

**Sultani Decree
No. 32/97**

Regarding the Issuance of the Personal Status Law

We, Qaboos bin Said, Sultan of Oman

**Having reviewed the Basic Statute of the State issued by Sultani Decree No. 101/96,
And based on the requirements of public interest.**

Have Decreed the Following

Article One

The provisions of the attached Personal Status Law shall be implemented.

Article Two

The Minister of Justice, Awqaf, and Islamic Affairs shall issue the decisions and regulations necessary for the implementation of this Law.

Article Three

This Decree shall be published in the Official Gazette, and shall be effective one month from the date of its publication.

**Issued on: 28th of Muharram, 1418 AH
Corresponding to: 4th of June, 1997 AD**

**Qaboos bin Said
Sultan of Oman**

Personal Status Law

Book One

Marriage

Part One

Engagement

Article (1)

Engagement is a request for marriage and a promise thereof.

Article (2)

The engagement of a woman who is permanently or temporarily forbidden (to the suitor) is prohibited. An indirect proposal for engagement to a woman observing the iddah period after her husband's death is permissible.

Article (3)

- a) Each of the engaged parties may retract from the engagement.
- b) Whoever retracts from the engagement without a valid reason must return the specific gifts given, if they still exist, or their value at the time of receipt, unless custom dictates otherwise, or if they are of a

type that is naturally consumed.

- c) If the engagement ends due to death or a reason for which neither party is to blame, or an obstacle arises preventing the marriage, nothing from the gifts is to be returned.

Part Two
General Provisions
Article (4)

Marriage is a Sharia contract between a man and a woman, with the goal of chastity and establishing a stable family, under the care of the husband, based on foundations that ensure they bear its responsibilities with affection and mercy.

Article (5)

- a) The conditions stipulated by the spouses (in the contract) are binding, except a condition that permits what is forbidden or forbids what is permissible.
- b) If the contract is concluded with a condition that contradicts its purpose or objectives, the condition is void but the contract is valid.
- c) No condition is considered unless explicitly stated in the marriage contract.
- d) The aggrieved party of the two spouses has the right to request dissolution (Tatliq) in case of breach of condition.

Article (6)

Marriage shall be officially documented. Proof of marriage may also be established by evidence or acknowledgment, considering the factual situation.

Article (7)

Legal capacity for marriage is attained by sound mind and completion of eighteen years of age.

Article (8)

- a) The marriage of an insane or mentally deficient person is not valid unless conducted by his guardian after the issuance of permission from the judge.
- b) The judge shall not permit the marriage of an insane or mentally deficient person except after the following conditions are met:
 - 1. The other party's acceptance to marry him/her after being informed of his/her condition.
 - 2. That his/her illness is not transmissible to his/her offspring.
 - 3. That his/her marriage is in his/her interest.

Verification of the latter two conditions shall be through a report from a committee of specialists.

Article (9)

The judge shall not permit the marriage of a person under interdiction for prodigality (Safih) except with the consent of his guardian and after ascertaining the appropriateness of the dower to his financial

situation. If the guardian refuses, the judge shall request his consent within a period set for him. If he does not object or his objection is not serious, the judge may authorize the marriage.

Article (10)

- a) If a person who has completed eighteen years of age requests marriage and his guardian refuses to marry him, he may refer the matter to the judge.
- b) The judge shall set a period for the guardian to attend and state his reasons. If the guardian does not attend at all, or his objection is not valid, the judge may authorize the marriage.
- c) Taking into account the provisions of paragraph (b) of this article, a person who has not completed eighteen years of age shall not be married except with the permission of the judge and after verifying the benefit.

Article (11)

- a) The guardian (Wali) in marriage is: the agnate ('Asabah) himself according to the order of inheritance. If two guardians are of equal proximity, whichever one conducts the marriage with its conditions is permissible, and the one authorized by the fiancée is appointed.
- b) The guardian must be male, sane, free, not in a state of Ihram for Hajj or Umrah, and Muslim if guardianship is over a Muslim.

Article (12)

If the closest guardian is absent with a prolonged absence, or his place is unknown, or he is incapacitated, or prevents the marriage (without right), guardianship transfers to the next (in line) with the permission of the judge.

Article (13)

The judge is the guardian for one who has no guardian.

Article (14)

The judge may not marry, to himself or to his ascendants or descendants, a person over whom he has guardianship.

Part Three The Spouses

Article (15)

The spouses are any man and woman who can validly marry each other if the legal impediments are absent.

Chapter One Pillars and Conditions

Article (16)

The pillars of the marriage contract are:

- a) Offer and Acceptance.

- b) Guardian (Wali).
- c) Dower (Sadaq).
- d) Witnesses.

Section One: Offer and Acceptance

Article (17)

Subject to the provisions of Article (19) of this Law, the marriage is concluded by an offer from one of the contracting parties and acceptance from the other, issued with full consent, by words that convey its meaning linguistically or customarily. In case of inability to speak, writing takes its place; if that is not possible, then by understandable gesture.

Article (18)

The conditions for acceptance are:

1. It must conform to the offer, explicitly or implicitly.
2. It must be connected to the offer in the same session.
3. Both the offer and acceptance must be unconditional.

Section Two: The Guardian

Article (19)

The woman's guardian shall conclude her marriage contract with her consent.

Article (20)

- a) Compatibility (Kafa'ah) is a specific right for the woman and the guardian.
- b) Compatibility is considered at the time of the contract, and its assessment is based on religion, then custom.

Section Three: The Dower

Article (21)

The dower is what the husband gives from his property with the intention of marriage.

Article (22)

Anything that can be validly obligated according to Sharia can be a dower.

Article (23)

The dower is the property of the woman; she may dispose of it as she wishes. Any contrary condition is not considered.

Article (24)

- a) The dower may be prompt, deferred, or partly prompt and partly deferred at the time of the contract.
- b) The dower is established by the valid contract. It becomes fully confirmed upon consummation, or

valid seclusion (Khalwah Sahihah), or death. The deferred portion becomes due upon death or separation, unless the contract states otherwise. A woman divorced before consummation is entitled to half of the specified dower; if no dower was specified, the judge shall award her a suitable dower (Mahr al-Mithl).

Article (25)

- a) The wife has the right to refuse consummation until her prompt dower is paid to her.
- b) If the wife consents to consummation before receiving her dower from the husband, it becomes a debt upon him.

Article (26)

If the suitor gives his fiancée money before the contract on the basis that it is part of the dower, and then one of the parties retracts from concluding the contract or one of them dies, he has the right to recover what was given in kind if it still exists, otherwise its like or its value at the time of receipt.

Article (27)

If the spouses disagree about the receipt of the prompt dower, the statement of the wife is accepted before consummation, and the statement of the husband after consummation, unless there is evidence or a contrary custom.

Section Four: Witnesses

Article (28)

For the validity of the marriage, the presence of two Muslim witnesses is required. They must be adult, sane, male, trustworthy, both hearing the words of the contracting parties simultaneously, and understanding the intended meaning.

Chapter Two Prohibited Relationships

Article (29)

A condition for the validity of marriage is that the woman is not prohibited to the man, even if the prohibition is temporary.

Section One: Permanently Prohibited Relationships

Article (30)

It is prohibited for a person to marry the following due to kinship:

1. His ascendants, however high.
2. His descendants, however low.
3. The descendants of either or both parents, however low.
4. The first level of descendants of any of his grandfathers or grandmothers.

Article (31)

It is prohibited for a person to marry the following due to affinity (Musaharah):

- a) The descendants of whoever was married to his ascendants, however high, or the ascendants of whoever was married to his descendants, however low.
- b) The ascendants of his wife, however high.
- c) The descendants of his wife with whom he has consummated the marriage, however low.

Article (32)

It is prohibited for a person to marry his descendant from illegal sexual intercourse (Zina), however low, and likewise his wife impugned by Li'an.

Article (33)

Prohibition due to fosterage (Rada') is the same as prohibition due to lineage, if the fosterage occurred within the first two years.

Article (34)

It is prohibited for a man to marry a woman he has previously committed illegal sexual intercourse (Zina) with.

Section Two: Temporarily Prohibited Relationships

Article (35)

The following are temporarily prohibited:

1. Combining two women where if one were male, marriage to the other would be prohibited, and during the waiting period (Iddah).
2. Combining more than four wives, even if one is in her waiting period.
3. A married woman (wife of another).
4. A woman in her waiting period from another.
5. A woman divorced three times: her divorcer may not marry her until after her waiting period from another husband with whom she had a valid marriage and actual consummation has passed.
6. A woman in the state of Ihram for Hajj or Umrah.
7. A non-Muslim woman, unless she is from the People of the Book (Kitabiyyah).
8. The marriage of a Muslim woman to a non-Muslim man.

Chapter Three Rights of the Spouses

Article (36)

The mutual rights and duties between the spouses are:

1. The permissibility of each spouse enjoying the other within the limits permitted by the Lawgiver.
 2. Each ensuring the chastity of the other.
 3. Lawful cohabitation.
4. Good companionship, mutual respect and affection, and preserving the family's best interests.
5. Caring for and raising the children in a manner that ensures their sound upbringing.
6. Each respecting the parents and close relatives of the other spouse.

Article (37)

The rights of the wife over her husband are:

1. Maintenance (Nafaqah).
2. Allowing her to visit her parents and her Mahram relatives, and to host them in a reasonable manner.
3. Retaining her family name.
4. Not interfering with her private funds; she has full freedom to dispose of them.
5. Not harming her physically or morally.
6. Justice between her and the other wives, if the husband has more than one wife.

Article (38)

The rights of the husband over his wife are:

1. Caring for him as the head of the family.
2. Supervising the home, managing its affairs, and preserving its contents.
3. Caring for her children from him, and breastfeeding them unless there is an impediment.

Part Four Types of Marriage

Article (39)

Marriage is either valid or invalid. Invalid marriage includes void (Batil) and defective (Fasid).

Article (40)

- a) A valid marriage is one whose pillars and conditions are met and whose impediments are absent.
- b) The effects of a valid marriage are established from the time of its conclusion.

Article (41)

- a) A defective marriage is one where some of its conditions are deficient.
- b) No effect arises from a defective marriage before consummation.

Article (42)

The following effects arise from a defective marriage after consummation:

- a) The lesser of the specified dower or the standard dower (Mahr al-Mithl).
- b) Lineage, and the prohibition due to affinity.
- c) The waiting period (Iddah).
- d) Maintenance for as long as the woman was unaware of the invalidity of the contract.

Article (43)

No effect arises from a void marriage.

Part Five

Effects of Marriage

Chapter One

Maintenance (Nafaqah)

General Provisions

Article (44)

Maintenance includes food, clothing, housing, medical treatment, and all that constitutes the essentials of human life, according to custom.

Article (45)

In estimating maintenance, the financial capacity of the provider and the situation of the recipient, as well as the economic conditions of time and place, shall be taken into account.

Article (46)

- a) Maintenance may be increased or decreased according to changing circumstances.
- b) A claim for increase or decrease may not be heard before the lapse of one year from the imposition of maintenance, except in exceptional circumstances.
- c) The increase or decrease of maintenance is calculated from the date of the judicial claim.

Article (47)

Continuing maintenance has priority over all other debts.

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Article (48)

A person in dire need must be provided with sustenance by any of his relatives who has surplus; otherwise, it is due from the Public Treasury (Bayt al-Mal) or its equivalent.

Section One: Maintenance of the Wife

Article (49)

Maintenance of the wife is incumbent upon her husband from the time of the valid contract, even if she is wealthy.

Article (50)

The wife shall not be awarded more than one year's maintenance preceding the judicial claim, unless the spouses agree otherwise.

Article (51)

The judge may decide, based on the wife's request, temporary maintenance for her, and his decision shall be immediately enforceable by force of law.

Article (52)

The husband is obliged to provide maintenance for his wife during her waiting period (Iddah), unless agreed otherwise.

Article (53)

There is no maintenance for a woman in her waiting period due to a revocable divorce (Talaq Raj'i), but she is entitled to lodging in the marital home during the waiting period.

Article (54)

There is no maintenance for the wife in the following cases:

1. If she denies herself to her husband or refuses to move to the marital home without a legitimate excuse.
2. If she leaves the marital home without a legitimate excuse.
3. If she prevents the husband from entering the marital home without a legitimate excuse.
4. If she refuses to travel with her husband without an excuse.

Article (55)

The obligation of maintenance for the wife ceases by:

1. Payment.
2. Release (by the wife).
3. Death of either spouse.

Article (56)

The husband must provide his wife with a dwelling suitable to their circumstances.

Article (57)

The wife resides with her husband in the dwelling he prepares, and she moves with him when he moves, unless she stipulated otherwise in the contract, or if the move is intended to harm her.

Article (58)

- a) The husband has the right to house with his wife in the marital home his parents and his children from another wife, provided he is obligated to spend on them, and it is expected that no harm will befall her from this.
- b) The wife does not have the right to house with her in the marital home her children from another husband, unless they have no custodian other than her, or they would be harmed by separation from her, or the husband explicitly or implicitly consents. He has the right to retract if harm befalls him from it.

Article (59)

The husband does not have the right to house with his wife a co-wife in the same dwelling, unless she consents to it. She has the right to retract if harm befalls her from it.

Section Two: Maintenance for Relatives

Article (60)

- a) Maintenance of a minor child who has no wealth is upon his father, until the girl marries and the boy reaches the age where his peers earn, unless he is a student successfully continuing his studies.
- b) Maintenance of an adult child, unable to earn due to illness or otherwise, is upon his father, if he has no wealth to spend from.
- c) Maintenance of a (divorced or widowed) daughter reverts to her father or whoever is obliged to maintain her if she is divorced or her husband dies, unless she has wealth.
- d) If the child's wealth is insufficient for his maintenance, his father completes it within the previous conditions.

Article (61)

The costs of breastfeeding his child, if the mother is unable to breastfeed him, are incumbent upon the father, and this is considered part of maintenance.

Article (62)

In the absence of a guardian capable of spending, maintenance of the child is incumbent upon his wealthy mother if the father is missing and the child has no wealth, or if the father is unable to provide maintenance.

Article (63)

- a) Maintenance of the parents is incumbent upon the wealthy child, male or female, adult or minor, if they have no wealth to spend from.
- b) If the parents' wealth is insufficient for their maintenance, the wealthy children are obliged to complete it.

Article (64)

- a) The maintenance of the parents is distributed among their children according to the financial capacity of each.
- b) If one of the children spends on his parents voluntarily, he has no recourse against his siblings.

c) If the spending occurs after a judgment for maintenance against them, he may have recourse against each of them according to the judgment.

Article (65)

If the child's earnings do not exceed his needs and the needs of his wife and children, his parents who are entitled to maintenance are joined to his family (for support).

Article (66)

Maintenance of every entitled person is incumbent upon his wealthy relatives who inherit from him, according to their order and shares in inheritance. If the heir is insolvent, it is imposed upon the next in line for inheritance, taking into account the provisions of Article (67) of this Law.

Article (67)

If there are multiple persons entitled to maintenance, and the person obliged cannot maintain them all, priority is given to the maintenance of the wife, then the children, then the parents, then the relatives.

Article (68)

Maintenance for relatives is imposed from the date of the judicial claim. The judge may award maintenance for children against their father for a period preceding the judicial claim not exceeding six months.

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Section Three: Maintenance of the Foundling

Article (69)

The maintenance of a foundling of unknown parentage is from his own wealth if he has any. If he has no wealth and no one volunteers to maintain him, his maintenance is upon the Public Treasury or its equivalent.

Chapter Two Lineage (Nasab)

General Provisions

Article (70)

Lineage is established only by the marriage bed (Firash), by acknowledgment (Iqrar), or by evidence (Bayyinah).

Section One: The Marriage Bed (Firash)

Article (71)

a) The child is attributed to the marriage bed if born after the shortest possible period of pregnancy has passed since the valid marriage contract, and it is not proven that contact between the spouses was

impossible.

- b) Lineage is established for a child born from a defective contract if born after the shortest period of pregnancy from the date of intercourse. The same applies to intercourse under a mistaken belief (Shubhah).

Article (72)

The shortest period of pregnancy is six months and the longest is one year.

Section Two: Acknowledgment (Iqrar)

Article (73)

- a) Acknowledgment of paternity, even during terminal illness, establishes lineage under the following conditions:

1. The person being acknowledged has an unknown lineage.
 2. The acknowledger is an adult and sane.
 3. The age difference between the acknowledger and the acknowledged allows the acknowledgment to be credible.
 4. The acknowledged person confirms it, if he is an adult and sane.
- b) Affiliation (Istilhaq): is an acknowledgment of paternity issued by a man, under the conditions mentioned in the previous paragraph.

Article (74)

If the acknowledger is a married woman or a woman in her waiting period, the child's lineage from her husband is not established unless he confirms it, or she establishes evidence for it.

Article (75)

An acknowledgment of paternity or maternity by a person of unknown lineage establishes lineage if the acknowledged person confirms it, or if evidence is established for it, provided the age difference allows it.

Article (76)

An acknowledgment of lineage other than for paternity, maternity, or filiation (Bunuwah) does not apply to the acknowledged person except by his confirmation or by establishing evidence.

Article (77)

The heirs of the acknowledger are not heard if they bring a claim to deny lineage after it has been established by a valid acknowledgment.

Section Three: Denial of Lineage by Li'an (Impugnment)

Article (78)

Li'an is when the man swears four times by Allah that he is truthful in accusing his wife of adultery (Zina), and the fifth time that the curse of Allah be upon him if he is lying. The woman swears four times by Allah that he is lying, and the fifth time that the wrath of Allah be upon her if he is telling the truth.

Article (79)

- a) A man may deny lineage of a child from himself through Li'an within one month from the date of birth or knowledge of it, provided he has not explicitly or implicitly acknowledged paternity. The claim for Li'an must be presented within two months from that date.
- b) Li'an results in the denial of the child's lineage from the man. The child's lineage is established even after a judgment of denial if the man contradicts himself (i.e., later acknowledges).

Book Two

Separation between the Spouses

General Provisions

Article (80)

Separation between the spouses occurs by:

1. Divorce (Talaq).
2. Khul' (Redemptive Divorce).
3. Judicial dissolution (Tatliq) or annulment (Faskh).
4. Death.

Part One

Divorce (Talaq)

Article (81)

1. Divorce is the dissolution of the marriage contract by the formula prescribed by Sharia.
2. Divorce is effected by word, or by writing, and in case of inability for both, by an understandable gesture.

Article (82)

Divorce is effected by the husband, or by his agent under a specific power of attorney, or by the wife if the husband has delegated the power of divorce (Tafwid) to her.

Article (83)

- a) The divorcer must be sane and acting voluntarily.
- b) The divorce of an insane person, a mentally deficient person, one under coercion, and one lacking discretion due to intoxication, extreme anger, or other reasons, is not effective. The husband's statement is accepted regarding the lack of discretion.

Article (84)

Divorce does not take effect on the wife unless she is in a valid marriage and not in her waiting period.

Article (85)

A divorce contingent upon the doing or not doing of something takes effect.

Article (86)

- a) A divorce sworn by oath, or a divorce pronounced as forbidden (Haram), is not effective.
- b) A divorce accompanied by a number (e.g., saying "I divorce you three times") verbally, in writing, or by gesture, counts as only one divorce.

Article (87)

Divorce is of two types: revocable (Raj'i) and irrevocable (Ba'in).

1. A revocable divorce does not terminate the marriage contract until the waiting period (Iddah) ends.
2. An irrevocable divorce terminates the marriage contract at the time of its occurrence. It is of two types:
 - a) A minor irrevocable divorce (Al-Bain Bainuna Sughra): after which the divorced woman is not lawful for her divorcer except with a new contract and new dower.
 - b) A major irrevocable divorce (Al-Bain Bainuna Kubra): after which the divorced woman is not lawful for her divorcer until after her waiting period from another husband, with whom she had a valid marriage and actual consummation, has passed.

Article (88)

Every divorce is revocable except the divorce that completes the third (final) divorce, divorce before consummation, divorce for a consideration (Khul'), and what is explicitly stated to be irrevocable.

Article (89)

- a) A divorce occurring outside the court is established by evidence or by acknowledgment.
- b) Divorce occurs by a declaration from the husband before the judge.
- c) Before the declaration, the judge must attempt reconciliation.

Article (90)

After the occurrence of divorce, the competent judge shall issue, upon the request of the concerned parties, an order specifying the woman's maintenance during her waiting period, maintenance for the children, custody rights, and visitation rights for the custodian. This order is immediately enforceable by force of law, and the aggrieved party may challenge it.

Article (91)

A divorced woman who has been consummated with is entitled to consolatory gifts (Mut'ah) according to the financial means of the divorcer.

Article (92)

The husband may revoke his revocably divorced wife as long as she is in her waiting period. This right cannot be waived.

Article (93)

- a) Revocation (Ruju') is effected by word, writing, and in case of inability for both, by an understandable gesture, taking into account the provisions of Article (28) of this Law.
- b) Revocation is effective and the wife is notified of it immediately.

Part Two

Khul' (Redemptive Divorce)

Article (94)

- a) The two spouses may mutually agree to terminate the marriage contract by Khul'.
- b) Khul' is effected with a compensation offered by the wife.
- c) Khul' is considered an irrevocable divorce.

Article (95)

For the validity of Khul', the wife must have the legal capacity to offer the compensation, and the husband must have the capacity to effect divorce.

Article (96)

If the compensation for Khul' is relinquishing custody of the children or any of their rights, the condition is void and the Khul' becomes a regular divorce (Talaq).

Article (97)

- a) If the compensation is mentioned in the Khul' agreement, only what is specified is obligatory.
- b) If no compensation is specified in the Khul' agreement, the rules of divorce apply.

Part Three

Judicial Dissolution (Tatliq)

Chapter One

Dissolution for Defects

Article (98)

- a) Either spouse may request dissolution for a defect in the other that makes the continuation of marital life impossible and from which recovery is not expected, or is not expected before more than a year has passed, whether the defect is mental or physical, and whether it occurred before or after the contract.
- b) If recovery from the defect is expected within a year, the court shall give the afflicted party a period of up to one year before dissolution.

Article (99)

Specialists shall be consulted to ascertain the defects.

Chapter Two
Dissolution for Non-payment of Prompt Dower

Article (100)

- a) A wife who has not been consummated with may be granted dissolution for the husband's failure to pay her prompt dower in the following two cases:
 - 1. If the husband has no apparent property from which the dower can be taken.
 - 2. If the husband is apparently insolvent or his situation is unknown, and the period set by the judge for paying the prompt dower has ended without payment.
- b) A wife may not be granted dissolution after consummation for non-payment of her prompt dower; it remains a debt upon the husband.

Chapter Three
Dissolution for Harm and Discord

Article (101)

- a) Either spouse may request dissolution for harm that makes continued cohabitation between them impossible.
- b) The judge must strive for reconciliation.
- c) If the judge fails to reconcile and the harm is proven, he shall rule for dissolution, taking into account the provisions of Article (107) of this Law.

Article (102)

If harm is not proven, but discord persists between the spouses and reconciliation is impossible, the judge shall appoint two arbitrators (Hakaman) from their families if possible, otherwise from those deemed capable of reconciliation, and shall set a period for arbitration.

Article (103)

- a) The arbitrators must investigate the causes of discord and strive to reconcile the spouses.
- b) The arbitrators shall submit a report to the judge about their efforts and suggestions, including the extent of wrongdoing by each or one of the spouses towards the other.

Article (104)

The judge may adopt the arbitrators' report or appoint other arbitrators by a reasoned decision to undertake the arbitration anew according to the procedures mentioned in the two preceding articles.

Article (105)

If the two arbitrators disagree, the judge shall appoint others or add a third arbitrator.

Article (106)

If reconciliation is impossible and discord persists between the spouses, the judge shall rule for dissolution based on the arbitrators' report.

Article (107)

If the judge rules to dissolve the marriage of a consummated wife due to harm or discord, and if the wrongdoing was entirely or mostly from the wife, her deferred dower is forfeited and the judge determines what she must return to the husband from the prompt dower. If the wrongdoing was entirely or mostly from the husband, the dower remains the right of the wife.

Article (108)

If the wife requests divorce before consummation and valid seclusion, and deposits what she has received of the dower and what the husband spent for the marriage, and the husband refuses to divorce and the judge fails to reconcile, he shall rule for dissolution if he finds it legally appropriate.

Chapter Four Dissolution for Non-Maintenance

Article (109)

- a) The wife may request dissolution if her husband refuses to maintain her, or it is difficult to obtain maintenance from him, and he has no apparent property, and his insolvency is not proven. She shall not be divorced until after giving him a period set by the judge.
- b) The wife shall not be divorced due to the husband's insolvency if she knew of his poverty before marriage and accepted it.
- c) A wealthy wife shall not be divorced from her insolvent husband.

Chapter Five Dissolution for Absence and Missing Status

Article (110)

A wife may request dissolution due to the absence of her husband whose domicile or place of residence is known, even if he has property from which maintenance can be obtained. She shall not be granted this except after warning him either to reside with his wife, or to bring her to him, or to divorce her, allowing a period of not less than four months and not exceeding one year.

Article (111)

The wife of a missing person or an absent person whose place and residence are unknown may request dissolution due to harm. She shall not be granted this except after a period of not less than one year from the date of absence or being missing.

Article (112)

The wife of a person finally sentenced to imprisonment for a period not less than three years may request dissolution. She shall not be granted this except after he has been imprisoned for a period not less than one year.

Chapter Six Dissolution for Ila' and Zihar

Article (113)

The wife is divorced if her husband swears an oath not to have intercourse with her and does not retract before the expiry of four months.

Article (114)

The wife is divorced by Zihar (injurious assimilation) unless the husband expiates before four months pass.

**Chapter Seven
Common Provisions**

Article (115)

Dissolution pursuant to Articles (98, 100, 101, 107, 108, 109, 110, 111, 112, 114) is considered irrevocable (Bain).

Article (116)

During the consideration of a dissolution lawsuit, the judge shall decide whatever interim measures he deems necessary to ensure maintenance for the wife and children, and matters related to their custody and visitation.

**Part Four
Annulment (Faskh)**

Article (117)

The marriage contract is not concluded if one of its pillars is missing, or if it is concluded with one of the permanently prohibited relatives.

Article (118)

- a) The marriage contract is annulled if it contains an impediment incompatible with its requirements, or if an impediment preventing its continuity arises.
- b) Separation by Li'an is an annulment.

**Part Five
Effects of Separation between the Spouses**

**Chapter One
The Waiting Period (Iddah)**

Article (119)

- a) The waiting period is a period of waiting that the wife must observe following separation without (a new) marriage.
- b) The waiting period begins from the time of separation. In case of intercourse under a mistaken belief (Shubhah), it begins from the last intercourse.

Section One: Waiting Period after Death

Article (120)

- a) A woman whose husband has died in a valid marriage, even if before consummation, observes a waiting period of four months and ten days if she is not pregnant.
- b) The waiting period of a pregnant woman whose husband has died ends with the delivery of the child or a miscarriage showing human form.
- c) A woman consummated with in a defective contract or under a mistaken belief, if the man dies, observes the waiting period for divorce.

Section Two: Waiting Period other than after Death

Article (121)

- a) There is no waiting period for a woman divorced before consummation.
- b) The waiting period for a pregnant woman ends with delivery or a miscarriage showing human form.
 - c) The waiting period for a non-pregnant woman is:
 1. Three complete menstrual cycles for those who menstruate.
 2. Three months for those who do not menstruate due to young or old age, and if menstruation resumes before the end of the waiting period, the waiting period is recommenced with three cycles.
 3. Three months for a woman with chronic bleeding (Mustahadah) if she has no known habit; if she has a known habit, it is followed in calculating the waiting period.
 4. One year for one whose menses have ceased before the age of menopause.

Article (122)

The waiting period does not exceed one year in all cases.

Section Three: Commencement of the Waiting Period

Article (123)

If the husband dies while the woman is in the waiting period of a revocable divorce, she transitions to the waiting period for death, according to what has passed.

Article (124)

If the husband dies while the woman is in the waiting period of an irrevocable divorce, she does not transition to the waiting period for death, but she completes it. However, if the divorce was pronounced during a terminal illness and death occurred before the waiting period ended, she begins the waiting period for death.

Chapter Two Custody (Hadanah)

Article (125)

Custody is the care and upbringing of the child, and it does not conflict with the right of guardianship (Wilayah) over the person.

Article (126)

The custodian must meet the following conditions:

1. Sanity.
2. Puberty.
3. Trustworthiness.
4. Ability to raise and protect the child under custody.
5. Freedom from serious infectious diseases.

Article (127)

The custodian must additionally meet the following conditions beyond those mentioned in the previous article:

- a) If a woman: she must be free from a foreign husband (i.e., not married to a non-Mahram to the child) unless the court decides otherwise in the interest of the child.
- b) If a man:
 1. He must have a female suitable for custody available.
 2. He must be a Mahram relative (through blood ties making marriage permanently forbidden) to the child if the child is female.

Article (128)

If the custodian is of a different religion than the child's father, her custody ceases when the child completes seven years of age, unless the judge decides otherwise in the interest of the child.

Article (129)

Custody continues until the male child completes seven years of age, and the custody of a girl continues until puberty, unless the judge decides otherwise in the interest of the child.

Article (130)

Custody is a duty of both parents as long as the marriage exists between them. If they separate, it is for the mother, then for the child's relatives according to the following order: his maternal grandmother (however high), then his paternal grandmother (however high), then his full sister, then his maternal aunt, then his paternal aunt (father's sister), then his paternal aunt (father's father's sister), then his paternal aunt (father's mother's sister), then his daughter (by another wife?), then his brother's daughter, then his sister's daughter. In all cases, the full-blood relative is given priority, then the paternal relative, then the maternal relative, unless the judge decides otherwise in the interest of the child.

Article (131)

If the parents are not found, and no one entitled to custody accepts it, the judge chooses a suitable person from the child's relatives, or others, or one of the qualified institutions for this purpose.

Article (132)

If the mother leaves during the marriage due to a dispute or other reason, custody is for her unless the judge decides otherwise. If the child is young and cannot do without his mother, she is obliged to have custody.

Article (133)

The father or other guardians of the child must oversee his affairs, discipline him, guide him, and educate him. The child shall not spend the night except with his custodian, unless the judge decides otherwise.

Article (134)

The custodian may not travel with the child outside the country without the consent of his guardian. If the guardian refuses, the matter is referred to the judge.

Article (135)

The right to custody is forfeited in the following cases:

1. If any of the conditions mentioned in Articles (126) and (127) is lacking.
2. If the custodian settles in a country where it is difficult for the child's guardian to perform his duties.
3. If the person entitled to custody remains silent about claiming it for one year without an excuse.
4. If the new custodian remains silent while the custody of the one whose custody was forfeited for a reason other than physical incapacity remains silent.

Article (136)

Custody returns to the one who lost it once the reason for its loss ceases.

Article (137)

- a) If the child is in the custody of one parent, the other has the right to visit him, be visited by him, and take him along as determined by the judge.
- b) If one of the child's parents is deceased or absent, the child's Mahram relatives have the right to visit him as determined by the judge.
- c) If the child is with someone other than his parents, the judge specifies those entitled to visitation from his Mahram relatives.

Book Three

Legal Capacity (Ahliyah) and Guardianship (Wilayah)

Part One

Legal Capacity

Chapter One

General Provisions

Article (138)

A person has full legal capacity to exercise his civil rights, unless the law provides otherwise.

Article (139)

The age of majority (Rushd) is the completion of eighteen years of age.

Article (140)

A minor (Qasir) is one who has not reached the age of majority. The following are considered as such:

- a) The fetus.
- b) The insane, the mentally deficient, the simpleton (Dhu al-Ghafflah), and the prodigal (Safih).
- c) The absent person and the missing person.

Article (141)

- a) The following are considered to lack legal capacity:
 - 1. The non-discernment minor.
 - 2. The insane.
- b) The following are considered to have limited legal capacity:
 - 1. The discernment minor.
 - 2. The mentally deficient, the simpleton, and the prodigal.

Article (142)

The affairs of the minor are managed by his representative, called according to the situation a guardian (Wali), or a testamentary guardian (Wasi - which includes the chosen executor and the judge's appointed guardian), or a supervisor (Qayyim).

Chapter Two

The Minor and his Status

Article (143)

- a) A minor is one who has not reached the age of majority. He is either discerning or non-discerning.
- b) According to the provisions of this Law - a non-discerning minor is one who has not completed seven years of age.
- c) A discerning minor is one who has completed seven years of age.

Article (144)

- a) The transactions of a non-discerning minor are absolutely void.
- b) The financial transactions of a discerning minor are valid if they are purely beneficial to him, and void if they are purely harmful to him.
- c) The financial transactions of a discerning minor that fluctuate between benefit and harm are voidable in the interest of the minor. The right to claim voidability lapses if the minor ratifies the transaction after reaching majority, or if ratification is issued by his guardian or by the judge according to the law.

Article (145)

a) The father may grant his discerning minor child permission, absolute or restricted, to manage his funds, or part thereof, if he has completed fifteen years of age and shows good management. The father's supervision over his child's transactions continues.

b) The father may withdraw or restrict the permission whenever it appears to him that his child's interest requires it.

Article (146)

The testamentary guardian (Wasi) - after the judge's approval - may grant the discerning minor permission to manage his funds, or part thereof, if he has completed fifteen years of age and shows good management.

Article (147)

If the discerning minor has completed fifteen years of age and sees himself capable of good management, and the guardian refuses to grant him permission to manage his funds or part thereof, the matter is referred to the judge.

Article (148)

The permitted minor is considered to have full legal capacity in what he has been permitted for.

Article (149)

The person permitted by the judge or the guardian must submit periodic accounts of his transactions to the judge.

Article (150)

The judge and the guardian may cancel or restrict the permission if the minor's interest requires it.

Chapter Three

Majority and Judicial Declaration of Competence (Tarshid)

Article (151)

A person is considered competent (Rashid) upon completing the age of majority, unless interdicted for a reason affecting capacity.

Article (152)

The judge may declare a minor competent (Tarshid) if he has completed fifteen years of age and his good management is proven.

Article (153)

A claim by a minor against his guardian related to guardianship matters is not heard after the lapse of five years from the date the minor reaches majority, in case of denial and absence of a legitimate excuse. However, if the guardianship ended by dismissal, resignation, or death, the mentioned period does not begin except from the date of submitting the final account related to the guardianship.

Article (154)

- a) After attaining majority or being declared competent, the minor may request compensation for harmful actions of his guardian occurring before that, in whole or in part, even if he had given a general release, with the possibility of criminal liability if necessary.
- b) This right lapses after one year from the date the minor commences his affairs as a result of attaining majority or being declared competent.

Chapter Four

Impediments to Legal Capacity

Article (155)

Impediments to legal capacity are: insanity (Junun), mental deficiency (Atah), simplemindedness (Ghaflah), and prodigality (Safih).

- a) Insanity: loss of mind, whether continuous or intermittent.
- b) Mentally deficient (Mutawwah): one with little understanding, confused speech, poor judgment.
- c) Simpleton (Dhu al-Ghaflah): one who is easily deceived in his financial transactions.
- d) Prodigal (Safih): one who squanders his wealth in what has no benefit.

Article (156)

- a) The financial transactions of an insane person during a lucid interval, before interdiction, are valid; otherwise, they are void.
- b) The provisions related to the transactions of a discerning minor apply to the transactions of the mentally deficient, the prodigal, and the simpleton issued after their interdiction.
- c) The transactions of a mentally deficient person before interdiction are valid if the condition of deficiency was not prevalent at the time of contracting, and the other party was not aware of it.
- d) The transactions of a simpleton before interdiction are valid, unless they result from exploitation. Similarly, the transactions of a prodigal before interdiction are valid, unless they result from exploitation or collusion.

Article (157)

The interdicted person has the right to file a lawsuit himself to lift the interdiction.

Part Two

Guardianship (Wilayah)

Chapter One

General Provisions

Article (158)

Guardianship is of two types: guardianship over the person, and guardianship over the property.

- a) Guardianship over the person is the care of everything related to the person of the minor.
- b) Guardianship over the property is the care of everything related to the property of the minor.

Article (159)

Guardianship over the person is for the father, then for the agnates ('Asabah) themselves, according to the order of inheritance.

Article (160)

Guardianship over the property is for the father alone.

Article (161)

The guardian must be an adult, sane, trustworthy, and capable of fulfilling the requirements of guardianship.

Article (162)

A non-Muslim has no guardianship over a Muslim.

Article (163)

Guardianship is revoked if any of the conditions mentioned in the two preceding articles is lacking.

Chapter Two
Guardianship of the Father

Article (164)

The father's guardianship over his minor child's property involves preservation, disposal, and investment.

Article (165)

The father's guardianship includes the minor children of his son if their father is interdicted.

Article (166)

The actions of the father are presumed valid in the following cases:

1. Contracting in the name of his child and disposing of his funds.
2. Engaging in trade on behalf of his child; he may not continue this except in cases of apparent benefit.
3. Accepting lawful donations for the benefit of his child, if they are free from burdensome obligations.
4. Spending from his child's property on those whom maintenance is obligatory upon him for.

Article (167)

The actions of the father are not presumed valid in the following cases unless the minor's interest therein is proven:

1. If he buys his child's property for himself.
2. If he sells his property to his child.
3. If he sells his child's property to invest its price for himself.

Article (168)

1. The father's transactions are void whenever his mismanagement and the absence of benefit for the minor are proven.
2. The father is financially liable for gross negligence resulting in harm to his child.

Article (169)

The father's guardianship is revoked whenever the judge is convinced that the minor's property has become endangered as a result of his father's actions.

Chapter Three The Testamentary Guardian (Wasi)

Article (170)

- a) The father may appoint a testamentary guardian (Wasi Mukhtar) for his minor child or for his minor grandchildren if he is under interdiction. He may stipulate that the guardian cannot be held liable, even if he deviates from his will.
- b) If a chosen guardian cannot be found for the minor, the judge appoints a guardian (Wasi al-Qadi) to manage his affairs, taking into account the minor's interest in doing so.

Article (171)

The judge appoints a special or general guardian whenever the minor's interest requires it.

Article (172)

The guardian must meet the following conditions:

1. Be an adult.
2. Have full legal capacity.
3. Be trustworthy.
4. Be capable of fulfilling the requirements of guardianship.
5. Not have been convicted of a crime involving breach of trust, theft, fraud, forgery, or crimes violating public morals.
6. Not have been declared bankrupt.
7. Not have been dismissed from a guardianship.
8. Not be a litigation opponent of the minor, and there should be no enmity between them, or a family relationship from which harm to the minor's interest is feared.

Article (173)

The guardian is bound by the conditions and tasks stipulated in the will, unless they contravene the law.

Article (174)

- a) The guardian may be a natural or juridical person, male or female, single or multiple, independent or with a supervisor.
- b) If there are multiple guardians, the judge may confine the guardianship to one of them as required by the minor's interest.

Article (175)

- a) The execution of the will (appointing the guardian) is contingent upon the guardian's acceptance.
- b) The guardian's undertaking of his tasks is considered acceptance of the appointment.

Article (176)

The guardian has no right to relinquish the guardianship after accepting it explicitly or implicitly, except for an emergent excuse and with the judge's approval.

Chapter Four The Supervisor (Mushrif)

Article (177)

If the father appoints a supervisor to monitor the guardian's actions, the supervisor must carry out what achieves that according to the minor's interest.

Article (178)

The supervisor must meet the same conditions as the guardian.

Chapter Five Transactions of the Guardian

Article (179)

The guardian must manage the minor's property and care for it. He must exercise in that the care he exercises in managing his own children's property.

Article (180)

The guardian's transactions are subject to the supervision of the competent authority.

Article (181)

The guardian is obliged to submit periodic accounts of his transactions in managing the minor's property.

Article (182)

The guardian may not undertake the following actions except with the permission of the competent authority:

1. Disposing of the minor's property by sale, purchase, exchange, partnership, mortgage, or any type of transaction transferring ownership or creating a real right.

2. Dealing in bonds and shares or parts thereof, as well as in non-perishable movables or those not feared to be damaged, unless their value is negligible.
3. Transferring the minor's debts or accepting set-off against him.
 4. Investing the minor's funds for his own account.
 5. Lending the minor's funds or borrowing them.
 6. Leasing the minor's real estate.
 7. Accepting or rejecting conditional donations.
8. Spending from the minor's property on those whom maintenance is obligatory upon him for.
 9. Fulfilling obligations on the estate or on the minor.
 10. Acknowledging a right against the minor.
 11. Reconciliation and arbitration.
12. Filing a lawsuit if delaying its filing does not harm the minor or cause him to lose a right.
13. Waiving a lawsuit, and not using a means of appeal, whether ordinary or extraordinary.
14. Leasing the minor's property to himself, his spouse, any of their ascendants or descendants, or to someone he represents.

Article (183)

The person handling the affairs of minors, or any responsible official, is prohibited from buying or leasing anything for himself, his spouse, or any of their ascendants or descendants from what is owned by the minor. He is also prohibited from selling to the minor anything owned by himself, his spouse, or any of their ascendants or descendants.

Article (184)

The guardian may request a fee for his work, determined from the day of the request.

Chapter Six Termination of Guardianship

Article (185)

The guardian's task ends in the following cases:

1. His death, loss of capacity, or reduction of capacity.
 2. Proof of his absence or being missing.
 3. Acceptance of his request to relinquish his task.
 4. Dismissal from performing his guardianship duties.
5. The minor being declared competent, or reaching majority while competent.

6. Lifting the interdiction from an interdicted person.
7. The end of the state of being missing or absent.
8. The minor's father regaining his capacity.
9. The death of the minor.

Article (186)

If the minor is insane, mentally deficient, or not trustworthy with his funds, the guardian must inform the court to consider continuing guardianship over him after he reaches majority.

Article (187)

The guardian is dismissed:

- a) If any condition stipulated in Article (172) of this Law is lacking.
- b) If he mismanages or neglects his duties, or his continuation becomes dangerous to the minor's interest.

Article (188)

Upon the termination of his task, the guardian must deliver the minor's property and everything related to it, including accounts and documents, to the appointed person, under the supervision of the competent authority, within a maximum period of thirty days from the date his task ends.

Article (189)

If the guardian dies, his heirs, or whoever takes possession of his estate, must immediately inform the competent authority to take measures ensuring the protection of the minor's rights.

Chapter Seven

The Absent and Missing Person

Article (190)

1. An absent person (Gha'ib) is a person whose domicile and place of residence are unknown.
2. A missing person (Mafqud) is an absent person whose life or death is unknown.

Article (191)

If the absent or missing person has no agent, a judicial agent is appointed to manage his property.

Article (192)

The property of the absent or missing person is inventoried upon the appointment of a judicial agent for him and is managed according to the management of a minor's property.

Article (193)

Absence or missing status ends:

- a) If the life or death of the absent or missing person is confirmed.
- b) If a judgment is issued declaring the absent or missing person dead.

Article (194)

- a) The judge shall issue a judgment of death for the absent or missing person if there is evidence of death.
- b) The judge may issue a judgment of death for the absent or missing person if four years have passed since the absence or being missing.

Article (195)

In all cases, the judge must search for the absent or missing person by all means to ascertain whether he is alive or dead before judging his death.

Article (196)

The date of the judgment declaring the absent or missing person dead is considered the date of death.

Article (197)

If a judgment is issued declaring the absent or missing person dead and then he appears alive:

1. He may recover his estate from the heirs, except for what has been consumed.
2. His wife returns to his marriage bond, unless she has remarried and consummation has occurred.

Book Four Wills (Wasiyyah)

Part One General Provisions

Article (198)

A will is a disposition as a gift, taking effect after the testator's death.

Article (199)

- a) A will may be absolute or conditional.
- b) If the will is associated with a condition contrary to Sharia objectives, the condition is void.

Article (200)

The will is executed within one-third of the testator's estate, after paying the rights related to it. It is valid for anything exceeding one-third, to the extent of the share of the consenting adult heirs.

Article (201)

Any disposition issued during terminal illness with the intent of gift or benevolence is subject to the rules of wills, regardless of the name given to it.

Part Two Pillars and Conditions

Article (202)

The pillars of a will are: the formula (Sighah), the testator (Al-Musi), the legatee (Al-Musa Lahu), and the bequeathed property (Al-Musa Bih).

Chapter One

The Formula

Article (203)

The will is concluded by statement, or by writing. If the testator is unable to do both, then by an understandable gesture.

Article (204)

A claim regarding a will or its revocation is only heard with evidence.

Chapter Two

The Testator

Article (205)

- a) A will is valid from one who has the capacity to make a gift, even if issued during terminal illness.
- b) The testator may modify the will or revoke it, in whole or in part.
- c) The testator's disposal of the specific property he bequeathed is considered a revocation of the will.

Chapter Three

The Legatee

Article (206)

A will is valid for anyone who can validly own the bequeathed property, even with a difference in religion or nationality.

Article (207)

There is no will in favor of an heir, unless the remaining adult heirs consent; then it is executed to the extent of the share of those who consented.

Article (208)

- a) A will is valid for a specific person, whether existing or expected to exist.
- b) A will is valid for a defined or undefined class.
- c) A will is valid for charitable purposes, and for charitable institutions, scientific institutions, and other public bodies, provided they exist at the time of making the will.

Article (209)

- a) For a will to a specific person, his acceptance after the testator's death, or during his lifetime and his continuation of acceptance after his death, is required.
- b) If the legatee is a fetus, a minor, or an interdicted person, his guardian may accept or reject the will after the judge's permission.
- c) A will for a non-specific person does not require acceptance and cannot be rejected by anyone.

- d) Acceptance or rejection for organizations, institutions, and establishments is by their legal representative. If they have no representative, the will is binding.

Article (210)

- a) Acceptance of the will is not required immediately upon the testator's death.
- b) The legatee's silence for thirty days after learning of the will is considered acceptance.

Article (211)

A legatee with full capacity may reject the will, in whole or in part.

Article (212)

If the legatee dies after the testator's death without having accepted or rejected, this right transfers to his heirs.

Article (213)

- a) The specific legatee owns the bequeathed property after the testator's death.
- b) The heir of a deceased legatee takes his place before distribution.
- c) If there are multiple legatees, the bequeathed property is divided equally unless the testator stipulated inequality.
- d) The live twin takes the bequeathed property for the fetus if the woman gives birth to one dead.
- e) The heirs of the testator benefit from the bequeathed property until its rightful owner is found.

Article (214)

- a) A will for an uncountable class includes those existing on the day of the testator's death and those who will come into existence until the class is closed.
- b) The number of an unspecified class is closed by the death of all their ancestors, or by despair of the remaining ones having offspring.
- c) If despair arises regarding the existence of any of the legatees, the bequeathed property reverts to the testator's heirs.

Article (215)

The existing members of a countable, unspecified class benefit from the bequeathed property before the class is closed. The shares of benefit change with every birth or death among them.

Article (216)

The yield of the bequeathed property for unspecified persons who cannot be enumerated is distributed among those existing.

Article (217)

The rules for unspecified, countable legatees apply to a specific legatee from the outset if they are combined in one will.

Article (218)

The bequeathed property for unspecified persons is sold if there is fear of its loss or decrease in value, and something from which the legatees can benefit is bought with its price.

Article (219)

A will for charitable purposes and charitable and scientific institutions is spent on aspects of administration, maintenance, residents, and other affairs, unless the spending is specified by custom or implication.

Chapter Four The Bequeathed Property

Article (220)

The bequeathed property must be owned by the testator and its subject matter must be lawful.

Article (221)

- a) The bequeathed property may be undivided (shared) or specific.
- b) An undivided bequest includes all the testator's present and future properties.

Article (222)

- a) The specific bequeathed property may be real estate, movable property, fungible or non-fungible, an asset or a usufruct.
- b) If someone bequeaths a specific thing to one person, then bequeaths it to another, it goes to the latter.

Article (223)

The bequeathed property may be a usufruct, or the right to benefit from real or movable property for a specified or unspecified period.

Article (224)

- a) If the value of the specific property bequeathed with its usufruct or benefit is less than one-third of the estate, the asset is delivered to the legatee to benefit from according to the will.
- b) If the value of the specific property bequeathed with its usufruct or benefit is more than one-third of the estate, the heirs choose between consenting to the will and giving the legatee the equivalent of one-third of the estate as usufruct or benefit.

Article (225)

A legatee with a usufruct of a specific property may use or exploit it, unless the situation is otherwise clear in the will, provided no harm is caused to the asset.

Part Three Will by Attribution (Al-Tanzil)

Article (226)

Attribution (Al-Tanzil) is a will that affiliates a non-heir with the testator's inheritance and a specific share of the estate.

Article (227)

The attributed person (Al-Munazzal) is entitled to the share of the person whose position he is attributed to, whether male or female, within the limits of one-third, unless the remaining adult heirs consent; then it is executed to the extent of the share of those who consented.

Part Four Invalidators of the Will

Article (228)

The will is invalidated in the following cases:

1. The testator's revocation of his will.
2. The death of the legatee during the testator's lifetime.
3. The legatee acquiring the status of an heir to the testator.
4. The legatee's rejection of the will after the testator's death.
5. The legatee killing the testator, whether as a principal, accomplice, or cause, intentionally or by mistake, provided he was of sound mind and had reached the age of criminal responsibility at the time of committing the act.
6. The destruction of the specific bequeathed property or its being claimed by a third party.
7. The apostasy of the testator or the legatee from Islam, unless they return to it.

Part Five The Obligatory Will (Al-Wasiyyah Al-Wajibah)

Article (229)

- a) A will is obligatory for close relatives (who are not heirs).
- b) If no will is made for close relatives and the will is for others by way of gift, two-thirds of the will is returned to them.

Article (230)

The provisions of the obligatory will are subject to the provisions of this Book.

Part Six Reduction of Wills (Tarahum Al-Wasaya)

Article (231)

If the one-third is insufficient to cover wills of equal rank, and the adult heirs do not consent to the excess over one-third, it is divided among the legatees like creditors' shares. If one of them is for a

specific thing, accounting is done based on its value; the entitled person takes his share from the asset, and others take their share from the rest of the one-third.

Book Five
Inheritance (Al-Irth)

Part One
General Provisions

Article (232)

The estate (Al-Tarikah) is what the deceased leaves of properties and rights.

Article (233)

Rights related to the estate are prioritized according to the following order:

1. Expenses of preparing the deceased in a reasonable manner.
2. Payment of the deceased's debts.
3. Execution of the will.
4. Giving the remainder of the estate to the heirs.

Article (234)

Inheritance is the mandatory transfer of properties and rights, upon the death of their owner, to those entitled to them.

Article (235)

The pillars of inheritance are:

1. The deceased (Al-Mawruth).
2. The heir (Al-Warith).
3. The inheritance (Al-Mirath).

Article (236)

The causes of inheritance are: marriage and kinship.

Article (237)

The conditions for entitlement to inheritance are: the death of the deceased, actually or by legal presumption, and the life of his heir at the time of his death, actually or by presumption, and knowledge of the basis of inheritance.

Article (238)

Whoever kills his deceased, whether as a principal, accomplice, or cause, intentionally or by mistake, is barred from inheritance, provided he was of sound mind and had reached the age of criminal responsibility at the time of committing the act.

Article (239)

There is no inheritance with difference of religion.

Article (240)

If two or more persons die and there is inheritance between them, and it is not known who died first, none of them is entitled to the other's estate.

Part Two

Categories of Heirs and their Rights

Article (241)

Inheritance is by prescribed share (Fardh), by residuary right (Ta'sib), or by both, or by uterine relationship (Dhawu al-Arham).

Chapter One

Quranic Heirs (Ashab al-Furud)

Article (242)

- a) A prescribed share (Fardh) is a fixed portion for an heir in the estate.
- b) The prescribed shares are: half ($1/2$), quarter ($1/4$), eighth ($1/8$), two-thirds ($2/3$), third ($1/3$), sixth ($1/6$), and the remainder.
- c) The Quranic heirs are: the two parents, the two spouses, the paternal grandfather (however high), the grandmother who connects through an heir, daughters, sons' daughters (however low), sisters in all cases, the uterine brother.

Article (243)

Those entitled to half ($1/2$) are:

1. The husband, provided there is no descendant heir of the wife.
2. The daughter, provided she is alone, without a son, whether male or female.
3. The son's daughter (however low), provided she is alone, without a child, without a son's son equal to or higher than her.
4. The full sister, provided there is no full brother, no other full sister, no descendant heir of the deceased, no father, no paternal grandfather.
5. The paternal sister, if alone and there is no paternal brother, no full brother or sister, no descendant heir of the deceased, no father, no paternal grandfather.

Article (244)

Those entitled to a quarter ($1/4$) are:

1. The husband, with a descendant heir of the wife.
2. The wife or wives, if the husband has no descendant heir.

Article (245)

The one entitled to an eighth ($1/8$) is: the wife or wives, if the husband has a descendant heir.

Article (246)

Those entitled to two-thirds ($2/3$) are:

1. Two or more daughters, if there is no son of the deceased.
2. Two or more son's daughters (however low their father), if there is no direct child (son or daughter) of the deceased, no son's son in their degree, and no son's son higher than them.
3. Two or more full sisters, if there is no full brother, no descendant heir of the deceased, no father, no paternal grandfather.
4. Two or more paternal sisters, if there is no paternal brother, no full brother or sister, no descendant heir of the deceased, no father, no paternal grandfather.

Article (247)

Those entitled to a third ($1/3$) are:

1. The mother, in the absence of a descendant heir of the deceased, and in the absence of two or more brothers or sisters of any type, unless she is with one of the spouses and the father, then she is entitled to a third of the remainder.
2. Two or more children of the mother (uterine siblings), in the absence of a descendant heir of the deceased, no father, no paternal grandfather. The third is divided equally among them, the male receiving the same as the female.

Article (248)

Those entitled to a sixth ($1/6$) are:

1. The father, with a descendant heir.
2. The paternal grandfather, if there is a descendant heir of the deceased.
3. The mother, with a descendant heir or with two or more brothers or sisters of any type.
4. The grandmother who connects through an heir (however high), whether one or more, provided the mother is absent, and the one through whom she connects is absent, and there is no closer established grandmother to the deceased.
5. One or more son's daughters, with one direct daughter, or with one son's daughter higher than her in degree, if there is no son, no son's son higher than her, and none in her degree.
6. One or more paternal sisters, with one full sister, if there is no descendant heir of the deceased, no father, no paternal grandfather, no full brother, no paternal brother.

7. One of the uterine brothers, whether male or female, in the absence of a descendant heir of the deceased, no father, no paternal grandfather, taking into account the provisions of Article (261) of this Law.

Article (249)

The one entitled to a third of the remainder: the mother, with one of the spouses and the father, if there is no descendant heir of the deceased and no two or more brothers or sisters of any type.

Chapter Two Residuaries (Al-Asabah)

Article (250)

- a) Residuary right (Ta'sib) is an unspecified entitlement in the estate.
- b) Residuaries are of three types:
 1. Residuary by themselves (Asabah bi anfusihim).
 2. Residuary through another (Asabah bil ghayr).
 3. Residuary with another (Asabah ma'al ghayr).

Article (251)

Residuaries by themselves are categories, some having priority over others according to the following order:

1. Descendants (Bunuwah): includes sons, and sons' sons (however low).
2. Ascendants (Ubuwah): includes the father, and the father's father (however high).
3. Siblings (Ukhuwah): includes full brothers, or paternal brothers and their descendants (however low).
4. Paternal uncles (Umumah): includes the deceased's paternal uncles (full or paternal), the uncles of his father, the uncles of his paternal grandfather (however high), full or paternal, and the sons of paternal uncles, full or paternal (however low).

Article (252)

The residuary by himself is entitled to the entire estate if no Quranic heir exists. He is entitled to the remainder if there is one, and gets nothing if the shares exhaust the estate.

Article (253)

- a) Within residuaries, priority is given to the closer category according to the order in Article (251) of this Law, then the closer degree to the deceased within the same category, then the stronger blood tie when degrees are equal.
- b) Residuaries share in their entitlement when they are united in category, degree, and strength.

Article (254)

- a) Residuaries through another are:
 1. One or more daughters, with one or more sons.

2. One or more son's daughters (however low), with one or more son's sons, whether in her degree or lower than her (she needs him and he blocks her if higher).
3. One or more full sisters, with one or more full brothers.
4. One or more paternal sisters, with one or more paternal brothers.
 - b) In these cases, the male gets the share of two females.

Article (255)

Residuaries with another: one or more full or paternal sisters, with one or more daughters or son's daughters. In this case, she is like a brother in entitlement to the remainder and in blocking other residuaries.

Chapter Three Heirs by Share and Residuary

Article (256)

Heirs by share and residuary are:

1. The father or paternal grandfather, with a daughter or son's daughter (however low her father).
2. The husband, if he is also a cousin of the deceased: he takes his share by prescription, and what he is entitled to by virtue of the uncle relationship as a residuary.
3. The uterine brother, one or more, if he is also a cousin of the deceased: he takes his share by prescription and what he is entitled to by virtue of the cousin relationship as a residuary.

Part Three Exclusion (Hajb), Return (Radd), and Increase (Awl)

Article (257)

- a) Exclusion (Hajb) is preventing an heir from all or part of the inheritance due to the presence of another heir more entitled.
- b) Exclusion is of two types: exclusion of deprivation and exclusion of reduction.
- c) The excluded heir may exclude others.

Article (258)

One who is prohibited from inheritance does not exclude others.

Article (259)

Return (Radd) is the increase in the shares of the Quranic heirs in proportion to their shares when the total of the shares is less than the base number of the problem.

Article (260)

Increase (Awl) is the reduction in the shares of the Quranic heirs in proportion to their shares when the shares exceed the base number of the problem.

Part Four
Special Cases - The Grandmother's Issue (Al-Musharakah)

Article (261)

The full brother inherits as a residuary, except in the case of "Al-Musharakah", which involves a husband, a mother or grandmother, a number of uterine siblings, and a full brother or brothers. The husband gets half, the mother or grandmother gets a sixth, and the third is divided among the uterine siblings and the full siblings, the male getting the share of two females.

Part Five
Distant Kindred (Dhawu al-Arham)

Chapter One
Categories of Distant Kindred

Article (262)

Distant kindred are of four categories, some having priority over others in inheritance according to the following order:

First Category: Descendants of daughters (however low), and descendants of sons' daughters (however low).

Second Category:

1. Descendants of uterine brothers, and their descendants (however low).
2. Descendants of sisters of any type (however low).
3. Daughters of brothers of any type, and their descendants (however low).
4. Daughters of sons of brothers of any type (however low), and their descendants (however low).

Third Category: Paternal uncles and aunts through uterine ties (however high), and maternal grandmothers (however high).

Fourth Category: Includes six groups, some having priority over others in inheritance according to the following order:

1. The deceased's maternal uncles and aunts of any type, and his maternal uncles and aunts of any type.
2. Descendants of those mentioned in the previous paragraph (however low), daughters of paternal uncles of the deceased through both parents or one, daughters of their sons (however low), descendants of those mentioned (however low).
3. Paternal uncles of the deceased's father through the mother, paternal aunts, maternal uncles, maternal aunts of his father of any type (father's kin), and paternal uncles, paternal aunts, maternal uncles, maternal aunts of the deceased's mother of any type (mother's kin).
4. Descendants of those mentioned in the previous paragraph (however low), daughters of paternal uncles of the deceased's father through both parents or one, daughters of their sons (however low), descendants of those mentioned (however low).
5. Paternal uncles of the deceased's father's father through the mother, paternal uncles of the mother's father, paternal aunts of the father's parents, their maternal uncles, maternal aunts of

any type (father's kin), and the parents of the deceased's mother, their paternal uncles, paternal aunts, maternal uncles, maternal aunts of any type (mother's kin).

6. Descendants of those mentioned in the previous paragraph (however low), daughters of paternal uncles of the deceased's father's father through both parents or one, daughters of their sons (however low), descendants of those mentioned (however low). And so on.

Chapter Two

Entitlement of Distant Kindred

Article (263)

- a) In the first category of distant kindred, the closest in degree to the deceased is most entitled to inheritance.
- b) If they are equal in degree, the child of a Quranic heir is preferred over the child of a distant relative.
- c) If they are all children of a Quranic heir, or if there is no child of a Quranic heir among them, they share the inheritance.

Article (264)

Article (265)

- a) In the third category of distant kindred, the closest in degree to the deceased is most entitled.
- b) If they are equal in degree, the one who connects through a Quranic heir is preferred.
- c) If they are equal in degree, and there is none among them who connects through a Quranic heir, or they all connect through Quranic heirs, then if they are all from the father's side or all from the mother's side, they share the inheritance. If their sides differ, two-thirds go to the father's kin and one-third to the mother's kin.

Article (266)

If the first group of the fourth category, mentioned in Article (262), is solely comprised of the father's kin (the deceased's paternal uncles through the mother, his paternal aunts of any type) or the mother's kin (the deceased's maternal uncles and aunts of any type), the one with the stronger kinship is preferred: one related through both parents is preferred over one related through one parent; one related through the father is preferred over one related through the mother. If they are equal in strength of kinship, they share the inheritance. When both groups are present, two-thirds go to the father's kin and one-third to the mother's kin. The share of each group is divided as aforementioned.

Article (267)

The provisions of the previous article apply to the third and fifth groups.

Article (268)

In the second group, the closer in degree is preferred over the more distant, even if from a different side of kinship. When there is equality and unity of kinship side, the stronger is preferred if they are all children of residuaries or all children of distant kindred. If they differ, the child of the residuary is preferred over the child of the distant kindred. When kinship sides differ, two-thirds go to the father's

kin and one-third to the mother's kin. The share of each group is divided among them in the manner aforementioned.

Article (269)

The provisions of the previous article apply to the fourth and sixth groups.

Article (270)

The multiplicity of kinship sides is not considered for any of the distant kindred except when the side (father/mother) differs.

Article (271)

Males and females are equal in the inheritance of distant kindred.

Part Six

Miscellaneous Issues

Article (272)

The absent or missing person is given his share from his deceased's estate on the presumption of his being alive.

Article (273)

If a judgment of death is issued for an absent or missing person, and his estate is distributed to his heirs, and then he appears alive, the provisions of the first paragraph of Article (197) are applied.

Article (274)

The most favorable share is reserved for the fetus from his deceased's estate, on the presumption of it being male or female. Each of the other heirs is given the less favorable share, considering the presumption of maleness or femaleness.

Article (275)

- a) If the amount reserved for the fetus from the estate is less than its entitlement, it has recourse for the shortfall against the heirs into whose shares the increase went.
- b) If the amount reserved for the fetus from the estate exceeds its entitlement, the excess is returned to those entitled among the heirs.

Article (276)

- a) If the deceased acknowledged lineage upon himself during his lifetime, his acknowledgment does not extend to the heirs unless the acknowledgment fulfills the conditions of validity.
- b) If he acknowledged lineage for someone else that is not established according to Article (75) of this Law and did not retract his acknowledgment, the acknowledged person is entitled to the acknowledger's estate, unless there is an heir for him.
- c) If some heirs acknowledge another as having lineage from their deceased, and the lineage is not established by this acknowledgment, the acknowledged person shares with the acknowledger in his entitlement from the inheritance, but not with others, unless he is excluded by him.

Article (277)

The child born of illegal intercourse (Zina) inherits from his mother and her relatives, and his mother and her relatives inherit from him. The same applies to the child of Li'an.

Article (278)

An ambiguous genitalia (Khuntha Mushkil) gets half of the male and female shares, on the presumption of maleness and femaleness.

Article (279)

- a) Settlement (Al-Tkharuj) is an agreement among heirs for some of them to leave their share of the estate to others in exchange for a known amount.
- b) If one heir settles with another, he is entitled to his share and takes his place in the estate.
- c) If one heir settles with the rest, then if the amount paid is from the estate, the shares of the settlement are deducted from the base number of the problem, and the shares of the remainder stay as they are. If the amount paid is from their own funds and the settlement contract does not specify the method of dividing the settling heir's share, it is divided among them in proportion to what each paid. If the amount paid by each is unknown, his share is divided equally among them.

Final Provisions

Article (280)

Lunar calendar calculation is adopted for the periods mentioned in this Law.

Article (281)

- a) The texts of this Law apply to all matters covered by their letter or spirit.
- b) If the husband's school of jurisprudence requires, for the occurrence of separation between the spouses, the fulfillment of stricter conditions or following specific procedures not mentioned in the Law, the judge must observe those conditions and procedures.
- c) In case the provisions regarding the inheritance of the daughter and the grandfather, and the distant kindred, in the deceased's school of jurisprudence differ from the provisions in this Law, the judge applies the preponderant opinion in the deceased's school, unless the heirs unanimously request the application of the Law's texts.
- d) If no text exists in this Law, judgment is made according to the rules of Islamic Sharia most consistent with the texts of this Law.

Article (282)

The personal status matters of non-Muslims are governed by their own specific provisions, unless they request the application of the texts of this Law.