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The Criteria for the Difference Between Male and Female Shares of Inheritance in Islamic Sharia

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البحث السابع

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The Criteria for the Difference Between Male and Female Shares of Inheritance in Islamic Sharia

By

Dr. Sultan Ibrahim Al Hashimi⁽¹⁾

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Abstract

This article is an attempt to deduce the criteria of preference for one gender over the other in inheritance in Islamic Sharia law through assessing the different cases of male and female shares of inheritance. Results showed that there are four criteria for giving preference to the inheritance of one gender over the other. These are the criterion of need, the criterion of consanguinity, the criterion of the age of the inheritor, and the criterion of alimony.

The inheritance system in Islamic Sharia is based on foundations and rules that seek to achieve absolute equity between the genders through precise criteria, most of which are in favor of women, not against them. There is no evidence from the Qur'an or the Sunnah that the Islamic inheritance system favored men over women or gave men a greater share based on gender considerations.

There is no favoritism of males over females. Rather, the preference is for the male's need in the duties of alimony over the female's need who is not obligated to pay alimony. The preference is also given to the close kinship over the distant ones, and to the younger generations who are expected to live a longer life over the elderly who are not expected to live as long.

(1) Working as a Professor at College of Sharia & Islamic Studies, Department of Islamic Jurisprudence & Its Principles-Qatar University since 1991. Holder of the Doctorate Degree in 2008 Master Degree in 2001 in Comparative Jurisprudence from Imam Muhammad ibn Saud Islamic University. Bachelor Degree in Sharia & Islamic Studies from Qatar University in 1991. Member of many Sharia Boards inside & outside Qatar.

Research Interests: Comparative Jurisprudence-Transactions Jurisprudence- Inheritance Jurisprudence-Jurisprudential Rules-Hanbali Jurisprudence.

The article also handled the issue of the female inheritance and indicated that the current demand for equality of females with males in inheritance is unfair to her; because in many cases the female takes a bigger share than that of the male, and equality in this respect means part of her share is deducted and given to the male. The research adopted the inductive analytical approach, and the originality of the study is shown in the researcher's background in the jurisprudence of inheritance and transactions.

Keywords: criteria, inheritance, equality, equity, alimony, women's inheritance.

Introduction:

The field of inheritance in Islamic Sharia is one of the aspects that Allah, exalted be He, detailed its rulings, ensured its principles and branches, and preserved its structure in His Noble Book. Thus, such rulings are the best in clarity and the strongest in structure with no change to their principles nor submission to personal whims and desires till the day of Judgement.

Throughout its history, the Muslim Umma received the rulings of inheritance with submission and acceptance that was never disturbed by any man-made law, nor a philosophical thought, nor the claims of the advocates of defending women's rights. This situation continued until the beginning of the last century when there emerged calls for amending the science of inheritance, or replacing it with man-made laws that achieve - according to these claims - justice among all the heirs. These claims were the result of the ignorance of their advocates of this noble science, and their failure to probe its depths.

It is important to remember that after the verses of inheritance in the fourth chapter in the Quran, Allah Almighty says: "These are the limits [set by] Allah, and whoever obeys Allah and His Messenger will be admitted by Him to gardens [in Paradise] under which rivers flow, abiding eternally therein; and that is the great attainment. And whoever disobeys Allah and His Messenger and transgresses His limits - He will put him into the Fire to abide eternally therein, and he will have a humiliating punishment." [04:13-14].

Through my experience in teaching the jurisprudence of inheritance course for more than ten years, I noticed that there are criteria that can

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be deduced from the practical issues in inheritance. Thus, this study is the result of my accumulated knowledge in teaching the course of jurisprudence of inheritance. In this article, I dealt with some issues that I hope will provide answers some of the problems and set the stage for further studies on this subject. The problem of the research, therefore, is summarized in the following question:

1- What are the criteria for the difference between the male and the female shares of inheritance in the Islamic Sharia?

2- Does the Islamic Sharia give preference to one of the genders over the other in inheritance?

3- What are the practical examples that show that one gender is not preferred over the other?

4- Is the call for female equality with males in inheritance unfair to the female?

Aims of the study:

This research aims to:

1. Clarify the criteria for the difference between male and female shares in inheritance in the Islamic Sharia.

2. Identify the perspective of the Sharia regarding in the non-preference given based solely based on gender in inheritance.

3. Set some practical examples that show the lack of preference for males over females in inheritance.

4. Clarify with practical evidence that the call for equality between females and males in inheritance is an act of injustice to the female.

Significance of the study:

The importance of the present research lies in refuting all perspectives, studies, and claims that call for the equality between females and males in inheritance. It also refutes the claim that the difference in inheritance is based on gender, therefore it nullifies the claims of modernists that Islam oppresses women. Further, the present study sets the stage for more studies on this subject where there is

scarcity.

Review of literature:

I did not find – as far as I know - a detailed specialized study deducing the criteria for differentiating the inheritance of one gender over the other except for the following studies:

1. A book entitled Women's Inheritance and the Equality Issue by Dr. Salah El-Din Sultān, published by Nahdhat Misr press. The part that dealt with the criteria for differentiation came in 55 pages including four subsections. The first dealt with the cases where the woman inherits half of the man, the second where the woman inherits the same as the man, the third where the woman inherits more than the man, and the fourth is where the woman inherits while the man does not inherit.
2. The Book of Rulings on Inheritance and Inheritance, by Sheikh Muḥammad Abu Zahra, published by Dar al-Fikr al-‘Arabī. The book deals with the provisions of inheritance in detail, especially in the Hanafi school. On pages 207-211 entitled: “A review of Inheritance in Islam”, paragraphs 182 to 188, the author briefly deals with what he called the goal of Islamic law in that distribution. The author aims to mediate between the two ownership theories that were prevalent in his time; the socialist and the individualist views on ownership. What he mentioned can be considered a preliminary remark to the criteria of differentiation between the male and the female.
3. A book entitled in defense of the dignity of the Muslim woman, repelling the suspicions that are raised about the Muslim woman and refuting them from the noble hadith of the Prophet, by Dr. Ra'id Maḥmūd Talozi, published by the Scientific Books House. The author deals with a woman's right to inheritance, an overview of women's inheritance in non-Muslim societies, cases in which a woman inherits half of a man's inheritance, cases in which a woman inherits the same as a man's share, cases in which a woman inherits more than a man's share, and cases in which a woman inherits while the man does not inherit. The author did not address the criteria for differentiation between male and female.
4. A study entitled “Justice for Women in the Provisions of Inheritance in Islamic Sharia”, by Dr. Nimr Muḥammad Khalil Al-Nimr, published at Al-Manarah journal, a specialized refereed scientific

journal, issued by āl al-Bayt University in the Hashemite Kingdom of Jordan, Volume 15, 2009. The researcher deals with cases in which a woman receives an equal share to that of a man, cases in which a woman receives a bigger share than that of a man, and cases in which the male receives double the share of the female. He didn't tackle the criteria that I am addressing in the present study.

5. A refereed study entitled "The doubtful claims raised about the inheritance of women and the response to them", by Dr. Maryam Aḥmad Al-Khalid, published at the Journal of Studies in University Education, a journal specialized in publishing research in the field of education, Ain Shams University, No. 35 in 2017. The research consists of an introduction and two sections, the first section is on the definition of inheritance, the inheritance of women in other nations, and the inheritance of women in Islam. The second section deals with the evidence of women's inheritance. In the second subsection, the researcher dealt with the refutation of the claim that pertains that a woman receives a smaller share of inheritance. It is very close to what was mentioned by Sheikh Muḥammad Abu Zahra, so she didn't deal with the differentiation criteria in detail.

6. There are several articles and television interviews for a number of researchers and scholars on this subject that we do not need to list.

Methodology:

The present study adopts the following research approaches:

-The inductive approach: to extrapolate the rulings and issues of inheritance stipulated in Islamic Sharia, to trace the different conditions of male and female in inheritance, and to compare the role of each one in alimony based on the Islamic jurisprudence.

- The analytical approach: to analyze the legal texts that are subject to inference, to prove the perfection of the Sharia and its provisions, to respond to its opponents, and to refute their inconsistent claims.

-The deductive approach: to derive the rulings, reasons and criteria that explain the different shares of the inheritors in Islamic jurisprudence, to accumulate evidence, proofs, and jurisprudential applications that prove the validity of the deduction and the results.

- The documentary approach: to collect the parts of the criteria for differentiation between males and females in inheritance that are scattered in the books of jurisprudence, exegesis, among others, and reformulate them so that they can be used as solid criteria based on legal evidence.

Structure of the study:

The research is set in an introduction, five sections, and a conclusion, as follows:

The first section: the criterion of need

The second section: consanguinity of the heir to the decedent.

The third section: the age of the heir.

The fourth section: alimony of the decedent on the heir.

The fifth section: Equality in inheritance between males and females, an act of injustice to the female.

Conclusion and results.

The First Section: The Criterion of Need

An insightful analysis of the rulings of inheritance in Islamic Sharia shows that it does not set the differences in shares according to the criterion of the heir's gender (male or female), rather it does according to the criteria of the financial duties that are legally assigned to each individual.

The Islamic Sharia sets a precise balance in everything, including the balance of financial rights and duties. Whoever is charged with more financial burdens is given a greater share of the inheritance, as it is an act of injustice to assign the male with financial burdens and responsibilities that outweigh those assigned to the female and at the same time equalize them in inheritance.

The financial burden imposed by Islamic Sharia on the male is not represented in alimony only, but exceeds that to include in addition the dower, financial fines in felonies, manslaughter, and blood money, and the like. Ibn Hajar Al-‘Asqalānī, among others, referred to this perspective

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when saying: “the wisdom is that upon men fall provisions, such as providing for families and guests, catering to the needy, consoling the beggars, bearing fines, and the like.⁽¹⁾” “As for the preference of the male over the female, it is because of the man’s capacity to participate in jihad fighting, lead the prayer as an imam, and bear the blood money and the like.⁽²⁾”

The contemporary laws and legislation that give women the same amount of inheritance as the male’s share placed on women financial burdens, and financial duties like those of the men. Equality between them is a therefore logical. When a woman is exempted from every financial burden, and from every financial obligation to support herself and her children, and the man is obliged to do so, then it would be illogical to give her the same share of inheritance as that of the man⁽³⁾.

The perspective of Islam of the inheritance system is accordingly based on the criterion of need and not a favoritism for one gender over the other, or prejudice for men against women. Therefore, Islam allocated the greater share to males because they are in more need for money than females⁽⁴⁾.

For example, a son who will become a husband offering his wife a dower and sustaining her and his children afterwards, is undoubtedly in more need than his sister, who will become a wife receiving her dower and enjoying the care of her husband. If she becomes poor or needy, there is thus a person who is responsible for her and who is obliged to support her financially⁽⁵⁾.

(1) Ibn Hajar, Fath al-Bārī (12/14).

(2) Al-Qalyūbī and ‘Umyra, Hashiyat al-Qalyūbī and ‘Umyra (3/142).

(3) Ahmad bin Sulaiman Ayūb, et al. Mawsu‘at maḥasin al-Islam waradd shubuhāt al-li’ām. [Encyclopedia of the Beauties of Islam and Refutation of Suspicions of the Opponents], (Dar Elaph International for Publishing and Distribution, 1436 AH / 2015 AD), (11/521).

(4) Mahmoud Abdel Azim Al-Dīb, Faridhat Allah fi Al-Mirath wa Al-Waṣyya [God’s Obligation in Inheritance and Bequest], (Cairo: Dar Al-Ansar, 2nd Edition, 1400/1980 AD), p. 18, adapted.

(5) Ibid.

The Glorious Qur'an referred to this in saying: "Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth." [04: 34].

The financial responsibilities that befall the man have an impact on determining his share of the inheritance; for the man who is charged with more responsibilities and duties will receive a greater share than the one who is not charged with such duties. The share of each heir is thus determined according to the size of the responsibilities that he is entrusted with⁽¹⁾.

Rashid Rida explains: "the wisdom in making the male's portion double that of the female is that the male needs to support himself, his wife, and his children, so he receives two portions. As for the female, she supports herself, but if she marries, she is her husband is legally responsible for supporting her. Based on this consideration, a female's share of inheritance is sometimes more than the share of the male in relation to their alimony"⁽²⁾.

• **Practical examples of this criterion.**

❖ First: Cases in which the male inherits double the female's share of inheritance. These are four cases:

1. A son and a daughter: The male receives double the share the female; the Quran states: "To the male the equivalent of the portion of two females" [04: 11], regardless of the number of males and the number of females. The same rule will apply in the case of - for example- four sons and one daughter or four daughters and one son. It is always the male receives the portion equal to two females.

2. An agnatic grandson and an agnatic granddaughter: The male receives double the female no matter how far their consanguinity may descend, because they are like the son and the daughter of the decedent.

(1) Maḥmūd Shaltūt, "Al-Islam 'Aqīda wa Sharī'a" [Islam: Belief and Law], (Cairo, Dar Al-Shūrūk, 14th Edition, 1407/ 1987 AD), pp. 238-245, adapted.

(2) Muḥammad Rashīd Rida, Exegesis of the Wise Qur'an known as Tafsir al-Manār, (Egypt: The Egyptian General Book Authority, no edition number, 1990 AD), (4/333).

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For example, if there are one agnatic grandson and one agnatic granddaughter, the male receives double the female's share. The same rule applies to the case of an agnatic great grandson and an agnatic great granddaughter.

3. A full brother and a full sister: The male receives double the share of the female, because the Quran states: "If there are both brothers and sisters, the male will have the share of two females." [04: 176], regardless of the number of brothers and sisters. The same rule will apply in the case of - for example- three full brothers and three full sisters or five full sisters and one full brother. It is always the male receives the portion equal to two females.

4. A paternal brother and a paternal sister: The male receives double the share of the female, because the Quran states: "If there are both brothers and sisters, the male will have the share of two females." [04: 176] as a paternal brother and a paternal sister are like a full brother and a full sister- if full siblings are not available-, regardless of the number of brothers and sisters. The same rule will apply in the case of one or more paternal brothers and one or more paternal sisters. It is always the male receives the portion equal to two females.

These are the basic four cases for a male inheriting double the share of the female, in addition to two subsidiary cases known as the 'Umaryah case and the Akdaryah case.

§ The 'Umaryah Case⁽¹⁾:

Inheritors are: a husband, a mother, and a father. The husband receives a half, the mother one third of the remainder, i.e. one third of the remainder after the share of the husband, and the rest goes to the father.

(1) The 'Umaryah: Known among the majority of jurists as Al-'Umaryatain = the two cases of Umar." It has two forms of a problem in the ordained shares. They are two issues that are well known by this label in relation to 'Umar Ibn Al-Khaṭṭab, God bless him, because he was the first to judge in them. They are also called: Al-Gharawain, in analogy to the "Aghur = Sparkling" star because of their widespread, and are called al-gharibatain (the two odd cases), because they are unique." Ref. Nihayat Al- Muḥtāj 19/6 and I'lām Al-Muwaqī'n 1/357.

Another form of this case is that the inheritors are: a wife, a mother, and a father. The wife receives a quarter, the mother one third of the remainder, i.e. one third of the remainder after the share of the wife, and the rest goes to the father. [see tables 1 and 2].

Table (1)

Husband	mother	father
$\frac{1}{2}$	$\frac{1}{3}$ of the remainder	the remainder
3	1	2

Table (2)

Wife	mother	father
$\frac{1}{4}$	$\frac{1}{3}$ of the remainder	the remainder
1	1	2

§ The Akdaryah case⁽¹⁾:

A husband, a mother, a grandfather, and a full sister (or a paternal sister). [See table 3].

(1) The Akdaryah case where there are a husband, a mother, a grandfather, and a full or paternal sister. It was called Akdaryah because it caused the jurists to become upset (takadarū) or that it caused upset Zaid to become upset with his school. Zaid, God bless him, gave the following ruling in it, as narrated by his son,: the husband receives a half, the mother a third, the grandfather a sixth and the sister a half. Then the grandfather joins shares with the sister to divide that into thirds; two thirds go to the grandfather, and one third goes to the sister”. Ref. Ibn al-Shaḥnāh, Aḥmad bin Muḥammad bin Muḥammad, Lisan al-Ḥukkām fi Ma’rifat al-Aḥkām, al-Babi al-Halabi Press- Cairo, 2nd edition, 1393 - 1973, p. 425.

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Table (3)

Husband	mother	grandfather	Full sister
2/1	1/3	1/6	1/2
3	2	1	3
3	2	4	
9	6	8	4

This also applies to all cases of a grandfather with siblings if the division is better for the grandfather, and this is what is followed in the Qatari Family Law. For example: a grandfather with a sister, or a grandfather with two or three sisters.

This also applies to all cases of kinship following the opinion of the ta'ṣīb scholars, as is practiced in the Qatari Family Law. For example: a maternal uncle and a maternal aunt, or an enatic grandson with an enatic granddaughter, or a paternal aunt's son with a paternal aunt's daughter.

It is noted from the previous examples that the male received double the share of the female due to his need for money, which is greater than that of the female, so the preference here is not a preference for gender, but a preference for need. The male's need for money is represented in supporting his wife and children, bearing the costs of marriage, fines in felonies, blood money, and the like.

❖ Second: Cases in which the female receives more than the male:

The number of these cases is more than the previous ones as follows:

1. A sole daughter- with full or paternal brothers of the deceased- receives more than the males. [See table 4]

Table (4)

daughter	mother	Full brothers
1/2	1/6	The remainder

In this case, the daughter received more than the full brothers, who received the third approximately, because the daughter is in more need

than the mother or the full brothers.

2. Likewise, a daughter, with a father and a mother, receives half of the entire estate. [See table 5].

Table (5)

daughter	father	mother
$\frac{1}{2}$	$\frac{1}{6}$ + the remainder	$\frac{1}{6}$
3	2	1

This applies also to a daughter with two agnatic grandsons, or with an agnatic grandson and an agnatic granddaughter; as the daughter receives half of the estate, and the remainder is divided between the two agnatic grandsons or between the agnatic grandson and the agnatic granddaughter. This further applies to the agnatic granddaughter with two agnatic great grandsons.

3. The same rule applies to an agnatic granddaughter, with a full or a paternal brother. [see table 6].

Table (6)

Agnatic granddaughter	mother	Full or paternal brother
$\frac{1}{2}$	$\frac{1}{6}$	The remainder

In this case, the agnatic granddaughter receives more because she is in more need than the brother who received the remainder. Need is therefore not limited to males only, as females may be in more need than males in some cases. The same rule applies to any sole daughter, agnatic granddaughter or agnatic great granddaughter no matter how far they descend.

4. Two daughters, if they have no male brothers, are entitled to two thirds of the estate. [see table 7].

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Table (7)

Two daughters	wife	mother	Full or paternal brother
$\frac{2}{3}$	$\frac{1}{8}$	$\frac{1}{6}$	The remainder
16	3	4	1

Here the two daughters received more than the share of the male who is a full brother, because they are in more need of alimony for themselves after the death of their father.

5. Agnatic granddaughters, if they have no male brothers, receive two thirds of the estate. [See table 8].

Table (8)

Agnatic granddaughters	mother	Paternal brother
$\frac{2}{3}$	$\frac{1}{6}$	The remainder

Here, the agnatic granddaughters are in need for money to support themselves more than the paternal brother of the deceased.

6. The same rule applies to a full sister who receives half of the estate if she does not have a brother, and is not blocked by the father and the son of the deceased. [see table 9].

Table (9)

Full sister	wife	Paternal uncle
$\frac{1}{2}$	$\frac{1}{4}$	The remainder

Here, the full sister received twice as much as what the paternal uncle who received about a quarter.

7. The same rule applies to a paternal sister if she does not have a brother and if there are no father, or full brother for the deceased. [see table 10].

Table (10)

paternal sister	wife	Paternal cousin
1/2	1/4	The remainder

8. The same rule applies to a full sister -with a daughter and an agnatic granddaughter- where she becomes in the power of a full brother. [see table 11].

Table (11)

daughter	Agnatic granddaughter	Full sister	Paternal uncle
1/2	1/6	The remainder	blocked
3	1	2	nothing

In this example, the females took all the inheritance and blocked those who were further in consanguinity from the inheritance.

9. Likewise, the paternal sister with a daughter and an agnatic granddaughter, as above. [see table 12].

Table (12)

daughter	Paternal sister	Paternal uncle	Full nephew
1/2	The remainder	blocked	blocked

10. The same rule applies to a mother -where there is no offspring of the decedent, and no more siblings than one full or paternal brother-, receives more than the full, paternal or maternal brother. [see table 13].

Table (13)

husband	mother	Full or Paternal brother
1/2	1/3	The remainder

Here, the mother received more than the full or paternal brother. Another example is in table 14 below.

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Table (14)

husband	mother	Maternal brother
1/2	1/3	The remainder

Here, the mother received double the share of the maternal brother.

These examples show that there is no bias for masculinity or femininity, otherwise the male in the previous examples would have received double the shares of the females, regardless of consanguinity whether a brother, a son, or otherwise.

❖ Third: Cases in which the female receives equal to the male:

Examples for these cases include: a maternal sister with a maternal brother, a daughter with an agnatic grandson, a full sister with a full nephew, or a father and a mother if there is male offspring. [see tables 15, 16, 17, and 18].

Table (15)

Maternal sister	Maternal brother
They divide the 1/3 equally	

Table (16)

daughter	Agnatic grandson
1/2	The remainder

Table (17)

Full or paternal sister	Full or paternal nephew
1/2	The remainder

Table (18)

father	mother	son
1/6	1/6	The remainder

The Second Section: The Criterion of Consanguinity

Definition of Consanguinity:

Consanguinity refers to the closest in kinship to the deceased or the nearer relatives if the level and direction of consanguinity are the same. Consanguinity therefore means priority according to the degree of level of kinship⁽¹⁾. The closer the kinship between the heir and the decedent, the greater the share of the heir, regardless of the gender of the heir, whether male or female.

Relatives are not of the same degree in their kinship to the deceased, and it is not possible to distribute the inheritance to all those entitled to inherit. Hence, the right to inheritance is given for the closer of kin then the next of kin. The closest of kin blocks the farthest⁽²⁾; in accordance with the prophet's saying, "Give the prescribed shares to those who are entitled to them, and what remains over goes to the nearest male heir"⁽³⁾, taking into consideration that the inheritance, after the reasons for its entitlement are fulfilled, goes to the first deserving heir, and the first deserving heir is the closest in kinship to the deceased. In order to achieve the teachings of priority stipulated in the hadith, and to realize the meaning of guardianship, a farther kin does not inherit while a closer kin exists⁽⁴⁾. The distribution of the inheritance among the heirs is thus for the closest of kin to the deceased, so a relative may not inherit because of the presence a closer relative, despite the validity for inheritance in both of them. It is the degree of consanguinity or its strength that is the influential reason in the distribution of the estate which is therefore distributed among them according to the degree of consanguinity.

(1) Al-Bayhūri's Commentary on Ibn Qāsim, Volume 2, p. 76, Rulings of Legacy by Abu Zahra, p. 21

(2) Al-Mubdi' sharḥ al-muqni'. (5/335)

(3) Ref. Faḥ Al-Bārī, Volume 12, p. 12-14

(4) Rulings of Legacy by Abu Zahra, p. 209

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Sometimes a relative is blocked due to the presence of a closer kin, for example a grandfather does not inherit with the presence of the father, the brother does not inherit with the presence of the son, and the paternal uncle does not inherit with the presence of the brother according to the rule of the closest and the closer. For this criterion of consanguinity, the order of division and distribution goes like this: first those of the prescribed shares (fūrūdh), second those with no assigned share ('iṣāb). The order of distribution of the estate is thus an order of consanguinity not of entitlement; as some of the prescribed shares heirs may be blocked by the non-assigned shares heirs, despite the fact that the estate is distributed first to the prescribes shares heirs then the non-assigned shares heirs⁽¹⁾.

• Practical examples of this criterion.

1. A daughter, a mother, and a paternal brother.

The daughter will receive half, because she is the most closely related heir to the deceased.

Table (19)

daughter	mother	Paternal brother
1/2	1/6	The remainder
3	1	2

2. Two full sisters, a maternal brother, and a full paternal uncle.

The two sisters receive two thirds, the maternal brother receives one sixth, and the full paternal uncle receives the remainder. The two sisters here received more because they are closer to the deceased than the maternal brother, or the full paternal uncle.

(1) Legacies and Wills, Dr. Al-Husari, p. 297, Al-Wa'i Magazine, p. 22, Issue 399

Table (20)

Full sister	Full sister	Maternal brother	Full Paternal uncle
1/3	1/3	1/6	The remainder
2	2	1	1

3. Like: a wife, a son, and a mother.

The wife receives one eighth for the existence of offspring, the mother a sixth, and the remainder is for the son. Here, the son's share is more because he is closer in consanguinity to the deceased than the other heirs.

Table (21)

wife	son	mother
1/8	The remainder	1/6
3	17	4

Note that there is no consideration for masculinity or femininity in this criterion, as the consideration is given to who was closer in consanguinity to the deceased more than the others.

The Third Section: the Criterion of Age of the heirs

Whoever is about to expected live longer receives more than the one who is not, so the son receives more than the father and the mother. Likewise, the daughter receives more than the parents, the agnatic granddaughter receives more than the full brothers, and so on. In fact, the preference of the offspring generation over the parents' generation in inheritance combines this criterion and the previous one; if we look closely at this matter, we will notice that giving precedence to the son over the father is a valid matter. If the father was to be prioritized over the son in the inheritance entails that what he (the father) inherits will be transferred as an inheritance for his sons, i.e. the peripherals of his deceased son, and this means that the inheritance is transferred to the direction of the brothers, although the sons of the deceased are more

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entitled to it. Doing this would contradict the principle of consanguinity in inheritance. Also, it would contradict the human instinct in the tendency to collect money that would pass after his death to his offspring (children and grandchildren⁽¹⁾).

Examples

1. a daughter, a wife, and a father.

The daughter receives a half, the wife one eighth, and the father receives one sixth and the remainder, due to the presence of the inheriting female offspring. The daughter receives more than the father with no regard to masculinity or femininity here as she is younger than the father and the wife.

Table (22)

daughter	wife	father
1/2	1/8	The remainder (A')
4	1	3

2. a daughter, a full brother, and a wife.

The daughter receives half, the full brother receives the remainder, and the wife receives the eighth because of the existence of the inheriting offspring. The daughter is younger than the brother and the wife, so she receives half, regardless of masculinity or femininity.

Table (23)

daughter	Full brother	wife
1/2	The remainder (A')	1/8
4	3	1

3. Two daughters, three full brothers, and a mother.

The two daughters receive two-thirds, the full brothers receive

(1) Mazin Haniyah, Legislative Miracles in Inheritance. p: 07.

the remainder, and the mother receives one-sixth. Note that the two daughters receive two-thirds, because they are expected to live longer and they need money more than the full brothers and the mother.

Table (24)

Two daughters	mother	Three full brothers
2/3	1/6	The remainder (A‘)
4	1	1
3	3	12

The Fourth Section: The Criterion of Alimony

Whoever was obliged to support the decedent receives a bigger share than that of the other heirs; a son is obliged to alimony on the father if the father is in need, so the son should receive more than the daughter. The brother is obliged to alimony on his mother, so he receives more than his sister, and so on

There are cases where alimony is obligatory, as the Islamic Sharia obligated alimony on certain persons, and whoever neglects this duty commits a sin. These cases are:

1- Marriage:

In every valid marriage, the wife's maintenance is obligatory on her husband, and the wife is not required to work to support herself or her husband. The wife's maintenance is obligatory for the husband according to the Qur'an, Sunnah and the scholars' consensus⁽¹⁾.

(1) Ref. Kamal al-Din Muḥammad, known as Ibn al-Hammam, Faṭḥ al-Qadīr, (Beirut: Dar al-Fikr, without edition, without date), (3321). Ibn ‘Abdīn Muḥammad Amin, Radd al-Miḥṭar ‘ala al-durr al-Mukhtar, known as Ibn Abdin's commentary, (Beirut: Dar al-Fikr)., i: 2, 1412 AH / 1992 AD), (3/601). Ahmed bin Muhammad Al-Sawy Al-Maliki, Bulghat al-sālik li-aqrab al-masalik ila madhhab al-imam Malik. Known as Al-Sawī's commentary on Al-Sharḥ Al-Saghīr, (Mustafa Al-Babi Al-Halabī Library, 1372 AH / 1952 AD), (1/518). Muhammad bin Ahmed bin Arafa Al-Desūki, Al-Desūki's commentary on Al-sharḥ al-kabīr, (Beirut: Dar

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The Quran states: Lodge them [in a section] of where you dwell out of your means and do not harm them in order to oppress them. And if they should be pregnant, then spend on them until they give birth. And if they breastfeed for you, then give them their payment and confer among yourselves in the acceptable way; but if you are in discord, then there may breastfeed for the father another woman. Let the well-to-do people spend abundantly (for the mother and the child) [65:6,7]. The verses indicate that alimony is obligatory for a divorced wife in a revocable divorce, and indicates, a fortiori, that alimony is obligatory by a husband on a non-divorced wife.

Also the Quran states: Mothers may breastfeed their children two complete years for whoever wishes to complete the nursing [period]. Upon the father is the mothers' provision and their clothing according to what is acceptable. [02: 233]. This verse makes it obligatory on husbands to support the wives who gave birth, and this is not exclusively therein, but it is a confirmation of the alimony ruling on the breastfeeding mothers as required by the context of the verses.

Al-Nawawī commented: "the verse stipulates the obligation of maintenance for wives during childbirth, to indicate that maintenance is obligatory by the husband on them when they are distracted from pleasing her husband because of the postpartum period, lest some may

Al-Fikr, without edition, without date), (2/508). Ahmed bin Muhammad Ibn Hajar Al-Haytami, *tuhfat al-miḥtaj fi sharḥ al-minhāj*, (The Great Commercial Library in Egypt, owned by Mustafa Muhammad, without edition, 1357 AH/1983 AD), (8/302). Shams al-Din Muhammad al-Ramli, *Nihat al-Miḥtaj fi Sharḥ al-Minhaj*, (Beirut: Dar Al-Fikr, I: Al-Akhiriyyah, 1404 AH / 1984 AD), (7/187). Mansour bin Yūnis al-Bahūti, *Daqa'iq uli al-nuha fi Sharḥ al-Muntaha*, known as *Sharḥ Muntaha al-Irādāt*, ('Alam al-Kutub, i: 1, 1414 AH/1993AD), (3/228) Manṣūr bin Yūnis Al-Bahūti, *Kashāf al-qina' 'an matn al-iqna'*: edited by a specialized committee in the Ministry of Justice, (Saudi Arabia: Ministry of Justice, I: 1, 1421 AH / 2000 AD), (13/113).

assume that alimony is not obligatory by the husband on her^{(1)''(2)}

As for the Sunnah: Jābir narrated that the Messenger of Allah, peace be upon him, addressed the people in his speech saying: “Show fear towards God regarding women, for you have got them under God’s trust, and have the right to intercourse with them by God’s word. You are responsible for providing them with their food and clothing in a fitting manner.”⁽³⁾”

Hind came to the Messenger of Allah, peace be upon him, and said: O Messenger of Allah, Abu Sufyan is a stingy man, and he does not give me the alimony that suffices me and my children. He said: “Take what suffices you and your child in a reasonable manner.”⁽⁴⁾ [Agreed upon].

The hadith clearly indicates that maintenance is obligatory on her

- (1) Abu Zakariya Muḥyi al-Din Yaḥya bin Sharaf al-Nawawi, al-Majmū’ Sharḥ al-Muḥadḥab (with the complement of al-Subkī and al-Mutai’i), (Beirut: Dar al-Fikr, without edition, without date), (18/237).
- (2) Abu Bakr Aḥmad al-Khassaf, The Book of Alimony with its Explanation from Abu Muhammad Omar Ibn Maza al-Bukhari, Edited by: Abu al-Wafa al-Afghani, (India: The Salafi Press, without edition, without date), p. 13.
- (3) Muslim bin Al-Hajjaj Al-Qushayri Al-Naysabūrī. Al-Musnad Al-ṣaḥīḥ known as Sahih Muslim, edited by: Muhammad Fouad Abd al-Baqi, (Beirut: Dar Iḥya’ al-turath al-‘Arabī, without edition, without date), the book of Hajj, a Chapter on the Hajj of the Prophet, peace be upon him, (2/886), No.: 1218. [See also] Abu Dawood Suleiman bin Al-Ash’ath Al-Sijistāni, Sunan Abi Dāwūd, edited by: Shu’aib Al-Arna’ūt/ Muhammad Kamel Qurra Belili, (Dar Al-Resāla Al-‘Alamiyah, vol: 1, 1430 AH / 2009 AD), The Book of Rites, the Chapter on the description of the Hajj of the Prophet, peace be upon him, (3/285), No.: 1905.v
- (4) Muhammad bin Ismail Al-Bukhari Al-Ja’fi, Al-Jame’ Al-Musnad Al-Saḥīḥ known as Sahih Al-Bukhari, edited by: Muhammad Zuhair bin Nasser Al-Nasir, (Dar Ṭawq Al-Najat, I: 1, 1422 AH), the book of alimony, Chapter: If the man does not spend, the woman may take without his knowledge what is sufficient for her and her child on a reasonable basis, (7/65), No.: 5364.[See also] Muslim in his Saḥīḥ, the Book of Judgements, the Chapter on the case of Hind, (3/1338), No.: 1714.

husband for her and her children, and that this is determined by what is considered sufficient for them; as she can take directly without his permission if he does not give alimony to her. The phrasing of Hind's question can also refer to the common understanding among the wives of the companions that alimony was an obligation upon husbands.

As for the scholars' consensus, scholars have agreed on the obligation of husbands to support their wives if they are adults, except for the disobedient among them⁽¹⁾.⁽²⁾ Al-Bukhari narrated through his chain of transmission on the authority of Abu Mu'wad al-Ansari that the Prophet, peace be upon him, said: "When a Muslim (man) spends on his family seeking his reward for it from Allah, it is counted as a charity from him."⁽³⁾

2- Kinship: Ascendants and descendants.

Alimony for the ascendants (father, mother, grandfathers and grandmothers, no matter how far they ascend) is obligatory on their children, male or female, if they are well-off and have what more money for their own and for their dependents. Allah, exalted, says: "And your Lord has decreed that you worship none but Him. And that you be dutiful to your parents." [17:23].

Being dutiful to the parents includes, among other things, spending on them when they are in need of them. Ibn 'Ashur said in his exegesis: Ihsan (perfection in good treatment) includes all that is kind of words,

(1) Ibn Hammam, Fath al-Qadīr, (3/324). Ibn 'Abdīn, in his Commentary, (3/604-605). Al-Sawī, the commentary of Al-Sawī on Al-Sharḥ Al-Saghīr, (1/439). Al-Desūki, in his commentary on Al-Sharḥ Al-Kabeer, (2/343). Ibn Hajar Al-Haytamī, Tuḥfat Al-Muḥtāj, (7/441). Al-Ramlī, Nihayat Al-Muḥtāj (6/380-381). Al-Bahūti, Sharḥ Muntaha Al-Iradāt, (5/665). Al-Bahūti, Kashshaf Al-Qinā', (13/128).

(2) See: Ijma' 388 and 389.

(3) Al-Bukhari in his Sahih, the Book of alimony, Chapter on the reward for alimony on family, (7/62), No.: 5351. And Muslim in his Sahih, the Book of Zakat, Chapter on the reward of alimony and charity on Relatives, spouse, and parents, even if they were disbelievers 95/2), No.: 1002.

deeds, alimony and support⁽¹⁾.

Allah Almighty specified the mother with more guardianship of righteousness and kindness, because she bears the duties of pregnancy and breast-feeding, which the father does not do. This, the son is obliged to provide for the parents -even if they were disbelievers- when they are poor and needy⁽²⁾.

A man asked the prophet, peace be upon him: “Who among the people is most deserving of my fine treatment? He said: Your mother. He again said: Then who (is the next one)? He said: Again it is your mother (who deserves the best treatment from you). He said: Then who (is the next one)? He (the Holy Prophet) said: Again, it is your mother. He (again) said: Then who? Thereupon he said: Then it is your father”⁽³⁾.

On the authority of Aisha, Allah bless her, the prophet, peace be upon him, said: “The best (most pure) food that a man eats is that which he has earned himself, and his child (and his child’s wealth) is part of his earning”⁽⁴⁾. Ibn Al-Mundhir said: “Scholars unanimously agreed that the maintenance of poor parents who have neither earning nor money is obligatory on their child”⁽⁵⁾.

As for descendants, alimony is obligatory on the father (for his descendants no matter how far they descend). Ibn Hajar mentioned that the majority of scholars agreed that a father should support the children until the boy reaches puberty and the girl gets married, then there is no

(1) Ibn ‘Ashūr, Muhammad al-Taher, Al-Taḥrīr wal-tanwīr. (Tunisia: the Tunisian House of Publishing, without edition, 1984 AD), (15/68).

(2) Al-Jami‘ li-Aḥkām al-Qur’an by Al-Qurṭubī (3855/6) (5148/7)

(3) Narrated by Al-Bukhari in his Ṣaḥīḥ, the Book of ethics, Chapter: Who is More Deserving of Companionship, (8/2), No.: 5971. [See also] Muslim in his ṣaḥīḥ, the Book of Righteousness, Relationships and Etiquette, Chapter: Honoring Parents and That They Deserve It (4/1974), No.: 2548.

(4) Narrated by Abu Dawūd in his Sunan, the beginning of the book of sales, chapter on a man eating from his son’s money, No.: 3528. And authenticated by al-Albanī.

(5) Abu Bakr Muḥammad Ibn Al-Mundhir, Al-Ijmā‘, edited by: Saghīr bin Aḥmad Hanif, (Ajman: Al-Furqan Library / Ras Al-Khaimah: Makkah Cultural Library, ed: 2, 1999 AD), p.: 108.

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obligatory alimony on the father unless one of the descendants is sick or disabled⁽¹⁾. Al-ṣūyūṭī mentioned that the daughter have more rights in custody and alimony⁽²⁾, and if she is able to marry but chose not to do, her right is her father's alimony will not be forfeited⁽³⁾.

Practical examples on this criterion:

Table (25)

Father	Mother	Son
1/6	1/6	The remainder (about 2\3)

Here, the son inherits the remainder, which is approximately two-thirds, because he is obligated to support his parents.

Table (26)

Father	Mother	Full sister
The remainder	1/3	Blocked by the father

Here, the father blocks the sister -who is his daughter-, but he is obliged to support her (the sister of the deceased), so his share is double that of the mother.

Table (27)

Son	Daughter	wife
The remainder (for a male double the female)	The remainder	1/8

Here, the son received twice as much compared to his sister, because he is obliged to provide for his sister if she is not married and she needs support, and he must also provide for his mother (the wife of

(1) Ahmed bin Ali bin Hajar Al-‘Asqalani, Fath Al-Barī, Sharḥ Saḥīḥ Al-Bukhari, (Beirut: Dar Al-Ma‘rifah, without edition, 1379 AH), (9/501).

(2) Abdul Rahman bin Abi Bakr Al-Suyūṭī Al-Ashābah awl-Naza’ir, Cairo, Dar Al-Kutub Al-‘Ilmiyya, 1st Edition, 1411 AH / 1990 AD, (p.: 413)

(3) Al-Ramlī, Nihayat Al-Muḥtaj ila sharḥ al-minhāj, (7/219).

the decedent).

- The relationship of inheritance to alimony on kinship (ascendants and descendants) :

The relationship between a woman's right in inheritance and her right in alimony is one of equilibrium. Whenever her share decreases in comparison to a man, sufficient alimony or obligatory support is sustained for her. If this guardianship is absent, she inherits an equal share, and sometimes more, to a man.

For example, if a person dies and leaves only a daughter, and he has no other heirs, then she receives the entire estate, because she receives a half by the prescribed share, and the remainder is paid back to her for the absence of a family member ('Asab). In this case, she is equal to the son if he is the sole inheritor, as he will inherit the entire estate by ta'sīb. If we contemplate the situation of the woman when she is the sole inheritor, we find no one to support her or spend on her of those who are obligated to spend on her, such as a brother, a paternal uncle or others. So, it is appropriate that she possesses the entire estate to redress for the shortfall that has befallen her in the alimony right. Note that she may still be a wife who enjoys her alimony by her husband, as explained above.

While if there is a brother with the daughter, she inherits with her brother -who reduces her share by law of ta'sīb- so that the male receives double the share of the females, because her brother has the obligatory duty to support her if she does not have a husband and she is needy. Such a comprehensive legislation is rarely found in any other law: "And had it been from other source than God, they would have found in it much controversy" [04: 82].

In addition, there are cases in which the male and female shares are equal, again taking into account the divine guidance in balancing alimony. For example, the male and the female receive equal shares in the inheritance of Kalalah (a decedent leaving no descendants or ascendants) as maternal siblings -if they are more than one- are equal partners in the third of the estate; as the Quran explains: "And if a man or woman leaves neither ascendants nor descendants but has a brother or a sister, then for each one of them is a sixth. But if they are more than

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two, they share a third” [04:12]

Partnership requires equality between them without any difference between the male and the female, so the male inherits like the female, as they are equal in the principle of entitlement⁽¹⁾. Since they are not direct kins for the deceased, the inheritance is for them by way of Rahim (maternal kinship⁽²⁾). As they are maternal siblings, the inheritance is not entitled basically for them, and accordingly the duties and responsibilities of living are not based on division of the inheritance, unlike the inheritance of male decedents, full brothers, or fathers where inheritance is basically allocated for them based on the criterion of alimony. For maternal siblings, this is mostly a secondary inheritance distributed among them for the second time.

Examples:

Table (28)

Mother	Full sister	Maternal brother	Maternal sister
1/6	½	Equal partners in the 1\3	

§ The same case is with the inheritance of the parents with the presence of a masculine inheriting descendent [ref. table 18]. The father receives a sixth, the mother a sixth, and the son the remainder. The father here receives equal to share of the mother because of the masculine offspring.

Ibn Qudamah says: The Quranic statement “they are partners in a third” does not indicate a preference of some of them over others

(1) Muhammad bin Aḥmad Al-Sarkhasi, Al-Mabsūṭ, (Beirut: Dar Al-Ma‘rifah, without edition, 1414 AH / 1993 AD), (29/160).

(2) Muhammad ibn Abi Bakr, known as Ibn Qayyim al-Jawziyya, I‘lam al-muwaqī‘īn ‘an- Rabb il-‘Alamīn, edited by: Mashhūr Hassan Al Salman, (Saudi Arabia: Dar Ibn al-Jawzi for Publishing and Distribution, i: 1, 1423 AH), (3/419, 420); [See also] Abu Zakaria Yahya bin Sharaf al-Nawawi, Rawdat al-Talibīn and ‘Umdat al-Muftīn, edited by: Adel Abdul-Mawjūd/‘Ali Muḥammad Mu‘awwad, (Dar al-Kutub al-‘Ilmiyyah, without edition, without date), (5/17, 18).

and this requires equality among them, “and this is unanimously agreed upon⁽¹⁾”, He added.

There are many cases in which women receive greater shares than the shares of men based on the difference in the degree of kinship. This means that gender is irrelevant to the distribution of inheritance as it distributed according to the aforementioned criteria. Consanguinity for example affects the distribution of inheritance after its entitlement is proven; as the closer in kin blocks the farthest and the closest often receives more than the farther in kin⁽²⁾.

In Islamic Sharia, the inheritance of a female is not intended for her own sake, rather it is arranged in concordance with the marriage system. It is like the process of subtraction after the process of addition to produce a correct result from the two processes. If a woman is entitled to receive from one side, she is also entitled to leave from the other side.

The Fourth Section: Equality in inheritance leads to injustice to the female.

Indeed imposing equality between men and women in inheritance

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- (1) Abu Muḥammad Muwaffaq al-Din ‘Abdullah Ibn Qudamah al-Maḥdī, *Al-Mughnī fī fiqh al-Imam Aḥmad ibn Hanbal al-Shaibānī*, (Beirut: Dar al-Fikr, i: 1, 1405 AH), (6/183). See also Ali ibn Ahmed al-Sa‘idī al-‘adawī’s commentary on *sharḥ Kifayat Al-Talib Al-Rabbānī*, edited by: Yūsuf Al-Sheikh Muhammad Al-Beqa‘i, (Beirut: Dar Al-Fikr, without edition, 1414 AH / 1994 AD), (2/332, 333). Al-Desouki, in his commentary, (4/461). Ahmad Salama Al-Qalyubi and Ahmad Al-Burulusi ‘Amirah, the commentaries of al-Qalyubi and ‘Amirah, (Beirut: Dar al-Fikr, without edition, 1415 AH-1995 AD), (3/254). Suleiman bin Muhammad bin Omar al-Bujayrami, *Tuḥfat al-ḥabīb ‘ala sharḥ al-Khatīb*, known as the commentary of al-Bujayrami on al-Khatīb, (Beirut: Dar al-Fikr, without Edition, 1415 AH / 1995 AD), (4/245).
- (2) Legacies by Abu Zahrah pp. 162-180 adapted from *Al-Manār* magazine, issue 6 of 26, pp. 18-19, [See also] Abu Zakaria Muḥyi Al-Din Yaḥya Bin Sharaf Al-Nawawī, *Al-Minhaj Sharḥ Saḥīḥ Muslim Bin Al-Hajjaj*, (Beirut: Dar Iḥya’ al-turath al-‘Arabī, 2bd edition, 1392 AH).), (11/53,54).

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is a great injustice done to women, and this is shown below:

The entitlement to inheritance in Islamic Sharia is by two ways: the first is prescription (*fara'idh*), which is the share ordained specifically in the Qur'an and the Sunnah, such as one-half, one-fourth, one-eighth, two-thirds, one-third, and one-sixth. These exact prescribed shares are not changeable as the verses thereof are among the essentially clear revelations (*muḥkamāt*). The second way is *ta'sīb* whereby the persons who do not have prescribed shares receive the remainder of the estate.

The persons entitled to prescribed shares are ten: the husband, the wife, the father, the mother, the daughter, the agnatic granddaughter, maternal siblings, full sisters, paternal sisters, and the grandmother. Note that seven of these ten persons are females, in addition to the maternal siblings who include males and females. This means that the total of female representation is 7.5 out of 10. In fact, women are the majority among the people of prescribed shares specified by Allah for inheritance.

Note also that the largest share of the inheritance, which is two-thirds of the estate, is prescribed by God for the women only in four cases: two daughters, two agnatic granddaughters, two full sisters, and paternal sisters. It is important to note that this largest share was never prescribed to men in any of the cases and issues of inheritance. In addition, a woman inherits half of the estate in four cases: one daughter, one agnatic granddaughter, one half-sister, and one paternal sister, while the man inherits this amount in one case, which is the case of the husband provided that there are no inheriting descendants, which is the wife's children whether male or female.

The prescribed share of one-sixth is entitled to seven members heirs only, five of whom are women: the mother, the agnatic granddaughter, the paternal sister, the grandmother, and the maternal sister, while only three men are entitled the same share: the father, the grandfather, and the maternal brother.

This indicates the extent to which Islamic Sharia cares about women, as it did not leave the statement of their shares to the opinions of scholars (*ijtihād*), but rather explained it with very clear statements.

If we take into consideration the rights acquired by women, and

her share of the inheritance - whatever it is -, we will see that women are really more privileged over men. This does not imply an injustice befalling men, but rather it is a consideration of women's weakness in working and sustaining a living. Allah, exalted, compensated her with these many rights that guarantee her a dignified life, whether she is a daughter, a wife or a mother⁽¹⁾.

The call for absolute equality between males and females in inheritance reflects the great ignorance of the divine rulings in the legislation. It also represents a misguidance in disputing the Divine right in commanding, forbidding and legislating. Such a call is a transgression over the position of slavery of man to God that binds man and requires his submission to God in His legislation. Moreover, such a call causes injustice to women and diminishes the rights and due shares that Allah, exalted, prescribed for her and favored her over the man in various rulings, taking into account her nature and the fact that she is not preoccupied with earning in most cases. The woman's inheritance is not half the inheritance of the man, as the advocates of equality in inheritance claim. On the contrary, the woman receives more than the man in many cases- as detailed above-, while the man receives more than the woman in only four cases! In addition, the woman receives the same share as the man in eight cases, and she inherits in several cases while the man does not inherit anything.

The Wise legislator takes into account the situation of each of the two genders and balances the rights and duties of the heirs. A woman may receive more than men in some cases, so equality of her share with that of a man would be unjust to her, as in the following examples:

Daughter	full brother	mother
$\frac{1}{2}$	The remainder	$\frac{1}{6}$

If we are to equalize the female's share (the daughter) with that of the male (the full brother), he would receive more than his due (a

(1) The balance between women's rights to inheritance and alimony in Islamic Sharia, by Salah Sultan, paper published in the Journal of the Faculty of Dar Al-'Ulūm, Issue 19, p. 157: 165 adapted.

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half like that of the daughter) and this would be unfair to the daughter. He receives only a third (less than the daughter) because he is not of the prescribed shares (fūrūdh) persons. He inherits because of ta'sīb (further kinship).

A woman may even block a man, for example:

Daughter	Full sister	Paternal uncle
1/2	The remainder	blocked

If we are to equalize the male (uncle) with the female (daughter), he would receive an equal share to that of the daughter, which is half, and this is an injustice to the daughter. He is thus blocked because the full sister with the daughter constitute a blocking league ('uṣba) similar to that of an inheriting son, blocking persons of farther kinship like a paternal uncle or a paternal brother.

Results and Conclusions:

Its most important results are as follows:

1. The inheritance system in Islamic Sharia is extremely perfect and precise, as it reached a point of inimitability. The claims against this system are invalid, are based on fallacies and misconceptions, as this system is not based on the preference of men over women or undermining the female's rights. Rather it is based on solid foundations and rules to achieve absolute justice between the genders through accurate criteria, most of which are in favor of women and not against them.

2. The Islamic Sharia does not give preference to the male over the female in inheritance. There is no favoritism for the male gender over the female gender, or vice versa. Rather, the male's bigger need for the duties of alimony is considered over the lesser need of the female who is not obligated to alimony.

3. The degree of kinship to the deceased has an effect on the share of the heir, regardless of the gender of the heir, whether male or female. The closer the heir is to the deceased (the bequeathed), the greater the

share.

4. The Islamic Sharia obligated alimony for certain types of men, so whoever is obligated to spend will receive in return a bigger share than that of the others. Thus, a son receives more than a daughter, a brother receives more than the sister, and so on.

5. The Islamic Sharia took into account the weaker generation when distributing the inheritance, so it gave those who are expected to live longer, such as sons, daughters, and even the fetus in its mother's womb, a greater share than the fathers and mothers of the decedent, because they are the latter are not expected to live longer.

6. The call for equality of females with males in inheritance is unfair to the female, because in many cases she receives more than the male or blocks the male from inheritance. if we are to effect equality, we would then deduct her share and give it to the male.

Sources and references

1. Al-Qur'ān al-Karīm
2. Maḥmūd 'Abd al-'Azīm al-Dīb, Farīdat Allāh fī al-Mīrāth wa al-Waṣīyah, (in Arabic), (Cairo: Dār al-Anṣār, 2nd. ed 1400 AH / 1980 AD).
3. Maḥmūd Shaltūt, al-Islām 'Aqīdah wa Sharī'ah, (in Arabic), (Cairo: Dār al-Shurūq, 14th. ed. 1407 AH / 1987 AD).
4. Muḥammad Rashīd Riḍā, Tafsīr al-Qur'ān al-Ḥakīm al-Ma'rūf bi Tafsīr al-Manār, (in Arabic), (Egypt: al-Hay'ah al-Miṣrīyah al-'Āmmah lil Kitāb, n. ed., 1990 AD).
5. Aḥmad b. Sulaymān Ayyūb, wa-Nukhbah min al-Bāḥithīn, Mawsū'ah Mḥāsin al-Islām Wa radd Shubuhāt al-Li'ām, (in Arabic), (Dār Ilāf al-Dawlīyah lil Nashr wa al-Tawzī', 1st. ed., 1436 AH / 2015 AD).

6. Māzin Hanīyah, al-I'jāz al-Tashrī'ī fi al-Mawārīth, (in Arabic), Gaza, Majallat al-Jāmi'ah al-Islāmīyah- Silsilat al-Dirāsāt al-Islāmīyah, Tarīkh Nashr 1426 AH / 2005 AD).
7. Aḥmad al-Ḥuṣarī, al-Tarikāt wa al-Wuṣāyā wa al-Qaḍāyā al-Muta'alliqah Bihimā fi al-Fiqh al-Islāmī, (in Arabic), (Beirut: Dār al-Jīl, 1412 AH/ 1992 AD).
8. Kamāl al-Dīn Muḥammad al-Ma'rūf Bi Ibn al-Ḥamām, Faṭḥ al-Qadīr, (in Arabic), (Beirut: Dār al-Fikr, n. ed., n. d.).
9. Ibn 'Ābidīn Muḥammad Amīn, Radd al-Muḥtār 'Alā al-Durr al-Mukhtār al-Ma'rūf bi Ḥāshīyat Ibn 'Ābidīn, (in Arabic), (Beirut: Dār al-Fikr, 2nd. ed. 1412 AH / 1992 AD).
10. Aḥmad b. Muḥammad al-Ṣāwī al-Mālikī, bi Lughat al-Sālik al-Aqrab al-Masālik Ilā Madhhab al-Imām Mālik. Al-Ma'rūf bi-Ḥāshiyat al- Ṣāwī 'Alā Sharḥ al-Ṣaghīr, (in Arabic), Maktabat Muṣṭafā al-Bābī al-Ḥalabī, 1372 AH / 1952 AD).
11. Muḥammad b. Aḥmad b. 'Arafah al-Dassūqī, Ḥāshīyat al-Dassūqī 'Alā Sharḥ al-Kabīr, (in Arabic), (Beirut: Dār al-Fikr, n. ed., n. d.).
12. Aḥmad b. Muḥammad Ibn Ḥajar al-Haytamī, Tuḥfat al-Muḥtāj fi Sharḥ al-Minhāj, (in Arabic), (al-Maktabah al-Tijārī al-Kubrā bi Miṣr li Ṣāhibihā Muṣṭafā Muḥammad, n. ed. 1357 AH / 1983 AD).
13. Shams al-Dīn Muḥammad al-Ramalī, Nihāyat al-Muḥtāj fi Sharḥ al-Minhāj, (in Arabic), Beirut: Dār al-Fikr, Last ed. 1404 AH / 1984 AD).
14. Maṣṣūr b. Yūnus al-Bahūtī, Daqā'iq Ūlā al-Nuhā li Sharḥ al-Muntahā al-Ma'rūf bi Sharḥ Muntahā al-Irādāt, (in Arabic), ('Ālam

al-Kutub, 1st. ed. 1414 AH / 1993 AD).

15. Manṣūr b. Yūnūs al-Bahūtī, Kashshāf al-Qinā‘ ‘An Matn al-Iqnā‘, (in Arabic), Lajnah Mutakhaṣṣiṣah fi Wizārat al-‘Adl, (Saudiya, Wizārat al-‘Adl, 1st. ed. 1421 AH / 2000 AD).
16. Abu Zakarīyā Muhyī al-Dīn Yaḥyā b. Sharaf al-Nawawī, al-Majmū‘a Sharḥ al-Muhadhdhab, (in Arabic), (M’a Takmilat al-Subkī wa al-Muṭī‘ī), (Beirut: Dār al-Fikr, n. ed., n. d.).
17. Abu Bakr Aḥmad al-Khaṣṣāf, Kitāb al-Nafaqāt M’a Sharḥihī min Abī Muḥammad ‘Umar Ibn Māzah al-Bukhārī, (in Arabic), Abu Al-Wafā al-Afghānī, (India: al-Dār al-Salafīyah, n. ed., n. d.).
18. Muslim b. al-Ḥajjāj al-Qushayrī al-Nīsabūrī, al-Musnad al-Ṣaḥīḥ al-Mukhtaṣar bi Naql al-‘Adl ‘An al-‘Adl Ilā Rasūl Allāh Ṣalla Allāh ‘Alayhi wa Sallam, al-Ma‘rūf bi Ṣaḥīḥ Muslim, (in Arabic), Muḥammad Fu’ād ‘Abd al-Bāqī, (Beirut: Dār Iḥyā al-Turāth al-‘Arabī, n. ed., n. d.).
19. Abu Dāwūd Sulaymān b. al-Ash‘ath al-Sijistānī, Sunan Abī Dāwūd, (in Arabic), Shu‘ayb al-Arnawūṭ / Muḥammad Kāmil Qurah Ballī, (Dār al-Risālah al-‘Ālamīyah, 1st. ed., 1430 AH/ 2009 AD).
20. Muḥammad b. Ismā‘īl al-Bukhārī al-Ja‘fī, al-Jāmi‘ al-Musnad al-Ṣaḥīḥ al-Mukhtaṣar min Umūr Rasūl Allāh Ṣalla Allāh ‘Alayhi wa Sallam wa Sunanihi wa Ayyāmihi, al-Ma‘rūf bi Ṣaḥīḥ al-Bukhārī, (in Arabic), Muḥammad Zuhayr b. Nāṣir al-Nāṣir, (Dār Ṭawq al-Najāh, 1st. ed. 1422 AD).
21. Muḥammad b. Ibrāhīm b. al-Mundhir al-Ijmā‘, (in Arabic) Fu’ād ‘Abd al-Mun‘im Aḥmad, (Dār al-Muslim lil Nashr wa al-Tawzī‘,

2nd. ed. 1425 AH / 2004 AD).

22. Ibn ‘Āshūr, Muḥammad al-Ṭāhir, al-Taḥrīr wa al-Tanwīr ((Taḥrīr al-Ma‘nā al-Sadīd wa Tanwīr al-‘Aql al-Jadīd min Tafsīr al-Kitāb al-Majīd)), (in Arabic), (Tunis: al-Dār al-Tunīsīyah lil Nashr, n. ed. 1984 AD).
23. Muḥammad b. Aḥmad al-Qurṭubī, al-Jāmi‘ li-aḥkām Al-Qur’ān lil Qurṭubī, (in Arabic), (Riyadh, Dār ‘Ālam al-Kutub, n. ed., 1423 AH / 2003 AD).
24. Abu Bakr Muḥammad Ibn al-Mundhir, al-Ijmā‘, (in Arabic), Ṣaghīr b. Aḥmad Ḥanīf, (Ajman: Maktabat al-Furqān / Ras al-Khaimah: Maktabat Makkah al-Thaqāfiyah, 2nd. ed. 1999 AD).
25. Aḥmad b. ‘Alī b. Ḥajar al-‘Asqalānī, Faṭḥ al-Bārī Sharḥ Ṣaḥīḥ al-Bukhārī, (in Arabic), (Beirut: Dār al-Ma‘rifah, n. ed. 1379 AD).
26. ‘Abd al-Raḥmān b. Abī Bakr al-Sayūṭī al-Ashbāh wa al-Nazā’ir, (in Arabic), Dār al-Kutub al-‘Ilmiyah, First ed., 1411 AH / 1990 AD).
27. Muḥammad b. Aḥmad al-Sarkhasī, al-Mabsūṭ, (in Arabic), (Beirut: Dār al-Ma‘rifah, n. d., 1414 AH / 1993 AD).
28. Abu Zakariyā Yahyā b. Sharaf al-Nawawī, Rawḍat al-Ṭālibīn wa ‘Umdat al-Muftīn, (in Arabic), ‘Ādil ‘Abd al-Mawjūd / ‘Alī Muḥammad Ma‘awwad, (Dār al-Kutub al-‘Ilmiyah, n. ed., n. d.), (17,18/5).
29. Muḥammad b. Abī Bakr al-Ma‘rūf Bi Ibn Qayyim al-Jawzīyah, I‘lām al-Mīqī‘īn ‘An Rab al-‘Ālamīn, (in Arabic), ed. Mashhūr Ḥasan Āl Salmān, (Saudiya, Dār Ibn al-Jawzī lil Nashr wa al-Tawzī‘, 1st. ed. 1423 AH).

30. ‘Alī b. Aḥmad al-Ṣa‘īdī al-‘Adawī, Ḥāshīyat al-‘Adawī ‘Alā Sharḥ Kifāyat al-Ṭālib al-Rabbānī, (in Arabic), Yusuf al-Shaykh Muḥammad al-Biqā‘ī, (Beirut: Dār al-Fikr, n. ed., 1414 AH / 1994 AD).
31. Aḥmad Salāmah al-Qalyūbī wa Aḥmad al-Barlasī ‘Umayrah, Ḥāshīyatā al-Qalyūbī wa ‘Umayrah, (in Arabic), (Beirut: Dār al-Fikr, n. ed., 1415 AH / 1995 AD).
32. Sulaymān b. Muḥammad b. ‘Umar al-Bujayramī, Tuḥfat al-Ḥabīb ‘Alā Sharḥ al-Khaṭīb al-Ma‘rūf bi Ḥāshīyat al-Bujayramī ‘Alā al-Khaṭīb, (in Arabic), (Beirut: Dār al-Fikr, n. ed., 1415 AH / 1995 AD).
33. Muḥammad Abu Zahrah, al-Tarikāt, (in Arabic), Majallat al-Manār, V. 6, 1426 AH.
34. Abu Zakariyā Muḥyī al-Dīn Yaḥyā b. Sharf al-Nawawī, al-Minhāj Sharḥ Ṣaḥīḥ Muslim b. al-Ḥajjāj, (in Arabic), (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, 2nd. ed. 1392 AH).
35. Salāḥ Sultān, al-Tawāzun Bayn Ḥuqūq al-Mar’ah fi al-Mīrāth wa al-Nafaqah fi al-Sharī‘ah al-Islāmīyah, (in Arabic), Majallat Kullīyat Dār al-‘Ulūm, V. 19.
36. Abu Muḥammad Muwaffaq al-Dīn ‘Abd Allāh Ibn Qudāmah al-Maqdisī, al-Mughnī fi Fiqh al-Imām Aḥmad b. Ḥanbal al-Shaybānī, (in Arabic), (Beirut: Dār al-Fikr, 1st. ed. 1405 AH).