣīb</i>	Uncle	5	40 ^c

^aLCD for $\frac{1}{6}$

^bUterine Brother or Sister: $48 \div 6 = 8$. $8 \times 1 = 8$

^cUncle here is *ʿAṣīb* who takes whatever is left (which is RM 40 in this case) after the portions of those who inherit with *Farḍ*.

The *Qur'ān* says (interpretation of the meaning):

“If the man or woman whose inheritance is in question has left neither ascendants nor descendants, but has left a brother or a sister, each one of the two gets a sixth; but if more than one, they share in a third” (*Qur'ān* 4:12)

This part of the *Qur'ān* shows that if the deceased died as ‘*Kalālah*’ which means he left neither ascendants nor descendants but he left a uterine brother or sister, he or she will be entitled to $\frac{1}{6}$. This is the meaning of the word of *Kalālah* mentioned by the *āyah*. Likewise the *āyah* says : “but if more than one, they share in a third” this means that for these type of people to get $\frac{1}{6}$ of the estate he or she has to be alone, meaning the deceased left only one uterine brother or sister. If more than one, they all have to share a $\frac{1}{3}$ of the estate.

3.0 CONCLUSION

In conclusion, the *Qur'ān* did not leave out anyone among the heirs whose shares of inheritance is fixed (with the exception of the grandmother), nor any of the possible combinations of heirs in its distribution, as the *Qur'ān* says, “and We have explained everything (in detail) with full explanation” (*Qur'ān* 17:12). This shows the sensitivity of the issue and the care that Allah has given it. Muslims need to take heed of this and fear Allah and not talk about this matter of inheritance or any Islamic knowledge without knowing what Allah has sent regarding it. The *Qur'ān* says: (interpretation of the meaning)

“And follow not (O man i.e., Say not, or do not or witness not, etc.) that of which you have no knowledge. Verily! The hearing, and the sight, and the heart, of each of those you will be questioned (by Allah).” (*Qur'ān* 17:36)

An example of the extreme strictness of this issue is that when *Rasūlullāh* (*ṣal-Allāhu 'alayhi wa sallam*) was asked about some issues of inheritance, Allah immediately revealed an *āyah* to address the question asked (interpretation of the meaning).

“They ask you for a legal verdict. Say: "Allah directs (thus) about *Al-Kalālah*(Thus) does Allah make clear to you (His Law) lest you go astray. And Allah is the All-Knower of everything." (*Qur'ān* 4:176)

Those who are in-charge of distributing the estate in the courts and elsewhere should fear Allah and assign the rights to their proper owners according to what has been prescribed by Allah in the *Qur'ān* or in the *Sunnah* of the Prophet (*ṣal-Allāhu 'alayhi wa sallam*). Those in positions of authority should protect the orphans and other heirs from oppression. They should not oppress them and also should not let others oppress them. The *Qur'ān* says (interpretation of the meaning):

“And let those (executors and guardians) have the same fear in their minds as they would have for their own, if they had left weak offspring behind. So, let them fear Allah and speak right words. Verily, those who unjustly eat up the property of orphans, they eat up only fire into their bellies, and they will be burnt in the blazing Fire!” (*Qur'ān* 4:7-10)

This concludes PART ONE which discusses the first type of inheritance (inheritance with *Farḍ*). PART TWO discusses the second type of inheritance, i.e inheritance with *Ta ṣīb*. It will be published in Vol 23(2), 2015.

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