

Succession, Wills/Adjudication, and Settlement of Estates - Review Questions

1. Explain the principles of Islamic inheritance law (Fara'id).

- **Answer:** Islamic inheritance law, or Fara'id, is based on principles outlined in the Quran, Hadith, and consensus of Islamic scholars. It dictates the specific shares of an estate that legal heirs receive, aiming to ensure a fair and just distribution among family members.

2. What are the fixed shares (Fara'id) in Islamic inheritance, and who are the primary recipients?

- **Answer:** The fixed shares (Fara'id) are predetermined portions of an estate allocated to specific heirs, such as spouses, parents, children, and siblings. Primary recipients include the spouse, parents, and children, each receiving a defined percentage based on their relationship to the deceased.

3. Discuss the concept of 'Awl' and 'Usul' in Islamic inheritance law.

- **Answer:** 'Awl' refers to the situation where the total shares of the heirs exceed the available estate, requiring proportional reduction. 'Usul' are the direct ascendants of the deceased, such as parents and grandparents, who have specific shares in the inheritance.

4. What are residuaries (Asabah) in Islamic inheritance law?

- **Answer:** Residuaries (Asabah) are heirs who inherit the remainder of an estate after the fixed shares have been distributed. They include male relatives such as sons, brothers, and uncles. Their share depends on the remaining estate and their relationship to the deceased.

5. Explain the difference between 'Tanzil' and 'Hajb' in the context of Islamic inheritance.

- **Answer:** 'Tanzil' refers to the process of bringing distant heirs to the level of nearer heirs if no nearer heirs exist. 'Hajb' (exclusion) occurs when the presence of certain heirs excludes other potential heirs from receiving inheritance.

6. **Describe the rules governing the inheritance rights of grandchildren in the absence of their parents.**

- **Answer:** In the absence of their parents, grandchildren can inherit from their grandparents. If their parent (the child of the deceased) predeceased the grandparent, the grandchildren may receive a share through substitution or representation, depending on the specific rules of the Islamic school of thought followed.

7. **What is the role of an executor (Wasi) in the settlement of an Islamic estate?**

- **Answer:** The executor (Wasi) is responsible for managing and distributing the estate according to Islamic law. Duties include paying off debts, fulfilling bequests, and distributing the remaining estate to the legal heirs.

8. **How are debts settled before the distribution of an estate in Islamic law?**

- **Answer:** Debts must be settled from the deceased's estate before any distribution to heirs. This includes paying off financial obligations, funeral expenses, and any outstanding obligations specified by Islamic law.

9. **What is the maximum portion of an estate that can be bequeathed through a will (Wasiyyah) in Islamic law?**

- **Answer:** In Islamic law, a person can bequeath up to one-third of their estate through a will (Wasiyyah) to non-heirs. The remaining two-thirds must be distributed according to the fixed shares prescribed by Islamic inheritance law.

10. **Explain the concept of 'Mahjur' and its relevance in the settlement of estates.**

- **Answer:** 'Mahjur' refers to a person who is legally incompetent or restricted from managing their own affairs, such as minors or individuals with mental incapacities. Their share of the inheritance is managed by a guardian or trustee until they are capable of handling it themselves.

11. **What are the conditions under which a will (Wasiyyah) can be revoked in Islamic law?**

- **Answer:** A will can be revoked if the testator makes a new will, destroys the existing will, or explicitly declares the revocation. It can also be automatically revoked if it contains provisions that contradict Islamic inheritance laws or if the testator disposes of the bequeathed property during their lifetime.

12. **Describe the inheritance rights of a surviving spouse in Islamic law.**

- **Answer:** The surviving spouse has a fixed share in the deceased's estate. A surviving husband receives 1/4 if there are children or 1/2 if there are no children. A surviving wife receives 1/8 if there are children or 1/4 if there are no children.

13. Discuss the inheritance rights of adopted children under Islamic law.

- **Answer:** Adopted children do not have automatic inheritance rights under Islamic law. They can receive a share through a bequest (up to one-third of the estate) or by being named in a will, but they are not considered legal heirs.

14. How does Islamic law address the inheritance rights of non-Muslim heirs?

- **Answer:** Generally, Islamic law does not permit non-Muslims to inherit from Muslims. However, some schools of thought may allow for bequests to non-Muslim heirs within the one-third limit of the estate that can be willed.

15. Explain the principle of 'Radd' (return) in the context of Islamic inheritance.

- **Answer:** 'Radd' (return) occurs when there are no residuaries to inherit the remaining estate after the fixed shares are distributed. The excess estate is redistributed among the fixed-share heirs in proportion to their original shares.

16. What is the legal status of a predeceased heir's share in Islamic inheritance law?

- **Answer:** If an heir predeceases the decedent, their share typically lapses and is redistributed among the remaining heirs. However, under some interpretations, the predeceased heir's children may inherit their parent's share by substitution.

17. Describe the inheritance rights of full siblings versus half-siblings in Islamic law.

- **Answer:** Full siblings share both parents with the deceased, while half-siblings share only one parent. Full siblings typically have priority in inheritance over half-siblings. The shares of half-siblings depend on whether they share the same mother or father with the deceased.

18. How does Islamic law handle the inheritance of joint property owned by the deceased and another person?

- **Answer:** The deceased's share of joint property is included in the estate and distributed according to Islamic inheritance rules. The surviving co-owner retains their share, and only the deceased's portion is subject to division among heirs.

19. What are the procedural steps for adjudicating an inheritance dispute in Shari'ah Court?

- **Answer:** The steps include filing a petition, notifying all heirs, verifying the estate's assets and debts, identifying legal heirs and their shares, and distributing the estate according to Islamic inheritance law. The court may also appoint an executor to manage the process.

20. Explain the concept of 'Hibah' and its impact on the distribution of an estate.

- **Answer:** 'Hibah' refers to a gift made by the deceased during their lifetime. If valid and accepted, the gifted property does not form part of the estate and is not subject to distribution among heirs. Hibah must be made with full ownership transfer and without coercion.

21. What are the inheritance rights of an illegitimate child under Islamic law?

- **Answer:** An illegitimate child does not inherit from their biological father under Islamic law but can inherit from their mother. The child may receive a bequest from the father within the one-third limit of the estate.

22. Discuss the rules for inheritance distribution when the deceased leaves behind no direct heirs.

- **Answer:** If there are no direct heirs (children, parents, spouse), the estate is distributed to more distant relatives such as siblings, grandparents, uncles, and aunts. If no relatives are found, the estate may revert to the state or be used for charitable purposes.

23. What is the significance of a 'Mahjub' (excluded heir) in the context of inheritance?

- **Answer:** A 'Mahjub' is an heir who is excluded from inheritance due to the presence of nearer or more entitled heirs. For example, a brother may be excluded if the deceased has a surviving son, as the son has a higher entitlement to the estate.

24. How are bequests to charitable organizations treated under Islamic inheritance law?

- **Answer:** Bequests to charitable organizations are permissible within the one-third limit of the estate that can be bequeathed. Any amount exceeding this limit requires the consent of the legal heirs.

25. Explain the inheritance rights of parents in Islamic law.

- **Answer:** Parents have fixed shares in their deceased child's estate. The mother receives 1/6 if there are children or siblings, and the father receives 1/6 as well, but he may also receive a share as a residuary if there are no other male heirs.

26. What is the procedure for distributing the estate of a missing person presumed dead under Islamic law?

- **Answer:** The estate of a missing person presumed dead is distributed after a waiting period determined by the court. The estate is handled as if the person is deceased, with shares allocated to the legal heirs. If the person reappears, they have the right to reclaim their property.

27. Describe the concept of 'Wasiyyah wajibah' (obligatory will) and its application.

- **Answer:** 'Wasiyyah wajibah' is an obligatory bequest made for certain relatives who are not legal heirs, such as orphaned grandchildren. It ensures that they receive a portion of the estate even though they are not entitled to inheritance according to fixed shares. This obligatory will can be made within the one-third limit of the estate.

28. Discuss the role of the Shari'ah Court in overseeing the execution of wills (Wasiyyah).

- **Answer:** The Shari'ah Court ensures that wills (Wasiyyah) are executed according to Islamic law. It verifies the validity of the will, confirms the identity of the beneficiaries, and oversees the distribution of bequeathed assets. The court may intervene to resolve disputes or ensure compliance with legal requirements.

29. Explain the procedure for challenging the validity of a will (Wasiyyah) in the Shari'ah Court.

- **Answer:** A will (Wasiyyah) can be challenged in the Shari'ah Court if it is believed to be invalid or contrary to Islamic law. The challenger must file a petition, providing evidence and legal arguments to support their claim. The court reviews the case, hears testimony from involved parties, and renders a decision based on Islamic legal principles.

30. What are the legal requirements for a valid will (Wasiyyah) under Islamic law?

- **Answer:** To be valid, a will (Wasiyyah) must meet the following requirements:
 - The testator must be of sound mind and legal age.
 - The will must be made voluntarily, without coercion or undue influence.
 - The bequests must be specific and clearly stated.

- The will must be in writing, signed by the testator and witnessed by two competent witnesses.

31. Describe the process of estate administration in cases where there is no will (intestacy) under Islamic law.

- **Answer:** In cases of intestacy, the Shari'ah Court oversees the administration of the estate. It identifies legal heirs, determines their shares according to Islamic inheritance law, and distributes the estate accordingly. The court may appoint an administrator to manage the process and resolve any disputes.

32. Explain the concept of 'Takhalluf' and its implications for inheritance distribution.

- **Answer:** 'Takhalluf' refers to the right of a legal heir to decline their inheritance share. If a legal heir voluntarily renounces their share, it is redistributed among the remaining heirs according to Islamic law. However, 'Takhalluf' cannot be coerced or imposed by others.

33. Discuss the rules for distributing joint property among heirs under Islamic law.

- **Answer:** Joint property owned by the deceased and others is included in the estate and distributed among legal heirs according to Islamic inheritance rules. Each heir receives their respective share of the joint property as part of the overall distribution process.

34. What is the procedure for resolving disputes among legal heirs regarding the distribution of an estate in the Shari'ah Court?

- **Answer:** Disputes among legal heirs are resolved through mediation, negotiation, or litigation in the Shari'ah Court. The court hears arguments from both sides, evaluates evidence, and renders a decision based on Islamic legal principles. The goal is to achieve a fair and just distribution of the estate.

35. Explain the concept of 'Hajb' (exclusion) and its application in Islamic inheritance law.

- **Answer:** 'Hajb' refers to the exclusion of certain heirs from inheritance due to the presence of more entitled heirs. For example, if a child predeceases the deceased, their children (the deceased's grandchildren) may be excluded if there are surviving children who are entitled to inherit.

These questions cover a wide range of topics related to succession, wills/adjudication, and settlement of estates in Islamic law, providing comprehensive preparation for the Shari'ah Bar Examinations.

