



## MONEY DISTRIBUTION AMONG BOYS BEFORE DEATH

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| <p><b>Received:</b> 28<sup>th</sup> January 2022<br/><b>Accepted:</b> 26<sup>th</sup> February 2022<br/><b>Published:</b> 6<sup>th</sup> April 2022</p> | <p>The research dealt with a very important issue that often happens nowadays, which is that some people distribute their property and lands to their children, whether the distribution is fair and equal, or there is deprivation for some, and each has its own reason, whether it is fear of disobedience or because of outdated beliefs and discrimination between men and women or Because of good and bad treatment, and despite the fact that disposing of it is a legal permissibility stemming from the rule of people controlling their money, it is not without criticism and disadvantages, the first and most important of which is the occurrence of problems and disputes between the heirs up to the point of fighting, and there are many other disadvantages, including economic and social problems.</p> <p>The law has restricted that freedom in the right to spend of some restrictions, including general ones, if the facility or the property is in a public interest, or special restrictions that relate to third parties, such as the right of the neighbor to pre-emption or the rights of children if they suffer harm from that act.</p> <p>Jurisprudence has dealt with this issue as it is in many issues with provisions characterized by wisdom and beyond the horizon, as it is not permissible for the legislator for people to distribute their property if it is unfair or unfair to one of the heirs. Finally, almighty Allah by regulating the provisions of ownership, the financial relationship between fathers and children, the provisions of inheritance, and the shares and duties imposed in them, except for infinite wisdom and absolute justice, and in these provisions the cohesion of the family and society is preserved, and that humans replace the Creator in the distribution of funds and to be characterized by justice and equity. However, it remains confined limited horizon.</p> |

**Keywords:** Domination, money, distribution, children, death, social and family effects.

### INTRODUCTION

At the beginning, we touched on the concept and the historical overview of the subject. We discussed the subject in three aspects, the first of which was the jurisprudential aspect and the relevant legal sources of Quranic verses and prophetic hadiths. We also dealt with the legal aspect and the relationship of the subject with the rule of people's control of their money and the exceptions to freedom of disposal, including the rule of abuse of the right and wrongful behavior in the illness of death, and another research dealt with the most important topic, which is the effects and consequences of those behaviors, the most important of which are social and family relations, where we dealt with many Cases, examples, and people's opinions<sup>1</sup>.

### THE CONCEPT AND MEANING OF DISTRIBUTING MONEY TO CHILDREN BEFORE DEATH<sup>2</sup>.

To begin with, and to clarify the issue, it stems from a jurisprudential and legal base, which is the shedding of people on their money. Also, it is well known, in the language of authoritarianism, it means domination, control, complete control, and absolute freedom of action. He is the owner of the supreme authority over his money, and domination

<sup>1</sup> Legitimate and legal measures to limit the phenomenon of women being deprived of inheritance - Ibadah Bassem Raddad - MA - An-Najah University - Palestine - 2017.

<sup>2</sup> Journal of the College of Islamic Sciences - 1433 - Volume VI - Issue Twelfth A.D. 2012 The Legacy in the Tribal Custom before Islam and the Age of the Message - Prof. Dr. Ibrahim Muhammad Ali.

over money is one of the well-known jurisprudential rules in the field of jurisprudence and law, and it has important implications in public life that deal with matters of great importance, namely, the freedom of people to behave of what they own<sup>3</sup>.

As for the concept and meaning of the subject of our article, which is the distribution of property and money to children during life, and it means that those with property and money distribute everything they own or part of it while they are alive, as many people distribute their estates to their children, whether by sale, gift or will, for the purposes of And intentions and interests they believe in within their belief in beliefs, ideas, visions and analyzes of the reactions of their sons and daughters, based on the rule of people controlling their money or people are free in what they own<sup>4</sup>.

### **MONEY DISTRIBUTION BEFORE DEATH IN THE ERA OF IGNORANCE BEFORE ISLAM<sup>5</sup>.**

In the old days, the Arabs in the pre-Islamic era distributed, owned and bequeathed money to their brave and strong sons who depended on them in wars, invasions, robbery and looting. And they were deprived of it from the weak women and children, who were governed by the customs, traditions and cruelty that prevailed.<sup>6</sup>

(Share for men) means share (of what is left) (parents) like father and mother (and the nearest related) (and for women is a share of what the parents and close relatives leave), Allah says – (an obligatory share). That is, the All-Knowing, the Wise has estimated it, and affirmed that it has money, whether it is a little or a lot, by saying: (be it a little or much). Blessed be Allah, the best of judges.” Surat al-Nisa verses 7-8, and that this verse was revealed because the people of the pre-Islamic era used to inherit males and forbid females, so Allah forbade them from that and commanded them to give females their share of the estate.

### **LEGITIMATE SOURCES THAT INFER THE FREEDOM TO SPEND OF MONEY**

To infer the freedom of people’s behavior in their money, there are many sources such as Quranic verses and many narrations and hadiths in the various chapters of transactions.

**First:** It is inferred from the Book of Allah and its various verses and the benefit obtained that a person is free to spend and has the authority to spend of his own money, and no one has the right to compete with him with that, as in the Almighty’s saying: ye who believe! Eat not up your property among yourselves in vanities: But let there be amongst you Traffic and trade by mutual good-will: Nor kill (or destroy) yourselves: for verily Allah hath been to you Most Merciful. (An-Nisa -29).<sup>7</sup>

The honorable verse indicates the consent of the two parties in disposing of money and not eating the money of others, and its prohibition is equivalent to the prohibition of killing oneself. Allah says: Give unto orphans their wealthExchange not the good for the bad (in your management thereof) nor absorb their wealth into your own wealthLo! that would be a great sin. (Surah An-Nisa Verse 2). Where the noble verse indicates not to eat the money of orphans and to specify the private property in the expression of your money and their money.<sup>8</sup>

**Second:** The rule of domination over money is also inferred by what the honorable Sunnah of the Prophet brought in the well-known hadith ((The sanctity of a Muslim's money is like the sanctity of his blood).<sup>9</sup>

This well-known narration is well-known among the jurists. It was narrated by Al-Majlisi, may his secret be sanctified in the second skin of the seas, on the authority of the Prophet, may Allah’s prayers and peace be upon him and his family, that he said: “People are in control of their money.”

And a narration on the authority of Sama`ah, on the authority of Abu Baseer, on the authority of Abu Abdullah, peace be upon him: “The owner of the money may work with his money as he wills, as long as he is alive, if he wills, and give it to him, and if he wishes, he gives it charity, and if he wishes, he leaves it until death comes to him.”<sup>10</sup>

**Third:** With regard to consensus, it is the apparent meaning of the words of the people, as they infer the rule of domination in different sections, which we refer to as part of it. (The original permissibility and prohibition need evidence), and it was also narrated from the Prophet, may Allah’s prayers and peace be upon him and his family, that

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<sup>3</sup> Sarah Khader Irsheidat - Middle East University - Selling in Death Sickness - Master's Thesis - 2014.

<sup>4</sup> An article entitled - Should his estate be divided among his heirs in the event of his illness? Pg 11:06 2021/11/7.

<sup>5</sup> The Reform Current website - Depriving women of inheritance - 2021.

<sup>6</sup> Legitimate and legal measures to limit the phenomenon of women being deprived of inheritance - Ibadah Bassem Raddad - MA - An-Najah University - Palestine - 2017.

<sup>7</sup> Journal of the College of Islamic Sciences - 1433 - Volume VI - Issue Twelfth A.D. 2012 The Legacy in the Tribal Custom before Islam and the Age of the Message - Prof. Dr. Ibrahim Muhammad Ali.

<sup>8</sup> Legitimate and legal measures to limit the phenomenon of women being deprived of inheritance - Ibadah Bassem Raddad - MA - An-Najah University - Palestine - 2017.

<sup>9</sup> Sarah Khader Irsheidat - Middle East University - Selling in Death Sickness - Master's Thesis - 2014.

<sup>10</sup> An article entitled - Should his estate be divided among his heirs in the event of his illness? Pg 11:06 2021/11/7.

he said (People are in control of their money, and he said, "The money of a Muslim is not permissible except with the goodness of his soul.")

And from it it appears that the hadith of the inadmissibility of disposing of the money of every human being without the goodness of himself unites its meaning with the hadith of authoritarianism.

**Fourth:** And finally, what the wise people built upon and used as evidence, as it is considered one of the rules that are close to reason before its legitimacy, and the wise have continued to act upon it to this day. All wise people are of the opinion that a person is free to spend of his money except for what is prohibited or prevented by legal and law.<sup>11</sup> And the narrations that indicate that the owner's actions are effective in his possession and that he will not compete with him without his permission, and they are evidence of the passing of the rule of domination and its confirmation, many narrations, including:

### Position of jurisprudence on the distribution of money before death<sup>12</sup>

The principle is that the legislator's position is clear and firm with regard to people's control over their money and the freedom to spend of it in the manner of selling or gift, whether to one of the heirs or to others, and even to the endowment of those funds, and therefore the permissibility of distributing these funds to children in the manner and mechanism that the owner of the money sees and for whatever reason, except that most of the scholars The debt has issued a fatwa permitting the owner of the money to control and spend of the money by distributing it to his children, but they stipulated that no one be harmed. Examples of this are many, and they are from the ongoing and emerging issues, including:

1. If a person divides what he owns among each of his children on the basis of a legal gift that fulfills its conditions, without intending to harm one of his relatives and heirs, and each of the children takes what was given to them, and the disposal is in the full health of the donor and his absence of a death illness, it is permissible, and the property of All of them have their own.
2. A man who has three sons, two males and two daughters, and not from one mother, and there are many ongoing problems and disagreements between them, and a solution to those problems is the division of the estate or inheritance over them during his lifetime and by agreement between them and with their consent, and it was permitted for him to do so because there was no harm or deprivation for anyone.<sup>13</sup> Scholars with this condition ascribe the rule of domination and the freedom to spend of money with the rule that there is no harm, and despite the disagreement between the investigators on the conflict of the two rules, there is a detail in the matter with a statement if the intention of this behavior is to harm others only without benefiting from it.<sup>14</sup> And the most scientist Al-Ansari (may Allah be pleased with him) ruled that the side of the owner should be given precedence in them, given the general rule of people controlling their money, and the rule of denying embarrassment, after the fall of no harm from both sides<sup>15</sup>. Therefore, the rule of authority, as it is taken from the construction of the wise, is in and of itself deficient in covering every behavior<sup>16</sup>. Any sane is permitted to spend of his money while harming his neighbor without benefiting or repelling harm, rather it is despicable and in vain. Rather, any sane person authorizes the owner to make his house tannery among the homes of Muslims, and a blacksmith's shop in the ranks of the perfumers, which necessitates the corruption of their belongings and goods, and their inability to stay there.
1. It relates to the sanctity of everything that is in it of corruption, such as carrion, blood, pork, beast meat, alcohol, uncleanness, and everything that is forbidden by which to draw near to other than Allah Almighty, such as idols, and every sale that is amused, such as gambling and amusement machines, and everything that strengthens disbelief and polytheism, such as books of misguidance and the like.
2. The spending source is also not absolute, as it stipulated that it should not be extravagant or wasteful, nor should it be spent in the ways of sin and corruption, nor harm to others, nor to oneself in general.
3. Money is attached to the rights of the poor and others, such as debt, zakat, one-fifth and others, but with all of that it is a general rule that is taken unless there is evidence for its allocation and restriction.

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<sup>11</sup> Journal of the College of Islamic Sciences - 1433 - Volume VI - Issue Twelfth A.D. 2012 The Legacy in the Tribal Custom before Islam and the Age of the Message - Prof. Dr. Ibrahim Muhammad Ali.

<sup>12</sup> Legitimate and legal measures to limit the phenomenon of women being deprived of inheritance - Ibadah Bassem Raddad - MA - An-Najah University - Palestine - 2017.

<sup>13</sup> Al-Ahram Daily Magazine - Fatwas on the distribution of inheritance before death is permissible with conditions - 2017 - Ahmed El-Sayed El-Naggar.

<sup>14</sup> An article entitled - Should his estate be divided among his heirs in the event of his illness? Pg 11:06 2021/11/7.

<sup>15</sup> Sarah Khader Irsheidat - Middle East University - Selling in Death Sickness - Master's Thesis - 2014

<sup>16</sup> Al-Ahram Daily Magazine - Fatwas on the distribution of inheritance before death is permissible with conditions - 2017 - Ahmed El-Sayed El-Naggar.

And know that anything you obtain of war booty - then indeed, for Allah is one fifth of it and for the Messenger and for [his] near relatives and the orphans, the needy, and the [stranded] traveler [Al-Anfal: 41]. And Allah says: in their wealth and possessions (was remembered) the right of the (needy,) him who asked, and him who (for some reason) was prevented. [Al-Maarij: 24, 25] Based on being a custodian of the due rights.<sup>17</sup> Consequently, the legislator may divide his money among his heirs during his lifetime, provided that he does not intend to harm some of the heirs, so he prevents some of them or gives them without their right to harm them.<sup>18</sup> There are many evidences from the narrations, the most important of which is what was narrated from the Messenger of Allah, including when Bashir asked the Messenger (peace and blessings of Allaah be upon him) to testify to him of his gift to his son, when the Messenger of Allah, may Allah bless him and his family and grant them peace, said: O Bashir, is this? He said: Yes. He said: Did you eat them and you gave him something like this? He said: No. He said: (I do not bear witness to wrongdoing).<sup>19</sup> It is clear that the legislator, Glory be to Him, has restricted a person's right to relinquish his money to his children in the event that one of them is deprived, whether male or female, in order to avoid division and problems that reach the point of fighting between brothers and sisters, and also the issue of life and death is in the hands of Allah Almighty. A new heir is born<sup>20</sup>.

### **Infringement of Allah 's right<sup>21</sup>**

Inheritances have been divided and distributed by Allah, the All-Wise, the All-Knowing, and man has no hand in that, and it has one and almost firm fiqh rulings, unlike other jurisprudential issues in which there are various jurisprudential opinions. Inheritance is a divine will, and there is a legislative miracle in it that is specific to the distribution of the inheritance, which is that Allah wants to make money circulating among all people and not in the hands of one group without the other. Allah says: so that it will not be a perpetual distribution among the rich from among you... The wisdom in distributing it is great, as Allah made the large portions of the young people who receive life and need money, and the smaller portions of the elderly who need less money when they are at the end of their lives.<sup>22</sup>

And that transgressing the inheritance is an aggression against Allah's right, and the Prophet, may Allah's prayers and peace be upon him, warned against that and said: "He who deprives an heir of his inheritance will not smell the scent of Paradise." The most important of what was mentioned is that the verses of inheritance were concluded by Most High Allah says: These are the limits (imposed by) Allah Whoso obey Allah and His messenger, He will make him enter Gardens underneath which rivers flow, where such will dwell forever that will be the great success and whoso disobey Allah and His messenger and transgresses His limits, He will make him enter Fire, where he will dwell forever; his will be a shameful doom. So, the Qur'an used the term "Allah's limits" and did not say "Allah's rulings or legislation," as it is well established in the minds that the word "limit" may not be exceeded in any way, and the reward is that Allah Almighty has arranged the reward for those who obey and complied with Allah's commands, and also met him with punishment. For those who violate these provisions.<sup>23</sup>

Depriving a woman of inheritance is one of the reprehensible customs of the pre-Islamic era, which causes severing of the womb and hatred, or reaches the point of fighting, which Allah has forbidden. Allah has prescribed for us these rulings to regulate family and other relationships, and He knows that they are the best for us, for He is our Creator, the All-Wise, the Kind, the All-Aware, who says in the decisiveness of His Mighty Book says: Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are [only] daughters, two or more, for them is two thirds of one's estate. And if there is only one, for her is half. And for one's parents, to each one of them is a sixth of his estate if he left children. But if he had no children and the parents [alone] inherit from him, then for his mother is one third. And if he had brothers [or sisters], for his mother is a sixth, after any bequest he [may have] made or debt. Your parents or your children - you know not which of them are nearest to you

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<sup>17</sup> Abdul Hakim - Jakarta - Master's thesis - Problems of the division of inheritance before death - Sharif Hidayatullah State Islamic University 2020 - Jakarta.

<sup>18</sup> The General Iftaa House - the Hashemite Kingdom of Jordan - the name of the former Grand Mufti, Dr. Noah Ali Salman (registering property in the name of sons with the intention of depriving daughters).

<sup>19</sup> Journal of the College of Islamic Sciences - 1433 - Volume VI - Issue Twelfth A.D. 2012 The Legacy in the Tribal Custom before Islam and the Age of the Message - Prof. Dr. Ibrahim Muhammad Ali.

<sup>20</sup> Sarah Khader Irsheidat - Middle East University - Selling in Death Sickness - Master's Thesis - 2014.

<sup>21</sup> Sada Al-Balad Magazine - Ruling on distributing the inheritance before death. Is it permissible to distribute the inheritance before death - September 2021?

<sup>22</sup> Al-Ahram Daily Magazine - Fatwas on the distribution of inheritance before death is permissible with conditions - 2017- Ahmed Al-Sayed Al-Najjar

<sup>23</sup> Abdul Hakim - Jakarta - Master's thesis - Problems of the division of inheritance before death - Sharif Hidayatullah Islamic State University 2020 - Jakarta.

in benefit. [These shares are] an obligation [imposed] by Allah. Indeed, Allah is ever Knowing and Wise. And at the end of the verse came the two attributes of knowledge and wisdom to Him, the Exalted and the Highest, so that we may know that He revealed to us these rulings with His comprehensive knowledge from which the weight of an atom of a thing is absent, and absolute wisdom that is not matched by human wisdom. Man is weaker, ignorant, capricious, and inclined to personal interests.<sup>24</sup> Finally, Islamic legislation is built on justice, equality and truth, where the Sharia came to establish "justice" among people. The Almighty said: Allah doth command you to render back your Trusts to those to whom they are due; and when ye judge between man and man, that ye judge with justice. Allah says: We have already sent Our messengers with clear evidences and sent down with them the Scripture and the balance that the people may maintain [their affairs] in justice. It also came to establish "the truth." Allah Almighty said: Mankind were one community and Allah sent Prophets with glad tidings and warnings, and with them He sent the Scripture in truth to judge between people in matters wherein they differed.<sup>25</sup>

Then we see how he named his name "The Truth" in the verse, and the wisdom behind that is to know that the truth is to follow his law, and that falsehood is to follow the desires.<sup>26</sup> Legally with regard to the law, especially the Iraqi civil law, it gave freedom to individuals to spend of their money and organized the provisions of this in the section of rights, the most important of which is the right to spend, which is closer to the theory of domination over money, which means that people are in control of their money, meaning freedom to spend of money, whether by sale, commandment or endowment.<sup>27</sup> This is what was dealt with in Article 68 of the Iraqi Civil Code No. 40 of 1951:

1. The original rights in rem are the right of ownership, the right to spend of, the right to land, the right of usufruct, use, housing, surfacing, easement rights, the right of endowment, and the right of long lease.
2. Ancillary in-kind rights are the right of the security mortgage, the right of the possessory mortgage, and the right of lien. Where this article of the above law gives absolute freedom to spend of all kinds of original and dependent rights, the most important of which is the disposal of a sale and a gift. However, the law itself again placed restrictions on these rights, including general restrictions in which the public interest is a party and special restrictions in which the rights of people from heirs and others are a party, and this is what Article 1173 of the above article addresses (whatever legal restrictions or agreement on the right to property are also referred to as the right to spend).

However, we see that there are legal rules and interests, whether public ones, such as expropriation for the public interest, taxes, zakat, one-fifth, or special rights related to either the rights of others, such as the rights of the neighbor, for example, in pre-emption, or the rights of children, parents and relatives, the most important of which is the abuse of the right or if the disposal is a death illness.

Among the legal exceptions to the freedom of disposal and control of funds, in addition to what was mentioned in the doctrinal aspect:<sup>28</sup>

### **1. arbitrariness theory by using the right**

The arbitrariness of using the right is defined by several definitions and concepts, and the most obvious concept is (every use of the right with the intent of causing harm to others, and the right holder has no interest in that).

As for the Iraqi legislator, he did not give a specific concept or definition of the theory of abuse of the right, but rather mentioned the cases of abuse of the right, and thus it puts a limit and a restriction on the use of rights by their owners. There must be a weighting of interests, and that the interest that the right holder hopes for should not be of little importance or aim at illegitimate ends. This is what was addressed in the Iraqi Civil Code No. 40 of 1951 in articles 6 and 7 of it. And if we apply this to the right of the person to distribute his money during his life, then we will be faced with a harm that may be caused to the oblige, whether intentionally or unintentionally by the withholding, even if he has an interest. Here, compensation must be compensated and the damage removed if possible, and therefore the abuse of the right is considered an application of tort responsibility and is subject to the control of the law.

### **2. Determining the will by one-third<sup>29</sup>**

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<sup>24</sup> Sada Al-Balad Magazine - Ruling on distributing the inheritance before death. Is it permissible to distribute the inheritance before death - September 2021?

<sup>25</sup> Sada Al-Balad Magazine - Ruling on distributing the inheritance before death.. Is it permissible to distribute the inheritance before death - September 2021?

<sup>26</sup> Causes of inheritance disputes and their remedies.

<sup>27</sup> General Iftaa House - The Hashemite Kingdom of Jordan - The name of the former Mufti, His Eminence, the former General Mufti Dr. Noah Ali Salman (registering property in the name of sons with the intention of depriving daughters)

<sup>28</sup> Causes of inheritance disputes and their remedies.

<sup>29</sup> Abdul Hakim - Jakarta - Master's thesis - Problems of the division of inheritance before death - Sharif Hidayatullah Islamic State University 2020 - Jakarta.

There is an application that limits and restricts a person's will in distributing his estate and money in his lifetime if he bequeaths his money to one of the heirs that the amount of the will does not exceed one third of what he owns. Consequently, the act of behaving is invalid of more than one third is invalid, which is a wise legal and legal restriction that limits the injustice that may be inflicted on some of the heirs in the event of the distribution of funds before death.

### 3. Illness Death

As for the Iraqi civil law, it did not put a specific definition of death sickness, but by referring to Article 1109 of the Iraqi Civil Code, it can be said that death sickness (all actions related to the transfer of property a year before a person's death fall within the provisions of the will, and death sickness is the illness that is most likely to death and the patient is unable to see his interests and dies of this illness within a year.<sup>30</sup>

With this ruling, the Egyptian law was taken, as it stated in the first article of Law No. 77 of 1943 regarding inheritance: the inheritance is entitled to the death of the bequeather or as being dead by virtue of a judge, knowing that a man may distribute his money to his children while he is alive, but this is a gift and not a before the inheritance, and in this case there must be a settlement between all of his children, and this must be in the case of his health and not the illness of his death.<sup>31</sup>

### Position of the Egyptian civil law

It is legally not permissible for a man to distribute his estate before his death. This is because the death of the testator is an essential condition of the conditions set by Islam for inheritance, and Imam Shams al-Din al-Khatib al-Sharbiny - may Allah have mercy on him - says: As for the conditions for inheritance, they are four: The first: the death of the testator is realized, or he is attached to the dead in appreciation as a fetus separated dead in the life of his mother...or... Attaching the bequeathed to the dead as a rule, as in the judge's ruling on the death of the missing person by diligence, and if the man distributes his estate during his life, the heirs may take the entire estate and then leave the owner of the money without care or shelter, and in this case the unfortunate consequences occur. And the center continued in its fatwa: "After the distribution, another son may be born to this man, and in this case, he has wronged this boy at the time when he is ordered to settle between his children, and with this ruling the Egyptian law was taken, as it came in the first article of Law No. 77 of 1943 regarding inheritance. The inheritance is due to the death of the testator or as he is dead by virtue of a judge, bearing in mind that a man may distribute his money to his children while he is alive, but this is considered a gift and not an inheritance, and in this case, it is necessary to equalize between all of his children, and it must be That is in the case of his health and not his illness death. Accordingly, distributing a man's estate while he is alive is not legally permissible. With this view, he took the Egyptian law.

### French law position

The modern French law was issued in 1804 and the texts of this law were amended several times, the last of which was Law No. (1135/2001) and effective on 1/7/2002 (5). The most important features of this law can be summarized as follows:

First- He quoted most of his provisions from German and codified laws.

Second - It is the law that appoints the heirs and determines their shares, and the heir has no right to spend of the inheritance except to a certain amount that varies according to the differences of the heirs.

Thirdly - The well-known Roman principle of extending the personality of the bequeather into the personality of the heir was approved if the heir accepts the inheritance without the condition of inventory.

Fourth - The legislator tried to take into account in the distribution of the inheritance the supposed feelings of the deceased, in other words bequeathing the closest relatives of the deceased and withholding the farthest because the first two are closer to the deceased in terms of family ties<sup>32</sup>

Fifthly - The legislator tried to give preference to the younger generations over other generations, because the younger generations are coming to life, and then their obligations are many, including the costs of marriage and the provision of housing and a source of livelihood.

Sixth - French law adopted the principle of equality between males and females in distributing the estate of the deceased. The female inherits the same share of the male if they are related to the deceased in the same degree.

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<sup>30</sup> Sarah Khader Irshaidat - Middle East University - Selling in Death Sickness - Master's Thesis - 2014

<sup>31</sup> Al-Watan is a comprehensive electronic portal - Iftaa It is not permissible to deprive a disobedient son of his inheritance - Abdul-Wahhab Issa - 2020.

<sup>32</sup> See Al-Fadhli Jaafar, Principles of inheritance transfer in Iraqi and French law, PhD thesis submitted to the Faculty of Law, University of Nantes, France, 1981, p. 10 and beyond.

Socially, all the rulings and teachings revealed by Allah Almighty include the manner in which the distribution of inheritances, wisdom, justice and mercy drawn up by the Almighty, the Almighty, to include all male and female heirs. But limited thinking, weak faith and poor upbringing give impressions to some people that by distributing money to some and depriving some of it, they do well, but the opposite is that deprivation generates resentment, hatred and hatred within the same family. Hence its disintegration, and the effect may go beyond that, perhaps to more than one family, and the legislator has permitted people to distribute their money and property before death if the interest outweighs the spoiler, but on the condition that the rest of the heirs are not harmed, and the division of the estate in the life of the father leads to a great spoiler, because it may parents are unable to manage of their property and money, and therefore the decision is in the hands of the children, and disobedience is one of the things that increases suffering, and in this case the parents find themselves naked and do not know what to do.<sup>33</sup>

Note that there are thousands of cases in which the courts are filled to consider properties that they consider usurped and the division of the inheritance that has passed since the death of its owner for several years.

### Most prominent opinions and real examples:

Some believe that distributing money in it is an escape from Sharia, especially if the money is from agricultural lands, where fathers do not want their land to go to their daughters, because it goes to their husbands who are strangers to the family, and it is an inherited custom where the land must be for males only and it cannot be obtained This land changed them because they toiled in it.<sup>34</sup>

Some write everything they own to their daughters, in order to prevent the inheritance of others because there are no males, as is the case in the jurisprudence of other schools of thought, and this is not permissible, whether if he wants to escape from the heirs. Thus, this division has its social disadvantages, and it is better to be after the death of the owner of the estate. Another says: It is better that the father not abandon himself completely, as the morals of the children may change and they become disobedient, so the father should keep a portion of the money for himself to live in abundance, instead of resorting to begging from his sons or others.<sup>35</sup> As for the farmer - Ahmed Manati - this method is considered inappropriate, as it has future effects. If the father divides his legacy among the sons, he will keep something for himself to live on. And if he divides what he has among his sons for fear of quarrels among them after his death, then they inevitably quarrel over what remains of the inheritance, the existence of intimacy and love between the heirs was destroyed, so he believes that the funds remain without division until after death and the division is done according to Sharia and respected by all. Haji Saad Abdul Razzaq also agrees with him, who divided his estate among his children, with a feeling of incompatibility between the brothers, and the dispute will inevitably arise, especially after the death of his eldest and deceased son after dividing the real estate among his children, and thus he has an inheritance share in his son's estate, and his brothers have a new right In the inheritance, he adds, I canceled everything I wrote to them previously, and I told them to claim everything after my death or your death, as it is a matter in the hands of Allah Almighty. While Ahmed Karim, an employee of the Retirement Department, says, I divided all my property among my children, and I believe that my behavior is correct and that I am reassuring them, and that I believe that their relationship between them will be good after my death. It was also agreed with them to pay me a monthly amount that would suffice my needs, and he sees it as an ideal way to comfort the father, as well as the sons between them in their relations and to cut off hatred and malice toward each other, meaning that the father is the ruling and judge in the distribution during his life, and stresses that the father is just, And fear Allah in the distribution of his legacy.<sup>36</sup>

### CONCLUSION

Altruism in dividing the money among the children as a result of the inherited customs and traditions that were passed down from generation to generation, and we thought from them that dividing the money is safer, and it is in the interest of the heirs, and for fear that the inheritance will pass to other than their families, i.e., to in-laws and thus be a source of weakness, and help the heirs with special circumstances such as illness or disability. He often resorts to distributing funds to evade paying taxes, as well as greed and ignorance of jurisprudence, especially inheritance. Also, the owners of companies want to keep their brand name. We say: Disposing of the funds with the intention of distributing them among the heirs is not feasible and involves a great departure from the benefits of inheritance and the ways of distributing them that were drawn up by the legislator. Such as distributing money with the intention of tax evasion, so the owner of the money spend of the money and is disobedient to Allah in what he is obligated to of

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<sup>33</sup> Abdul Hakim - Jakarta - Master's thesis - Problems of the division of inheritance before death - Sharif Hidayatullah Islamic State University 2020 - Jakarta.

<sup>34</sup> Al-Watan Comprehensive electronic portal - Fatwa It is not permissible to deprive a disobedient son of his inheritance - Abdul Wahab Issa - 2020

<sup>35</sup> Causes of inheritance disputes and their remedies.

<sup>36</sup> Causes of inheritance disputes and their remedies.

zakat and the fifth, and also the transfer of money to others may be of great benefit and interest more than the heirs. Allah says: The boy's parents were believers, and we feared that they would be overwhelmed by tyranny. And (We wanted their Lord to change them better than Zakat and closer to uterus) Verse 80 and 81 of Surat Al-Kahf. As well as the trade name, it can be preserved by legal and commercial methods drawn up in the laws of countries.

And the issue of disobedience and lack of righteousness, money is enough to change people's lives and morals, and inheritances are often a reason for mercy and honoring parents in life and after death.

As for the fear of disagreement among the heirs over the inheritance after death, I have not seen in my practical life any heirs who have ever differed among themselves over a complete inheritance, never and never. Likewise, if one of the sons has a special effort with his father, as is the case for the eldest son in some families who helps his father in land or trade, for example, then the father in this case may single out this son in his life with some of his money in return for his effort, (money in return for special effort).

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- (31) Al-Watan is a comprehensive electronic portal - Iftaa It is not permissible to deprive a disobedient son of his inheritance - Abdul Wahhab Issa - 2020.
- (32) See Al-Fadhli Jaafar, Principles of the Transfer of Estate in Iraqi and French Law, PhD thesis submitted to the Faculty of Law, University of Nantes, France, 1981, p. 10 and beyond.
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