

Depriving Sister Of Her Share In Inheritance And Can A Woman Perform Umrah With Her Share?

Darulifta Ahlesunnat

(Dawateislami)

Question

What do the Scholars of Islam and the Muftis of the Shari'ah say regarding the following questions:

1. In our community, brothers refuse to give their sisters their rightful share of inheritance, even when they are explicitly requested to do so. How should we perceive their actions?
2. Can a woman sell her inherited share, such as land, from her deceased parents in order to perform Umrah? Some individuals claim that she is prohibited from doing so. Please provide Shariah guidance on this matter.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اللَّهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

1. Regardless of whether the sisters explicitly request it or not, it is essential to ensure they receive their rightful share of their parents' inheritance. Conversely, for brothers to unjustly deprive their sisters of their rightful share according to Shariah, keeping all the wealth for themselves, is strictly forbidden, Haraam, and a grave sin. The Holy Qur'an and blessed Hadith contain strong admonitions regarding this matter. According to the blessed sayings of the Holy Prophet صَلَّى اللهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ, whoever deprives an heir of his inheritance, he will be deprived of the inheritance of Paradise on the Day of Resurrection. The one unjustly taking someone's as much piece of land as a hand-span will be made to wear the collar of seven earths around his neck on the Day of Judgement and he will be sunk up to seven earths. Therefore, those who do not give their sisters' share, should fear the wrath of Allah Almighty and give them their share. If they do not give their share today, then they will have to give it tomorrow on the Day of Judgment and it is not easy to give at that time.

The blessed Shariah has fixed the share of daughters along with sons in inheritance. Therefore, Allah Almighty says:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ ؕ

Translation from Kanz-ul-Iman: Allah commands you concerning your children (regarding their share of inheritance); the share of the son is equal to the share of two daughters; After describing the rules of inheritance, Allah Almighty says:

تِلْكَ حُدُودُ اللَّهِ ۗ وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ يُدْخِلْهُ جَنَّاتٍ تَجْرِي مِنْ تَحْتِهَا الْأَنْهَارُ خَالِدِينَ فِيهَا ۗ وَذَلِكَ الْفَوْزُ الْعَظِيمُ ﴿١٣﴾ وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَ مَا دَخَلَهُ نَارًا خَالِدًا فِيهَا ۗ وَلَهُ عَذَابٌ مُهِينٌ ﴿١٤﴾

Translation from Kanz-ul-Iman: These are the limits of Allah, and whosoever obeys Allah and His Messenger; Allah will take him into the Gardens beneath which rivers flow; (they)

will abide therein forever; only this is the great success. And whoever disobeys Allah and His Messenger and transgresses all His limits (by becoming a disbeliever); Allah will put him in the Fire, in which he will remain forever, and for him is a disgraceful punishment. Not giving share to daughters or sisters is the rule of pre-Islamic era of ignorance.

Therefore, Allah Almighty says:

﴿وَتَأْكُلُونَ التُّرَاثَ أَكْلًا لَبًّا ﴿١٩﴾ وَتُحِبُّونَ الْمَالَ حُبًّا جَمًّا ﴿٢٠﴾﴾

Translation from Kanz-ul-Iman: And you greedily consume the wealth of inheritance. And you exceedingly love wealth.

According to the interpretation mentioned in the commentary Sirat Al-Jinan, it states: "Here, the third corruption and humiliation of the disbelievers is mentioned, that you embezzle the wealth of inheritance, and you do not differentiate between Halal (lawful) and Haraam (forbidden), and you do not give women and children their rightful share of inheritance; rather, you devour their shares yourselves. This was the practice in ignorance (pre-Islamic era). This statement highlights numerous forms of injustice, and in contemporary times, it includes those paternal uncles etc., who wrongfully seize the wealth of orphaned nieces and nephews or do not give the inheritance share to sisters, daughters, or granddaughters, which is an extreme form of Haraam (forbidden) action."

Regarding not giving an inheritance to an heir, the Holy Prophet صَلَّى اللهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ said:

﴿مَنْ فَرَّ مِنْ مِيرَاثٍ وَارَثِهِ، قَطَعَ اللهُ مِيرَاثَهُ مِنَ الْجَنَّةِ يَوْمَ الْقِيَامَةِ﴾

“Whoever runs away from giving an inheritance to an heir, Allah Almighty will cut off his inheritance from Paradise on the Day of Resurrection”.

Regarding unjustly usurping someone's land, The Blessed and Last Prophet صَلَّى اللهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ has stated:

﴿مَنْ ظَلَمَ قَيْدَ شِبْرٍ طَوْقَهُ مِنْ سَبْعِ أَرْضِينَ﴾

"Whoever wrongfully seizes even a hand span of land, he will be made to wear a collar to the extent of seven earths."

The Blessed and Last Prophet صَلَّى اللهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ further said:

﴿مَنْ أَخَذَ شَيْئًا مِنَ الْأَرْضِ بِغَيْرِ حَقِّهِ، خَسَفَ بِهِ يَوْمَ الْقِيَامَةِ إِلَى سَبْعِ أَرْضِينَ﴾

"Whoever unlawfully takes even a small length of land from someone, he will be made to sink into the ground on the Day of Resurrection, up to the seventh layer of the Earth."

After mentioning such Ahadith, ‘Ala Hadrat رَحِمَهُ اللهُ عَلَيْهِ provides further guidance, saying: "There are abundant Ahadith in this regard... Fear the wrath of Allah, the All-Powerful and All-Dominating. Imagine, for a moment, having a clod of earth weighing twenty-five or twenty-seven kilograms tied around your neck and wearing it for a short while. At that moment, one should contemplate whether it is easier to free oneself from such intense oppression or to dig through the seven layers of the Earth until the Day of Resurrection, when the accountability for the entire world is completed, while still having collar tied

around one's neck weighing millions and millions of tons and being sunk into the seventh layer of the Earth. والعياذ بالله تعالى Seek refuge in Allah, and Allah's protection."

Regarding not giving a share of inheritance to sisters, 'Ala Hadrat رَحْمَةُ اللَّهِ عَلَيْهِ has stated: "Denying girls their rightful share is a definitive Haram (forbidden) act and goes against the explicit teachings of the Holy Quran."

2. A woman who inherits a share from her parents can undoubtedly sell it and even perform Umrah, just like men she is the rightful owner of her share, and like any individual, she can make permissible transactions within her property. Buying, selling, and performing Umrah are all permissible actions. Therefore, she can certainly sell her inheritance share and use the proceeds for Umrah. It is incorrect for some people to claim that "a woman cannot perform Umrah by selling her inheritance." They should seek knowledge so that they can differentiate between what is correct and incorrect.

A person is the owner of their wealth and has the right to use it as they desire. The Blessed and Last Prophet صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ has stated:

كل احد احق بهاله من والده وولده والناس اجمعين

"Every individual has more right to their wealth than their parents, children, and all other people."

It is mentioned in Fatawa Shami:

الملك ما من شأنه ان يتصرف فيه بوصف الاختصاص كما في التلويح

It is mentioned in Majallah Al-Ahkam-al-Adliyya:

كل يتصرف في ملكه كيف ما شاء

وَاللَّهُ أَعْلَمُ عَزَّوَجَلَّ وَرَسُولُهُ أَعْلَمُ صَلَّى اللَّهُ تَعَالَى عَلَيْهِ وَآلِهِ وَسَلَّمَ

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