



ALIMONY OF RELATIVES BETWEEN SHARIA AND LAW

Dr. Sawsan Muhammed Hilal

Dijla University College-Department of Law

(In the Name of Allah, the Most Gracious, the Most Merciful)

Article history:	Abstract:
Received: 20 th October 2021 Accepted: 20 th November 2021 Published: 30 th December 2021	Praise be to Allah, Lord of the Worlds, and may prayers and peace be upon the Master of the Messengers, and upon all his family and companions. Then, undoubtedly, a human being cannot live without food, drink, clothing, and shelter. These are the necessities of life that man seeks to provide, and since people vary in their earning and sustenance, so there are rich and poor, so the noble Islamic Sharia urges cooperation and solidarity between Members of society, especially among relatives, and from here came the alimony for relatives, which was decided by the Iraqi personal status Law. The relative has a right over his relative to spend on him by what satisfies his needs of food, drink and shelter, provided that the poor is unable to work and does not have a source of livelihood from which he can live, on the condition that the spender is solvent and has the ability to pay his basic needs and what exceeds it he spends on his relatives, which is known as the alimony of relatives.
Keywords: Allah, Lord of the Worlds, Islamic Sharia	

INTRODUCTION

Praise be to Allah, Lord of the Worlds, and may prayers and peace be upon the Master of the Messengers, and upon all his family and companions. Then, undoubtedly, a human being cannot live without food, drink, clothing, and shelter. These are the necessities of life that man seeks to provide, and since people vary in their earning and sustenance, so there are rich and poor, so the noble Islamic Sharia urges cooperation and solidarity between Members of society, especially among relatives, and from here came the alimony for relatives, which was decided by the Iraqi personal status Law. The relative has a right over his relative to spend on him by what satisfies his needs of food, drink and shelter, provided that the poor is unable to work and does not have a source of livelihood from which he can live, on the condition that the spender is solvent and has the ability to pay his basic needs and what exceeds it he spends on his relatives, which is known as the alimony of relatives.

The problem of the research is to research the effectiveness of the Iraqi Personal Status Law in activating alimony on the relatives and what is its role in this area in order to reduce poverty and reduce judicial disputes in this area, and the extent of its application of Islamic law in this area, this problem that was launched for searching a solution to it.

The descriptive and inductive approach was adopted, by describing the legal texts that dealt with the subject of the research, and legally extrapolating them, and identifying the jurisprudential opinions in this field.

The study is divided as follows:

The first chapter: the concept of alimony of relatives, its legitimacy and conditions

The second chapter: the amount of alimony of relatives and its cancellation

CHAPTER ONE

The concept of alimony of relatives and its conditions

There are many definitions of alimony in the language and in jurisprudence schools. Each school tackled its definition from a side that believes in and defends it. As for the conditions of alimony for relatives, the spender must be solvent. The wisdom of imposing alimony for relatives is to meet the need of the poor from drinking, eating and clothing, so the alimony on relatives should not lead to the poverty of the spender, rather the spender must be solvent. so that he spends what is increased from his needs for his relatives, and also from the conditions of alimony for relatives the hardship of the person who spent on , so he must be poor ,meaning he is not able to spend on himself and his dependents . This is with regard to the alimony of the ascendants on the descendants and the spending of the descendant on the ascendants. As for the alimony of the collateral consanguinity, then there are conditions, including the union with the debt, the poverty of the person who spent on, and the ability of the spender to spend.

Therefore, we will divide this study into the following two requirements:

The first requirement: the concept of alimony of relatives.

The second requirement: the conditions of alimony of relatives.

The First Requirement

The Concept of the Alimony of Relatives

We will discuss the definition of alimony for relatives in the language, and then go back to its definition in Sharia and law

First: The Linguistic Definition of Alimony

Alimony in the language is a name of spending and what you spend, of money and other things, and alimony is a name derived from the destruction ⁽¹⁾.

Second: Defining alimony according to Sharia

The definition of alimony was stated in the jurisprudence of the four schools of thought, where each school defined it as a special definition, so we will look at all these definitions to understand the intended meaning of alimony as follows:

1. Definition of alimony in Hanafi jurisprudence

The definition of alimony according to the Hanafi School is:

"Increasing something, including remaining it" ⁽²⁾

Alimony has been defined here by its intent, and it means a spending on a human, and the word "human" here came in general and includes parents, children, wife and every relative who needs alimony in order to be able to live and continue life, the term "thing" here is a comprehensive term that includes everything that has life, even trees, it is the uninterrupted increase that helps maintain the survival of the thing and its continuity of life ⁽³⁾.

The definition of alimony according to the Hanafi school was also mentioned as "They defined alimony as: "food, clothing and housing" ⁽⁴⁾.

This definition was expressed in a general, loose and open manner, so that it was far from being specific. This definition goes beyond the alimony of relatives to the alimony of the animal, because the animal also needs food and housing, so the animals that humans raise, he is responsible for them, and he is obligated to take full care of them, he is responsible for them before Almighty Allah, and the slightest dereliction in their right, the human will be held accountable before Almighty Allah.

2. Definition of alimony in Maliki jurisprudence

The jurists of the Maliki school went to define alimony as "A subsistence which is adequate for a person's livelihood without extravagance" ⁽⁵⁾

What can be noticed on this definition is that it is more comprehensive than the previous definitions, as it includes everything necessary for human life, such as food, drink, and clothing and housing. In addition, the expense of medication, but people's needs is different from each other and differs from time to time. Now, people's needs have increased than before, such as education, medication and other needs of life that increase with the progress of time and the development of science and technology " with passage of time, the needs of people increase " ⁽⁶⁾.

3. Definition of alimony in Shafi'i jurisprudence

⁽¹⁾) Ibn Mansur Muhammad Bin Makram, Lisan Al Arab, Vol. 10, House of Revival of Arab Heritage, without date.P.357.

⁽²⁾ Ibn Al-Hamam Kamal Al-Din Muhammed ibn Abd al-Wahed al-Siwasi, Fath al-Qadir, Volume 4, Dar al-Fikr, without date.P.378.

⁽³⁾ Ishhada Saeed Al-Swerki, Spouse Alimony in Islamic Jurisprudence, A Comparative Jurisprudential Study with the Palestinian Personal Status Law, Master's Thesis, Islamic University of Gaza, Deanship of Graduate Studies, College of Sharia and Law, Department of Sharia Judiciary, 1428 AH, 2007,P.3.

⁽⁴⁾Abd Al-Ghani ibn Talib ibn Hamada ibn Ibrahim al-Ghunaimi, al-Dimashqi al-Midani al-Hanafi, al-Labbab fi Sharh al-Kitab, Vol. 3, Scientific Library, Beirut,P.91.

⁽⁵⁾) Abi Abdullah Muhammad Al-Ansari Al-Ras'a, Explanation of the Limits of Ibn Arafa marked "The Sufficient Healing Guidance to Clarify the Facts of the Imam, 1st Edition, The Islamic West House, Lebanon, Beirut, 1993, p.321.

⁽⁶⁾Abd al-Rahim Salhi, Provisions of Family Neglect in Islamic Jurisprudence, PhD thesis, Faculty of Humanities and Islamic Civilization, Department of Islamic Sciences, Oran University, 2021,P.54.

The jurists of the Shafi'i school of thought have defined alimony as "taking out and it being used only for good" ⁽⁷⁾ This shows that this definition calls alimony a general term, which is taken out without touching on the details, except for what they said about the conditions of the spenders on the solvent with a Mudd, on the insolvent with a Mudd, and on the middle, a Mudd and a half ⁽⁸⁾.

4. Definition of alimony in Hanbali jurisprudence

The jurists of the Hanbali School defined it as "what is sufficient for bread, clothing, housing, and their belongings" ⁽⁹⁾ It is noted in the previous definitions that they established alimony according to the prevailing custom, and the most important thing that must be taken into account in the alimony is the necessity of its sufficiency to pay the damage. Alimony includes everyone who is obligated to pay alimony, such as the wife, descendants, ascendants, and others.

The Second Requirement

Alimony conditions

Alimony on relatives has several conditions, one of which is the poverty of the ascendant, and he does not have sustenance, and the descendant must be solvent in order to be obligated to pay alimony on the ascendant, and the ascendant must be able to spend on himself and on the descendant, as for the conditions of the alimony of the descendant on the ascendant is represented by the solvency of the spender and the insolvency of the person who spent on. As for the alimony of the collateral relatives, it is represented by several conditions, including the union with the religion, the poverty of the spender, and the ability of the spender to spend, so we will divide this requirement into the following two sections:

Section one: Conditions of the alimony the ascendants on the descendants.

Section two: Conditions of the alimony of ascendants on the ascendants.

First Section

Conditions of the alimony of the ascendants on the descendants

There are several conditions for the alimony of ascendants on the descendants, the most important of which are:

The first condition: the poverty of the ascendants

The ascendant must be poor, with no money to live, and it is not stipulated that the poor be unable to work, but the alimony of the ascendant on the descendant is obligatory, whether he is able to work or not, according to the command of Sharia, the Almighty Allah commands paying alimony to the ascendant and forbade harming them, and it is not possible to assign parents by striving and toil in sustenance ⁽¹⁰⁾.

The second condition: the solvency of the descendant

The descendant must be solvent in order to be able to spend on the ascendant. The solvency of the descendant is achieved when he has money through which he can spend on himself, his family and his ascendants, And if he has the ability to earn even if he does not have money in these ways, the descendant will be solvent, in the case of its realization, the descendant is obliged to pay the alimony, and in case of abstaining from it, it is obliged to pay it according to the provisions of the judiciar ⁽¹¹⁾.

The third condition: The ability of the ascendant to spend on himself and on the descendant

The ascendant must have the ability to spend on himself and on the descendant to the extent that suffices him and pays his needs, either by his solvency or his ability to earn, and if he is not solvent and has enough money to spend, then when he has the ability to earn, he must earn and work, either in case he does not have work due to unemployment or other reasons, the person who is obligated to alimony is ordered, even if the father is not present, to spend on the children, and to return what he spent on the father in the case of his solvency ⁽¹²⁾.

In this regard, the Iraqi legislator went to oblige the solvent boy to spend on his poor parents, even in the case of their ability to earn, except in the case of the father's insistence on choosing unemployment, as it stipulated the following:

⁽⁷⁾ Al-Khatib Al-Sherbiny, Shams Al-Din Muhammad Al-Khatib bin Ahmed Al-Sherbiny, Vol 3,1st Edition 1, Dar Al-Ma'rifa, Beirut, Lebanon, 1997.P.558.

⁽⁸⁾ Ishhada Saeed Al-Swerki,ibid,P.4.

⁽⁹⁾Mansour bin Younis bin Salah Al-Din bin Hassan bin Idris Al-Bahouti, Daqayiq 'uwlai Alnahi lisharh almuntaha ,Vol. 3, 1st , 1414 AH, 1993 AD,P.225.

⁽¹⁰⁾ Ahmed Farraj Hussein, Family Rulings in Islam (Divorce, Khul'a, Children's Rights, Relatives' alimony), New University House, Alexandria, 2004 ,P.272.

⁽¹¹⁾ Naqili, Ahlam, Alimony on Relatives, A Comparative Study between Islamic Sharia and Algerian Family Law, Master's Thesis, Faculty of Humanities, Social Sciences and Islamic Sciences, Department of Islamic Sciences, Ahmed Deraya University - Adrar, 2018, p. 2.

⁽¹²⁾ Ahmed Farraj Hussein, ibid,P.273.

"The solvent boy, whether old or young, is obliged to spend on his poor parents, even if they are able to earn, except if the father's insistence on choosing unemployment."⁽¹³⁾

Second Section

The conditions of alimony of ascendants on the descendants

The conditions of alimony of ascendants on the descendants are as follows:

The first condition: the solvency of the spender

The spender must be solvent in order to be able to pay alimony which is obligated on him, so the descendant must be solvent to spend on the ascendant. If the descendant has a month's alimony for him and his family, and he has a surplus, he is obliged to spend on the forbidden relatives. Whoever has what suffices him for a month, then he is solvent, and he must spend what increase his needs to his relatives. Therefore, alimony is an obligation on the one who is solvent, the descendants communicate with the ascendants through alimony, as it is one of the aspects of the relationship between relatives and getting closer to the ascendants is the duty of the descendants. It is approached by providing them with alimony and filling their needs⁽¹⁴⁾.

And the positive of solvency of alimony according to the Malikis is what exceeds the needs of the self, and it is obligatory to provide for poor parents who have no income and children if they are young. So it is obligatory for the man to spend on the son until he reaches puberty, and on the woman until she marry, or she is spinester. The positivity is what exceeds the needs of the self, and the spender is not obligated to earn in order to spend, so he does not stop looking for work or another source of livelihood in order to spend on the ascendants, so the spender must be poor, whether he is able to earn or not⁽¹⁵⁾.

Among the conditions for obligating alimony on the collateral relatives are the following:

1. Union in religion

The spender must unite with the spender in religion, because this kinship is a kinship of the collateral relatives and because the alimony in it is built on the basis of inheritance, and the difference in religion prevents the collateral from inheriting, and according to the Hanafis, the basis for the obligation of alimony is inheritance. In the case that there is a poor person and he has one relative who has the conditions of spending, he must spend on the poor relative, in the case that there are poor relatives, they must all spend on their poor relative, and if they are heirs, they must spend according to the share of each one of them from the inheritance, and if some of them are heirs and others are not, the alimony is obligatory on the heir only, as for the non-heir, nothing is obligatory on him⁽¹⁶⁾.

2. The Poverty of the person who Spent on

The one who spends on it must be poor and unable to work. In addition to a poverty, it is stipulated his inability to work, the person may be poor, but he has work to live on. As for the case of the collateral relative's alimony and the inability to earn, it may be due to being the youth, femininity, or disease, so whoever has one of these reasons is unable to work. Whoever is able to earn is not entitled the alimony, even if he is poor.

3. The ability of the spender on alimony

The spender must be solvent, because spending on blood relatives is a link and relationship is not obligatory for the rich, and alimony is not obligatory until after it is ruled by a judge or agreed upon. This is in contrast to the alimony of the ascendants and descendants, which is obligatory as soon as its conditions are met. In this case, and if the poor person has only one relative, it is obligatory on him and he is responsible for the maintenance of the poor relative, and if he has more than one relative, then the alimony is only obligatory on the forbidden relatives. As for the unforbidden relatives, he is not obligated, even if they are all of them as heirs, alimony is obligatory on them according to their share in the inheritance⁽¹⁷⁾.

⁽¹³⁾ Article 61 of the Iraqi Personal Status Law No. (188) of 1959, amended.

⁽¹⁴⁾ Shams Al-Din Muhammad bin Abi Al-Abbas Ahmed bin Hamza, Shihab Al-Din Al-Zamli, Nihayat al-Muhtaj ila Sharh al-Minhaj, Vol 7, Dar Al-Fikr, Beirut, 1404 AH, 1984 AD, P.218.

⁽¹⁵⁾ Ibn Omar Yusuf bin Abdullah bin Muhammad bin Abdul Barr Al Nimri Al-Qurtubi, Al-Kafi fi Fiqh 'ahl in the jurisprudence Al-Medina Al Maliki, 1st edition, Modern Riyadh Library, Al-Batha, 1398 AH, 1978 AD, P.627.

⁽¹⁶⁾ Hassan Hassanein, Family Rulings in Islam, Jurists and Judges, 1st Edition, Dar Al Afaq Al- Arabiya, 1422 AH, 2001 AD, P.454.

⁽¹⁷⁾ Nouwa Bilal, Rulings of Alimony in Algerian Legislation, Master Thesis, Faculty of Law and Political Science, Law Department, Mohamed Khider University of Biskra, 2015, P.29.

CHAPTER TWO

Amount of alimony of relatives and its cancellations

The purpose of alimony is to meet the needs of the poor, and if the jurists differ in determining its amount, this remains the basic purpose of legislating alimony and imposing it on the solvent person. And there are cancellations of alimony by its realization, the alimony is cancelled from the one who is responsible for it, and the beneficiary is not entitled to claim it. These cancellations are represented by the passage of the period, and this period is a month. If a month passes and the poor person does not receive his alimony, this is evidence that he does not need it except for the wife's alimony, it cancels with the passage of the period, but after it is eliminated, so the alimony of wife must be on her husband, even if she is solvent.

Likewise, one of the abolition of alimony is puberty. In the case of a male's puberty, alimony cancels from him, and the jurisprudence differed in determining the puberty under which alimony cancels. The Shafi'is said that when the male attains puberty and in this case the alimony cancels from him, and the Malikis said that if the male reaches healthy puberty, the alimony is canceled, while the Hanafis and Hanbalis said that the alimony is canceled from the male as soon as his ability to earn lawful income is achieved, and they did not specify the age at which the male can earn.

The alimony for the female is cancelled by menstruation according to the Shafi'is, or by her acquisition or her marriage according to the Hanafi school, and her alimony cancels on her father in the case of her divorce, and in the case of her disobedience, her alimony cancels on her father, and in the case of her marriage, her alimony cancels on the husband and cancels from her father.

Based on the foregoing, we will divide this study into the following two requirements:

The first requirement: the amount of alimony of relatives.

The second requirement: cancellation alimony on relatives.

The First Requirement

Amount of alimony

Many things are taken into consideration in determining the amount of alimony for relatives, including the income of the obligated one, so it is not permissible to burden him with more than his capacity or more than the income he receives. In addition, the living situation of those who deserve it must be taken into account, as the alimony may not be enough for them, while the person obligated to spend on them allows his financial condition to spend on them with a larger amount. Likewise, the level of prices must be taken into account, taking into account the mediation, such as the living situation. The alimony is estimated according to the sufficient amount of food, blood and clothing. It was stated in Badaa' al-Sana'i that the obligatory amount of this alimony is estimated by sufficiency⁽¹⁸⁾.

And as it came in the book of al-Hawi al-Kabir, the Messenger of Allah (peace be upon him) told Hind (bint `Utba) to "take (according to your needs) in a reasonable manner". He has relatives, so they are obligated to spend on him in a way that suffices him and fills his need from people's questions⁽¹⁹⁾.

The Malikis have gone to the permissibility of alimony on the stepmother and one wife based on the Book of Fawakih Al-Dawani, the son must alimony for the servant of his father's wife, as well as the son must spend on the wife's servant and his father, and also the boy must exempt his father and his wife, because he is the bearers of the sustenance, so he does not have to buy a bondmaid for him and nor more than one wife, unless one wife is not sufficient for him, and in the case of multiple wives of the father, he is obliged to pay one alimony that the father chooses, unless one of them is his mother, so he undertakes to spend on her and not the other⁽²⁰⁾.

While the Shafi'is went in the book of Al-Iqna' in Shafi'i jurisprudence that it is not necessary for alimony except for the brothers and sisters, uncles and aunts and in the case of delaying the alimony of one of them, it cancels, and its amount must be enough. The son must spend on his father's wife, and he is not obligated to spend on his son's wife, and if the son needs it, he does not obligate him, and he spends on his slaves and maid as much as they suffice, they should not be assigned with work that they cannot afford and take what they have earned. The master has to

⁽¹⁸⁾) Alaa Abu Bakr bin Masoud bin Ahmad al-Kasani al-Hanafi, Badaa' al-Sana'i in the Order of Laws, Volume 4, 2nd Edition, Dar al-Kutub al-Ilmiya, 1406 AH, 1986.P.38.

⁽¹⁹⁾ Sheikh Ali Muhammad Moawad, Sheikh Adel Ahmed Abdel Mawgod, Al-Hawi al-kabir fi-fiqh madhhab al- Imam al-Shafi'i ,Volume 1, Dar Al-Kutub Al-Ilmiyya, Beirut, Lebanon, vol. 11, 1419 AH, 1999 AD,P.423.

⁽²⁰⁾) Ahmed bin Ghoneim Al-Nafrawi, awākih al-dawānī 'alā risālat ibn Abī Zayd al-Qayrawānī, Vol. 2, Dar Al-Fikr, 1415 AH, 1995 AD, P.69.

spend on the slave, and does not distinct is made between the owned maid and her young children in terms of alimony⁽²¹⁾.

The Hanbalis sees that the principle of alimony as stated in the book of Al-Mughni is due the obligation of wife's alimony on her husband, provided that the alimony is estimated by their sufficiency and that it is in a reasonable manner⁽²²⁾.

The jurists differed in the estimation of alimony and the issues of alimony about how to estimate the issue of solvency and insolvency and the amount of alimony? And when do we judge that there is a middle ground between solvency and insolvency? Some of the jurists said by referring to custom, and some of them said if his income is more than he spends, then he is solvent? And if he spends less than his income, then he is insolvent and in the case that spending is equal to income, then it is the average income, and the alimony here is fairness⁽²³⁾.

In estimating the alimony for relatives, the court takes into account the material and living circumstances of the spender and the person spent on and the circumstances each of them and in this case the court enjoys discretionary authority in the area of alimony for young children and adults who are unable to earn a living, according to the circumstances of the parties and their living conditions. In this, the positive law did not come out from Islāmic jurisprudence about taking into account the situation of the spender and the one on him in the field of alimony, and the living circumstances represented by the prices of the commodity in the market. The alimony shall not be reviewed until one year has passed since the ruling from the date of the issuance of the alimony ruling. The alimony applicant must give evidence, even if he did not give evidence of non-payment during the period preceding the filing of the lawsuit⁽²⁴⁾.

In this regard, the Iraqi legislator went to stipulate of the following:

The alimony of every person on his money, except the wife, her alimony is on her husband⁽²⁵⁾.

The wife's alimony by the husband shall be established according to their financial status, solvent or insolvent⁽²⁶⁾.

As well as the text of the Iraqi legislator as follows:

1. The alimony may be increased or decreased with the change in the spouses' financial circumstances and the prices prevailing in the country.

2. The suit to increase or decrease the imposed alimony shall be accepted when an emergency so requires⁽²⁷⁾.

The Second Requirement

The Cancellation of Alimony on Relatives

Alimony cancels on relatives for several reasons, including:

First: The passage of time:

Alimony of relatives cancels with the passage of the period, so the Hanafis, Shafi'is and Hanbalis state that the alimony of the child, parents and blood relations cancels, and this period is a month. In the case of spending alimony of relatives, and a period of a month or more has passed, and the relative has not received or borrowed on it, and a month has passed, the alimony is cancelled according to the opinion of the Hanafis, the alimony is cancelled unless an order is issued by the judge to borrow from the one who spends on it, because the main purpose of the alimony legislation is to meet the needs of the relative with the forbidden relatives, and to strengthen intimacy, solidarity and cooperation between relatives, so the relative who is solvent is not obligated to him the alimony if the period has

(21) Abu Al-Hasan Ali bin Muhammad bin Habib bin Al-Basri bin Al-Baghdadi, known as Al-Mawardi, Persuasion in the Fiqh of Imam Al-Shafi'i, Dar Ihsan for Publishing and Distribution - Iran, 1420 AH, 2000 AD.P.144.

(22) Abdullah bin Ahmed bin Muhammad bin Qudamah al-Jama'ili al-Maqdisi, Almughaniy li'abn Qadama, vol. 8, Cairo Library, 1388 AH.P.295.

(23) Muhammad bin Muhammad bin Al-Mukhtar Al-Shanqeeti, Sharah Zaad al-Mustaqni' fi Ikhtissaar al-Muqni likitab altahari, 1st Edition, Saudi Arabia, Riyadh, 1428 AH, 2007 AD.P.11.

(24) Mubarak Kahena and Tikfa Elham, Children's alimony, A Comparative Study between Islamic Jurisprudence and Law (Algerian Family Law and some Arab Personal Status Legislation), Master's Thesis, Faculty of Law and Political Science, Department of Law, University of Abd al-Rahman MiraBejaia, 2017,P34.

(25) Article (58) of the Iraqi Personal Status Law No. 188 of 1959.

(26) Article (27) of the Iraqi Personal Status Law No. 188 of 1959.

(27) Article (28) of the Iraqi Personal Status Law No. 188 of 1959.

passed and he did not receive the alimony, this denotes that he does not need it, This is in contrast to the wife's alimony, as it cancels with the passage of time, but after it is eliminated, because the wife's alimony on her husband must be the penalty of retention, not out of need, and even if the wife is solvent, her alimony must be on her husband. In the case of the judge's permission to borrow from the person on whom the alimony is obligatory, the alimony is not cancelled in this case, the alimony in this case becomes a debt for them, and the passage of the period does not affect it and does not cancel with the duration. Al-Zayla'i said that by giving alimony to a young child, the ruling on alimony for the wife was denied by the passage of time ,as a matter of clemency for him due to his inability to work, his alimony does not cancel with the passage of time, but rather it is a debt owed by the one who is obligated to alimony ⁽²⁸⁾.

Second: Puberty

If the male grows healthy and soundly , the alimony will cancel from him and this is what the Malikis said, and the Shafi'is said that the alimony cancels from the male by his attaining puberty, and the Hanafis and the Hanbalis said that the alimony cancels on the male as soon as his ability to earn a lawful gain. He fulfills his needs, and does not demand from anyone, so the Islamic religion is a religion of work that urges a person to work earnestly, and strive in the earth ⁽²⁹⁾.

Almighty Allah said in His Glorious Book ⁽³⁰⁾

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا طَلَّقْتُمُ النِّسَاءَ فَطُفُوفَهُنَّ الْمَالَ عَلَىٰ حَسَبِ أَمْثَلِ ظَهَرٍ لَهُنَّ فِيمَا ظَعُنَّ لِنَفْسِنَّ﴾ (الملك: ١٥)

(He it is who has made the earth subservient to you (i.e. easy for you to walk, to live and to do agriculture on it); so walk in the path thereof and eat of His provision. And to Him will be the Resurrection) ⁽³¹⁾.

In this regard, the Iraqi legislator went to the continuation of the husband's alimony on the children until the boy reaches the extent that he can work and earn his sustenance unless he is a student, as it stipulates the following:

1. If the boy does not have money, then his alimony is on his father, unless he is poor and unable to work and earn money.
2. The alimony for the children continues until the female is married and the boy reaches the point where he reaches the extent that he can work and earn his sustenance unless he is a student.
3. The ruling of the eldest son who is incapable of earning is like that of the younger son ⁽³²⁾.

As for the alimony of the female, it is cancelled by menstruation according to the Shafi'is and for the Hanafi school it is cancelled by her earning or her marriage , but in the case of her divorce, her alimony falls on her father, and he is obliged to alimony on his married daughter despite, that her marriage is established, as in the case of her disobedience, here her alimony cancelled from her husband and is imposed on her father, so it is unreasonable and unacceptable for the wife to stay without alimony, and it is said that the alimony of the female on her father is cancelled in the case of her marriage, here her alimony is from her husband, but in the case of her divorce and return to her father's house a valid adult, the father is not obligated to alimony on her ⁽³³⁾.

The Iraqi legislator considered the wife's alimony as one of the effects which is based the marriage contract, whether at its conclusion or at its dissolution, as the wife's alimony is imposed on her husband as one of the effects that the marriage contract on the husband. In this regard, the Iraqi legislator went to stipulate the following: "the alimony of every human is in his money except the wife, her alimony is on her husband" ⁽³⁴⁾.

⁽²⁸⁾) Wahba Al-Zuhaili, alfiqh al'iislamiu wa'adlathu, aljuz' althaaminu, dar alfikri, Damascus, 2008. 50.

Journal Sharia and Law, Vol. 2021, without date ,P.736.

⁽²⁹⁾ Mubarak Kahena and Tikfa Elham,ibid,P.38.

⁽³⁰⁾) Surat Al-Mulk ,Ayah(15).

⁽³¹⁾ Al-Hilali, M. T. and M. M. Khan (trans).(1996). The Noble Qur'an: English Translation of the Meanings and Commentary. Al-Madinah Al-Munawwarah: King Fahad Complex for the Printing of the Holy Qur'an,P.771.

⁽³²⁾) Article (59) of the Iraqi Personal Status Law No. 188 of 1959.

⁽³³⁾ Mubarak Kahena and Tikfa Elham,ibid,P.38.

⁽³⁴⁾ Article 58 of the Iraqi Personal Status Law No. 188 of 1959 .

As soon as the marriage contract is concluded, the husband is obligated to pay alimony to his wife according to the provisions of the Iraqi Personal Status Law. From this date, the effects of the marriage contract begin, which is represented by the wife's retention in the interest of the husband, as the Iraqi legislator went on to stipulate that "alimony of the wife is obligatory for the husband from the time of the valid contract, even if she is residing in her parents' house, unless the husband asks her to move to his house, and she refuses unjustly" ⁽³⁵⁾.

The Iraqi legislator has specified what is included in marital alimony, which is represented by food, clothing, housing and its necessities, and the medication fees according to the known amount, as it stipulates the following: "The alimony includes food, clothing, housing and necessities, medication fees to the amount known, and the service of a wife whose likes have a certain" ⁽³⁶⁾

The wife does not deserve alimony under the provisions of the Iraqi personal status law in these cases: if she leaves her husband's house without permission and without a legitimate excuse, if she is imprisoned for a crime or debt, or if she refuses to travel with her husband without a legitimate excuse, as it stipulates the following: In the following cases, there is no alimony for the wife:

- 1-If she leaves her husband's house without permission and without a legitimate reason.
- 2- If she is imprisoned for a crime or a debt.
- 3- If she refuses to travel with her husband without a legitimate excuse ⁽³⁷⁾

CONCLUSION

It goes without saying that the topic of the study was "the alimony of relatives" and a set of results and recommendations were reached that will not be a repetition of the above, but it is a summary of the results that have been reached and the treatments that have been proposed, among which are the most important:

First: The Results

1. The jurists are unanimously agreed on the obligation of alimony for relatives as a means of satisfying their needs and preventing them from asking people and as a means of strengthening the kinship ties between relatives.
2. The Iraqi legislator took the position of Shafi'i jurisprudence regarding the limitation of kinship that necessitates alimony and made it in relation to birth, that is, the alimony of the ascendants on the descendants and the alimony of the descendants on the ascendants.
3. The jurists stipulated that the poor must be unable to work, which is the same direction as the Iraqi legislator.

Second: Recommendations

1. The necessity of the Iraqi legislator stating the limit of hardship and the poverty considered in the obligation of alimony.
2. The necessity of clarifying the meaning of inability to earn as one of the reasons for alimony.
3. The need for institutions concerned with the family to make awareness seminars about the alimony of relatives, its conditions and rights

REFERENCES

The Holy Quran

The Sunnah of the Prophet

Quranic Translation

Al-Hilali, M. T. and M. M. Khan (trans).(1996). The Noble Qur'an: English Translation of the Meanings and Commentary. Al-Madinah Al-Munawwarah: King Fahad Complex for the Printing of the Holy Qur'an,P.771.

First: language books

1. Ibn Manzur Muhammad Bin Makram, Lisan Al Arab, Vol. 10, House of Reviving the Arab Heritage, without date.
2. Ibn Al-Hamam Kamal Al-Din Muhammed ibn Abd al-Wahed Al-Siwasi, Fath al-Qadir, Vol. 4, Dar al-Fikr, without date.

Second: Fiqh books

1. 1.Ibn Omar Yusuf bin Abdullah bin Muhammad bin Abdul Barr Al Nimri Al-Qurtubi, Al-Kafi fi Fiqh 'ahl in the jurisprudence Al-Medina Al Maliki, 1st edition, Modern Riyadh Library, Al-Batha, 1398 AH, 1978 AD.
2. Abu Al-Hasan Ali bin Muhammad bin Habib bin Al-Basri bin Al-Baghdadi, known as Al-Mawardi, Persuasion in the Fiqh of Imam Al-Shafi'i, Dar Ihsan for Publishing and Distribution - Iran, 1420 AH, 2000 AD.
3. Abi Abdullah Muhammad Al-Ansari Al-Ras'a, Explanation of the Limits of Ibn Arafa marked "The Sufficient Healing Guidance to Clarify the Facts of the Imam, 1st Edition, The Islamic West House, Lebanon, Beirut, 1993.
4. Ahmed Farraj Hussein, Family Rulings in Islam (Divorce, Khul'a, Children's Rights, Relatives' alimony), New University House, Alexandria, 2004.
5. Ahmed bin Ghoneim Al-Nafrawi, awākih al-dawānī 'alā risālat ibn Abī Zayd al-Qayrawānī, Vol. 2, Dar Al-Fikr, 1415 AH, 1995 AD.

⁽³⁵⁾ Article 23/1 of the Iraqi Personal Status Law No. 188 of 1959

⁽³⁶⁾ Article (24/2) of the Iraqi Personal Status Law No. 188 of 1959.

⁽³⁷⁾ Article (25/1) of the Iraqi Personal Status Law No. 188 of 1959.

6. Hassan Hassanein, Family Rulings in Islam, Jurists and Judges, 1st Edition, Dar Al Afaq Al- Arabiya, 1422 AH, 2001 AD.
7. Al-Khatib Al-Sherbiny, Shams Al-Din Muhammad Al-Khatib bin Ahmed Al-Sherbiny, Vol 3, 1st Edition 1, Dar Al-Ma'rifa, Beirut, Lebanon, 1997.
8. Shams Al-Din Muhammad bin Abi Al-Abbas Ahmed bin Hamza, Shihab Al-Din Al-Zamli, Nihayat al-Muhtaj ila Sharh al-Minhaj , Vol 7, Dar Al-Fikr, Beirut, 1404 AH, 1984 AD.
- Sheikh Ali Muhammad Moawad, Sheikh Adel Ahmed Abdel Mawgod, Al-Hawi al-kabir fi-fiqh madhhab al-Imam al-Shafi'i ,Volume 1, Dar Al-Kutub Al-Ilmiyya, Beirut, Lebanon, vol. 11, 1419 AH, 1999 AD
9. Abd al-Rahim Salhi, Provisions of Family Neglect in Islamic Jurisprudence, PhD thesis, Faculty of Humanities and Islamic Civilization, Department of Islamic Sciences, Oran University, 2021.
10. 11. Abd Al-Ghani ibn Talib ibn Hamada ibn Ibrahim al-Ghunaimi, al-Dimashqi al-Midani al-Hanafi, al-Labbab fi Sharh al-Kitab, Vol. 3, Scientific Library, Beirut.
- Abdullah bin Ahmed bin Muhammad bin Qudamah al-Jama'ili al-Maqdisi, Almughaniy li'abn Qadama, volume .11 8, Cairo Library, 1388 AH.
12. Alaa Abu Bakr bin Masoud bin Ahmad al-Kasani al-Hanafi, Badaa' al-Sana'i in the Order of Laws, Volume 4, 2nd Edition, Dar al-Kutub al-Ilmiya, 1406 AH, 1986.
13. Muhammad bin Muhammad bin Al-Mukhtar Al-Shanqeeti, Sharah Zaad al-Mustaqni' fi Ikhtissaar al-Muqni likitab altahari , 1st Edition, Saudi Arabia, Riyadh, 1428 AH, 2007 AD.
14. Mansour bin Younis bin Salah Al-Din bin Hassan bin Idris Al-Bahouti, Daqayiq 'uwlaa Alnahi lisharh almuntaha ,Vol. 3, 1st , 1414 AH, 1993 AD.
15. Wahba Al-Zuhaili, alfiqh al'iislamiu wa'adlathu, aljuz' althaaminu, dar alfikri, Damascus, 2008. 50. Journal Sharia and Law, Vol. 2021, without date.

Third:Theses

1. Ishhada Saeed Al-Swerki, Spouse Alimony in Islamic Jurisprudence, A Comparative Jurisprudential Study with the Palestinian Personal Status Law, Master's Thesis, Islamic University of Gaza, Deanship of Graduate Studies, College of Sharia and Law, Department of Sharia Judiciary, 1428 AH, 2007.
2. Mubarak Kahena and Tikfa Elham, Children's alimony, A Comparative Study between Islamic Jurisprudence and Law (Algerian Family Law and some Arab Personal Status Legislation), Master's Thesis, Faculty of Law and Political Science, Department of Law, University of Abd al-Rahman MiraBejaia, 2017.
3. Nouwa Bilal, Rulings of Alimony in Algerian Legislation, Master Thesis, Faculty of Law and Political Science, Law Department, Mohamed Khider University of Biskra, 2015.
4. Naqili, Ahlam, Alimony on Relatives, A Comparative Study between Islamic Sharia and Algerian Family Law, Master's Thesis, Faculty of Humanities, Social Sciences and Islamic Sciences, Department of Islamic Sciences, Ahmed Deraya University - Adrar, 2018, p. 2.