

# ISSUE BRIEF **06.29.21**

## Stumbling Block: Inheritance and Women's Rights in Tunisia

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Inheritance has been a stumbling block for advocates of women's rights in Tunisia. Labeled an ["anomaly"](#) as the only Arab Spring country engaged in a process of democratization, Tunisia has also gained the reputation for being at the ["forefront of the Arab World"](#) in regard to women's rights. The reputation stems from [reforms of Islamic family law](#) from the 1950s to the 2010s that [increased women's autonomy](#) in marriage, divorce, custody, and other areas. Yet, inheritance laws have remained essentially the same for centuries. Attempts to reform them have all failed. We consider below issues surrounding inheritance, Islamic law, and current debates.

### INHERITANCE IN THE QUR'AN

Islamic law states that a woman inherits half as much as would a man in a similar kinship relation to the deceased. Thus, a son inherits twice as much as a daughter. Prescriptions on inheritance lie at the heart of Islamic family law, and many Muslims consider them the most sacred and untouchable part of that law. Strict and precise, inheritance prescriptions are spelled out in detail in the text of the Qur'an and allow few personal choices. Rights of inheritance rest upon family ties. An individual may dispose of only one-third of his or her property, which he or she may include in a will. The [law](#) distributes the other two-thirds to specific relatives on the basis of kinship relations.

The Qur'an further identifies the [recipients of the two-thirds](#) and the shares that each heir should receive. The prescriptions are imperative and constitute a divine commandment:<sup>1</sup>

*If there be more than two girls, they shall have two-thirds of the inheritance; but if there be one only, she shall inherit the half. Parents shall inherit a sixth each, if the deceased have a child; but if he leave no child and his parents be his heirs, his mother shall have a third. If he have brothers, his mother shall have a sixth after payment of any legacy he may have bequeathed or any debt he may have owed ... You shall inherit the half of your wives' estate if they die childless. If they leave children, a quarter of their estate shall be yours after payment of any legacy they may have bequeathed or any debt they may have owed. Your wives shall inherit one quarter of your estate if you die childless. If you leave children, they shall inherit one-eighth ... If a man or a woman leave neither children nor parents and have a brother or a sister, they shall each inherit one-sixth. If there be more, they shall equally share the third of the estate ... This is a commandment from God. God is all knowing and gracious.*



**Inheritance has remained a stumbling block for gender policy in Tunisia, despite the "woman-friendly" reforms of Islamic family law on other issues.**

In contrast to inheritance, prescriptions on marriage and divorce are phrased with more ambiguity in the Qur'an and thus have left room for diverse interpretations. Reformers have used the ambiguity as a basis for reforms. Given how unambiguously spelled out they are, and how central they are to the Islamic tradition, prescriptions on inheritance present a different challenge. Changing them can be interpreted as a rejection of the Qur'an itself and thus of Islam.

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### DEBATES ON INHERITANCE TODAY

Current debates on inheritance capture the polarization of Tunisian society along secularist and Islamist lines that developed following the 2010–2011 Arab Spring uprisings. According to polls, individuals with [more egalitarian attitudes](#) on women's inheritance were more likely to vote for the secularist party Nidaa Tounes than for the Islamist party Ennahda. Tunisian political parties tried to settle their disputes during debates over the new constitution, but in effect did not. [The 2014 constitution](#) is a compromise of Islamist and secularist perspectives. The preamble identifies Tunisia as a Muslim country, and Article 1 Tunisia's religion as Islam. Yet, Article 2 defines Tunisia as a civil state. Tunisian political parties [remain deeply divided](#) over inheritance and refuse to compromise because the issue goes to the heart of the nation's identity.

In August 2017, secularist president Beji Caid Essebsi [established the Individual Freedoms and Equality Committee \(COLIBE\)](#) to review the compatibility of existing laws, including on inheritance, with the constitution and international conventions. COLIBE [recommended reforming inheritance laws](#). In November 2018, Caid Essebsi presented parliament with a draft inheritance reform law that would give families the option to grant women equal inheritance rights or continue to grant them half of the amount men inherit. The Islamist Ennahda party has rejected the reform, and parliament has yet to [review the draft legislation](#).

COLIBE claimed that, although men and women have historically had different social roles in Islam, they should be equals within Islam today. Establishing a parallel between gender inequality and slavery, which Shari'a condemns, COLIBE recommended that Tunisia grant women equal inheritance rights. It also stated that inheritance reform would ensure that Tunisian law abides by international conventions. As a [CEDAW signatory](#), Tunisia must ensure gender equality. Reform would also align with Article 21 of the constitution, which supports total gender equality.

Anti-reformers cite religious reasons for their opposition to change. To them, a literal interpretation of the Qur'an is enough to reject reform. Some also claim that Islam has already granted women inheritance rights, which they lacked entirely before Islam. They argue that the preamble of the 2014 constitution states that Tunisia is a Muslim country, and that Article 1 affirms Islam as Tunisia's religion. Thus, inheritance must align with Islamic values. Opponents also cite the ["destruction of the Tunisian family"](#) as a reason to oppose reforms, arguing that women's emancipation has aggravated unemployment, by allegedly crowding the market, and undermined societal and familial values.

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### CONCLUSION

For reasons discussed above, inheritance has remained a stumbling block for gender policy in Tunisia, despite the "woman-friendly" reforms of Islamic family law on other issues. Given the precision of its inscription in the original scriptures of Islam, it is likely to remain a thorny issue as long as Islamists and secularists share the seat of power in the country.

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## ENDNOTE

1. The Koran (Qur'an), sura, verses 11, 12. Qur'an, Translated by N. J. Dawood, with parallel Arabic text (London: Penguin, 1990).

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