

# ALIMONY FOR RELATIVES IS A COMPARATIVE JURISPRUDENTIAL MATTER

**Mohammed Jasim Naser Al-Zaidi, Diyala University**

## ABSTRACT

*The issue of alimony for relatives is summarized by the fact that the amount of this alimony on the relative has a recognized limit assessed by the same need, because people's requirements vary depending on area, period, circumstance, and tradition. The spenders differ in their financial capabilities from one another, between the wealthy that are comfortable and the wealthy for him, and the average for the case. Islam demanded that both sides be considered, so the spender according to his ability, and the spender according to him and his need, so this need is met with knowledge, and the well-known is estimated according to the existing. Al-Azhari, (2020) Islam acknowledged the right of kinship to a relationship of kinship, and one of these connections is the affluent relative's concern of his impoverished relative's economic aspect and fulfillment of the requirements he requires.*

Keywords: Alimony, Financial Capabilities

## INTRODUCTION

May God, Lord of the Worlds, bless and protect the Master of the Messengers (Muhammad) and his family and associates. Our Islamic faith has acknowledged the rights of close relatives, and his Prophet - may God bless him and gift him peace - advocated righteousness, connection, and love toward them in the passages of his book and the hadiths of his Prophet - may God bless him and bring him peace - They are entitled to social security. Justice, compassion, and kinsfolk are mandates from God Almighty (Al-Nahl, verse 90) God stated, "Those who seek God's face should miss a kinship right and the destitute and the son of the path" (Ar-Rum, verse 38).

And he answered, may God bless him and keep him in peace: (The womb is attached to the leg of the throne, it says: Whoever has reached me, God will pray to him, and whoever interrupts me will be cut off by God. So I collected his jurisprudential issues exclusively in relation to the expense of kinship, and I studied his issues in a comparative study with the opinions of the prestigious Islamic schools, the Hanafi, Maliki, Shafi'i, Hanbali, Imamite, and Zaydi, and that by showing the evidence they adopted while clarifying the aspect of The significance in it, then clarifying the most favorable of these opinions a The research plan had an introduction, four demands, and a conclusion, as well as sources and references that were noted. In terms of the introduction, it clarified the study topic as well as why it was chosen.

The first condition is that alimony is a dialect. The second criterion is the budgetary situation. The legality of alimony and its distribution is the third prerequisite. Fourth, there must be a decision on relative alimony and a description of the most relevant findings, which must be supported by sources and references the first criterion is idiomatic alimony in the target language.

It is said: money spent: that is, this is spent, and it is said: alimony because it goes to its own face, and the collection: expenses, and a man who is hypocritical by breaking, that is: a lot of spending, and it was first released on what a person spends on himself and his dependents.

## Definition of Alimony

In the term alimony is used to refer to what is required of money to secure the necessities for survival, and to spend money and the like In charitable causes (Al-Nawawi, (n.d)) And the obligation to spend four conditions (Al-Ma'ad, 1986) one of them is that they are poor who have neither money nor earnings to dispense with the spending of others. Because it is required as a consolation and the affluent is dispensed with consolation. The second: For the one who is obligated to spend on them should have what he spends on them in addition to the expense of himself, as for his money and from his earnings, as for whoever does not prefer anything from him, he has nothing on him when Al-Naas's narrated on the authority of Jabir bin Abdullah - may God be pleased with him - he said: The Messenger of God said - May God bless him and grant him peace - ((Begin with yourself and give it charity, because if something is preferred for your family, if something is preferred for your family, then for your relatives, if something is preferred over your relatives, so and so on) (Al-Kubra et al., 1994) And Muslim narrated in his Sahih from the hadith of Abu Hurairah - may God be pleased with him a man came to the Prophet - May God bless him and grant him peace - and said: Messenger of God, I have a dinar, so he said, spend it on yourself. He said: I have another, and he said: Spend it on your son, he said, I have another, he said: Spend it on your family) (Al-Daraqutni, 1986)

Third: That the person on whom the spender has a womb is forbidden according to the Hanafi School, may God Almighty have mercy on them (al-Nasa'I, (n.d)).

As for the Malikis, may God Almighty have mercy on them, he is either a father or a son (Abi Dawood, (n.d)) and according to the Shafi'is, may God Almighty have mercy on them, that it is one of the origins or branches (Al Bahjah,(n.d)) According to the Hobnails, may God Almighty have mercy on them, that the spender should be the heir (Al-Qadeer, (n.d) Fourth: As for the condition of religious union: the jurists, may God Almighty have mercy on them, have agreed on the obligation of maintenance for the wife with the difference of religion, as long as she is not an apostate or apostate (Al-Iraadat, (n.d)).

They differed on the condition of the union of religion to spend on the relative, so the Hanafis, may God Almighty have mercy on them, went to the non-condition of the union of religion in the expense of assets, and they stipulated the union of religion in other than these three categories, because of the ineligibility of inheritance between a Muslim and a non-Muslim (Ibn Hibban, 1993). Maliki was not required (Al-Salik, 1982); Shafi'i (Al-Arab, (n.d)) May God Almighty have mercy on them, the religion agreed in the necessity of spending. Rather, a Muslim spends on an infidel, and an infidel on a Muslim, because of the general evidence that requires alimony and the existence of the one that is obligatory, which is partiality As for the Hanbalis, may God Almighty have mercy on them, the first is: alimony is required with the difference in religion, and the second, which is approved, does not have to spend with the difference in religion. Because it is consolation to righteousness, connection and lack of inheritance, and it separates the maintenance of wives; because it is a compensation that is obligatory with insolvency, so the difference in religion, such as dowry and rent, did not prevent it (As-Sahah, (n.d)).

## **Legality of Alimony and its Divisions**

### **First: Legality of Alimony**

Almighty said: {Let a person spend an amount of his capacity and of whom he is able to provide, so let him spend from what God has given him that God does not cost himself. (Surah Al-Talaq verse 7) And the Almighty said: {and their pleasure is due to the greater their destiny, and to the one who is despised is their destiny to enjoy pleasure with the known (Surah Al-Baqarah Verse 236) The Almighty said: {And upon the newborn child he will have their livelihood and clothe them with kindness (Surah Al-Baqarah Verse 233).

And to the saying of the Prophet - may God bless him and grant him peace - to Hind bint Abi Sufyan previously mentioned: ((Take from his money what is sufficient for you and what is

sufficient for your sons)) Imam Al-San`ani, may God Almighty have mercy on him, said: (The maintenance of relatives is estimated without controversy, because it is obligatory for need and is estimated as much as is needed) and Imam al-Nawawi, may God Almighty have mercy on him, says: (Whoever is obliged to spend on him by kinship, his maintenance must be on the level of sufficiency, and if he needs someone to serve him, then his servant's alimony is required, and if he has a wife then his wife's alimony is obligatory, because that is completely sufficient (Al-Kabir et al., 1983).

And Imam Ibn Qudamah, may God Almighty have mercy on him, says: (Alimony for a relative is sufficiently assessed, because it is obligatory for need, so what should be paid with him, and if he needs someone to serve him then his servant's alimony is required, and if he has a wife, then his wife's alimony is obligatory, because it is completely sufficient (Qalaji et al., 1985).

He also says: (He has to be chaste by everyone who is obligated to spend, because it is of complete sufficiency) (Al-Mughni, 1958)

## **Second: The Maintenance According to the Jurists is divided into Two Parts**

- 1) An alimony is obligatory for a person if he is able to it, and he has to provide it at the expense of someone else, for saying, PBUH: ((Start with yourself and then with whom you depend) 22. That is: to whom you are obligated to spend (Barik et al., 2021).
- 2) A person is obligated to spend on others, and the reasons for his obligation are three

A- Marriage ... .. b- kinship ... .. c- king (Barik et al., 2021).

Relatives are divided into two types of origin

### **Relatives of Birth like Father and Son**

There are two types of non-birth relatives: a forbidden relationship for marriage, such as a brother, uncle and maternal uncle. And kinship that is not forbidden, such as the children of uncles, uncles and aunts

### **Rule for Alimony for Relatives**

There is no disagreement among the jurists regarding the necessity of spending close to childbirth, but is maintenance required for other relatives The jurists differed concerning it over five schools of thought: The first doctrine: Alimony for relatives is not obligatory except as a matter of ties of kinship. This is narrated on the authority of Al-Shaabi, and it is the Zaydi School of thought (Zhang et al., 2021).

From what he has given (he does not cost) a soul except what he brings. (Surat Al-Talaq: verse 7).

This is correct, but this does not prevent the granting of maintenance for them and righteousness with them, and what indicates that the father deals with grandparents also is the Almighty saying: (The religion of your father Abraham). (Surat Al-Hajj: Verse 78) with this letter, indicating that the grandfather approves of him as a father, and also that the difference in the relationship between the father and his right to the son's estate and the grandfather's inheritance, this is due to the division that made him (Almighty people and what each A person from a share, and that does not criticize the name of the grandfather as a father or his releasing him.

On the authority of Abu Huraira - may he be pleased with him - on the authority of the Prophet (he said: (The best of charity is that which is from it on the back of wealth, and the upper hand is better than the lower hand, and start with the one who relies, and it was said: Who is dependent, O Messenger?) He said: Your wife is one of those who depend, You say: Feed me

or it will leave me, and your maid says: Feed me and use me, and your child says: To whom will you leave me)38. Narrated by Ahmad, Al-Nasa'i, Al-Daraqutni, and Al-Bayhaqi, and Al-Hakim authenticated it.

**The Indicative Face:** The Prophet did not mention (except for the child, and he did not require alimony except for him and not others, indicating that the word son only refers to the son who is near.

And he replies: The word son is not limited to the inferior son only, but rather it refers to grandchildren and others.

Evidence for it: the saying of the Messenger of God, may God bless him and grant him peace (on the authority of our master Al-Hassan bin Ali - may he be pleased with them -: (This is my son, a master).39. Narrated by Abu Dawood, Tirmidhi, and Al-Nasa'i

It is known that he is not his son from his crucifixion, but rather the son of his daughter. This indicates that the word (son) is not limited to the crucifixion only.

### Evidence for the Third Doctrine

- 1) The Almighty said: (And their companion is well known in this world) (Surah Al-Israa: verse 24).

The indicative face:

- 2) The Almighty commanded his children to accompany their fathers with kindness, alimony is to accompany favor, and grandparents and grandmothers are attached to them, as Join them in manumission, and the king, and lack of control.40, The testimony is received.41

The Almighty said: (If they breastfeed for you, give them their wages.) (Al-Talaq: verse 6)

The indicative face:

That God Almighty has enjoined on fathers the fee for breastfeeding their children, this requires that their supplies are also required, and sons include his children and grandchildren, according to the hadith of the Messenger of God, may God bless him and grant him peace (on the authority of our master, may God be pleased with him), and also to return martyrdom, and not to imply.

- 3) The Prophet's saying (to Hind bint Utbah - be pleased with her (on her): (Take what is sufficient for you and your child with. favor) 42. Narrated by Bukhari, Ahmed, and Al-Nasa'i.

The indicative face:

- 4) The Messenger () has permitted Hind to take from her husband's money what is sufficient for her, and her son is sufficient for her kind, and it is permissible for every child of her no matter what. He responds to this This does not prevent others from entering with them, and this evidence did not limit spending to them, so it was possible for others to be included among those included in the alimony Evidence of the fourth sect:

- 1) Allah's saying: (And upon the birth of him they shall provide for them and clothe them virtue, and the mother shall not harm her child, nor will he be born to his child, and the heir is similar to that) (Surat Al-Baqarah: Verse: 233). The indicative face:

- 2) God Almighty obligated the father to provide for the breastfeeding of his children, then the sympathy of the heir to him, and obligated the heir to the same as the father.43

- 3) It is presented that the verse was not limited to what they mentioned only, but rather it tolerates those with womb, as will be explained in the evidence of the fifth doctrine.

- 4) On the authority of Kulaib bin Mafa'ah, on the authority of his grandfather - be pleased with them -: He came to the Prophet (and he said: O Messenger of God, who is righteous? He said: Your mother, father, sister, brother, and your master who is truly below you is a duty and a womb connected) 44. The indicative face: The Messenger of God, may God's prayers and peace be upon him, obligated him (connection, righteousness, and maintenance from the relationship, which he made a right and an obligation) Evidence for the Fifth sect:

- 1) Allah's saying(And the heir is like that) (Surat Al-Baqarah: Verse: 233)

- 2) The indicative face: God Almighty has enjoined the maintenance on the heir, and it includes those with womb also according to the evidence of Ibn Masoud's reading - may God bless him -: (And on the heir with the forbidden womb, like that). And blessings (by way of explanation) 46.

- 3) Allah's saying :( And the one who is related will bring his truth) (Surat Al-Israa: Verse 25).

- 4) The indicative face: The Almighty commanded him to be kind to his kinship and give him his right, and there is no doubt that whoever was fluctuating in blessings and his relative hurt him by hunger or nudity, then he is not good to him and does not stand in his right, whether he is of the mercy or not
- 5) On the authority of Abu Hurairah - may he be pleased with him - he said: (A man came to the Messenger, may God's prayers and peace be upon him (and he said: Who is more deserving of people in my good company, O Messenger?) He said: Your mother, he said: Then who? He said: Your mother, he said: Then who? He said: Your mother, he said: Then who? He said: Your father, then he brought you near and brought you down.)<sup>48</sup>. Bukhari, Muslim, and Ibn Majah told him.
- 6) His command, may God bless him and grant him peace, (of good companionship to his mother, his father, and his relatives inferior and inferior, and there is no doubt that the people of his mercy are among the lowest in kinship who are entitled to spending if they are in need.
- 7) That what the owners of the previous schools argued, did not come with evidence denying the necessity of maintenance for those in the family, but rather the goal of what they proved the necessity of maintenance for the father even if it is high, and for the son even if it comes down, and what the owners of this doctrine have mentioned is in addition to what the owners of the previous schools have proven.

Thus it becomes clear that the preponderance of what the owners of the fifth school of thought from the Hanafis and those scholars agreed upon is the strength of their inference, and God Almighty knows best.

## CONCLUSION

The issue of alimony for relatives is defined by the fact that the amount of alimony paid to a relative has a recognized maximum based on the same need, because people's needs differ depending on location, time, circumstance, and custom. The spenders range in terms of their financial capacities, with the affluent who are happy and the wealthy for him, as well as the average for the situation. Islam asked that all sides be considered, so that the spender spends according to his capacity, and the spender spends according to himself and his need, so that this need is filled with knowledge, and the well-known is valued according to what is already there. One of these links is the rich relative's care for his impoverished relative's economic aspect and fulfillment of the criteria, which Islam recognized as a right of kinship to a bond of kinship.

## REFERENCES

- Refining the language: Abu Mansour Muhammad bin Ahmed Al-Azhari, edited by: Muhammad Awad Terrif, Publishing House: Arab Heritage Revival House - Beirut - 2001 AD.
- Desouki's footnote to the great explanation. By the scholar Shams al-Din Sheikh Muhammad Arafa al-Desouki on the great commentary by Abu al-Barakat Sidi Ahmed al-Dardir. House revival of Arab books Press. Issa Al-Babi Al-Halabi Press
- Al-Sawy's footnote to Al-Sharh Al-Saghir, Abu Al-Abbas Ahmad Al-Sawy (d. 1241 AH), Dar Al-Ma'arif
- The confused response to Al-Durr Al-Mukhtar, explaining the enlightenment of the eyes. By Sheikh Muhammad Amin - Ibn Abdin, 2nd floor. Scientific Books House. Beirut, Lebanon, 2003AD
- The Talibin Kindergarten, by Abu Zakaria Yahya bin Sharaf Al-Nawawi (d. 676 AH), the Islamic Printing and Publishing Office – Beirut
- Zad al-Ma'ad in the Guidance of the Best of the People, by Shams al-Din Muhammad bin Abi Bakr bin Ayyub al-Zar'i al-Dimashqi known as (Ibn Qayyim al-Jawziyyah d. 751 AH. Edited by: Shuaib Al-Arnaout and Abdel-Qader Al-Arnaout, Fourteenth Edition, The Resala Foundation, Beirut, and 1986AD.
- Sunan Al-Bayhaqi Al-Kubra, Ahmad bin Al-Hussein bin Ali bin Musa Abu Bakr Al-Bayhaqi, (384 - 458 AH), edited by Muhammad Abdul Qadir Atta, Dar Al-Baz Library, Makkah, 1994AD.
- Sunan Al-Daraqutni, by Imam Al-Hafiz Ali bin Omar Al-Daraqutni (d. 385 AH) 4th edition. The world of books. Beirut, Lebanon, 1986AD.
- Sunan al-Nasa'i, explained by Jalal al-Din al-Suyuti, and the retinue of al-Sindi, by the Hafiz Abu Abd al-Rahman Ahmad bin Shuaib bin Ali al-Nasa'i (d. 303 AH), House of Revival of Arab Heritage – Beirut.
- Sunan Abi Dawood, by Abu Dawood Suleiman bin Al-Ash'ath Al-Sijistani Al-Azdi (d.275 AH), edited by: Mohi Al-Din Abdul Hamid, The Modern Library Edition - Beirut, Lebanon
- Sharh Al Bahjah, by Zakaria bin Muhammad bin Zakaria Al-Ansari (d. 926 AH), The Yemeni Press.

- Explanation of Fath al-Qadeer, by Imam Kamal al-Din Muhammad bin Abd al-Wahid bin Abd al-Hamid bin Masoud al-Siywasi al-Sakandari al-Hanafi, known as (Ibn al-Hamam) (d.861 AH), House of Revival of Arab Heritage – Beirut.
- Explanation of Muntaha Al-Iraadat called Mina'at Awali al-Nuha with Explanation of al-Muntaha, by Mansour bin Yunis bin Idris al-Bahouti (d. 1051 AH), Dar al-Fikr – Beirut.
- Sahih Ibn Hibban, by Abu Hatim Muhammad bin Hibban bin Ahmed Al-Tamimi Al-Basti (d. 354 AH), edited by: Shuaib Al-Arna`ut, 2nd Edition, Al-Risala Foundation - Beirut, 1993AD
- Umdat Al-Salik and Several Hermits, by Imam Shihab Al-Din Abi Al-Abbas Ahmad Ibn Al-Naqib Al-Masry, Revision by Abdullah Bin Ibrahim Al-Ansari, Qatar, 1st Edition, 1982AD
- Lisan Al-Arab, by Muhammad bin Makram bin Manzoor Al-Afriki Al-Masry (d.711 AH), 1st Edition, Dar Sader – Beirut
- Mukhtar As-Sahah, by Muhammad bin Abi Bakr bin Abdul Qadir Al-Razi (d.666 AH), Dar Al-Risala – Kuwait
- The Musnad of Ahmad Ibn Hanbal: Imam Ahmad Ibn Hanbal Al-Shaibani (d. 241 AH), Cordoba Foundation, Egypt, d.
- Mujam al-Tabarani al-Kabir, Abu al-Qasim Suleiman bin Ahmadet (360 AH), edited by: Hamdi Abd al-Majid al-Salafi, Mosul, 1983 AD
- Dictionary of the Language of the Scholars, by Dr. Muhammad Rawas Qalaji and Dr. Hamid Sadiq Quneibi, Dar Al-Nafaes -Beirut - Lebanon, 1st Edition, 1985 AD
- Mughni al-Mughni who needs to know the meanings of al-Minhaj words, by Sheikh Muhammad al-Sherbini al-Khatib (d. 977 AH), Mustafa al-Babi al-Halabi and Sons's Library and Printing Company - Cairo, 1958AD
- Manar Al-Sabil in Explaining the Evidence for the Doctrine of the Revered Imam on the Doctrine of Imam Ahmed bin Hanbal by Sheikh Ibrahim bin Muhammad bin Salem bin Dwayyan, edited by Suhail al-Shawish, The Islamic Office, 7th Edition, 1989 AD
- Barik, R.K., Patra, S.S., Patro, R., Mohanty, S.N., & Hamad, A.A. (2021). GeoBD2: Geospatial big data deduplication scheme in fog assisted cloud computing environment. *In 2021 8th International Conference on Computing for Sustainable Global Development (INDIACom)*, 35-41, IEEE.
- Barik, R.K., Patra, S.S., Kumari, P., Mohanty, S.N., & Hamad, A.A. (2021). A new energy aware task consolidation scheme for geospatial big data application in mist computing environment. *In 2021 8th International Conference on Computing for Sustainable Global Development (INDIACom)*, 48-52, IEEE.
- Zhang, G., Guo, Z., Cheng, Q., Sanz, I., & Hamad, A.A. (2021). Multi-level integrated health management model for empty nest elderly people's to strengthen their lives. *Aggression and Violent Behavior*, 101542.
- Hamad, A.A., Al-Obeidi, A.S., Al-Ta'iy, E.H., Khalaf, O.I., & Le, D. (2021). Synchronization phenomena investigation of a new nonlinear dynamical system 4d by gardano's and lyapunov's methods. *Computers, Materials & Continua*, 66(3), 3311-3327.
- Khalaf, O.I., Ajesh, F., Hamad, A.A., Nguyen, G.N., & Le, D.N. (2020). Efficient dual-cooperative bait detection scheme for collaborative attackers on mobile ad-hoc networks. *IEEE Access*, 8, 227962-227969.
- Thivagar, L.M., Hamad, A.A., & Ahmed, S.G. (2020). Conforming Dynamics in the Metric Spaces. *Journal of Information Science and Engineering*, 36(2), 279-291.
- Maria Antony, L.T., & Abdullah Hamad, A. (2020). A theoretical implementation for a proposed hyper-complex chaotic system. *Journal of Intelligent & Fuzzy Systems*, 38(3), 2585-2590.
- Thivagar, M.L., & Hamad, A.A. (2019). Topological geometry analysis for complex dynamic systems based on adaptive control method. *Periodicals of Engineering and Natural Sciences (PEN)*, 7(3), 1345-1353.
- Thivagar, M.L., Ahmed, M.A., Ramesh, V., & Hamad, A.A. (2020). Impact of non-linear electronic circuits and switch of chaotic dynamics. *Periodicals of Engineering and Natural Sciences (PEN)*, 7(4), 2070-2091.