



The Islam Research Group

*The Quran as Reportedly Practised and Preached
by Mohammed: Part 7*

Inferior inheritance rights for women



Introductory notes

Structure

In this series of papers, ten instructions contained within the Quran are considered.

Over the centuries the instructions contained within the Quran have been the subject of a range of different applications by different Islamic traditions. Surveying the full range of such interpretations is outside the scope these papers. Rather the aim is to present clearly and accurately, on the best evidence available, what one might call 'true' or 'primitive' Islam: what the words of the Quran instruct, as it was intended to be understood at the time that it was announced. That is to say the instructions of the Quran as it was practised and preached by Mohammed.

To achieve this, and avoid any suggestion of 'cherry picking' or presenting verses out of their original context, in each case the verse or verses containing the instruction will be presented in full within the context of:

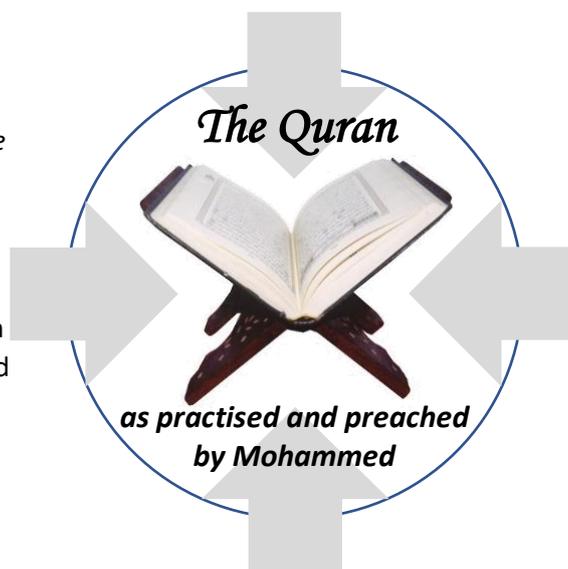
The circumstances in which the verse was said to have been announced

Any report describing the circumstances in which Mohammed came to announce a verse, the **Asbab al Nuzul** (principally those collected by **Ali ibn Ahmed al Wahidi (d. 1075)**) are given to give it its traditionally understood immediate context.

16 leading translations

The author principally uses *The Study Quran* (2015). However, this translation is cross-referenced with **fifteen other leading English translations** of the Quran from a wide variety of traditions, and compared with:

related verses of the Quran



The example of Mohammed

Incidents from the recorded life of Mohammed in the *sira* or *hadith* showing how Mohammed wished the verse to be understood, or how he himself applied it.

Sharia application

Rulings on the application of the verse by the founders of the **four major schools of Sharia jurisprudence (Hanifa, Maliki, Shafii and Hanbali)**.

Tafsir commentary

Commentary from the major **Quranic commentaries**.

Sources

Information concerning the life, words and deeds of Mohammed comes chiefly from two sources:

The sira are the biographies written about Mohammed in the early centuries after his death. Of these the biography of Mohammed, *Sirat Rasul Allah*, by **Ibn Ishaq**, written about 120 years following Mohammed's death for the Abbasid caliph, is by far the fullest extant source of historical information concerning the life of Mohammed and the establishment of Islam.

Although Ibn Ishaq's biography gives a relatively early and full account of Mohammed's life, Muslims traditionally afford greater prescriptive authority to the **hadith**: accounts of the words and actions of Mohammed, each with a proven chain of narration leading back to one of Mohammed's companions. These tend to be fragmentary, often written with little or no context. The first collections of hadith were collected by jurists to establish authority for their rulings on Sharia law. From the mid-ninth century (about a century after Ibn Ishaq completed *Sirat Rasul Allah*) larger collections were compiled. There are six major collections of hadith recognised by Sunni Islam. All Islamic scholars accept that some hadith are forgeries, and scholars and judges differ over which may be considered authentic. However most treat those contained in the two 'sahih' ('trusted') collections of **Bukhari** and **Muslim** as the most reliable evidence available to Muslims of Mohammed's words and actions.

In the eleventh century **Ali ibn Ahmed al Wahidi** (d. 1075) compiled a collection of hadith relating specifically to the circumstances in which individual verses of the Quran came to be announced, the **Asbab al Nuzul**. This is widely regarded within Islam as the most authoritative collection of narration hadiths.

Translation of the Quran

All quotations from the Quran are, unless otherwise indicated, taken from *The Study Quran* (2015). However, this translation is cross-referenced with the following fifteen other English translations of the Quran, representing secular scholarship and the full spectrum of Islamic traditions¹:

The Meaning of the Glorious Quran (1930) by Muhammad Marmaduke **Pickthall**, British convert to Islam;

The Holy Qur'an: Text, Translation and Commentary (1934) Abdullah **Yusuf Ali**, a civil servant of the British Raj, said to be the most used English translation;

The Koran Interpreted (1955) Arthur John **Arberry**, non-muslim scholar;

The Meaning of the Quran (1972) by Syed Abul A'la **Maududi**, the founder of *Jamaat-e-Islami*, the largest Islamic organisation in Asia;

The Glorious Qur'an by Abdul-Majid **Dariyabadi** (Indian, d.1977);

The Holy Quran (Koran), Muhammad Habib **Shakir** (the Ahmadiyya Community – a minority Islamic sect - have asserted that Shakir's translation was plagiarised from a translation by a member of their own community, Maulana Muhammad Ali);

The Holy Qur'an (1982) by Shaykh Muhammad **Sarwar**, US Shia;

Al-Quran, A Contemporary Translation (1984) by **Ahmad Ali**;

The Noble Qur'an (1985) by Muhammad Muhsin Khan and Muhammad Taqi-ud-Din al-Hilali (**Khan & Hilali**), said to be Saudi funded and reflecting Wahabi theology;

The Qur'an, English Meanings (1997) **Sahih International**, three US born female converts, Saudi published;

The Meaning of the Glorious Qur'an (2001) by Grand Shaykh Hasan Qaribullah and Shaykh Ahmad Darwish (**Qaribullah & Darwish**), of Umm Durman University, Cairo;

The Qur'an With a Phrase-by-Phrase English Translation (2005) by **Ali Qarai** of the Islamic College of Advanced Studies;

The Qur'an: A New Translation (2009) by Maulana **Wahihuddin Khan**, Indian, peace activist, a former member, later critic of *Jamaat-e-Islami*;

The Clear Quran (2012) by **Talal Itani**, Lebanese former engineer;

The Quranic Arabic Corpus, a collaborative online research project (corpus.quran.com) administered by the University of Leeds.

¹ All accessed via QuranX.com

Verses of the Quran in chronological order²

Principal verse considered in this paper

Meccan surahs	Medinan surahs	Historical context
96	2	The Hirah
73 68		
1 74	8	The Battle of Badr
81 111		
92 87	3	The Battle of Uhud
93 89		
103 94	33	The Battle of The Trench
108 100		
107 102	4	
105 109		
114 113	99	
53 112		
97 80	57	
85 91		
106 95	47	
75 101		
77 104	13	
90 50		
54 86	76	
7 38		
36 72	65	
35 25		
20 19	98	
26 56		
28 27	59	
10 17		
12 11	24	
6 15		
31 37	22	
39 34		
41 40	63	
42 42		
45 44	58	
51 46		
18 88	49	
71 16		
21 14	61	
32 23		
67 52	62	The Treaty of Hdaybiyyah
70 69		
79 78	48	Conquest of Mecca
84 82		
29 30	5	
83		
	9	
	110	

4.11-12

4.176

Inheritance rules for children: Inheritance rules for siblings:

“unto the male a share equal to that of two females”

² There is no consensus on the exact order of Quran verses. This is a simplified version adapted from *The History of the Quran* by Allamah Abu Abd Allah al-Zanjani.

The Quran on Inheritance Rights

Several verses of the Quran address the process of inheritance:



Related verses

1. **2.180** encourages Muslims approaching death to write a will:

“It is prescribed for you that when death approaches one of you and he leaves some good, to make a bequest for parents and kinsfolk in an honourable way – an obligation upon the reverent.”

2. **2.240** requires Muslim men to make provision for the maintenance of their wives for a year following their deaths:

“And those amongst you who are taken by death and leave wives behind [let them] bequeath to their wives provision for the year without turning them out. But if they leave there is no blame upon you in that which they do concerning themselves honourably. And God is Mighty, Wise.”

3. **4.19** establishes that women do not form part of the deceased’s estate and cannot therefore be inherited. It also states that a widow should not be prevented from remarrying.
4. **5.106-8** deals with the witnessing of a bequest. This must be performed by “two just men” who swear by God to act honourably, although if these witnesses are shown to have sinned their testimony may be superseded by that of claimants to the estate.
- ❖ **4.33** warns Muslims to abide by the inheritance terms specified elsewhere.
5. **4.11-12 and 176** provide a detailed formula as to ‘ordained shares’ that relatives are to take in an estate (although how these ordained shares are to be interpreted consistently with the honouring of specific bequests in a will is not made clear).

The 'ordained shares' were initially set out in 4.11-12:



Surah 4 'Women'

11. God enjoins upon you concerning your children: unto the male a share equal to that of two females; but if there are only daughters, two or more, then unto them is two-thirds of what he leaves; if only one then unto her a half.

And unto his parents – each of the two – a sixth of what he leaves if he has a child; but if he has no child and his parents are his only heirs then **unto his mother a third; and if he has brothers unto his mother a sixth** after paying any bequest he may have bequeathed or any debt. Your parents or your children – you know not which of them are nearer to you in benefit. This is an obligation ordained by God. Truly God is Knowing, Wise.

12. And unto you a half of what your wives leave, if they have no child. But if they have a child then unto you a fourth of what they leave after paying any bequests they may have bequeathed or any debt.

And unto them a fourth of what you leave if you have no child. But if you have a child then unto them an eighth of what you leave after paying any bequests they may have bequeathed or any debt

If a man or woman leaves no direct heir but has a brother or sister then unto each of the two a sixth, but if they are more than two they share equally a third after paying any bequests they may have bequeathed or any debt without harm to anyone. A duty ordained by God and God is knowing, Clement.

A later verse was announced clarifying a specific problem that arose where a person left no descendants:

Surah 4 'Women'

176. They seek a ruling from thee. Say:

'God gives you a ruling concerning the one without a direct heir. If a man dies having no child but he has a sister then unto her belongs half of what he leaves, and he will inherit from her if she has no child. If there are two sisters then unto them belongs two thirds of what he leaves. **If there be brothers and sisters then unto the male a share equal to that of two females.'**

This does God make this clear unto you. Lest you should go astray. And God is the Knower of all things.

Translation notes

The above translations have been cross referenced with fifteen other leading English language translations of the Quran. On the critical issue for this paper – the unequal division of an estate between male and female relatives based upon their gender – all carry the same meaning using almost identical phraseology - '*male*' and '*two females*' - with the consequence that the same exact phrase is reused in relation to the deceased's siblings in **4.176**.

Narration circumstances

Al Wahidi includes two accounts for the announcement of **4.11 and 12**. However in the most widely read tafsir (Quranic commentary) Ismael ibn Kathir records his view that one of these accounts actually related to **4.176**. The al Wahidi account that Kathir agrees provides the background to **4.11**, reads as follows:

ASBAB AL NUZUL

Narration Hadith

Compiled by
Ali ibn Ahmed
Al Wahidi
(d.1095)

"A woman came to the Messenger of Allah ... with her two daughters and said:

'O Messenger of Allah! These are the daughters of Thabit ibn Qays, or perhaps Sa'd ibn al-Rabi, who was killed fighting on your side at the Battle of Uhud. Their uncle has taken possession of their fortune and inheritance and did not leave anything belonging to them except that he took it to himself, so what do you think, O Messenger of Allah? For by Allah, they will never get married unless they have some money'.

The Messenger of Allah said to her:

'Allah will judge for you concerning this'.

And so **[4.11,12]** was revealed.

The Messenger of Allah... then said to me:

'Summon for me the woman and her adversary'.

He said to the uncle of the girls:

'Give the girls two thirds of the fortune, their mother one eighth and keep the remainder' ".

Al Wahidi on **4.11** (1)

The second account that al Wahidi ascribes to the announcement of **4.11**, but which ibn Kathir asserts relates to **4.176** - which he also opines was the final verse of the Quran to be announced - originated with one Jabir bin Abdullah (a Medinan who had converted to Islam at the age of seven and had served as a water carrier at the battle of Uhud):

"[Jabir said:]

'The Messenger of Allah... , and Abu Bakr came on foot to visit me at Banu Salamah when I was sick. He found me unconscious. He asked for some water, performed minor ritual ablution and then sprinkled some of the water on me and I woke up. I said:

'O Messenger of Allah! What shall I do with my wealth?'

And so the verse ('Allah chargeth you concerning (the provision for) your children: to the male the equivalent of the portion of two females') was revealed".

Al Wahidi on **4.11** (2)

Islamic inheritance law.

Wills and the scope of 4.11, 12 and 176

There is an apparent tension between, on the one hand, the advice in 2.180 that Muslims make bequests, read in conjunction with the instructions contained in 2.240 and 4.7-9 as to the provision that should be contained in such a bequest, and on the other hand the detailed rules contained in 4.11 and 12 for the divinely ordained division of estates between classes of relatives.

4.11 and 12 make reference to being subject to “any bequests that may have been bequeathed” but their precise rules concerning the disposal of an estate contained in 4.11, 12 and 176 would be denied any meaning if a will disposed of all the testators’ wealth.

Islam has traditionally resolved this problem by limiting the amount of an estate that might be bequeathed (*wasiyyah*) to one third based, upon the following hadith:



[Isnad (chain of transmission) ... “Narrated Sa’d ibn Abi Waqqas:]

‘I was stricken by an ailment that led me to the verge of death. The Prophet came to pay me a visit. I said:

‘O Allah's Apostle! I have much property and no heir except my single daughter. Shall I give two-thirds of my property in charity?’

He said: ‘No.’

I said: ‘Half of it?’

He said: ‘No.’

I said: ‘One-third of it?’

He said:

‘You may do so, though one-third is also too much, for it is better for you to leave your offspring wealthy than to leave them poor, asking others for help...’

Sahih Bukhari

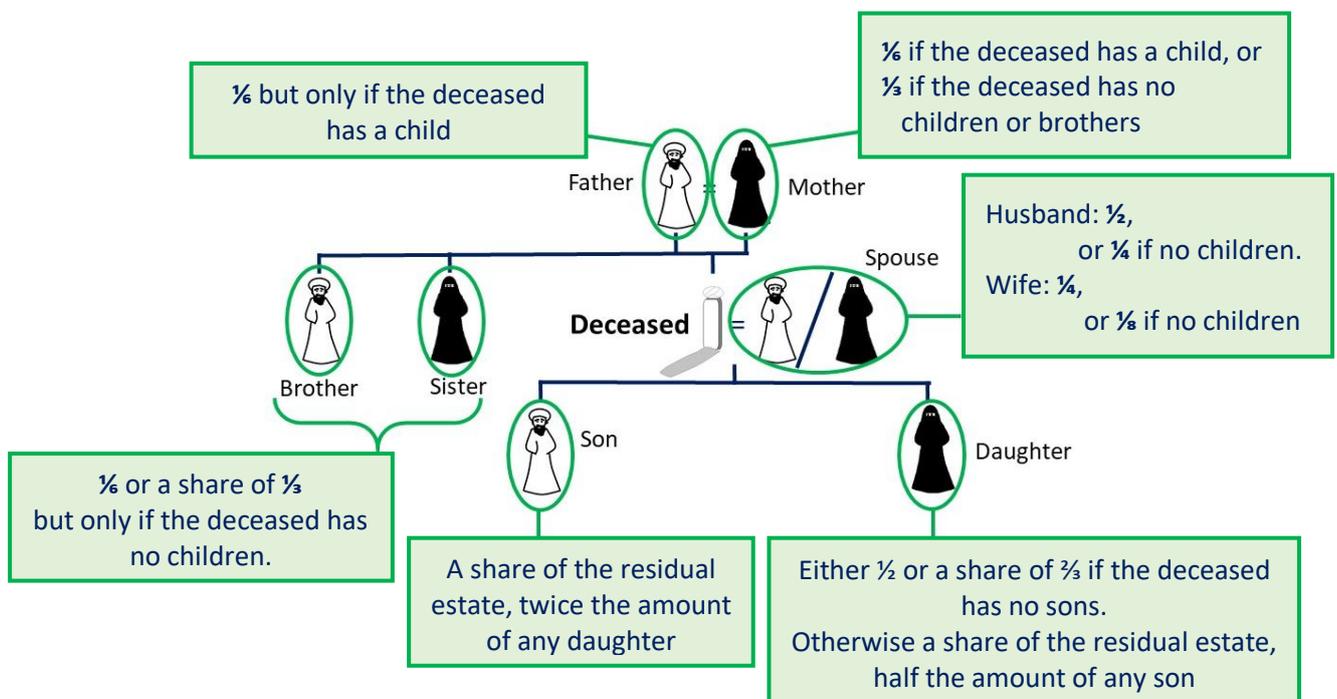
The rules in 4.11-12

4.11, 12 and **176** have given rise to a complex school of Islamic jurisprudence.

4.11 and **12** lay down four rules for the division of that part of an estate that is distributed by 'ordained shares' rather than according to a will. These are:

- That property divided between the deceased's children should be divided so that sons receive twice as much as daughters; that if the deceased person leaves only daughters then those daughters should inherit two thirds of the estate and if a single daughter only, half the estate;
- That if the deceased person leaves children, their parents should each inherit a sixth of the estate; but if there are no children the deceased's mother should inherit a third, unless the deceased had brothers in which case she should receive only a sixth;
- That a husband should receive a half or a quarter of their wife's estate and a wife should receive a quarter or an eighth of her husband's estate, depending on whether there are children;
- If there are no heirs, the deceased's siblings will share a third of the estate.

This is interpreted as a set of 'prescribed shares' (as shown below), and a 'residual estate' from which sons take twice as much as daughters:



4.176 sets out a more specific rule for the inheritance of the residual estate by siblings where a deceased person leaves no children. It prescribes that the division of an estate between siblings should be made in a gender-based way similar to that prescribed in **4.11** for division of an estate between children. That is to say, the deceased's brothers should inherit twice as much as their sisters, and if there are only sisters they should divide between them two thirds of the estate, and if the only beneficiary is a single sister of the deceased person, that sister should inherit half the estate.

The Sunna of Mohammed

The rules provided by the Quran do not provide for all situations. They do not, for example, address whether grandchildren whose parent, the testator's child, has predeceased the testator should receive any inheritance. Not do they identify the beneficiary of the residual estate where a deceased leaves either only daughters, or no children or parents and only sisters.

All Sunni schools of jurisprudence accept the following hadith. That requires allocation of an estate outside the strict prescribed shares set out in the Quran:



[*isnad*]

'The Prophet said:

*'Give the Fara'id (the prescribed shares as set out in the Quran) to those who are entitled to receive them. **Then whatever remains, should be given to the closest male relative of the deceased.**'"*

Sahih Bukhari, Book 85.9 (also Bk 85:23)

The complexity of the rules

These rules have always given scope for a range of interpretations. Ibn Kithar wrote that Umar bin al Khattab, when he was the second caliph, had stated that if he could ask Mohammed three things one would be the meaning of the inheritance provisions concerning 'kalalah' (a man with no heirs):



(c.1360)

Most widely used Quran commentary

"Had I asked the Messenger of Allah regarding three things, it would have been better for me than red camels.

They are:

- 1. Who should be the caliph after him;*
- 2. About a people who said: 'we agree to pay the zakah, but not to the caliph': are we allowed to fight with them?;*
- 3. And about the 'kalalah'."*

Tafsir Ibn Kathir

He also records that Imam Ahmad Hanbal¹ had written that:³

"Umar bin al Khattab said:

'There is nothing that I asked the messenger of Allah about its meaning more than the kalalah, until he stabbed me with his finger in my chest and said the Ayah that is in the end of Surah An Nisa [4.176] should suffice for you.'

Tafsir Ibn Kathir

The problems encountered applying these three verses and the hadith to complex genealogies are often given as the spur to early Islamic civilisations to develop their famed discovery of algebra and fractional calculations.

³ It is said that on one occasion Umar was about to deliver a definitive ruling on the meaning to attached to *kalalah*, but was put off so doing by the appearance of a snake:

"Ibn Jarir recorded that Tariq bin Shihab said that `Umar gathered the Companions of the Messenger of Allah once and said, "I will give a ruling concerning the Kalalah that even women will talk about it in their bedrooms." A snake then appeared in the house and the gathering had to disperse.

`Umar commented, `Had Allah willed this (`Umar's verdict regarding the Kalalah) to happen, it would have happened."

Islam after Mohammed

The following is a brief chronology of the Islamic community in the one hundred and twenty years following the death of Mohammed.

632 **The incident at Fatima's house**

Whilst Mohammed's daughter, Fatima, and son in law, Ali, revered by most Shia Muslims as the first imam, buried Mohammed other leading Muslims met and elected **Abu Bakr** as caliph.

That evening Umar attended Fatima's house demanding she endorse Abu Bakr's succession. All accounts of the incident describe Umar threatening to burn Fatima's house and assaulting her and Ali before securing their endorsement of Abu Bakr. During the incident Fatima suffered injuries and later miscarried what would have been Mohammed's last grandchild.

632-4 **Caliphate of Abu Bakr (the first caliph)**

The Apostasy ('Ridda') Wars

Abu Bakr spent much of his short caliphate re-establishing Muslim control over Arabia and enforcing the payment of zakat (Islamic tax) against Bedouin tribes.

Invasion of Iraq and Syria

In his final months as caliph, Abu Bakr sent armies into Syria and Iraq.

634-44 **Caliphate of Umar (the second caliph)**

Umar expanded the Empire to include Egypt, Palestine, Eastern Anatolia, Persia and the Caucuses.

644-56 **Caliphate of Uthman (the third caliph)**

Under Umar the caliphate further expanded to Afghanistan in the east and along the North African coast to Tripoli.

Uthman faced rebellion and was killed by group of Egyptian Muslims.

656-61 **The Caliphate of Ali (the fourth caliph and for Shia Muslims the first imam)**

On Uthman's death, the caliphate finally fell to Ali.

The Battle of the Camel / The First Fitna (651)

Discontent from Muslims loyal to the memory of Uthman including Uthman's cousin Muarwiyah led to fighting at the Battle of the Camel, prompting a civil war ('the First Fitna') that would last for all of Ali's reign as caliph. Ali consented to the dispute over his caliphate being arbitrated upon but was assassinated by his former supporters allowing Muarwiyah to seize the caliphate.

The Umayyad Caliphate	661-750	<p>The Umayyad caliphate</p> <p>Ali's elder son, Hasan (revered by most Shia Muslims as the second imam) pledged allegiance to Muawiyah, upon the condition that Muawiyah would not name his successor.</p> <p>The Second Fitna / the Battle of Karbala (680)</p> <p>On Hassan's death, reputedly poisoned at Muawiyah's instigation, his younger brother Husayn (revered by most Shia Muslims as the third imam) announced that he would honour the agreement made between Hassan and Muawiyah. However, when Muawiyah named his son, Yazid, as his heir, Husayn declared this as a breach of the agreement made with Hassan and took up arms against him ('the Second Fitna').</p> <p>Husayn was attempting to raise an army when he was ambushed at Karbala in Iraq and was killed along with 21 other descendants of Mohammed.</p> <p>Muawiyah founded the Umayyad dynasty that produced fourteen caliphs. They expanded the Islamic empire to include parts of present India and China in the east, and the whole North African coast and large parts of Spain and France. Expansion into Europe was halted by Charles Martel at the Battle of Tours (732).</p>
	744-50	<p>The Third Fitna and Abbasid Revolution</p> <p>A third civil war broke out within the Umayyad dynasty that lasted between from 744 to 747 and the instability permitted an insurgency by a party, the Abbasids, who claimed descent from Mohammed's uncle Abbas.</p>
The Abbasid revolution	750+	<p>In 750 the Abbasids captured Damascus and executed the last Umayyad caliph (although the Umayyads continued to rule as emirs in Spain).</p> <p>The Abbasid reign is often called Islam's 'golden age' in which Greek texts from the library at Alexandria were translated into Arabic prompting an interest in philosophy, science mathematics and law.</p>

The century after Mohammed's death saw territory under Islam expand rapidly.

It is also characterised by a series of bitter power struggles that commenced as Mohammed was being buried and included his closest companions. Later doctrinal differences would emerge between the parties that would become Sunni and Shia Muslims, but in the beginning there was no sign that the differences were driven by any issue of any doctrine beyond the fiercely contested issue of who possessed the authority to lead the ummah. Indeed, Abu Bakr, Umar and Uthman had conquered Palestine, Syria, Egypt and Iraq before the Quran had even been arranged into its final form and the earliest Islamic book after the Quran, *Kitab al Athar Imam Abu Hanifa*, was not written until over a century after Mohammed's death.⁴

⁴ This prioritization of empire building and personal ambition over theological reflection – which, in fairness, continued the nature of Mohammed's prophethood - may help to explain the circumstance that despite the

conquest of Damascus, Jerusalem and Alexandria, the chronicles of their inhabitants and of the Byzantine made no reference to Mohammed, Islam, the Quran, or anything that indicates awareness that the Arabs who had invaded them adhered to a new religion (see Tom Holland, *In the Shadow of The Sword*).

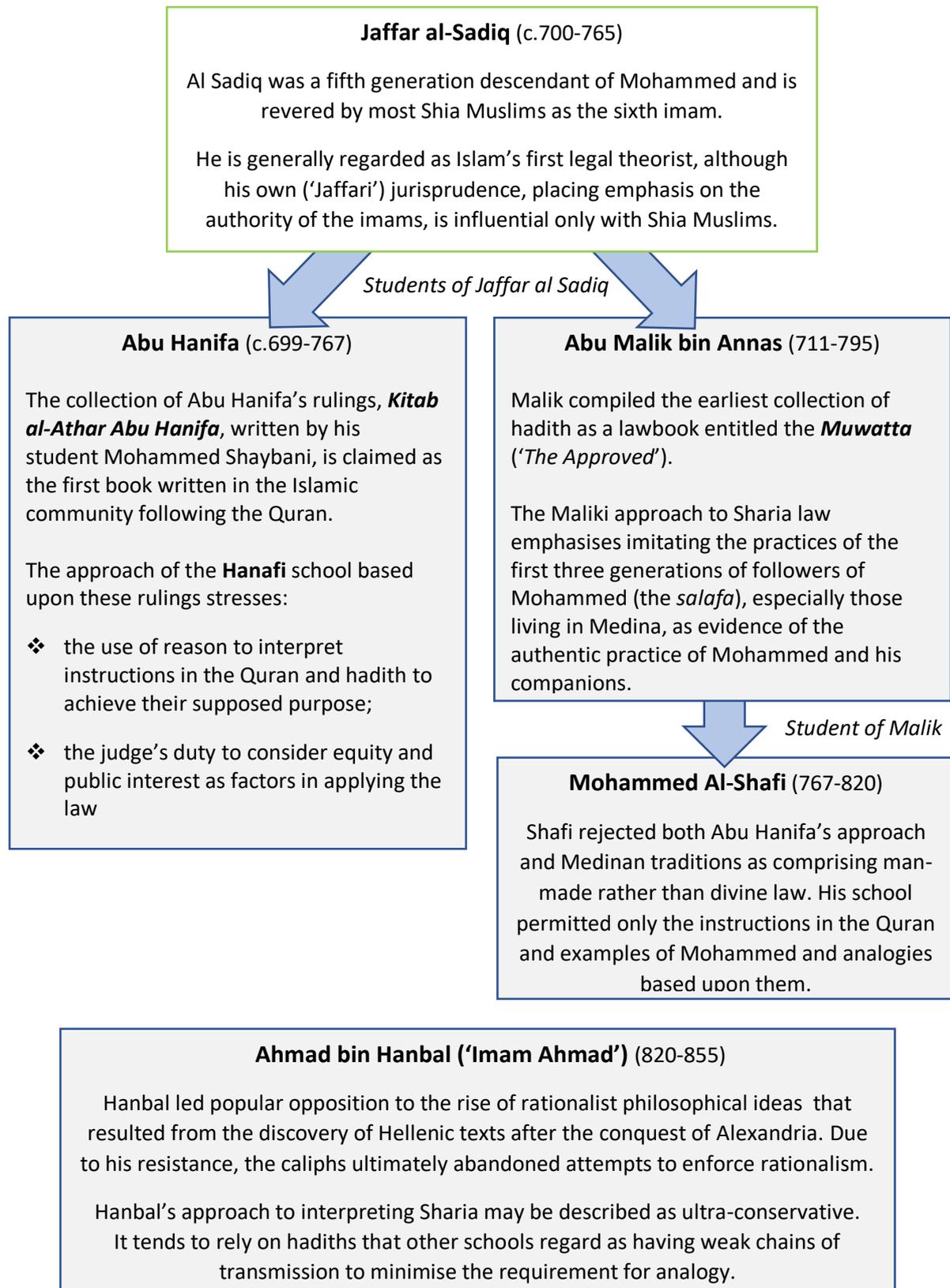
Violent power struggles are certainly not unknown to occur in Christian states at various periods in history. However what makes the very early stages of post-Mohammed Islam unlike the equivalent stages of other religions is:

1. that the combatants included Mohammed's closest companions, presumably people who had been chosen by Mohammed to form his inner circle, knew Mohammed best and had imbued his character and philosophy most intensely; and
2. the scant respect shown to honouring the religion's key figure, Mohammed, through the actions of many of his leading companions in determining the succession against Ali whilst Ali was attending Mohammed's funeral, the violence subsequently inflicted upon Mohammed's daughter Fatima, and the targeted slaughter of the majority of his living descendants at Karbala.

It is suggested that it is hard to imagine the first generation disciples of Jesus, Guru Nanak or the Buddha acting in such a manner to one another or to the family of their most revered personage.

The four great Sunni *Sharia* jurists

Following the establishment of the Abbasid Caliphate the earliest known attempts to arrange the Quran's instructions into a legal framework were made. Today the vast majority of Muslims follow one of the four schools of *Sharia* law (*fiqh*) that developed from the approaches of Abu Hanifa, Abu Malik ibn Anas, Mohammed ibn Idris al Shafii, and Ahmad ibn Hanbal



Chronology of Important Early Islamic Texts

Date (Years since death of Mohammed)	Title	Author	
650s (12-24)	◊ The Quran		Traditionally said to have been arranged into its final form in the reign of Caliph Uthman (644-656)
Rule of Ali Abi Talib (656-661) Umayyad caliphate (661-750) Abbasid Revolution, 750			
760s (c.120)	◆ Sirat Rasul Allah (<i>The Life of the Messenger of God</i>)	Mohammad Ibn Ishaq	Earliest detailed biography of Mohammed, written shortly after the Abbasid Revolution. The full original work is now lost but lengthy extracts were preserved in the: <i>Sira</i> of Ibn Hisham; and <i>History of Prophets and Kings</i> by Tabari.
Late 8 th C (140-160)	◆ Kitab al Athar	Abu Hanifa (699-767)	Rulings of Abu Hanifa as recorded after his death by his student Muhammad Shaybani.
c.800 (c.170)	◆ Al Muwatta	Malik ibn Anas (711-795)	First collection of hadith, by Malik for use as law book, arranged by his student Yahia.
Early 9 th C. (<200)	◆ Sira of the Prophet	Ibn Hisham (d.833)	[See <i>Sirat Rasul Allah</i> above]
820s-40s (c.200)	◆ Musnad	Ahmad Ibn Hanbal (780-855)	Collection of hadith used in judicial rulings by including some thought to be of weak transmission.
	◆ Sahih Bukhari	Mo. al Bukhari (810-70)	Traditionally regarded as the most reliable collection of hadith.
The Minha (833-48): Abbasid inquisition to enforce rationalist (Mutazila) ideas based upon Hellenic philosophy failed in part due to the resistance of Ahmad Ibn Hanbal			
Mid-late 9 th C (c.250)	◆ Sahih Muslim	Muslim al Hajjaj (817-874)	Traditionally regarded as the second most reliable collection of hadith, compiled by
Early 10 th C. (<300)	◆ Annals of Prophets and Kings	Mohammad Ibn Jarrir al Tabari (839-923)	[See <i>Sirat Rasul Allah</i> above]
	◆ Tafsir Tabari		First commentary on the Quran

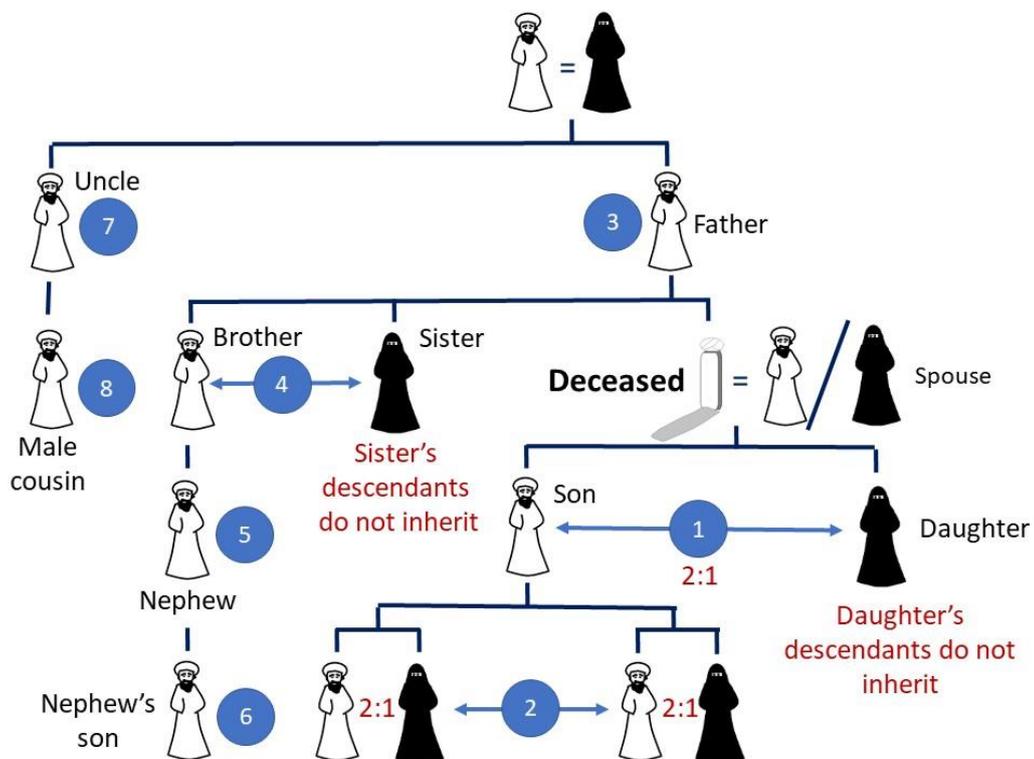
The four great Sunni jurists and the gender-based inheritance rules

Because the Quranic provisions for the division of the non-bequeathed part of the estate between children and siblings, directing that a male child/sibling should inherit twice as much as his female equivalent, is so unambiguous it is unsurprising that all schools of fiqh reflect them without variation. In addition:

- all Sunni schools of fiqh accept the hadith that, other than for the beneficiaries identified in the Quran, any estate for which there is no provision should be allocated to the 'closest male relative'; and
- all conclude, whether based upon analogy or tradition and practise, that inheritance rights may only pass through male relatives.

Although there are some differences between the four schools, all agree that once the prescribed shares have been allocated according to the rules contained in [4.11](#), [4.12](#) and [4.13](#) (and other rules, for example relating to grandchildren and grandparents, applied by way of analogy) the residual estate is divided by relatives following the priority set out in the chart below. These allow the residual estate to be inherited by some close female relatives, but thereafter:

- only male relatives; and
- only agnate relatives (whose family connection to the deceased consists of male relatives only).



The Tafsir (Commentaries on the Quran)

The reason commonly given for the unequal division between male and female is that in a traditional Islamic society a woman will be maintained by her parents or brothers until marriage when she will receive money, land or goods from her husband as part of the (*nikah* or marriage contract) and during her marriage she will be maintained by her husband in accordance with **4.34**. On this model it may be argued that, in fact, women attain a greater financial benefit from Islamic family laws as a whole than their male counterparts.

Of the two earliest tafsir, the author has been unable to source a complete English translation of **Tafsir al Tabari** and the tafsir of **Tustari** (a ninth century sufi) contains no commentary on these verses.

This argument is however offered by Ibn Kathir in his classical Quranic commentary on **4.11-12**:



(c.1360)

Most widely used Quran commentary

"[‘Allah commands you for your children's (inheritance): to the male, a portion equal to that of two females.‘]

Allah commands: observe justice with your children. The people of Jahiliyyah [a term used to indicate pre-Islamic times, sometimes translated as ‘the age of ignorance’] used to give the males, but not the females, a share in the inheritance.

Therefore, Allah commands that both males and females take a share in the inheritance, although the portion of the males is twice as much as that of the females.

There is a distinction because men need money to spend on their dependants, commercial transactions, work and fulfilling their obligations. Consequently, men get twice the portion of the inheritance that females get.

This justification of the gender discrimination is consistent with comments made by Mohammed in his ‘farewell sermon’:

SIRAT RASUL

ALLAH



Earliest biography of Mohammed, c.760

*"... Now then, O people, **you have a right over your wives and they have a right over you.** You have [the right] that they should not cause anyone of whom you dislike to tread on your beds; and that they should not commit any open indecency. If they do, then God permits you to shut them in separate rooms and to beat them, but not severely. **If they abstain from [evil], they have the right to their food and clothing in accordance with custom.***

Treat women well, for they are [like] domestic animals with you and do not possess anything for themselves. You have taken them only as a trust from God, and you have made the enjoyment of their persons lawful by the word of God, so understand and listen to my words, O people.

I have conveyed the Message, and have left you with something which, if you hold fast to it, you will never go astray: that is, the Book of God and the sunnah of His Prophet."

Other legal discrimination based upon gender

The inferior inheritance rights of women has contributed to a pattern within Sharia law whereby women are afforded lesser – often expressed as a half of the - legal rights than men.

I Compensation for injuries

In *Kitab al-Athar Abu Hanifa*, Shaybani recorded judgment from Abu Hanifa:



“We adhere to the judgment of Ali ibn Abi Talib and Ibrahim. Ali ibn Abi Talib used to say

‘Injuries to women are evaluated as being worth a half of men’s injuries in every case’.

Abdullah ibn Masud and Shurayh used to say:

‘They are equal with respect to teeth and wounds which lay bare the bone and then they are half in everything else’

Zayd ibn Thabit used to say:

‘They are equal up until a third of the full compensatory payment and then they are half in everything else’

The verdict of Ali ibn Abi Talib concerning the half is preferable to us in every case and that is the verdict of Abu Hanifa, may Allah, exalted is he, have mercy on him.”⁵

In *Al-Muwatta*, Malik Bin Anas states:



“Yahia narrated from Malik on the authority of Yahia bin Said from Sa’id bin Al Musayib that he used to say:

‘the blood money for a woman is the same as that for a man up to a third of the blood money. Her finger is like his finger, her tooth is like his, her injury that lays bare the bone is like his and her head wound that splinters the bone is like his.’

Yahia narrated from Malik on the authority of Ibn Sahoib that it reached him from Urwa bin Az-Zubair that they used to say the same as Sai’d bin Al Musayib said as for a woman, namely her blood money amounts to a third of the blood money of the man. **If what she is owed exceeds a third of the blood money of the man, she is given up to half the blood money of the man.**

Malik said:

*'An explanation of that she has blood money for a head wound that lays bare the bone and one that splinters the bone and for what is less than the brain wound and the belly wound and it is like that of those that **obliges a third of the blood money or more. If the amount owed her exceed that her blood money in that is half the blood money of the man.**'*⁶

The pre-eminent Shafi'i legal text is *Umdat al Salik* (the *Reliance of the Traveller*) by Ahmad ibn Naqib al-Misri (completed 1368) reads:



"The indemnity for the death or injury of a woman is one half the indemnity paid for a man.

*The indemnity paid for a Jew or Christian is one third of the indemnity paid for a Muslim The indemnity paid for a Zoroastrian is one fifteenth of that of a Muslim."*⁷

Authority to seek retribution or blood money or to pardon

Malik also extends this inferior legal status to the decision of the children of a murder victim whether to enforce blood money or retribution:



"Malik said:

*If a man murders intentionally and there is clear evidence of that, while the murdered man has sons and daughters, and the sons pardon while the daughters refuse, the pardon of the sons is permitted in the case of the opposition of the daughters and **there is no authority for the daughters against the sons in demanding revenge or pardoning.**'*⁸

⁶ 1607

⁷ O.9

⁸ 1627

Testimony

It is well known that in some cases the sharia excludes a woman's testimony whilst in others a woman's word is treated as the equivalent of half that of a man. This is based upon the verse of the Quran, but ties in with the 'half status' of women in Shariah law.



Related verses

Surah 2 'The Cow'

282. "O you who believe! When you contract a debt with one another for a term appointed, write it down. And let a scribe write between you justly., and let not any scribe refuse to write as God taught him. So let him write and let the debtor dictate and let him reverence God, his Lord and diminish nothing from it. And if the debtor is feeble minded or is weak or is unable to dictate himself, then let his guardian dictate justly. **And call to witness two witnesses from among your men. And if there are not two men then a man and two women from among those you approve as witnesses**, so that if one of the two errs, the other one the other can remind her. Let not the witnesses refuse when they are called., and not be averse to write it down, small or great with its term. That is more equitable with God, more sure for the testimony and more likely to keep you from doubt..."

In the *Muwatta*, Malik rules that the testimony of women is not allowed in divorce or in cases of false accusations and that in all financial transactions the testimony of a single woman is insufficient to be admitted in evidence.⁹

The *Reliance of the Traveller* states:



"The testimony of the following is legally acceptable when it concerns cases involving property or transactions dealing with property such as sales:

1. **two men,**
2. **two women and a man,** or
3. **a male witness together with the oath of the plaintiff.**

*If the testimony does not involve property such as a marriage or prescribed legal penalties then **only two male witnesses may testify.***

*If the testimony involves fornication or sodomy then it **requires four male witnesses.***

*If the testimony concerns things which men do not typically see such as childbirth, then it is sufficient to have **two male witnesses, a man and two women or four women.**"¹⁰*

⁹ 1430

¹⁰ O.24.7-10

Conclusion and Comment

Muslims believe that the Quran:

- contains the verbatim words of God,
- is intended to be prescriptive, to guide mankind as to the social order that God wishes; and
- may never be reviewed or amended.

The Quran states unambiguously that females should receive a lesser inheritance than males or no inheritance based solely upon their gender, or the gender of those by whom they are related to the deceased.

Even if a female heir were to gain a greater financial benefit more than a male heir through sharia law taken as a whole, due to her living expenses being met by her husband who must also provide her with a *nikah*, the unequal inheritance scheme is unfairly discriminatory against women for at least two reasons:

- ❖ A person's interests are not the same as their rights. In a marriage governed by Quranic law a woman's rights are inferior to her husbands in at least three ways:
 - A man may have up to four wives;
 - A man may divorce his wife as of right, whereas if a wife wishes to divorce her husband she must negotiate the return such a part of her *nikah* bridewealth as the husband should demand of her;
 - During the marriage a wife is expected to be obedient to her husband who is instructed to strike her if he fears discord or disobedience, if other lesser sanctions have failed.

The lesser share of any inheritance that women receive, on the rationale that a female beneficiary will be taken care of in a marriage regulated by the Quran's instructions on marriage, contributes to a regime in which women lack independence, whatever their financial assets may in theory amount to;

- ❖ The lesser share for all daughters/sisters/wives outlined above assumes that women will marry a man who is willing and able to 'maintain' them. It makes no allowance for women:
 - who prefer not to marry;
 - who are unable to find a suitable husband for some reason (such as those suffering from severe disability whose reliance upon an inheritance will be greatest);
 - whose husbands fail for whatever reason (such as poverty or an early death) in the duty to maintain them;
 - whose husbands are not in a financial position to maintain their wives to a standard that would provide recompense in financial terms for the

lesser inheritance that she would have received from an equal share in the estate of a wealthy family member.

Since at the latest the early twentieth century there has been a movement in all democratic societies to afford women equal rights to men both under the law and in society generally.

The principle of gender equality is now generally uncontroversial and sex discrimination in many instances is unlawful in the UK under the Equality Act 2011 and a breach of UN and European conventions on human rights.

It follows that by prescribing lesser inheritance rights for women than for men, the text of the Quran given its plain and originally intended meaning, are inconsistent with the values of modern liberal civilised soc