PART EIGHT

SUCCESSION AND WILLS
DOCUMENT SEVENTY

WOMAN’S RENUNCIATION OF HER SHARE IN AN ESTATE IN FAVOR OF HER BROTHER (1956)

Introduction

As a rule, Bedouin do not apply the sharīʿ rules of inheritance; customary law seems to reign supreme in the domain of inheritance: Most of the estate, in particular land and immovable property, are transmitted to the sons of the deceased, usually to be shared equally among them or, in their absence, to paternal brothers and uncles, no matter how remote; the widow is totally deprived, and this is usually the case with respect to the daughters, the rationale being the desire to prevent the exclusion of their shares in the estate from the agnatic patrimony through their marriages to non-agnates; however, the daughters are entitled to compensation in return for exclusion from the family estate and to maintenance out of the estate from their paternal brothers until they marry.¹

Moreover, even in the event that a succession order is issued by a sharīʿa court, this does not ipso facto guarantee that the order will be implemented in letter and spirit; renunciation of sharīʿ rights to succession out of court seems to be a common practice, though it indicates that the Qurʾānic heirs are aware of their sharī portions. Thus in an instrument of renunciation (waṣl tanāzul) out of court, authenticated by witnesses, the deceased’s daughter renounced her sharī share in her father’s estate in favor of her paternal brother in return for some compensation or in return for defense based on blood relationship. The formal renunciation is requested for the purpose of registration of land rights in the Land Register.²

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¹ Al-Qusūs, 43–44; Abū Ḥassān, 280, 316 (as a rule, daughters do not inherit land; they receive jewelry and gold); al-ʿAbbādī, al-Jārāʿ im al-sughrā, 71–72, 74 (Bedouin refrain from marrying off their daughters to strangers to avoid disintegration of the agnatic patrimony); al-ʿĀrif, 125–26, arts. 1–3; Stewart, “Customary Law,” 261; Henninger, “Das Eigentumsrecht,” 28–29; Bailey, Proverbs, 370, nos. 1129–31; 371, no. 1135; 372, no. 1139; Bar-Zvi, 71.
² For further details, see Layish & Shmueli, “Custom and Sharīʿa,” 40.