



Law of Inheritance: The Muslim Law-Ordinance

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Editorial

Muslim Inheritance is based on the theory that generally every male heirs get double portion compared to every female of the same stage except father, mother, uterine brother and uterine sister. But the Muslim Family Law Ordinance, 1961 is directly conflicting with this theory and using Latin theory *Per stirpes*. I strongly believe that this ordinance must have to modify only for not conflicting with the Holy Quran [1].

Muslim law of inheritance is the best succession law in the world. Muslim law of inheritance has been compiled from The Holy Quran. Muslim inheritance has been narrated in Multiple Verses of the Sura Nisha of The Holy Quran. The main characteristic of Muslim Inheritance is generally every male heirs get double portion compared to every female of the same stage except father, mother, uterine brother and uterine sister. Another characteristic is the nearer in degree excluded the more remote. According to this rule when there is son, son's son and son's daughter of deceased; the son's son and son's daughter will not become successor [2]. The Muslim Family law ordinance, 1961 changed this rule.

For a long time ago, this inhuman rule should be changed but no one take a single initiative but Ayub Khan. Ayub Khan was the of more inferior military ruler of Pakistan and the world [3]. But he amended the inhuman rule of succession in 1961, which was called The Muslim Family Law Ordinance – 1961. According to section 4 of this ordinance “In the event of the death of any son or daughter of the propositus before the opening of succession, the children of such son or daughter, if any, living at the time the succession opens, shall “*per stripes*” receive a share equivalent to the share which such son or daughter, as the case may be, would have received if alive.”

The creator of this ordinance adopted the Latin called *Per stirpes*. But this rule is not recognized by the Muslim Law Makers and the Holy Quran. The creators of the Ordinance should have to adopt every male heirs get double portion compared to every female of the same stage except father, mother, uterine brother and uterine sister.

The Honorable Peshawar High Court ruled that Under the Ordinance Mst. Zarina daughter of Mir Afzal is entitled to inherit the same share to which her father Mir Afzal was entitled in the inheritance of his father Shah Zaman. The reason is that the Ordinance by adopting the principle of *per stripes* distribution of inheritance meant to keep intact the share of the predeceased son or daughter to be inherited by his son or daughter according to it, the heirs of the predeceased issue will inherit from propositus what their predecessor-in-interest would have inherit [4]. The impugned interpretation militates against the letter and spirit of Section 4 of the Ordinance which could not be the intention of the Law makers.

This case law is very much interesting because this case law told to follow the strict rule of the ordinance. But they cannot deny the rules of the Holy Quran. The Honorable Peshawar High Court should have to think about the rules of the Holy Quran. However, In Bangladesh we are also strictly following The Ordinance [5]. The Muslim Family Law ordinance 1961 has changed a lot of things. It gave orphans to entitle of grandparent's estate. This ordinance should be amended in the view of the Holy Quran.

This Ordinance was created in Pakistan for Pakistan. But in Bangladesh this law must be changed and take it to a modern-day demand with the view of the Holy Quran. So, I have been proved that the problems created by this Ordinance can be curable and can be made it more convenient with the society and the Holy Quran.

Three examples given above is proving that section 4 of the Muslim Family Law Ordinance, 1961 there are some error in it. The section 4 of the ordinance has some characteristics which are directly violating some rules of the Muslim Inheritance law. I strongly believe that The Ordinance must have to modify for correcting its own error. I would not like to exclude children of the predeceased son or daughter of the deceased. Because of that also I would not like to make the Muslim Inheritance law irrelevant with the Holy Quran.

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Conflict of interest

None

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