



THE DISTRIBUTION OF ESTATES
UNDER ISLAMIC LAW IN MALAYSIA

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CHAPTER ONE

INTRODUCTION

A. GENERAL INHERITANCE

1. Introduction

In all the States of Peninsular Malaysia (with the exception of those parts of Negeri Sembilan and Melaka where the adat perpatch is followed to the exclusion of Muslim law) the Muslim rules of inheritance of intestacy are followed. These rules are however subject to the following in the Malay States :-

- (a) On the death of a peasant his widow is entitled to a special share in his estate, as her share in harta sapencharian unless provision has been made for her inter vivos, as for example by registering land in her name. If the deceased had no children and the estate is small she may take the whole estate; in other cases she takes a half or less according to circumstances.

- (b) The residue of the estate is distributed according to Muslim Law but in as much as the widow's special share is discretionary, her one-eighth or one-quarter share can and should be taken into consideration in assessing the special share.

In Selangor, Kelantan, Trengganu and Pahang the court of a Chief Kathi and courts of Kathis and in Perlis the courts of the Kathi and Assistant Kathi are given power to hear and determine actions and proceedings relating to :

- (a) The division of and claims to sepencharian property.
- (b) The determination of the persons entitled to share in the estate of a Muslim deceased person and of the shares to which such persons are respectively entitled; but such actions and proceedings can also be brought in the ordinary courts.