**Shia law General principles**-

The basic differences between the Shia law and the Hanafi law arise on account of the fact that the latter interpret the Quranic rules strictly and hold that the Quranic rules are nothing but transposition of certain rules on the customary law of succession, while the former interpret the Quranic rules so widely as if they lay down an independent scheme of succession. Thus, the Shia interpretation of the Quranic rules does not recognize the prior rights of agnates over cognates or of males over females. With the exception of the rights of husband and wife, the Shia law lays down that the estate of the deceased devolves on blood relations equally, though among themselves they take per stripe: the females are allotted half the share allotted to the males in each grade. This also results in descendants, ascendants and collaterals inheriting side by side.

**Doctrines of Aul (increases) and Radd (return)**

In a system of law which assigns fixed shares to heirs, two anomalous situations are likely to arise: The sum of shares allotted to various heirs according to their entitlement, (i) may be in access of the unity, or (ii) may be less than the unity. The former situation is solved by*'* the application. of the doctrine of ***aul*** or increase, and the .latter by the application of the doctrine of ***radd*** or return.

## Doctrine of aul or increase

When the sum total of the shares allotted to various heirs in accordance with their entitlement -exceeds the unity, then the doctrine of aul lays down that the share of each heir should be proportionately reduced. This is done by reducing the fractional shares to be common denominator. Since this is done by increasing the denominator, the doctrine has

been given the name of increase *(aul)* though in fact the shares are proportionately reduced. The doctrine can be explained by an example:

P dies leaving behind her husband; H, two full sisters, FD and FDl, and Mother M They will be allotted the shares as under:

. H 1/2 or 3/6

FD & FD1 2/3 or 4/6

M l/6

The proportionate reduction of shares is achieved by increasing the denominator from 6 to 8. Thus, the shares of the' respective shares will be: H will take 3/8, FD &: FD1 4/8 and M 1/8.

We may take another example: P dies leaving husband, H, full sister, FD, two uterine sisters, MD and MDI, two uterine brothers, MS and MSI and mother, M. All these heirs are sharers. In accordance with their entitlement, their shares will come to: M 1/6, H 1/2, FD 1/9, MD, MDI, MS and MS1, 3/4. This will be reduced to 1/9, 3/9, 3/9 and 2/9 respectively.

Under Shia law the share of only following heirs should be proportionately reduced:

* + Daughter
  + Full Sister
  + Consanguine Sister

#### But not from the share of Uterine Sister

**Doctrine of radd or return**

When there is surplus left after allotting the shares to the sharers in accordance with their entitlement, and there are no residuaries to take the surplus, then the doctrine of return lays down that the surplus is to be distributed among the sharers in proportion to their respective shares. This doctrine, recognizes one exception, viz., neither the husband nor the wife is entitled to the return so long as' there is alive another sharer or a distant kindred. But in India this is not the law. In the absence of a sharer or distant kindred, the surplus, returns to the husband or the wife, as the case may be. Thus, under Muslim law of modern India, the doctrine of return lays down: (i) the surplus is distributed among the sharers in proportion to their shares. (ii) But the husband or the wife is not entitled to return, so long as there is a sharer or distant kindred alive. (If there is no sharer or distant kindred, then the surplus returns to the wife or husband.

Examples

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1. P dies leaving behind his mother M, and his daughter D. M takes 1/6 and D takes 1/2.There remains 'a surplus of 1/3. Since there is no residuary, 1/3 will return to D and

M. M's share will be increased to 1/4 and D's share to 3/4'.

The formula in the case of return is to reduce the common denominator.

1. P dies leaving behind his wife, W, and none else.' W will take 1/4 as Sharer and 3/4 by return. When, there is no other heir, the doctrine of return applies to the spouses.