

## IRTH: Islamic Inheritance Software

By Tahir Ridha Jaffer

### Introduction

Islam, as a complete way of life, has comprehensive guidelines and laws when it comes to the matter of inheritance. The pagan Arabs of the Age of Ignorance espoused standards that were full of injustice and unfairness, and this was seen quite clearly in the way they addressed the matter of inheritance. Even the so-called ‘civilized’ nations of the West had, until quite recently, similar paradigms that were far from just. As one studies the Islamic laws of inheritance, it becomes abundantly clear that these laws were aimed at maintaining a just social and economic order that would help enhance harmony within the community.

Due to the comprehensive nature of the rules of inheritance, however, it can sometimes be overwhelming and difficult for believers to calculate the shares of the heirs. As such, they either resort to asking the local scholar or contact the office of the Marja<sup>c</sup> or his representative. Having been approached on numerous occasions by various individuals who needed assistance to calculate a relative’s inheritance, we realized that it would be very helpful if there was a tool that could be put at the disposal of believers, scholars, and community organizations, that could help to easily calculate the shares of all the heirs in accordance with the rulings of the Marja<sup>c</sup>.

The IRTH Islamic Inheritance Calculator is a Windows (PC) based program which serves this function. It is based on the rulings of al-Sayyid al-Sistani (may the Almighty prolong his life), as found in his manual of Islamic Laws and more advanced texts (such as his *Minhāj al-Ṣāliḥīn*). It is small and portable, with no installation required, and can run from a flash drive or cd if one does not wish to keep a copy on the hard drive. It works on any Windows system,<sup>1</sup> does not connect to the internet, and stores no data. To save any calculations, one simply has to print them out to paper or pdf.<sup>2</sup> All this ensures complete privacy and anonymity. The program can be obtained from the link: <http://www.jaffer.ir/IRTH> or from the author directly.<sup>3</sup>

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<sup>1</sup> In a few rare cases (especially if one is running an old version of Windows), it may require the installation of .NET runtime which is easily downloadable from the Microsoft website.

<sup>2</sup> The print function prints to the default printer, which in most cases is ‘Print to PDF’.

<sup>3</sup> The author of this program can be contacted via his email: [tr@jaffer.ir](mailto:tr@jaffer.ir)

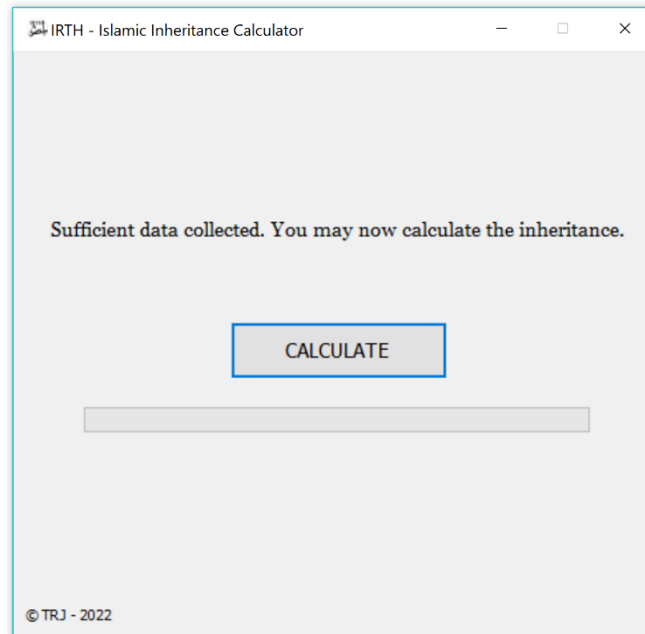
## How to Use the Software:

The user interface (UI) of this software is self-explanatory and simply requires one to input data about the deceased and his/her living heirs in order to calculate their inheritance accordingly. Double-clicking the single executable file should immediately launch the program and bring up the first screen:

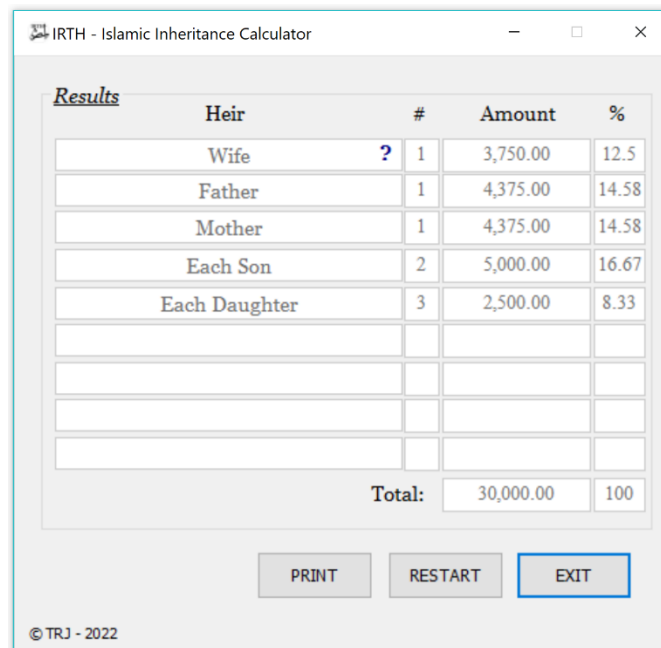
The screenshot shows the 'IRT - Islamic Inheritance Calculator' window. It is divided into three main sections: 'Details of the Deceased', 'Marital Status', and 'First Group of Living Heirs'.  
1. 'Details of the Deceased': Includes radio buttons for 'Male' (selected) and 'Female', and a checkbox for 'The deceased left a will' which is currently unchecked.  
2. 'Marital Status': Includes radio buttons for 'Married' (selected) and 'Single', and a dropdown menu for 'Wife' showing the number '1'.  
3. 'First Group of Living Heirs': This section is further divided into 'Son's children' and 'Daughter's children'.  
 - 'Son's children': Includes checkboxes for 'Father' and 'Mother' (both unchecked), and dropdown menus for 'Son(s)' (0) and 'GrandSon(s)' (0).  
 - 'Daughter's children': Includes dropdown menus for 'Daughter(s)' (0), 'GrandSon(s)' (0), and 'GrandDaughter(s)' (0).  
At the bottom, there is an 'Amount:' field with a value of '0.00' and a question mark icon. A 'NEXT' button is located at the bottom right. The copyright notice '© TRJ - 2022' is visible in the bottom left corner.

Here, one needs to input the details about the deceased and the first group of heirs (if they exist and are alive). The amount refers to the value of the assets of the deceased after all his/her debts are repaid and his/her bequest of a third of the wealth is deducted if he/she left a will. Also, it should be noted that the wife is not to inherit certain assets such as land (see M2782 below) so the amount should not include that value, and it can later be calculated for the other heirs separately.

If any individual from the first group of heirs is alive, no one from any of the subsequent groups of heirs inherits. As such, once the information has been input in this first screen the program is ready to calculate the shares of each heir, so clicking the NEXT button brings you to the following screen (which is the same screen that is seen whenever sufficient data has been collected and the program is ready to calculate the inheritance):



Clicking the CALCULATE button begins the calculation process, which lasts for only a few seconds before the results are displayed:



The results are displayed showing what each of the heirs inherit, and the number of respective heirs. A percentage is also shown to give an idea of the proportion of each heir, and the percentage can also be used in cases where the amount changes due to information that comes to light later regarding the value of the deceased's assets.

In case there were no heirs from the first group, the second group is shown:

IRTH - Islamic Inheritance Calculator

Second Group of Living Heirs

Paternal Grandfather	<input type="checkbox"/>	Maternal Grandfather	<input type="checkbox"/>
Paternal Grandmother	<input type="checkbox"/>	Maternal Grandmother	<input type="checkbox"/>
Brothers	<input type="text" value="0"/>	Sisters	<input type="text" value="0"/>
Paternal Half-Brothers	<input type="text" value="0"/>	Paternal Half-Sisters	<input type="text" value="0"/>
Maternal Half-Brothers	<input type="text" value="0"/>	Maternal Half-Sisters	<input type="text" value="0"/>
From Brother:	Nephews <input type="text" value="0"/> Nieces <input type="text" value="0"/>	From Sister:	Nephews <input type="text" value="0"/> Nieces <input type="text" value="0"/>
From Paternal Half-Brother:	Nephews <input type="text" value="0"/> Nieces <input type="text" value="0"/>	From Paternal Half-Sister:	Nephews <input type="text" value="0"/> Nieces <input type="text" value="0"/>
From Maternal Half-Brother:	Nephews <input type="text" value="0"/> Nieces <input type="text" value="0"/>	From Maternal Half-Sister:	Nephews <input type="text" value="0"/> Nieces <input type="text" value="0"/>

NEXT

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If any of the members of this group are alive, clicking NEXT will take the user to the calculate screen, otherwise the program will proceed to the third group of heirs:

IRTH - Islamic Inheritance Calculator

Third Group of Living Heirs (Part 1)

Paternal Uncles	<input type="text" value="0"/>	Maternal Uncles	<input type="text" value="0"/>
Paternal Aunts	<input type="text" value="0"/>	Maternal Aunts	<input type="text" value="0"/>
Paternal Half-Uncle (Father's Side)	<input type="text" value="0"/>	Paternal Half-Uncle (Mother's Side)	<input type="text" value="0"/>
Paternal Half-Aunt (Father's Side)	<input type="text" value="0"/>	Paternal Half-Aunt (Mother's Side)	<input type="text" value="0"/>
Maternal Half-Uncle (Father's Side)	<input type="text" value="0"/>	Maternal Half-Uncle (Mother's Side)	<input type="text" value="0"/>
Maternal Half-Aunt (Father's Side)	<input type="text" value="0"/>	Maternal Half-Aunt (Mother's Side)	<input type="text" value="0"/>
Father's Paternal Uncles	<input type="text" value="0"/>	Father's Maternal Uncles	<input type="text" value="0"/>
Father's Paternal Aunts	<input type="text" value="0"/>	Father's Maternal Aunts	<input type="text" value="0"/>
Mother's Paternal and Maternal	<input type="text" value="0"/>	Mother's Paternal and Maternal Aunts	<input type="text" value="0"/>

NEXT

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Since the third group of heirs is quite large, if there are no paternal or maternal (or half-paternal or maternal) uncles or aunts of the deceased, the second part of the third group is displayed:

IRTH - Islamic Inheritance Calculator

*Third Group of Living Heirs (Part 2)*

Cousins From	Males	0
Paternal Uncles	Females	0
Cousins From	Males	0
Paternal Aunts	Females	0
Cousins From	Males	0
Maternal Uncles	Females	0
Cousins From	Males	0
Maternal Aunts	Females	0

NEXT

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Once the heirs are chosen, and the results have been calculated, one can either print the results to pdf, restart the program for a new calculation, or exit. Clicking the PRINT button opens the print window:

Print preview

23-03-2022 بسمه تعالی

IRTH

Inheritance for the family of Marhuma \_\_\_\_\_

Heir	#	Amount	%
Paternal Grandfather	1	8,888.89	14.81
Paternal Grandmother	1	4,444.44	7.41
Maternal Grandfather	1	6,666.67	11.11
Maternal Grandmother	1	6,666.67	11.11
Each Brother	2	8,888.89	14.81
Each Sister	2	4,444.44	7.41
Maternal Half-Brother	1	6,666.67	11.11
Total:		60,000.00	100

In accordance with the rulings of al-Sayyid al-Sistani (h)

To print to the default system printer (which is mostly the pdf printer that saves the file to a pdf format), click the printer icon on the top left of the window.

### Important Notes:

- I. Some details about more complicated cases are clarified in the Arabic text of *Minhāj al-Ṣāliḥīn* by al-Sayyid al-Sistani<sup>4</sup> and not in the English Islamic Laws. As such, we have referred to the latter for clarification where required (and have included the Arabic text in a separate pdf for those who wish to refer to the rulings). Furthermore, for a number of cases that were not clear, we sought clarification from the office of the Marja' before implementing the ruling provided. Despite our due diligence, it is always recommended to get a confirmation from the Marja's office or representative regarding the results of the inheritance calculations, especially in more complicated cases.
- II. While the software caters for most cases, there are a few complex and rare cases, such as calculating the inheritance of great-grandchildren, great-grandparents, great-granduncles and grand-aunts, maternal half-nephews, etc. that it does not directly accommodate. It is still, however, possible to use the calculator for these cases since the shares for these groups are the same as those of the generation that precedes them. So, for example, the great-grandchildren inherit the share of their parents (i.e. the grandchildren of the deceased) if none of them are alive. As such, one can calculate the share of the grandchildren and then use the results to establish what the great-grandchildren inherit. For other uncommon and special cases, it is best to contact the office of the Marja' for detailed instructions.
- III. Numerous instances where the ruling contains *ishkāl* or there is a requirement of *iḥtiyāt* (precaution). For such cases, it is important to arrive at a mutually agreed settlement (*muṣālaḥah*). In instances where a specific amount is to be mutually agreed upon, it is indicated in the results using the phrase: "To be Mutually Agreed Upon."<sup>5</sup> In other cases (like M2750), a note is included in the result screen stating that mutual agreement is required.<sup>6</sup> In the case of full nephews and nieces - be they from one's brother or sister,

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<sup>4</sup> <https://www.sistani.org/arabic/book/16/939/>

<sup>5</sup> Note that only the two parties mentioned directly above this statement have to mutually agree on the specific amount mentioned. (Spouses are not part of any mutual agreement).

<sup>6</sup> In cases where this agreement is required for the mother's share, it means that there has to be a mutual agreement whether the mother will inherit less due to the presence of a *ḥājib* (see point iv. below) or she will inherit as she

and paternal nephews and nieces, Syed Sistani says that he considers it problematic that each nephew should inherit twice what the niece does, and that it is not farfetched for them to inherit the same amount (See M2766). Hence, for these two instances we have calculated an equal share for the nephews and nieces and included a note indicating that a mutual agreement should be reached between them.

- IV. There are a number of special cases that change the way certain groups inherit. For instance, if the deceased has at least two brothers or four sisters, or one brother and two sisters, and they are all Muslims, and have the same father, they constitute an impediment or hinderance (*ḥājib*) for the mother of the deceased, who ends up inheriting less than she would if they did not exist (see M2749 below, for example).
- V. In some countries, the local laws can pose a hinderance to the correct distribution of wealth to the heirs according to Islamic teachings. Furthermore, certain present-day considerations – such as the possibility of the wife becoming homeless if she does not inherit the house as per the prescribed rulings (see M2782 below) – make it necessary to have a will prepared and to take other measures, during one’s lifetime, in accordance with Islamic laws, that would cater for such situations. For instance, the husband may conditionally gift the house to his wife during his lifetime.<sup>7</sup>

In the end, despite all efforts, if any error is seen in the software or in the calculations, we humbly request to be informed about it so that it may be corrected as soon as possible. We thank the few individuals who took time to help us test the software before it was released – may Allah bless them all.

والحمد لله رب العالمين

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does when there is no *ḥājib* (i.e.  $1/6^{\text{th}}$  or  $1/5^{\text{th}}$  respectively). To know the exact difference, the inheritance can be calculated twice – once with the *ḥājib* and once without, and then the heirs can decide among themselves which of the two calculations they will all agree upon. This is done because the Marja<sup>c</sup> has noted that there is an *ishkāl* in the ruling of the diminution of the mother’s share due to a *ḥājib* in these cases.

<sup>7</sup> A helpful guide on this has been presented by Syed Muḥammad Rizvi here: <https://al-m.ca/will/>

## Appendix: Rules of Inheritance from Islamic Laws by Syed al-Sistani<sup>8</sup>

### General Rulings:

**M2745.**<sup>9</sup> There are three groups of people who inherit from a deceased person on the basis of kinship.

*The first group* consists of the deceased's father, mother, and offspring, and in the absence of offspring, the grandchildren, however many generations they go forward; whoever from among them is nearer to the deceased inherits from him. And as long as there is even one person from this group, those in the second group do not inherit.

*The second group* consists of the deceased's grandfathers, grandmothers, sisters, and brothers, and in the absence of sisters and brothers, their offspring; whoever from among them is nearer to the deceased inherits from him. And as long as there is even one person from this group, those in the third group do not inherit.

*The third group* consists of the deceased's paternal uncles and paternal aunts, maternal uncles and maternal aunts, and their offspring. And as long as even one person from the paternal uncles and paternal aunts and maternal uncles and maternal aunts of the deceased is alive, their offspring do not inherit. However, if there is one paternal half-uncle from the father's side<sup>10</sup> and one full paternal cousin, and there are no maternal uncles or maternal aunts, then the paternal cousin inherits from him to the exclusion of the paternal half-uncle. But if there are a number of paternal uncles or a number of paternal cousins, or if the deceased's widow is alive, then this rule (*ḥukm*) is problematic (*maḥall al-ishkāl*) [i.e. based on obligatory precaution (*al-iḥtiyāt al-wājib*)], the rule is not established in this case].<sup>11</sup>

**M2746.** If there are no paternal uncles, paternal aunts, maternal uncles, or maternal aunts, nor any of their offspring or grandchildren, then the deceased is inherited by the paternal uncles and paternal aunts and maternal uncles and maternal aunts of the deceased's parents. If they are not alive, their offspring inherit. If they are not alive, the paternal uncles and paternal aunts and maternal uncles and maternal aunts of the deceased's paternal grandparents inherit. And if they are not alive, their offspring inherit.

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<sup>8</sup> These rulings have been taken from: <https://www.sistani.org/english/book/48/2368/>

<sup>9</sup> The 'M' before the ruling number stands for *mas'alah*.

<sup>10</sup> That is, a paternal half-brother of his father.

<sup>11</sup> The term 'problematic' (*maḥall al-ishkāl*) amounts to saying that the ruling is based on obligatory precaution.



**M2747.** A husband and wife inherit from one another as per the details that will be mentioned later.

#### **Inheritance of the First Group:**

**M2748.** If there is only one heir of the deceased from the first group – for example, his father or mother, or one son or one daughter – then that person inherits the entire estate of the deceased. And if there is one son and one daughter, then the estate is divided among them in such a way that the son receives twice the share of the daughter.

**M2749.** If the only heirs of the deceased are his father and his mother, the estate is divided into three parts: two parts are inherited by his father and one part by his mother. However, if the deceased has two brothers or four sisters, or one brother and two sisters, and they are all Muslims and free [i.e. not slaves], and their father is also the father of the deceased even though their mothers may be different, and they have been born, then they do not inherit anything while the deceased's father and mother are alive. In such a case, his mother inherits one-sixth of the estate and his father inherits the rest.

**M2750.** If the only heirs of the deceased are his father, mother, and one daughter, in the event that the deceased does not have a brother or sister who fulfils the conditions mentioned in the previous ruling, the estate is divided into five parts: his father and mother inherit one part each and his daughter inherits three parts. If the deceased has a brother or sister who fulfils the conditions mentioned previously, then his father inherits one-fifth, his mother one-sixth, and his daughter three-fifths. With regard to the one-thirtieth that remains – which is probably the share of the mother, just as it is probable that three-quarters of it is the share of his daughter and one-quarter of it the share of his father – based on obligatory precaution, they must arrive at a settlement (*muṣālaḥah*).

**M2751.** If the only heirs of the deceased are his father, mother, and one son, the estate is divided into six parts: his father and mother inherit one part each and his son inherits four parts. If the deceased has a number of sons or daughters, then the four parts must be divided equally among them. And if he has a son and a daughter, then the four parts must be divided among them in a way that each son receives twice the share of each daughter.

**M2752.** If the only heirs of the deceased are his father or his mother and one or a number of sons, the estate is divided into six parts: one part is inherited by his father or mother and five parts are inherited by his son. And if there are a number of sons, then the five parts are divided equally among them.

**M2753.** If the only heirs of the deceased are his father or his mother and a number of his sons and daughters, the estate is divided into six parts: one part is inherited by his father or mother and the remainder is divided among his sons and daughters in a way that each son receives twice the share of each daughter.

**M2754.** If the only heirs of the deceased are his father or his mother and one daughter, his estate is divided into four parts: one part is inherited by his father or mother and the rest is inherited by his daughter.

**M2755.** If the only heirs of the deceased are his father or his mother and a number of daughters, the estate is divided into five parts: one part is inherited by his father or mother and four parts are divided equally among his daughters.

**M2756.** If the deceased has no offspring, the child of his son receives the share of the deceased's son even if she is a girl, and the child of his daughter receives the share of the deceased's daughter's share even if he is a boy. For example, if the deceased has a grandson from his daughter and a granddaughter from his son, the estate is divided into three parts: one part is inherited by the grandson from his daughter and two parts is inherited by the granddaughter from his son. With regard to grandchildren inheriting, it is not a condition that their father and mother be deceased.

### **Inheritance of the Second Group:**

**M2757.** The second group of persons who inherit on the basis of kinship consists of the deceased's grandfathers, grandmothers, brothers, and sisters; and if the deceased does not have any brothers or sisters, their offspring inherit.

**M2758.** If the only heir of the deceased is one brother or one sister, he or she inherits the entire estate. If he has more than one full brother or more than one full sister, the estate is divided equally between them. And if he has both full brothers and full sisters, then every brother

receives twice the share of every sister. For example, if he has two full brothers and one full sister, the estate is divided into five parts: each brother receives two parts while the sister receives one part.

**M2759.** If the deceased has full brothers and full sisters, his half-brothers and half-sisters who have the same father as the deceased but a different mother do not inherit from him. If he has no full brothers or full sisters and has only one paternal half-sister or only one paternal half-brother, then the entire estate is inherited by him or her. If he has more than one paternal half-brother or more than one paternal half-sister alone, then the estate is divided equally between them. And if he has paternal half-brothers as well as paternal half-sisters, then every half-brother receives twice the share of every half-sister.

**M2760.** If the only heir of the deceased is one maternal half-sister or one maternal half-brother, their father being different to the father of the deceased, he or she inherits the entire estate. And if he has more than one maternal half-brother or more than one maternal half-sister, or more than one of both [i.e. more than one maternal half-brother and more than one maternal half-sister], then the estate is divided equally between them.

**M2761.** If the deceased has full brothers and full sisters as well as paternal half-brothers and paternal half-sisters and one maternal half-brother or one maternal half-sister, the paternal half-brothers and paternal half-sisters do not inherit. In this case, the estate is divided into six parts: one part is received by the maternal half-brother or maternal half-sister, and the remainder is divided among the full brothers and full sisters with every brother receiving twice the share of every sister.

**M2762.** If the deceased has full brothers and full sisters as well as paternal half-brothers and paternal half-sisters and more than one maternal half-brother and maternal half-sister, the paternal half-brothers and paternal half-sisters do not inherit. In this case, the estate is divided into three parts: one part is divided equally between the maternal half-brothers and maternal half-sisters, and the remainder is divided between the full brothers and full sisters with every brother receiving twice the share of every sister.

**M2763.** If the only heirs of the deceased are his paternal half-brothers and paternal half-sisters and one maternal half-brother or one maternal half-sister, the estate is divided into six parts: one part is received by the maternal half-brother or maternal half-sister, and the remainder is divided between the paternal half-brothers and paternal half-sisters with every brother receiving twice the share of every sister.

**M2764.** If the only heirs of the deceased are his paternal half-brother and paternal half-sister and more than one maternal half-brother and maternal half-sister, the estate is divided into three parts: one part is shared equally between the maternal half-brothers and maternal half-sisters, and the remainder is received by the paternal half-brother and paternal half-sister with every brother receiving twice the share of every sister.

**M2765.** If the only heirs of the deceased are his brother, sister, and wife, the wife inherits as per the details that will be mentioned later, and the sister and brother inherit as stated in the previous rulings. Furthermore, if a woman dies and her only heirs are her sister, her brother, and her husband, the husband inherits half of the estate and the sister and the brother inherit as stated in the previous rulings. However, for the wife or husband to inherit, nothing is deducted from the share of the maternal half-brother and maternal half-sister, but there is a deduction from the share of the full brother and full sister or paternal half-brother and paternal half-sister. For example, if the heirs of the deceased are her husband, maternal half-brother and maternal half-sister, and full brother and full sister, then half of the estate is received by the husband, and one-third of the estate is received by the maternal half-brother and maternal half-sister, and whatever remains is the property of the full brother and full sister. Therefore, if the total estate of the deceased is £6000, £3000 goes to the husband, £2000 goes to the maternal half-brother and maternal half-sister, and £1000 is the share of the full brother and full sister.

**M2766.** If the deceased does not have a sister or a brother, their share of the inheritance is given to their offspring, and the share of the maternal half-brother's child and maternal half-sister's child is divided equally among them. As for the share of the paternal half-brother's child and paternal half-sister's child, or the child of the full sibling, based on the well-known (*mashhūr*) juristic opinion, every son receives twice the share of the daughter. However, it is not farfetched (*ba'īd*) that the estate must be divided equally between them and, based on obligatory precaution, they must arrive at a settlement.

**M2767.** If the only heir of the deceased is one grandfather or one grandmother, irrespective of whether they are paternal or maternal, the entire estate is inherited by him/her. The great grandfather of the deceased does not inherit as long as the grandfather is alive. If the only heirs of the deceased are his paternal grandfather and paternal grandmother, the estate is divided into three parts: two parts are inherited by the grandfather and one part by the grandmother. And if the heirs are his maternal grandfather and maternal grandmother, the estate is divided equally between them.

**M2768.** If the only heir of the deceased is one paternal grandfather or paternal grandmother as well as one maternal grandfather or maternal grandmother, the estate is divided into three parts: two parts are inherited by the paternal grandfather or paternal grandmother, and one part is inherited by the maternal grandfather or maternal grandmother.

**M2769.** If the heirs of the deceased are paternal grandparents and maternal grandparents, the estate is divided into three parts: one part is divided equally between the maternal grandfather and the maternal grandmother, and the remaining two parts are inherited by the paternal grandfather and the paternal grandmother with the paternal grandfather receiving twice the share of the paternal grandmother.

**M2770.** If the only heirs of the deceased are his wife and his paternal grandparents and his maternal grandparents, his wife inherits as per the details that will be mentioned later. One-third of the estate of the deceased is received by the maternal grandparents, divided equally between them. The remainder is received by the paternal grandparents with the paternal grandfather receiving twice the share of the paternal grandmother. If the heirs of the deceased are her husband and her paternal and maternal grandparents, the husband receives half of the estate and the grandparents inherit in accordance with the instructions that were mentioned in the previous rulings.

**M2771.** When there is a combination of one brother or sister, or some brothers or sisters with grandparents, there are a number of scenarios, as follows:

1. Each of the grandparents and brother or sister are all from the deceased's mother's side. In this case, the estate is divided equally between them even though some of them may be male and others female.
2. All of them are from the father's side. In this case also, the estate is divided equally between them provided that all of them are male or all of them are female. If they are of different genders, every male receives twice as much as every female.
3. Each of the grandfather or grandmother is from the deceased's father's side, and the brother or sister are siblings of the deceased. The rule (*hukm*) in this case is the same as the rule in the previous case. And it has previously been established that if the paternal half-brother or paternal half-sister of the deceased combines with a full brother or full sister, the paternal half siblings do not inherit.
4. The grandfathers or grandmothers, or both, paternal and maternal, are combined with brothers or sisters, or both, who are also paternal and maternal. In this case, one-third

of the estate is received by the maternal relatives comprising of the brothers and sisters, grandfathers and grandmothers; this is to be divided equally between the males and the females. And two-thirds of the estate is received by the paternal relatives, with every male receiving twice as much as every female. If all of them are male or all of them are female, then it must be divided equally between them.

5. A paternal grandfather or grandmother combines with a maternal half-brother or maternal half-sister. In this case, if there is only one maternal half-brother or maternal half-sister, he/she receives one-sixth of the estate, and if there are more than one, then they receive one-third of the estate divided equally among them. The remainder is inherited by the paternal grandfather or paternal grandmother, and if both the paternal grandfather and the paternal grandmother are alive, the paternal grandfather receives twice as much as the paternal grandmother.
6. The maternal grandfather or maternal grandmother, or both, combine with one or more paternal half-brothers. In this case, one-third is for the maternal grandfather or maternal grandmother, and if both are alive then that one-third is divided equally between them. And two-thirds is for the brother or brothers. If one paternal half-sister combines with those maternal grandparents, then she receives half, and if there are more than one, then they receive two-thirds. In all cases, the share of the maternal grandfather and maternal grandmother is one-third. Based on this, one-sixth of the estate will be left over if there is only one sister. And it is doubtful whether she inherits this or it is divided between her and the maternal grandfather and maternal grandmother; in this case, as an obligatory precaution, they must arrive at a settlement [concerning that remaining one-sixth].
7. The grandfathers or grandmothers, or both, some paternal and some maternal, are combined with one or more paternal half-brother or paternal half-sister. In this case, one-third is for the maternal grandfather or maternal grandmother. If there are more, it is divided equally among them even if some of them are male and others female. The remaining two-thirds of the estate is for the paternal grandfather or paternal grandmother and the paternal half-brother or paternal half-sister, with each male receiving twice the share of each female. If those grandfathers or grandmothers are combined with a maternal half-brother or maternal half-sister, then the share of the maternal grandfather or maternal grandmother and the maternal half-brother or maternal half-sister is one-third, to be divided equally among them even if some of them are male and others female. The share of the paternal grandfather or paternal

grandmother is two-thirds, with the paternal grandfather receiving twice the share of the paternal grandmother.

8. There are brothers or sisters, some of whom are paternal half siblings and others maternal half siblings, as well as the paternal grandfather or paternal grandmother. In this case, one-sixth of the estate is for the maternal half-brother or maternal half-sister if there is only one of them, and one-third if there are more than one, to be divided equally among them. The remainder of the estate is for the paternal half-brother or paternal half-sister and the paternal grandfather or paternal grandmother with each male receiving twice the share of each female. If those brothers or sisters are combined with a maternal grandfather or maternal grandmother, the total share of the maternal grandfather or maternal grandmother and the maternal half-brother or maternal half-sister is one-third, to be divided equally among them. The share of the paternal half-brother or paternal half-sister is two-thirds, the male receiving twice the share of the female.

**M2772.** If the deceased has a brother or sister, their children do not inherit. However, this rule does not apply when the inheritance of a brother's child or sister's child does not clash with that of the brother or sister. For example, if the deceased has a paternal half-brother and maternal grandfather, the paternal half-brother inherits two-thirds and the maternal grandfather inherits one-third of the estate. In this case, if the maternal half-brother of the deceased has a son, then the maternal half-brother's son shares one-third of the estate with the maternal grandfather.

### **Inheritance of the Third Group:**

**M2773.** The third group of heirs consists of paternal uncles, paternal aunts, maternal uncles, maternal aunts, their offspring, and grandchildren. The persons in this group inherit when none of the persons belonging to the first two groups are alive.

**M2774.** If the only heir of the deceased is one paternal uncle or one paternal aunt, irrespective of whether he or she is the full paternal uncle/aunt – i.e. he or she is from the same father and mother as the deceased's father – or he or she is the paternal half-uncle or paternal half-aunt from the father's side [i.e. a paternal half-brother/sister of the deceased's father] or the paternal half-uncle or paternal half-aunt from the mother's side [i.e. a maternal half-brother/sister of the deceased's father], he or she inherits the entire estate. If there is more than one paternal

uncle, or more than one paternal aunt, and all of them are full paternal uncles/aunts, or all are paternal half-uncles/aunts from the father's side or all are paternal half-uncles/aunts from the mother's side, the estate is divided equally among them. If there is both a paternal uncle and a paternal aunt, each paternal uncle receives twice the share of each paternal aunt.

**M2775.** If the heirs of the deceased are paternal uncles and paternal aunts, some of them being paternal half-uncles/aunts from the father's or mother's side and others being full paternal uncles/aunts, then the paternal half-uncles/aunts from the father's side do not inherit. Therefore, if the deceased has one paternal half-uncle or one paternal half-aunt from the mother's side, the estate is divided into six parts: one part is given to the paternal half-uncle/aunt from the mother's side and the rest is given to the full paternal uncles/aunts. If they are not alive, it is given to the paternal half-uncles/aunts from the father's side. If the deceased has both a paternal half-uncle and a paternal half-aunt from the mother's side, then the estate is divided into three parts: two parts are given to the full paternal uncles/aunts, and if they are not alive it is given to the paternal half-uncles/aunts from the father's side, and one part is given to the paternal half-uncles/aunts from the mother's side. In each case, the paternal uncle receives twice the share of the paternal aunt.

**M2776.** If the deceased has only one maternal uncle or only one maternal aunt, he or she inherits the entire estate. If he has both a maternal uncle and a maternal aunt, whether they be full – i.e. they share the same father and mother with the deceased's mother – or they be half-maternal uncles/aunts from either the father's or mother's side, then it is not farfetched that the maternal uncle inherits twice the share of the maternal aunt. But it is also probable that they inherit equally. Therefore, based on obligatory precaution, they must arrive at a settlement on the extra amount.

**M2777.** If the only heirs of the deceased are one or more maternal half-uncles and maternal half-aunts from the mother's side, and full maternal uncles and maternal aunts, and maternal half-uncles and maternal half-aunts from the father's side, then for the maternal half-uncles and maternal half-aunts from the father's side to not inherit is problematic. In any case, the maternal half-uncle or maternal half-aunt from the mother's side, if there is only one of them, receives one-sixth, and if there are more than one, they receive one-third of the estate. The remainder is given to the maternal half-uncle or maternal half-aunt from the father's side or the full maternal uncle and maternal aunt. In each case, it is probable that the maternal uncle inherits twice the



share of the maternal aunt; however, based on obligatory precaution, they must arrive at a settlement.

**M2778.** If the heirs of the deceased are one or more maternal uncles, or one or more maternal aunts, or a maternal uncle and a maternal aunt with one or more paternal uncles or paternal aunts, or a paternal uncle and a paternal aunt, then the estate is divided into three parts: one part is given to the maternal uncle or maternal aunt or both of them, and the remainder is given to the paternal uncle or paternal aunt or both of them. The method of distribution among each group has already been mentioned.

**M2779.** If the deceased does not have any living paternal uncles or paternal aunts, or maternal uncles or maternal aunts, then their shares pass on to their offspring. Therefore, if the deceased has one female cousin from his paternal aunt and some male cousins from his maternal uncle, the female cousin receives two-thirds and the male cousins receive one-third to be divided equally among them. This group – i.e. the children of paternal and maternal uncles and aunts – have priority over the deceased's father's and mother's paternal and maternal uncles and aunts.

**M2780.** If the heirs of the deceased are his father's and mother's paternal and maternal uncles and aunts, the estate is divided into three parts: one part is inherited by the deceased's mother's paternal and maternal uncles and aunts; in this regard, whether each of them receives an equal share or whether the males receive twice the share of the females is a matter of disagreement [amongst jurists]. Therefore, the obligatory precaution is that they must arrive at a settlement. The remaining two parts is divided into three parts: one part is received by the deceased's father's maternal uncle and maternal aunt to be divided between them in the same manner that was mentioned, and the remaining two parts is received by the deceased's father's paternal uncle and paternal aunt to be divided between them in the same manner that was mentioned.

### **Inheritance of Spouses:**

**M2781.** If a woman dies without any offspring, half of her estate is inherited by her husband and the remainder by her other heirs. But if she has offspring from that husband or from another husband, then her husband inherits one-quarter of the estate and the remainder is inherited by her other heirs.

**M2782.** If a man dies without any offspring, a quarter of his estate is inherited by his wife and the remainder by his other heirs. But if he has offspring from that wife or from another wife,

then his wife inherits one-eighth of the estate and the remainder is inherited by his other heirs. A wife does not inherit anything from the land of a house, garden, plantation, or from any other land, neither from the land itself nor from the value of it. Furthermore, she does not inherit from what stands on the land, such as buildings and trees; she does, however, inherit from their value. The same applies to the trees, crops, and buildings that are on the land of a garden, plantation, or on any other land. However, she does inherit from the actual fruit that was present on the trees at the time of her husband's death.

**M2783.** If the wife wishes to have right of usage over things which she does not inherit, such as the land of a residential house, she must obtain permission from the other heirs. It is not permitted (*jā'iz*) for the other heirs – as long as they have not given the wife her share – to have right of usage without the permission of the wife over those things of which she inherits the value, such as [the value of] buildings and trees.

**M2784.** If the heirs wish to undertake the valuation of the buildings, trees, and similar things, they must do so in the way experts usually undertake valuations. That is, they must disregard the particulars of the land it is situated on, and not base their valuation on how much it would be worth if it were uprooted from the land or if it remained unrented on the land.

**M2785.** The watercourses for subterranean canals and suchlike have the same rule as land, and the bricks and other things that were used for their construction have the same rule as buildings. As for the water itself, the actual water is inherited.

**M2786.** If the deceased has more than one wife and no offspring, then one-quarter of the estate must be divided equally among his wives. And if he has offspring, then one-eighth of the estate as per the explanation given previously must be divided equally among his wives. This rule applies even if the husband did not have sexual intercourse with all or some of them. However, if he married a woman during his terminal illness and did not have sexual intercourse with her, then that woman does not inherit from him and nor is she entitled to a dowry.

**M2787.** If a woman marries a man while she is ill and subsequently dies from that illness, her husband inherits from her even if he did not have sexual intercourse with her.

**M2788.** If a woman is given a revocable divorce (*al-ṭalāq al-rij'i*) in the manner explained in the rulings pertaining to divorce, and she dies during the prescribed waiting period (*ʿiddah*), her husband inherits from her. Furthermore, if her husband dies during that *ʿiddah* period, his wife inherits from him. However, if one of them dies after the expiry of the *ʿiddah* period or during

the *‘iddah* period of an irrevocable divorce (*al-ṭalāq al-bā’in*), then the other does not inherit from him/her.

**M2789.** If a husband divorces his wife while he is ill and dies before the expiry of twelve lunar months, his wife inherits from him on fulfilment of three conditions [as below], irrespective of whether the divorce was revocable or irrevocable:

1. During this time, she has not married another man. If she has married another man, she does not inherit, although the recommended precaution (*al-iḥṭiyāt al-mustaḥabb*) is that they [the ex-wife and the heirs] arrive at a settlement.
2. The divorce has not taken place at the request of the wife, otherwise she does not inherit, irrespective of whether she paid her husband something to divorce her or not.
3. The husband died with the same illness he had when he divorced her, and he died due to that illness or some other cause. Therefore, if the husband recovers from that illness and dies later due to some other cause, the divorced wife does not inherit from him unless his death happened during the *‘iddah* period of a revocable divorce.

**M2790.** The clothes that a husband buys for his wife to wear is treated as part of his estate after his death even though she may have worn them, unless he gave ownership of them to her. A wife is entitled to seek ownership of clothes from her husband as part of his obligations to provide maintenance (*nafaqah*) for her.

### Miscellaneous Rules of Inheritance

**M2791.** The deceased’s Qur’ān, ring, sword, and clothes which he had worn or had kept in order to wear, belong to the eldest son. If the deceased had more than one of the first three things – for example he left two copies of the Qur’ān or two rings – the obligatory precaution is that the eldest son must arrive at a settlement with the other heirs regarding those things. The same applies to the reading stand (*riḥāl*) for the Qur’ān and the gun, dagger, and other weapons. The sheath of the sword and bookmark for the Qur’ān are regarded as being part of those items.

**M2792.** If the deceased has more than one eldest son – for example, two sons are born of two wives at the same time – the items mentioned earlier must be divided equally among them. This rule is specific to the eldest son even though there may be daughters older than him.

**M2793.** If the deceased has a debt which is equal to his estate or more, the eldest son must give those things mentioned earlier that belong to him to settle the debt, or he must pay their equivalent worth from his own wealth. If the debt of the deceased is less than his estate but his estate without those items that belong to the eldest son is not sufficient to settle his debt, then the eldest son must give from those items or from his own wealth to settle the debt. However, if the rest of his estate is adequate to clear the debt, then the obligatory precaution is that the eldest son must still participate in clearing the debt in the manner mentioned previously. For example, if the estate of the deceased is worth £600 and the items that belong to the eldest son are worth £200 and the deceased has a debt of £300, the eldest son must pay £100 from the items he received to pay off the debt.

**M2794.** A Muslim inherits from a disbeliever (*kāfir*) but a disbeliever does not inherit from a deceased Muslim, even if he is the deceased's father or son.

**M2795.** If a person kills one of his relatives intentionally (*‘amdān*) and unjustly, he does not inherit from him. However, if the killing was justified – for example, it was a retributory punishment (*qisās*) [as sanctioned by a judge], or the legal execution of a punishment, or it was in self-defense – then he does inherit from him. The same applies if the killing was due to some error. For example, if he threw a stone in the air and by chance it hit one of his relatives and killed him, he inherits from him; however, he does not inherit from the blood money (*diyah*) that his relatives pay for the killing. As for manslaughter – i.e. killing someone, without intending to, by intentionally doing something to the person that would not usually result in death – this does not prevent him from inheriting.

**M2796.** Whenever it is proposed to divide the inheritance, the share of a child who is in its mother's womb and will inherit if it is born alive must be kept safe. This is on condition that it is known whether it is one child or more and whether it is male or female, even if this is discovered using scientific instruments. If it is not known but a reliable probability exists that there is more than one child in the womb, the share of one son multiplied by the probable number of children must be put aside. And in the event that, for example, one son or one daughter is born, the extra amount must be divided between the heirs.