An Appraisal of Justice Approach to Islamic Property Inheritance: The Right of The Deceased and the Heirs

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Abstract

The concept of justice is sacrosanct in Islamic Law. This is why Muslims are enjoined to be just and fair in all areas of their lives. The fact that Islam is an all-encompassing religion makes it leave no matter unaddressed, whether on marriage, divorce, custody of children, inheritance, finance, or source of livelihood, amongst others. Property inheritance is an aspect that requires special attention and expertise due to the complexities involved. This paper aims to unravel the concept of property inheritance in line with the stipulations of Islamic Law and how strict adherence to these stipulations will help attain justice for both the heirs and the deceased. This paper finds that balancing the rights of the deceased and heirs in property inheritance is vital. Hence, attention must be paid to details in property sharing. To appropriately address the topic of discourse, this study utilises a doctrinal approach to explore the primary sources of Islamic Law, that is, relevant verses of the Qur'an on the subject and Hadith and opinions of respectable scholars and journal articles. This paper further submits that both the heirs and the deceased deserve justice regarding property inheritance, leaving no one to be left uncatered for. As a matter of importance, practical recommendations that can be implemented to balance the rights of the deceased and heirs in Islamic property inheritance are meticulously highlighted.

Keywords: Inheritance; Property; Justice; Islamic Law

1. Introduction

Islam advocates for the dignity of labour and moderation as a source of livelihood. There is no doubt that Islam has prescribed many ways to enhance the economic lives of the Muslims as the world is moving fast in maximising the economic life of every nation.[1] It is therefore important for Muslims to explore lawful means within their capacity to source for provisions that will aid their existence. In the process of this struggle, they are permitted to acquire property and wealth in their names and to also aid in catering for family welfarism. Acquiring this property implies that they have absolute control and ownership over it without unnecessary interference from any other person as a man is not expected to depend on another's wealth unreasonably. One important question that must be asked is what happens when the deceased leaves behind his property or wealth, as well as heirs who are expected to inherit the properties in question. Another issue for determination is how to ensure that the properties are equitably distributed among the heirs while protecting the dignity of the deceased. These among other important areas are the central focus of this paper that will be explored in subsequent sections. In achieving the set objectives of this paper, it explores a doctrinal approach to examine the topic. This is done through the exploration of the primary sources of Islamic Law- the Qur'an and Hadith of the Prophet. Not only that, but this research also relies on the opinions of respectable and renowned scholars. These previous journals centre on Islamic property inheritance and textbooks to effectively convey the theme of discourse.

For the purpose of addressing the focus of the topic, this paper is divided into five sections. The first part serves as an overview of the concept of property inheritance in Islamic Law, where key terms are explained and a brief historical analysis made. It also examines the principle of justice in Islamic Law and how it intersects with property inheritance, bearing in mind the rights of the deceased and the heirs. The section also examines the administration of justice in Islamic Law

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[1] N.O Badmus, A. Adinoyi J. I. Zubairu, *et al*, 'Islamic Concept of Dignity of Labour and its Effects on the Nascent Entrepreneurship Model' *International Journal of Scientific Multidisciplinary Research* (2023) 1 (7) <https://journal.formosapublisher.org/index.php/ijsmr/article/download/5496/5589/20123> accessed 13 December 2024.

parlance. The second and third sections address the rights of the deceased and heirs, analysing the relationship between the deceased and heirs, which is important in determining the inheritance shares. The fourth part addresses the method of inheritance sharing among the legal heirs. On a final note, the fifth section highlights important actions that must be taken to ensure that justice prevails for both the deceased and the heirs in property inheritance, followed by the concluding part.

1.1. Justice and Overview of the Concept of Property Inheritance in Islamic Law

According to Black's Law Dictionary, justice is the fair and proper administration of law.[2] It is an important concept in both common and Islamic law that enables every matter to be held without bias, favouritism and nepotism. It connotes the concept of equality before the law, that the law is above everyone regardless of status or any societal affiliation or condition. Before the advent of Islam, property inheritance was not a new phenomenon. Pre-Islamic Arabia also had an inheritance principle based on blood relationship, adoption (Tabanni) and contract. On blood relationships, emphasis was placed on comradeship in arms. Here, only those who could fight to defend their clan or get war booty were allowed to inherit. Women, minor and weak, therefore, were excluded from inheritance. In many cases, only the eldest was considered to inherit all the properties and might claim his father's wives.[3]

This predicament persisted until Islam came to rescue the oppressed by specifically granting them the right to inherit property. This occurrence was not only restricted to the Arabs as it was rampant in other parts of the world, and Nigeria is not an exception. Women were exempted from inheriting property in different jurisdictions. For instance, in Yoruba, women's right to inheritance did exist, but it is limited in application. However, the courts have frowned against the denial of the right of female members of the family to inherit family property either of their fathers or husbands and held that it is repugnant to natural justice, equity and good conscience.[4] Consequently, the rights of inheritance have considerably changed due to judicial intervention. It is also important to note that despite the court intervention, including the Supreme Court, to settle this inconsistency, the restriction of women from inheritance still persists.

The case is somewhat brutal in Igbo land, where women and female children are outrightly prohibited from inheriting property. Under the Igbo customary inheritance system, female children and widows have no right to inherit, as is held in *Mojekwu v. Mojekwu*.[5] A daughter can only inherit where she opts to remain unmarried and stay in her father's house with a view of birthing sons in her father's name. This is vividly illustrated in the case of *Ugboma v. Ibeneme*,[6] where the court held that under the Igbo customary inheritance system, women are not entitled to inherit land

[2] A. A. Adebayo, 'Access to Justice through Legal Aid in Nigeria: An Exposition on Salient Features of the Legal Aid Act' *Brawijaya Law Journal* (2019) 6 (2) ,<https://www.researchgate.net/publication/337986425_Access_to_Justice_through_Legal_Aid_in_Nigeria_An_Exposition_on_Some_Salient_Features_of_the_Legal_Aid_Act> accessed 13 December 2024

[3] B. Ali, 'Mirath Islamic Law of Inheritance '(2023). <https://www.researchgate.net/publication/368918412_MIRATH_ISLAMIC_LAW_OF_INHERITANCE#fullTextFileContent> accessed 13 December 2024.

[4] A. A. Taiwo & A. Imosem, 'Analysis of Law of Intestate Succession under the Customary Law of South West, Nigeria '*European Journal of Social Sciences* (2019) 58 (4) <https://www.europeanjournalofsocialsciences.com/issues/PDF/EJSS_58_4_02.pdf> accessed 13 December 2024

[5] *Mojekwu v Mojekwu* (1997) 7 NWLR (Pt. 512) 283, 304-305 (CA).

[6] (1967) FNLR 251.

from their fathers hence, a female lacks the locus standi to bring an action concerning title to land.[7] The learned trial judge, Egbuna J, in Ugboma's case held that by the general Ibo custom, which is also the custom of Awkuzu, home of the deceased Reverend Ibeneme, women are not entitled to inherit from their father. Consequently, the female children have no locus standi in the action.[8]

Furthermore, A widow is entitled to live in her deceased husband's house, subject to good behaviour or until she remarries. Apart from the fact that this act does not exhibit any iota of justice, it is also glaring that such law is discriminatory and against sound reasoning as it prohibits some persons from inheritance merely because they are females. It is also necessary to mention that despite the court intervention, including the Supreme Court, to strike down the discriminatory practice in Igbo land, the restriction of women from inheritance still persists.[9]

It is true that the position of inheritance in Hausa land shares similarity with that of Islamic practice.[10] However, women's right to inheritance in Hausa land was also influenced by customary law and colonialism. While customary law and colonialism fail to appropriately advocate for women's right to inherit property, including that of her husband, the intervention of Islamic Law birthed the opportunity for women to be entitled to their father and husband's property as inheritance. According to the Qur'an, Islamic Law's position is that females will be entitled to half of the portion of males.

These illustrations point out that women's right to inheritance was, as a matter of general rule, not recognised until the intervention of Islamic Law that specifically states the entitlement of all the heirs that are lawful to inherit from the deceased's property. The position of court in the landmark case of *Nwakwo v Nwakwo* aligns with this trend that women's right to inherit property must be duly recognised.[11]

In Islamic Law, justice is core and held in esteem. In Arabic, justice is *al-'Adalah or al-'Adl*[12]. It is deemed a moral concern and legal concept in different forms, such as placing things in their rightful place, trusting them, giving people equal treatment, access to legal aid, and so on. This assertion is foregrounded in a verse of the Qur'an "Indeed, Allāh orders justice and good conduct and giving (help) to relatives and forbids immorality and bad conduct and oppression. He admonishes you that perhaps you will be reminded."[13] The trust concept as justice is also illustrated in another verse of the Qur'an that reads "Verily, Allah commands that you should render back the trusts to those, to whom they are due; and that when you judge between men, you judge with

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[7] D. T. Eyongndi, F. N. Opara, *et al*, 'Realising Female Inheritance Rights in South Eastern Nigeria: The Imperativeness of Going Beyond Legal Rhetoric ' UJAEN (2024) <https://revistaselectronicas.ujaen.es/index.php/TAHRJ/article/download/7972/8641/59269?inline=1#:~:text=Under%20the%20Igbo%20customary%20inheritance,was%20held%20in%20Mojekwu%20v.> accessed 14 December 2024.

[8] Supra note 6.

[9] See the case of *Onyibor Anekwe & Anor v. Mrs Maria Nweke* (2014) 9 NWLR (pt 1412) 393. Where the Supreme Court held that the custom of disinheriting a woman from the property was repugnant to natural justice, equity and good conscience.

[10] A. Jamo, 'Female Rights to Inheritance in Hausa-Fulani, Ibo and Bini Cultural Groups in Nigeria: A Comparative Analysis of the Cultural Goups in Kaduna State' (2020) *Gombe Journal of Administration and Management* vol.3. No. 1. P.147.

[11] (1995) LPELR-2110 (SC).

[12] K. Ismail, 'Islam and the Concept of Justice' *Center for Islamic Thoughts and Understanding* ' <https://ir.uitm.edu.my/32047/1/32047.pdf> accessed 14 December 2024.

[13] Qur'an 16 verse 90.

justice. Verily, how excellent is the teaching which He (Allah) gives you! Truly, Allah is Ever All-Hearer, All Seer."[14]

1.2. Administration of Justice in Islam

All the aforementioned verses of Qur'an and Hadith attest to the fact that justice is an integral aspect of Islamic Law and Muslims must ensure that they are fair and just. The Prophet is also an embodiment of justice. He was known to be honest, truthful and trustworthy throughout his lifetime. He ensured that justice prevailed and judged accordingly no matter his relationship with the parties. One of his sayings illustrates that the best deed in the sight of Allah is to render justice.

Administration of justice in Islamic Law is broad as it cuts across several relationships. It manifests in interpersonal relationships within the family, communities and nations. It also reflects in governance that leaders must be just and fair to their followers. Therefore, the concept of justice is paramount in Islam; portraying that both the rulers and the ruled must be treated with dignity and their rights must be respected at all times. With respect to the judiciary, the end goal of law in Islam is to attain justice in different areas either in criminal or civil matters. The fact that justice is deeply rooted in Islam can be traced to the time when the Prophet swore that he would ensure that all matters are handled with justice. He demonstrated with an illustration of his daughter, Fatimah that he would amputate her hand were she guilty of stealing. This is because the penalty for stealing is amputation of the hand and he would not hesitate to enforce the sanction on her daughter. This is also applicable to the role of a judge as he is expected to be a person of honesty, impeccable character, undaunting reputation and other virtuous characteristics.

2. Islamic Law of Inheritance

Inheritance is the transfer of a person's property to another person upon his death.[15] It is known as mirath in Islamic Law. The property can come in any form, which include monetary value, real property (land), cars, clothes, furniture, farm, jewellery, cash (at hand and in bank), shares, bonds, and so on, including socks and so on[16].It is necessary to understand that inheritance in Islamic Law differs from how it is obtained in common law. In common law, a deceased is said to have died intestate, where he fails to write down his will before his death. Where he writes the will before his death, he has died testate, denoting that he has prescribed the devolution of his property after he has passed on.

However, the law governing inheritance or property sharing is settled in Islamic Law through the intervention of the Qur'an and Hadith. Therefore, a Muslim is not said to have died intestate where he fails to address the distribution of his wealth after his death. Instead, Islamic Law recognises the concept of will which has nothing to do with property transfer. In Islamic law, a will is a bequest granted to another person by the testator subject to specific requirements. It can be bequeathed to a family member who is not part of the beneficiary of the deceased's property. Such will can also come in any form, either in monetary value, real property, land or movable property.

2.1. The Heirs

In law, an heir refers to anyone with a legal right to inherit the assets of another person when that person dies without a last will in place. In simple terms, heirs are the people who have the right to inherit the deceased's property or those who have entitlement to his estate. As established earlier,

[14]Qur'an 4 verses 58.
[15] https://faolex.fao.org/docs/pdf/est182057ENG.pdf
[16] M. I. Muhammad, 'Inheritance in Islam: An Attempt to Simplify One of the Complex Branches of Shari'ah' Sadaqatu (Tayyibatun Foundation 2017).

a person does not die intestate in Islam as the Qur'an has stipulated the share of each heir after the death of the property owner.

2.1.1. Categories of Heirs

The heirs are categorised into primary heirs, Qur'anic heirs or sharers, and residuary heirs.[17]

a. **Primary Heirs** include parents, son, daughter, and the deceased's spouse. They cannot be excluded from inheriting, no matter the circumstances.

b. **Qur'anic Heirs/ Sharers** are twelve in Islam. Out of these twelve, nine were mentioned in the Qur'an, including mother, father, husband, widow, daughter, uterine brother, and so on.

c. **Residuary Heirs** are those entitled to the remnants of the property after it has been distributed among the primary heirs and the Qur'anic sharers.

Notably, not everyone who survives the deceased qualifies as an heir, as the heir must be legal. This is why it is important to mention some impediments to inheritance, circumstances where a person will not be qualified as the legal heir.[18] These impediments shall be briefly discussed below.

a. Murder

An heir who murders the deceased of an estate will be barred from inheriting the property of the deceased if the cause of the murder is deliberate. In a situation where the murder is accidental, he will be allowed to inherit the deceased's property; however, he will not inherit from the blood money.

b. Slavery

A slave does not inherit from his family or the deceased in question. This is because a slave and everything he owns belongs to his master. The rationale behind this is that whatever property the slave inherits automatically becomes that of his master.

c. Difference in religion

A Muslim does not inherit from a non-Muslim and vice versa no matter how intimate the relationship they share. For instance, a Muslim husband will not inherit from the property of his wife, who is a non-Muslim, and so the wife.

d. **Li'an (causing for adultery)**

This is a situation whereby a man denies the legitimacy of his wife's pregnancy and as such, they end up swearing and causing themselves. This process is explained in detail in Qur'an 24 verses 6 to 9. Other impediments to property inheritance are simultaneous death and emergency marriage.

3. Acquisition and Distribution of Property in Islamic Law

As much as it is essential to strive to make ends meet and also have a lawful means of livelihood. Islam also supports acquisition of property. However, the property must be acquired with moderacy and taqwa (the consciousness of Allah). This conveys that Muslims must not be self-centred to purposely accumulate wealth where it could be utilised for the advancement of the general public, which could come in the form of zakat or sadaqah. On this premise, property inheritance and distribution are vital areas of Islamic law.

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[17]R. Bashir,'An Overview of Estate Sharing & Inheritance Under Islamic Law of Inheritance '*Law Pavilion* (2023) <https://lawpavilion.com/blog/an-overview-of-estate-sharing-inheritance-under-islamic-law-of-inheritance/> accessed 14 December 2024.

[18]Sadtayy Foundation 'Impediments to Inheritance ' <https://inheritance.sadtayyfoundation.org/impediments-to-inheritance/> accessed 15 December 2024.

A Muslim's property is not solely for him. Several verses of the Qur'an and Hadith testify to the fact that Allah is the source of the provider and the One who has control over every affair. Islam also preaches the spirit of generosity among the Muslim community as buttressed in Qur'an 2 verse 74 that those who give will be rewarded by their Lord and will have no fear or grief. A Hadith reported by Abu Huraira also captured this message that "The generous one is near to Allah, near to Paradise, near to the people, and far from the Hellfire. The miserly one is far from Allah, far from Paradise, far from the people, and near to the Hellfire. An ignorant, generous person is more beloved to Allah Almighty than a stingy scholar."[19]

Importantly, the property, which could be in any form, must be acquired in a halal (lawful) way so that it could be open for distribution after the owner's demise as inheritance.

3.1. Conditions Guiding Property Inheritance in Islamic Law

Certain requirements must be fulfilled before a property can be validly affirmed to be open for distribution. These requirements will be succinctly evaluated.

3.1.1. Fulfillment of funeral expenses

It is important that before a deceased's property is subject to distribution, all the funeral expenses must be paid, such as transportation to the cemetery, the digger's wage, payment of shroud and other burial expenses. These expenses are to be paid from his property before they are open for inheritance.

3.1.2. Fulfillment or payment of his outstanding debt

Islam does not take debt with levity and this is also applicable to property distribution. This has been illustrated in one of the Hadiths of the Prophet; Abu Hurairah narrated that the Messenger of Allah (peace be upon him) said: "A believer's soul remains in suspense, that is, cannot enter Paradise until all his debts are paid off."[20] This connotes that payment of debt is highly important for everyone. Such a deceased person could be assisted in paying the debt in a situation where he has no property to cover it.

3.1.3. Fulfillment of bequest

A deceased can make a will for an individual or the general public. It is pertinent that this will be deducted from the entire property before it can be open for sharing. However, such will must not exceed one-third of the property, its beneficiary must not be part of the heir. These requirements are germane for the validity enforcement of the will, except the heirs unanimously agree where the conditions are not fulfilled. Where they do not agree, such a bequest is bull and void. Where these conditions are fulfilled, the remaining property is said to be open for distribution to the rightful heirs. The Qur'an, as obtained in Qur'an 4 verses 11, 12 and 176, has dictated the particular ratio of each of them. Categories of people mentioned in the Qur'an include son, grandson or his descendant, father, paternal grandfather or his ascendant, husband, daughter, mother, son's daughter, wife and so on. This further portrays that both men and women have the right to inheritance regardless of their gender, class or any status.

3.2. Rights of the Deceased

a. Right to make a will and dispose of his property.

Islamic law recognises that the deceased has the right to make a will, and so far, it is in tandem with the rules that have been mentioned above. He has the right to dispose of his property either

[19] Sunan al-Tirmidhī, Grade: Sahih (authentic) according to Al-Suyuti.
[20] Ahmad, Ibn Majah, and Tirmidhy Collections. Available at <https://sunnah.com > last accessed 15 December 2024.

as a form of charity or other humanitarian efforts. The executor of his property must respect this and ensure the deceased's property is distributed correctly for the just cause.

b. **Right to pay his debts from his property.**

It is a notorious fact in Islamic Law that death is inevitable, and it makes no announcement to anyone before its arrival. Thus, where the testator dies with outstanding debts, he has the right to be repaid from his property before it can be open for distribution.

c. Right to non-exploitation and justice

This is a right that has been bestowed on everyone who has the means. The property of the deceased is automatically open to distribution for deserving heirs. Hence, it must be distributed in a just and fair manner as stipulated in the Qur'an. His property should not be unnecessarily accumulated or kept without unjust cause, except a justification warrants the delay.

d. Right to a dignified funeral

Although death is inevitable and an expectation, Islamic Law frowns at celebration and extravagant spending during funerals. The deceased has the right to a moderate and dignified funeral and be buried in a manner not inconsistent with Islamic principles. His body should not be delayed without a reasonable justification.

3.3. Rights of the Heirs

The rights and entitlement of the heirs have been specified in Qur'an 4 verses 11, 12 and 176 to ensure fairness and justice.

a. Right to know the property value.

The Heirs have the right to know the value of the deceased's property. They have the right to be informed of the exact value of the deceased's property to ensure justice, accountability and transparency.

b. **Right to receive their shares of the property.**

The heirs have the right to receive their property shares as stated in the holy Qur'an and supported by Hadith. The sharing of the property should not be delayed for an unjust cause. They should not be refrained from receiving their designated shares of the property.

c. **Right to question the will or bequest.**

The heirs have the right to question or contest the will especially when it is not in alignment with the stipulations of Islamic Law. For instance, a will must not exceed one-third of the property and the beneficiary must not be part of the heirs. Where a will appears to flout these rules, the heirs have the right and standing to challenge its validity.

d. Right to be prioritised in property sharing.

Islamic Law permits that certain heirs should be prioritised over others while distributing the property. This is why the heirs are categorised into three, namely, primary heirs, Qur'anic heirs and residuary heirs. The notice behind the priority is to ensure that the heirs receive their rightful shares in the deceased's property.

e. Right to protection of their shares

The heirs have the right to protect their shares from interference. Their shares must be protected from actions that may be inconsistent with their intention. These actions cut across selling, gifting, borrowing or leasing, and so on that could occur without their consent.

4. Analysis of Inheritance Shares in Islamic Law

It has been noted that Islamic Law recognises the rights of men and women to inherit property. Muslims are not expected to base their property distribution in a particular way or write a will contrary to the tenets of Islamic Law. The inheritance share of each deceased's heir has been prescribed in the Qur'anic verses and foregrounded by Hadith. Muslims are under obligation to adhere to these stipulations. The section shall briefly examine the share of each deceased's heir in Islamic Law.

4.1. Inheritance of Descendants (Sons)

a. Where the son is the sole survivor of the deceased, he is the only legal heir that could inherit the deceased's property; he will inherit all the property either of his father or his mother.

b. Where it happens that the deceased is survived by a son and other heirs who are entitled to inherit the deceased's property, the son will become residuary and takes the remaining property when others have been given their shares as stipulated in the Qur'an.

c. If two or more sons survive the deceased alongside other legal heirs, the sons become residuary and equally share the remaining property between or among themselves.

d. If two or more sons are the sole survivors of the deceased, the deceased's property will be shared equally among them.

4.2. Inheritance of Descendants (Daughter)

a. Where only one daughter survives the deceased, the daughter will be entitled to half (½) of the whole estate.

b. Where two or more daughters are the sole inheritors of the deceased's estate, they will be entitled to two-thirds (⅔) of the whole property, which will be equally shared among them.

An important question that may arise from this sharing is what happens when the deceased's estate is not exhausted in the distribution process. However, scholars have divergent views about this position. One of them is that the residue could go to baytul mal (public treasure) to advance the good of the public as an heir is forbidden from taking more than what Allah has prescribed for him.

4.3. Inheritance of Descendants (Sons and Daughters)

Where the sons and daughters are the sole inheritors of the deceased, the daughters will be entitled to half of what the sons' share. Simply put, when the son gets one, the daughter will get half, usually expressed in the form of ratio 2 to 1. Meanwhile, non-Muslims may want to beg the question of inequality in that the allocation is unfair to women; hence, they should be entitled to the same share. This is evident in Qur'an 4 verse 11. In this regard, it is pertinent to look back to history before the emergence of Islam when women were objects of ridicule and social debasement. In those days, only men had the right to inheritance in different forms and women were exempted from this right.

Moreover, Islam came to redefine the system by empowering women and forbade their ill treatment. Islamic law recognises men as the protector and provider for women. The responsibilities of clothing, shelter, food, and so on are those of men who fend for themselves and other family members. It gives women the freedom to enjoy and be respected both at home and the society at large, as opposed to what was obtained in jahiliyyah (days of ignorance). Flowing

from this, the responsibilities placed on men as protectors and providers are enormous, which is why their shares are larger than those of women.

Another inquisitive mind might want to inquire whether no responsibilities are placed on women. Women are the carers and hole builders ensuring that the home and the family's overall well-being are secured. This is not to say that she does not have a say in society. Islam respects and recognises her presence, opinions, impacts and contributions to society. Her share of the inheritance could be utilised for her personal use or for other purposes as they deemed necessary. In the absence of the deceased's sons and daughters, the grandparents of the deceased will step in and inherit the rights and substantive privileges of the sons and daughters.

4.4. Inheritance of Spouse (Husband and Wife)

For the husband, he inherits half of his deceased wife's estate if he is the only surviving heir of the wife or where the wife is not survived by children either from her present marriage with the husband or previous marriage. He is entitled to one-fourth (¼) of his wife's estate if the wife is survived by children either from her present marriage or previous marriage or any other circumstances that legalise the child to inherit from her. As far as the wife is concerned, she inherits ¼ of her deceased's husband if he is not survived by children either from his present or previous marriage. Where the wives are more than one, the co-wives will share ¼ of their deceased husbands equally. Where other legal heirs survive the husband, the co-wives will share ⅛ of the deceased husband equally.

4.5. Inheritance of Parents

The father shall inherit the whole of his son's or daughter's estate if he is the only legal heir. Where there are other heirs that are entitled to the deceased's property, the father will have ⅙ of the deceased's estate. The mother inherits one-third (⅓) of her son's or daughter's estate if other legal heirs do not survive the deceased. Where there are other legal heirs, she will be entitled to ⅙ of the deceased's property.

5. Recommendations

This paper hereby highlights these practical steps that could help balance the rights of the deceased and the heirs:

5.1. Encouragement of Estate Planning

Muslims should be encouraged to engage in planning their estate during their lifetime. They should endeavour to document their will in writing and establish a trust for their estate. This will enable their property not to be open to unnecessary questioning as necessary steps will have been taken to ensure organisation and proper planning.

5.2. Promotion of Financial Literacy

Financial literacy is the cognitive understanding of financial components and skills such as budgeting, investing, borrowing, taxation, and personal financial management.[21] Research shows that Islamic Financial Literacy is a pressing concern in Muslim-majority countries where conventional financial literacy rates tend to be very low (<30%) (compared to the 60% global average) and IFL rates even lower (10%).[22] Notwithstanding this challenge, Muslims should begin

[21] https://corporatefinanceinstitute.com/resources/wealth-management/financial-literacy/

[22] McGregor, Sue L.T, Hamdan Alghamdi & Amani K, 'Measuring Islamic Financial Literacy '*Financial Planning Research Journal* (2024) 10 (1) < https://sciendo.com/article/10.2478/fprj-2024-0003> accessed 13 December 2024.

to make it a habit to practice financial literacy by managing expenses, recording and managing debts, understanding credit score, understanding loan, budgeting and a host of other activities. This will help them account for their specific monetary wealth and ease the process of inheritance sharing. It will also facilitate the property distribution process and give no room for unnecessary delay.

5.3. Encouragement of Effective and Open Communication among the Family

This is one of the ways to guarantee the rights of both the deceased and the heirs in Islamic inheritance. Families should be implored to facilitate open communication that centers on their expectations, wishes and concerns about inheritance. Although the sharing has been fixed in the Qur'an, engaging in open communication will help the family members to know more about other important matters associated with the property such as cases of will, debt and so on. When this is done, both the deceased and the heirs are privy to the information, which will enhance quick decision-making while sharing the property and also enable the executors to be fair and accountable to both parties.

5.4. Prioritising the payment of the deceased's debt

It is also crucial that the deceased's debt is cleared before the estate is open for distribution. As a matter of law, this is one of the criteria that must be fulfilled before the heirs can be held entitled to the deceased's property. Thus, to balance the rights of the deceased and the heirs, the deceased's debt must be paid out of his wealth before sharing the residual with the heirs.

5.5. Timely distribution of estate

After necessary steps have been taken and the remaining property is deemed to be inherited by the heirs, it is pertinent that delay should be avoided. The heirs should be given their portions as provided for in the Qur'an. This will enable them to have access to their share and give no room for unfair prolongation.

5.6. Protecting the right of vulnerable heirs

Some heirs are said to be vulnerable as a result of their nature or condistions which can either be temporary or permanent. These people include infants, people living with disabilities, pregnant women and so on. These people’s rights must be adequately protected and any decisions made should be in their best interest.

5.7. Dispute resolution mechanisms

Disputes are undoubtedly unavoidable in human society. So, there might be some instances where dispute arises among family members owing to controversies springing from the property of the deceased. In these cases, family members are enjoined to employ alternative dispute resolution methods that could help resolve the dispute between the executors the heirs and other people involved. Alternative dispute resolution approaches such as mediation, arbitration, and conciliation would assist the parties to arrive at a satisfactory conclusion.

5.8. Education and Awareness

It is understandable that customs and cultures influence some people's life decisions and lifestyles. However, the life of a Muslim should be guided by shariah as long as they are guided via al-Qur'an and Sunnah, which makes every aspect of the Muslim activities an act of worship (ibadah) if he abides by the code of Islamic law.[23] It is high time Muslims are educated and enlightened about

[23] M. M. Nature & J. Sulon, ‘Inheritance Distribution among Muslims: A Comparative Analysis on the Practice of Some Muslim Countries ‘ *International Journal of Academic Research in Business & Social Sciences* (2024) 14 (1)

the principles of Islamic Law of Inheritance. When they are conscious about the rules and intentional in their application, it will help in fostering distribution of wealth in line with Islamic injunction.

6. Conclusion

It has been affirmed that Islamic Law recognises both the deceased's and the heirs' rights in property inheritance. This paper has also opined that it is cogent that Muslims are aware of the principles that guide the sharing of inheritance to strike a balance between the rights of both parties. It is true that the heirs may require the property to be shared among them without delay; with the perception that the deceased is no more. As long as this is true, the heirs and the executors must not overlook the deceased's right, as reinforced above. As part of its contribution, this paper has highlighted some practical recommendations that could be taken to ensure that the rights of both the deceased and the heirs are observed. The overall advocacy of this paper is to instil in the readers' minds the rights of both the deceased and the heir as expounded by Islamic Law.

<https://kwpublications.com/papers_submitted/9612/inheritance-distribution-among-muslims-a-comparative-analysis-on-the-practice-of-some-muslim-countries.pdf> accessed 13 December 2024.