

# Bringing Benefits and Warding off Blights in due Commandment (Analytic Study Compared with the Jordanian Law)

Dr. Niebal Mohd Ibrahim Al Etoum<sup>1</sup> Dr. Hanan Sami Mohammad Mowafi<sup>2</sup>  
Dr. Faraj Hamad Salem Al Zubaidi<sup>3</sup>  
Al-Hussein Bin Talal University 2016 | P.O. Box 20 Ma'an, Jordan

## Abstract

The study aims to highlight the benefits and blights of the due commandment (intestate law) under Jordanian law for the year (2010) in the article (279). The study came in two sections, the first one dealt with the concept of due commandment, its legitimacy, verdict and terms, in the second section, I've dealt with the persons entitled to due commandment in the Jordanian law, compared to other Arab laws, then the study concluded with a set of results and recommendations, including that the due commandment legitimate because of the interests, but they need to be reconsidered in its beneficiaries, amount and terms.

## 1. Introduction

Praise is to Allah, prayer and peace is upon the Prophet Muhammad Allah's mercy to the worlds and his family, his companions and whom called by his message until the Day of Judgment.

Due commandment or intestate law is a novelty in Islamic jurisprudence and the legislation of personal status, the first came by Egyptian law in 1946, the Syrian-year 1953, and followed by other countries. Due commandment also called intestate law because it is obligatory from the side of the legislator.

For the gene to be carried out and that he did not do the will forced him to perform, and disband the same place in its obligation and implementation<sup>1</sup>.

It is one of the doctrinal issues that need to be reconsidered by scholars and legislators in keeping with the spirit of the Islamic Sharia, generation and its developments.

## 2. Importance of Study:

First of all: The importance of the subject exists in associating with the Science of Inheritance, one of the best and noble sciences. Secondly: the subject of research is associated with basic purpose of Islamic legislation that is to maintain the personal property. Third: placing due commandment in law in the proper context and the appointed positioning accordance with evidences and provisions and to access the right Islamic legitimate adjudication based on the evidence in due commandment.

The Study Problem: nonconformity in the terms and beneficiaries of the due commandment Arab legislation and what consequent of defect in the benefits and blights, which requires reconsideration.

The problem of the study can be formulated by the following questions:

- 1) What the due commandment are (its concept, verdict, and terms)?
- 2) Who are the beneficiaries of the due commandment?
- 3) What are the benefits and the blights of the due commandment legislation?

## 3. Objectives of the study:

- a- Identify the concept of due commandment and its verdict and conditions.
- b- Determining the beneficiaries of the due commandment.
- c- Showing the benefits and the blights of the due commandment legislation.

## 4. Previous studies:

**4.1.** Ibdah, Hamza Hassan Suleiman, Master's thesis entitled "due commandment and related provisions of Islamic jurisprudence," Al-AlBayt University, Jordan 2000 A.D. which in the researcher dealt with the due Commandment in jurisprudence and law where he saw the illegitimacy and no acceptance to the due commandment. While this study considers that due the commandment is correct, and it can bring benefits and ward off blights, but they need to be reconsidered.

**4.2.** Gilani, MunirQassemSaleh, the due commandment in Islamic jurisprudence and positive law compared study, Master Thesis, 2004, University of Aden, Yemen, where the focus was on the Yemeni law, while this study focuses on the Jordanian law, with reference to the laws of the other Arab countries.

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<sup>1</sup>Aljelany, MoneerQassemSaleh, Due Commandment in Islamic jurisprudence and Positive Law -compared study- master thesis, 2004, Aden University, Yaman, p84.

**4.3.** Kazim, Wesam Adel, the due commandment and its effects compared jurisprudence and law study, Master Thesis, Islamic University, Lebanon, 2014, and the study suggests that the due commandment unacceptable because it's against the rules of inheritance and to the consequent of the social damages, while this study, as I said before addressing the benefits and suggestions related to the Jordanian law.

## **5. Structural study:**

Required by the nature of this study it consists of an introduction and two sections and a conclusion as follows: Introduction: includes the importance of the study and its objectives, and the problem of the study and its plan.

### **5.1. First topic: the due commandment (concept, verdict, conditions)**

- First requirement: the concept of due Commandment in jurisprudence and law.
- The second requirement: the verdict of due commandment and the wisdom of it.
- Third requirement: the wisdom of the legality of due commandment.
- Fourth requirement: Conditions of due commandment.

### **5.2. The second topic: Beneficiaries of due Commandment**

- First requirement: Who deserves the due commandment?
- The second requirement: the reason for the dispute.
- Third requirement: the wisdom of the settlement between the grandchildren.
- Fourth requirement: the due commandment in the Jordanian law.

## **6. First topic: the due commandment (concept, verdict, conditions)**

### **6.1. The first requirement: the concept of due commandment.**

(A) - Definition of the commandment in language:

In Arabic it is (Wassa) an origin that indicate to connect a thing to thing<sup>1</sup>that is referred to its connection with the dead man, or a connection between life and death<sup>2</sup>.

(B) - definition of commandment idiomatically:

Scholars differed in the definition of the commandment so that one denomination persons multiplied their definitions to the commandment because of differences in the fact that the commandment is a contract or controlling the money or it include commandment and recommending or limited to the commandment.

#### **Some of these definitions:**

Alhanafih defines it as "an added titling after death, as a donation in kind benefit " <sup>3</sup>

Almaliki defines it as: as a "contract firmly requires third of money needed for his death or on his behalf after his death"<sup>4</sup>

Shaafais defines it as: "a donate of an added right and if by estimation of after death"<sup>5</sup>

Hanbali defines it as an "order of controlling after death"<sup>6</sup>

The researchers believe by looking at the above definitions, that the Hanafi and Shaafi definitions limited to the commandment as a donating money as it was added to the after death and it does not include the preaching of others such as making the guardian of his children after him.

The definition includes Maliki and Hanbali commandment and recommending and combines between them

<sup>1</sup> Ibn fares, AbiAlhasan Ahmad Bin Fares Bin Zakarya, language measurements lexicon Pt1, Dar Aljabal, Biaruit, 1991, Part1, p116.

<sup>2</sup> Ibn Manzour, Jamal Aldeen Mohammad Bin Mokram Bin Alansary, LisanAlarab, Pt3, Dar Sader, 1414H, Bairuit, Pt15,3/393

<sup>3</sup> Alzailaai, FakhrAldeen Othman Bin Ali (710H), TabieenAlhqaeqSharhKanzAldqaeq, Pt1, Dar AlkotobAlelmia, Bairuit, 2000, part7, p373, Ibn Nuja'im, ZainAldeen Bin Ibrahim Bin Mohammad, AlbahrAlraeqSharhAldqaeq, Pt2, Dar AlketabAleslami, Bairuit, Part8, p459, Zada, Shams Aldeen Ahmad Bin Qudar, NataegAlafkar Fe KashfAlromozWaAlasrar and it is a complement to SharhFathAlqadeer, comment: AbdAlrazzaqGhalebAlmahdi, Pt1 1424H, 2003, Dar AlkotobAlelmia, Bairuit, Part10, p440.

<sup>4</sup> Aldasoqi, Mohammad Bin Ahmad Bin ArafahAldasoqi,(1230H) HashiatAldasoqiAlaAlsharhAlkabeer, Investigation: Mohammad Bin Ahmad Bin Mohammad, Pt1, 1417H, 1996, Dar AlkotobAlelmia, Bairuit, Part6, p484, Aldardeer Abo Albarakat Ahmad Bin Mohammad Bin Ahmad Aldardeer, 1201H, AlsharhAlkabeer, Investigation: Mohammad Bin Ahmad Bin Mohammad who was called as Ellesh, 1299H, Pt1471, H1, 1996, Dar AlkotobAlelmia, Beirut, Part4, p579.

<sup>5</sup> Alsharbeeni, Mohammad Bin Ahmad Alkhateeb, MoghniAlmohtajelaAlmaarefaMaarefatMaaniAlfazAlmenhaj, Dar Alfekr, 1994, Beirut, Part4, p66; Alramli: Shams Aldeen Mohammad AbiAlabbas Ahmad Bin Hamza Bin ShehabAldeenAlramliAlmnoufiAlmasry, 1004H, NehayatAlmohtajelaAlsharhAlmenhaj and HashiatAshbramlis with it, HasiatAlmaghrebiAlrasheedy, Pt3(2003-1424), Dar AlkotobAlelmia-Beirut, Part7,p3.

<sup>6</sup> Albahuti, Mansuor Bin Younes, KeshafAkenaaAlaMatenAleqnaa, Dar AlamAlkotob, AlRiadh, 2003, Part3, p2128; Ibn Qudamah, Abdollah Bin Ahmad Bin Mohammad, Almoghni, Cairo Library, 1968, Cairo, Part6, p137.

(C) - Law definition of commandment: "Dealing with estate added to what after death"<sup>1</sup>

The researchers make a preference from the previous definitions that the commandment in law means "Dealing with estate added to what after death"

**And that comes because of:**

First: the definition includes the commandment without bequeathal.

Second: it is limits with the disposition of the estate.

Third: it combines the cases of commandment of all kinds.

Fourth: the clarity of its term and easy to understand.

(D) - Definition of due commandment in language: it is derived from the verb (due)<sup>2</sup>, (Wajaba) in Arabic and that means fall of thing and incidence of it<sup>3</sup>.

(E) - Definition of due commandment by convention: narrator scientists define convergent definitions and these definitions are:

The first definition: "amount of money deserved by descendant branch of dead man, if his father died in the life of his grandfather he takes his father share as if he were alive with no more than one-third, and takes this amount obligatory according to the rule of law"<sup>4</sup>.

The second definition: "commandment is obliged in the third of descendant branch of dead man, who died in during his life or died with him, even if it is a judgment"<sup>5</sup>

The third definition: "commandment enjoined the law under certain conditions for whomever die branch in the lives of his parents and a branch whomever die with one of his parents in fact or judgment"<sup>6</sup>

**The researchers noted that the definitions:**

1- Revolves around one fact that even though words differ.

2- The first definition expansion that can be dispensed.

3 - The second and third definitions defined the due commandment as a commandment which indicates the role of it.

Through the above definitions a definition can be devised for the due commandment that is "the share of the estate deserved by descendant branch of dead man, who died before his origin or with him if they are not the heirs with special controls and take it binding to rule of law."

Thus it becomes clear from the definition that legally due commandment:

1- To be some of the relatives of non-heirs who are the children of the son or the children of the girl.

2- It transfers to the beneficiaries under the law.

3- It derives its obligatory from implementing through the law, and the judge obliged to implement by judiciary.

## 6.2. The second requirement: the verdict of due Commandment in jurisprudence

Due commandment in its applicable image today did not be mentioned in a clear evidence in the Qur'an, Sunnah, and any of the jurists and known doctrines in this way, but it is a diligence of Islamic legislation Scholars in the current era, the authors of the commandment law tried to refer each of its provisions to a legitimate source, so they based on the verse of commandment and the opinions of the companions and followers in the origin of obligatory and worth to be mention: Saeed bin Almusayyib and Alhasan al-Basri and Tawoos and Imam Ahmad, Dawood and al-Tabari and Ishaq bin Raahawayh, and the opinion of Ibn Hazm the holder of the due commandment matter, that he said: "obligatory for every Muslim to recommend to his relatives who do not inherit either slavery, or to apostasy, or because there are those who are blocked them from inheritance, or because they do not inherit so he recommend to them what he want, and if he did not, they will be given and must be what heirs or recommended saw "<sup>7</sup>, and the rules of Islamic legislation and its general purposes.

### **They quoted from the Holy Qur'an, Sunnah and the rules of jurisprudence**

#### **First, from the Qur'an:**

The Almighty said: (It is prescribed for you, when death approaches any of you, if he leaves wealth, that he make a bequest to parents and next of kin, according to reasonable manners. this is a duty upon the pious) [Al-Baqarah: 180]

The evidence: the fact of the verse, indicates the necessity of commandment for parents and relatives;

<sup>1</sup>Commandment Egyptian law num. 71 for 1946, First Article, Personal Status Syrian Law, Article 207, Jordanian Law Article: 254.

<sup>2</sup>Arrazi, Mohammad Bin AbiBakrArrazi, 666H, MokhtarAlsehah, Pt1986, Dar Almaajem-Beirut, p295; Alfaiomi Ahmad Bin Mohammad Bin Ali AlfaiomiAlmoqri, 770H, AlmesbahAlmonera, Pt1, 2000, Dar Alhadeeth, p385.

<sup>3</sup>Ibn Fares, MaqaieesAllugha, Previous Reference, Part6, p89.

<sup>4</sup>Sultan, Salah Sultan, AlmeerathWalwasiehBainaAshariaWalanoun (p220).

<sup>5</sup>Khalifa Mohammad Taha Abo ElelaKhalifa, AhkamAlmwareth, Pt Dar Alsalam (p336).

<sup>6</sup>Waih, Ashraf AbdarrazzaqWaih, Arraed Fe Elm Alfaaed, Pt1420H-1999, Dar Al-Nahda Al-Arabia, p463.

<sup>7</sup>Ibn Hazem, Abo Mohammad Ali Bin Ahmad, AlmohallaBelathar, Dar Al-Kotob Al-Elmia, Beirut, 1988, part8, p353

because it is mentioned as an imposition transcripts in the right of parents and relatives who inherit in the text of the verses of legacies in Al-Nisa (A chapter in the Quran) and remained obligatory in the right of whom does not inherit from the parents and relatives<sup>1</sup>.

Some have gone to the parents and relatives in Al-Bakra (A chapter in the Quran) more general to be heirs or not, the commandment was due for them all and then inheritors appertained to verses and Hadeethsof inheritance and the necessity in the right of who does not inherit them remained as it is, so Al-Bakarafrom the general that related to verses of inheritance<sup>2</sup>

And it is answered from several directions:

the first direction: that is the necessity in the verse have been copied in verses of inheritance and distributing money to the heirs as (ALLAH) God clarified, and that the right shift from preaching to inheritance<sup>3</sup>, and confirmed with the Prophet peace be upon him saying "(ALLAH) God gave everyone his right there is no bequest for an heir"<sup>4</sup>

As is true for Ibn Abbas, may ALLAH (God) bless them, he said: "The money for children, and the will for the parents then (ALLAH) God transcript what he want to be, and started for the male, a portion of two females, and made for the parents to each one of them one-sixth, and made the imposition of the husband and wife their"<sup>5</sup>, Hadith showed that the inheritance that given to an heir is all his right, and that commandment has gone up and his right in it turned to the inheritance, and if it is turned no right in the will remained for him<sup>6</sup>this type called transcription in the manner of conversion from a place to another<sup>7</sup>.

The second direction: a verse of inheritance was revealed after the verse of commandment with compatibility, as (ALLAH) God has said: "after the payment of legacies he may have bequeathed or debts"(Al-Nisa11), Almighty arranged the inheritance on a commandment and a word "will" in the verse is undefined and If the will of the parents and relatives fixed after the revelation of this verse it should be mentioned after the defined commandment; because it is a fixed and conventional Commandment<sup>8</sup>

The third direction: that Almighty says "a right on pious" indicates that the commandment is not obligatory, if it was it would be an obligation for all Muslims in charge, and when (ALLAH) God appertained the pious indicated that commandment is not a duty<sup>9</sup>

The fourth direction: Almighty says (if he left something so the good ones), this isa restriction for the commandment not to be ordered but only to leave good thing, a lot of money, Ali and Ibn Abbas said, may (ALLAH) God bless them<sup>10</sup>, scientists have differed in the amount of it, and the Hanbali have chosen that this refers to the much money that an amount of it to be remained after enrich the heirs<sup>11</sup>; because of Explanative saying of the Prophet, peace be upon him, of preventing commandment for more than a third: "To leave your heirs rich is better than being a burden asking people"<sup>12</sup>.

<sup>1</sup>Alqurtobi, Abo Abdollah Mohammad Bin Ahmad AlansariAlqurtobi, 671H, Al-Jamee Le-Ahkam Al-Quran, Investigation Ahmad AbdolaleemAlbardooni, Pt2 1372H, Dar Al-Shaab, Cairo Part2, p.263; Ibn Al-Arabi, Abo Bakr Mohammad Bin Abdollah known as Ibn Al-Arabi, 543H, revising and explanation of Ahadeeth, Mohammad Abdolqader Ata, Pt1, 1408H, 1988, Dar Al-Kotob Al-Elmia, Part2, p.102; Altabari Abo Jaafar Mohammad Bin JareerAltabari, 310H, JameeAlbayan An Taweel Al-Quran, Introducing: KhaleelAlmais, registration and explanation: SedqiJameelAlattar, Pt1421, 1H, 2001, Dar Al-Fekr, Part2, p146; Ibn Hazem, AlmuHalla, Part8, p353.

<sup>2</sup>Aljassas, Abu Bakr al-Razi Ahmed Aljassas, 370 AH Review: Sidqi Mohammad Jamil, Pt1, 1421AH - 2001, Dar Al-Fekr. Ahkam Al-Quran, Pt1, p. 232; Shawkaani, Mohammed bin Ali bin Mohammed Shawkaani, T - 1255, Neil al-AwtaarSharhMontaqaAlakhbar, Pt1 Dar Al-Fekr, Part5, p. 144

<sup>3</sup>Altabari: JameeAlbayan (op. Cit.), Part2, p.146; Jassas, Ahkam Al-Quran (op. Cit.) Part1, p.233; Alkasaani, Abu Bakr Aladdin bin MasoodKasaaniHanafi, 587AH, Badaa'iSanai Fe TarteebAlsharaee, Investigation: Mohammed kheerToemeHalabi , Pt1 1420AH-2000, Dar Almaarefa - Beirut, Part8, p.220.

<sup>4</sup>Altirmidhi, Mohamed Bin aissa, (279 AH, in his Sunan, investigating: Ibrahim Atwa, Mustafa Al-Habi Al-Halabi Press - Egypt, Pt2, KeetabAlwasaya / Section of no bequest for an heir, Hadeeth 2121, Abu Issa said: complete and correct Hadeeth, 4/434.

<sup>5</sup>Narrated by Al-Bukhari in his Sahih: KetabAlfaraed / Section of MerathAlzawjmaaAlwaladWaGhireh, No. of Hadeeth (4578) , 6/55.

<sup>6</sup>Al- Alusi, Abo El FadlShihab al-Din Mahmoud, 127AH, RoohAlmaani Fe Tafseer Al-Quran Al-AtheemWa Al-sabee Al-Mathani, read and correct: Mohammed Hussein Al-Arab,Pt Dar Al-Fekr, Beirut, 2/82; Al-Kasaani : Badaa'iSanai 8/220, Shawkaani: Neil Al-Awtaar 5, / 134.

<sup>7</sup>Al-Bukhari, Aladdin Abdul Aziz bin Ahmed Bukhari, 730 AH, KashfAlasrar An OsolFakhrAleslamAlbzdoe, put footnotes: Abdullah Mahmoud Mohammed Omar, Pt1, 1418AH- 1997, Dar Al-Kotob Al-Elmia - Beirut, Part3, p.267.

<sup>8</sup>Al-Alusi, Rooh Al-Maani (op. Cit.), Part2, p.52.

<sup>9</sup>Al-Alusi, Rooh Al-Maani (op. Cit.), Part2, p.53.

<sup>10</sup>Alqurtobi, AljameLahkam Al-Quran, 2/259.

<sup>11</sup>BahaaEddin al-Maqdisi, Abdul Rahman bin Ibrahim bin Ahmed, (624 AH), AleddaSharhAlomdah, Dar al-Hadith, Cairo, without PT, (2003), 1/322.

<sup>12</sup>Al-Bukhari, Muhammad bin Ismail bin Ibrahim bin invasive Bukhari, Abu Abdullah (256 AH), Al-Jamee Al-Sahih, Ketab Bede Alwahi, Section of RethaaAlnabiSallaAllahoAliaheWaSallamSaad bin Khawla, Num. of Hadeeth (1295), Dar Alshaab ,

This Restriction (if he left something so the good ones) is a condition to obligatory as it is clear, and the law ignored this requirement, and gave a part of the estate, whether the Dead left a lot of money or a little.

The fifth direction: Almighty says (and the relatives) and this is general in all relatives<sup>1</sup>, including grandchildren, brothers and their children, uncles and their children, and other relatives, and the specification of grandchildren is an allocation without custom.

The sixth direction: and the verse did not specify the commandment with a certain amount, neither the share the father nor anyone else, for example if the man recommended to his grandson with the one sixth so he has complied with the matter contained in the verse, but the law does not settle only with this it completes his father's share that if we assume that he was alive to take it, provided not more than one-third.

#### **Second: Sunnah**

1. Ibn Umar said that the Messenger of Allah, peace be upon him, said: "What right a Muslim he wants to recommend it, not to spend two nights but his will has been written"<sup>2</sup>.

The evidence: The Hadith indicates externally for necessity and Malik's narration of the Hadith came without the words "has something he wants to recommend"<sup>3</sup>.

#### **And answered with:**

First, that the Hadeeth has no evidence of necessity and all what it included is to urge initiating the commandment before sudden death with no commandment issued, and such this not required be obligatory, and the saying, "It has something he wants to recommend it" has authorized the manner for the desire of the testator and that indicates the non-obligatory<sup>4</sup>.

Second, the Imam Malik had narrated this Hadeeth in articulation of "something for him to recommend"<sup>5</sup> and this narration does not differ in meaning from the narration of "wants to recommend it," and therefore there is not an argument to say that it is obligatory.

2- Abu Huraira may Allah bless him said that a man said to the Prophet, peace be upon him, if my father died and did not recommend, does charity give an atonement to him, the Prophet peace be upon him said: "Yes."<sup>6</sup>

The evidence:

The Hadith shows the affirmative of commandment on whom did not recommend; atonement does not be except in a guilt, the Prophet, peace be upon him, clarified that issuing the commandment requires for the testator an atonement through giving a charity on him.<sup>7</sup>

#### **And answered with:**

The Hadith does not indicate an affirmative for commandment noting that the man asking that can he give charity for his father and there is no legality text says that the man that did not recommend should pay an atonement, so the charity that a son gives for his father is benefaction, and has nothing to do the commandment, nor any kind of atonements, and the Hadith is likely One of two things:

First: This Hadith is before the verses of inheritance and transcript the necessity of commandment.

Second: the word atones to be meant by increasing in Alms.

4-What narrated from (Aisha) that a man said to the Prophet, peace is upon him, that my mother suddenly died<sup>8</sup> and that if she talked before she will give a charity, can I give charity for her O Messenger of Allah? The Messenger of Allah, peace is upon him, said: "Yes, give for her"<sup>9</sup>.

The evidence: the Hadith externally shows the affirmative of charity for whom did not recommend and the order of the Prophet is obligated.<sup>10</sup>

#### **And answered with:**

That the Hadith has no argument on the necessity of the commandment, the man asked the Prophet, peace be

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Cairo, 1987, 2/103.

<sup>1</sup>Al-Alusi, (op. Cit.), 2/421.

<sup>2</sup>Narrated by Bukhari in his Sahih, Kitab Alwasaya / Section of Alwasaya WaQawl Alnabi Salla Allahu Aliahe WaSallam, Wasiat Alrajol Maktoba Endaho, Hadeeth (2738), 4/2.

<sup>3</sup>Ibn Hazm: Almuhalla, (op. Cit.), Part8, p.349

<sup>4</sup>Al-Shawkaani: Neil al-Awtaar (op. Cit.), Part5, p.114

<sup>5</sup>Malik, Malik bin Anas bin Malik bin Amer Alasbahi Almadani (179 AH), Muwatta, classed and numbered and commented upon it: Mohamed Fouad Abdul Baqi, Dar Ehiaa Altorath Alarabi, Beirut, 1985, Kitab Alwasia, the section of Alamr Belwasia, 2/761, Hadeeth 1453.

<sup>6</sup>Muslim, Abu Hussein Muslim Bin Alhajjaj Qushayri Alnisabure, 261 AH, Sahih Muslim, Investigating: Mohamed Fouad Abdul Baqi, Dar Ehiaa Altorath Alarabi - Beirut, Kitab Alwasia, the section of Wosol Althawab Alsadagat Ela Almaiet, Part3, p.1254, Hadeeth 1630.

<sup>7</sup>Ibn Hazem: Almohalla, (op. Cit.), Part8, p.152.

<sup>8</sup>Iftalatat: in (faa) Wa Dam Altaa, means who died suddenly and suddenly Filth and drop what was suddenly, Alnawawi: Abu Zakaria Mohiuddin Al-Nawawi, - 676 AH, Sahih Muslim besharh Alnawawi, tuning and suspension: Mohamed Mohamed Tamer, PT1, 1420 - 1999 - Dar Afajr - Cairo. Part6, p.38.

<sup>9</sup>Al-Bukhari, Sahih Bukhari, Kitab Alwasaya / Section of Ma Yostahab Leman Twafa Fajaa, No. Hadeeth (2760), 4/10

<sup>10</sup>Ibn Hazm: Almohalla, (op. Cit.), Part8, p.152.

upon him, that his mother suddenly died asks that his mother, and that in most thinks that if she was able to talk before she would give a charity according to its commitment to doing good and that he was charitable to his mother and he wanted to give a charity for her, and giving charity here has nothing to do with the commandment, so that the Hadith carried on the necessity.

Giving charity to those who did not recommend is an extra load for the text<sup>1</sup>.

4-What is narrated from (Aisha) that the Prophet, peace be upon him, said "We do not bequeath what we left as a charity<sup>2</sup>.

The evidence: The Hadith externally indicates that the Prophet recommended for all what he left and this saying considered as a commandment from him<sup>3</sup>.

### **Third: the rules of jurisprudence:**

They quoted some jurisprudential rules that give the parent the right of restricting the admissible that goes with the public interest, to seek with social developments, and whenever he issued an order it will be obligatory and will establish legal provision<sup>4</sup> also the parent has to identify the relatives of the children of children and give them their father's share of the inheritance as if he was alive<sup>5</sup>.

### **And answered with:**

The granted say that the Imam has the order and regulates permissible things on its origin, but for the inheritance matters, it is organized and prescribed, the Imam and all Muslims have no right to add to it or abate from them, neither the Imam nor anyone else other have no right take someone's money or give it to others, except for who had the right in it, and this manner is not permissible until being organized by the Imam.

The researchers believe that the due commandment document is the base is bringing benefits and warding off blights, it is a mercy of the Almighty that we were asked to bring this world and hereafter interests, and warding off the world and the Hereafter blights, Ibn Alqaiem said: "The legislation, in its structure and base lies on ruling and the interests of people in living and hereafter,"<sup>6</sup> it is one of the rules of the Islamic jurisprudence that belong to the dealt on mother-rule: no harm and no oppression that reveals through its applications and what belong the many branches of the purposes of Islamic legislation: and it is to prevent damage in all its forms before it happens, and to address its impact after it happens, and among contemporary life and what the humanitarian plunged in, such as being far from values and morality and the love of money and acquiring it, it was a necessity for the scientists to be in charge, to cure the damage that poor relatives suffer of as a result of preventing them from their inheritance, especially if they are young grandsons, or old age as grandparents, so in the due commandment legislation there is bringing interest and warding off a blight.

first, the damage caused to the relatives of the deceased who have been deprived of inheritance, with their poverty and the need to it, and secondly: to provide help and to achieve social solidarity among the members of the Muslim community, but it must betaken into account the jurisprudence of balancing the benefits and blights, and it is from the important matters that every hard-working should be observed and applied them to reality, and to achieve the purpose of legislation such as: to care for the interests of people in this world and the hereafter, and in line with the spirit of Islamic law and the quest for social and economic solidarity, compassion, and his view of money as a fleeting show, as well as to be inconsideration the consequences and results; so the due commandment be very much useful without harming the heirs, which calls for reconsideration of the current laws.

### **6.3. Third requirement: the wisdom in the legality of the due commandment:**

The authors of the due commandment were based to several benefits and wisdoms that I will clarify:

1-Solve the problem of children who die in the lives of their fathers and leave their sons, through giving the children of children the share of their father to take them out of abject poverty with attention that their uncles are in capacity and luxury life<sup>7</sup>.

2- Preserve the family unit in a cohesive entity so as not to disturb the balance of the wealth distribution in the family, so a member becomes in a poverty because of the untimely death of the father, and other uncles are in

<sup>1</sup>Ibn Hijr Ahmed bin Ali bin Hijr, 852 AH, FathAlbariBesharhSahihAl-Bukhari, Investigation: Abdul Aziz Bin Abdullah Bin Baz, numbering: Mohamed Fouad Abdul Albaki, EdaratAlnohothWaddaawaWaAlershad, Saudi Arabia, Part5, p.389

<sup>2</sup>Al-Bukhari, SahihBukhari, (op. Cit.) KitabAlfaraed/ Section of QawlAlnabi " La Nwareth Ma TrknahoSadaga" (6730.8 / 178)

<sup>3</sup>Ibn Hazm: Almohalla (op. Cit.), Part9, p.313

<sup>4</sup>Al-Suyuti, Jalaluddin Abdul Rahman al-Suyuti, 911AH, AlashbahWaAlnadhaer Fe QwaedWaForooFiqh Al-Shafiea, PT1, 1399AH -1979, Dar AlkotobAlelmia - Beirut, p.121.

<sup>5</sup>Waih: Alraed Fe Elm Alfare'd (op. Cit.), P.465.

<sup>6</sup> Ibn Al-Qaiem, Muhammad ibnAbiBakrAyoubZorai Abu Abdullah, Elam Almwaqe'en 'An RabAl'alameen, investigation:Taha Abdel RaoufSaad, Dar Aljeel - Beirut, 1973.3 / 3.

<sup>7</sup>Al-Zoheily, Wahba, Alfiqh Al-IslamyWaAdellatoh, PT2, Dar Al-Fikr, Damascus, 1985, Part8, p.122; Abu Albasal, Abdel Nasser Mousa Abu Albasal, AhkamAltarekat Fe AlfiqhWaAlqanon, 1999, p.167.

capacity and luxury life<sup>1</sup>, noting that they are not guilty only of the fates that chose the death of their father in the life of their grandfather.

3-Lack of religious faith at this time and the weakness of compassion, loss of social ties and the spirit of brotherly toward youngsters who have lost their breadwinner and have been deprived from the inheritance.

4-Administration of justice, fairness, and lift the injustice off the children of children noting that the deceased father might be contributed in making the wealth that grandparents left for uncles and their sons, it would be justice and fairness to give them in the due commandment what their father deserves if he were alive<sup>2</sup>.

5-Protect the grandchildren from being lost if the father died before their grandfather, particularly, if they were in need and weakness.

6-Achieve mutual affection and harmony among the family members, get communicated, and remove all the grudges and hatreds.

The researchers believe that these interests that the legislator has taken them into account in his provisions, but it must to be attention that the poverty of the children of deceased father is not inevitable to be available to them in all cases; on the contrary, uncles may be poor while sons of deceased father are rich, and that the administration of justice and family bonding is universally All relatives who have been deprived of the inheritance and proven poor and in need more than others to the commandment.

#### **6.4. Fourth requirement: Conditions due commandment:**

Law requires several conditions to entitle the due commandment including those related to the branch that deserve the due commandment, and including those related to the child deceased and these conditions agreed between the laws<sup>3</sup>.

First, conditions of the branch that deserves the due commandment:

1-To be a branch of the dead

2-The branch that deserves the due commandment should not be a heir to his grandfather, and if he was a heir by imposition as the daughter of the son or banding as the son of son, so there is no due commandment to him, and whether this legacy too much or a little bit, because the due commandment is obliged to the branch to compensate what dismissed from his origin's legacy, and if the branch itself worth an inheritance that he was a heir, law gives him nothing<sup>4</sup>.

If one died of two sons and a son of a son that his father died before his grandfather, in this case, the commandment for this grandson is obligatory, and if a person died for a father and two daughters and a daughter of a son and a son of a son, there will be no bequest for the son's children, because they shall inherit what remains presumably, the male has a portion of two females, and if someone died for a daughter and a son and a daughter of a son, the son's children have no bequest because of the daughter, and presumably she will take the half and the rest to the son and daughter of the son, the male has a portion of two females.

3-Branch not be given by the deceased grandfather in his life, without compensation that to be equivalent to the due commandment like to recommend him as what equals the share of his father, or to give him from the estate without compensation what equals the due commandment or to sell formally with no selling price of how much it deserves in the due commandment then it is not necessary to have a will, even if he had given him less than what shall be his legacy thereby completing his due amount in the will, although if he has given him more than it should to be, this add will be optional, and the provisions of the optional commandment shall be applied, although if he gave or donated or recommended for some of whom the due commandment obliged to them without others an obligatory commandment shall be applied to those who have not been given, or recommended to as much as a full share of the commandment if the one-third enough for everyone, but if a third in not enough, his share will be fulfilled from the recommended of the others<sup>5</sup>.

<sup>1</sup>Abu Zahra, Muhammad Abu Zahra, *AhkamAltarekatWaAlmwareth*, PT1, Dar AlfikrAlarabi - Cairo, p. 230 ; Abu Zahra, *SharhQanon Al-Wasiyah*, PT 1409 AH - 1988, Dar AlfikrAlarabi, p.176.

<sup>2</sup>AlZoheily, *Alfiqh Al-IslamyWaAdellatoh*(op. Cit.), Part8, p.122; Alsartawi, Fouad Abdel LatifAlsartawy, *Alwajeez Fe AlwasayaWaAlmwareth*, PT1, 1421AH, 2000, Dar Albiareq, p.40.

<sup>3</sup>Egyptian law: Article (76,77), Syrian law: Article (257), Palestinian law: Article 1,2). (Article 1,2) of Kuwaiti law, Jordanian law: Article (182).

<sup>4</sup>Abu Zahra: *Wasiyah* (Op. Cit.), p.177, Qasim, YousefQasim, *Alwajeez Fe AlmerathWaAlwasia*, PT, 1408 -1987, Dar Alnahda,p.265; Behns, Abdel Fattah Ibrahim Behns , *AlahwalAlshakhsia Fe Tashre#athaAlmota'addeda*, PT, Dar Alesha'aAlfania - Cairo., p.153,Alahwal Alshakhsia, BarraJ, Juma Mohammed MohammedBarraJ, *AhkamAlmerath Fe Alshareea'aAlIslamia*, PT, 1420 AH- 1999 Dar YafaAle'lmia, p.124.

<sup>5</sup>Badran,Badran Abu Enein, *AlmwarethWaAlwasiaWaAlheba Fe Alshare'aAlIslamia*, Mo'assasatShababAljame'a, p.169; Qasim: *Alwajeez Fe AlmerathWaAlwasia*(Op. Cit.) (266); Arafa, ArafaSaeedHadi, *AhkamAltarekatWaAlmwareth Fe AlfiqhAlislami*,

1995. -*AlqanonWaQadaa' AlnqdAmasri*, PT 1994, p.445), Behns: *AlahwalAlshakhsia*(153) (Op. Cit.)BarraJ, *AhkamAlmwareth* (124). Alashqar, Omar SuleimanAlashqar, *Alwadeh Fe sharhqanonAlahwalAlordoni* ,PT1, 1417AH - 1997, Dar Alnfa'es- Jordan, p.319.

4-Whoever entitled to the commandment should be at the death of the testator.

5- The entitled to the due commandment should not be covered in his origin.

6- The entitled to the due commandment should not be banned from the legacy of his origins, and if he so as if he was a killer, or to a has difference in religion, he does not worth the due commandment; because the due commandment considered as a compensation of he dismissed in the legacy of his origins, in this case he does not worth anything, because he does not dismiss a thing that can be compensated, If the branch is blocked, he does not deserve the due commandment of his origins, because of the presence of origin; and because the due commandments a compensation for the branch of what he dismissed from the legacy of his origin, and If the origin was existed, the branch will not miss anything<sup>1</sup>.

7-The heir branch should be from emerge children, or first layer of sons of daughters and it will be a clarified that when talking about entitles of the due commandment<sup>2</sup>.

8-The due commandment should be for grandsons equals their father's share of the inheritance as if he were alive, and it should not exceed one-third of the estate and it will be detailed when we will talk about the amount of the due commandment<sup>3</sup>.

#### **Second, the terms of the deceased son:**

1-The deceased son should be died in the life of the testator in fact or in clause or died with him; because in this case, he will be dead at the death of the grandfather so he does not deserve anything from the inheritance, thus depriving his sons from the legacy of their grandfather, but if the father grandsons died after his origin, so he does worth the legacy of his origins and thus his sons inherits from his estate and take nothing of the due commandment<sup>4</sup>.

2- The deceased son should be died in the life of his origin entitled to the legacy on the presumption of his life, and did not prevent him from inheritance, if it was barred from inheritance for a kill or a difference religion, his sons does not deserve the due commandment because of the commandment is a compensate of what they from legacy because of dead of their origin and here it has been dismissed until be compensated for it so they are not entitled for the commandment<sup>5</sup>.

### **7. The Second Topic:**

#### **7.1. First requirement: Who deserves the due Commandment?**

Laws differed in determining who deserves due commandment and that for two teams:

First Team: Egyptian law<sup>6</sup> and Kuwait<sup>7</sup> went to determine the eligible to the due commandment in the branch of the child who died in the life of his father or mother whether this child a son or a daughter, so he deserves due commandment whatever the branches sons is, while sons of daughters had the due commandment only the first layer people.

Evidences of the team said: that the eligible of due commandment is the branch of the son who died in the life of his father or mother weather male or female.

1-Due Commandment is a compensation for grandsons that miss their legacy which they were able to take as a legacy for themselves but they were prevented from inheritance to the presence of highest level of heirs<sup>8</sup>.

2. The legislation of due commandment came as a cure for the problem of the grandsons from the side of the charity so it was an expansion where to include sons and daughters that have the priority faraway from limitation<sup>9</sup>.

Evidences of Second Team: Syrian law<sup>10</sup> and Jordan<sup>11</sup> went to determine the eligible of due commandment are the sons of male son only, and who deserves are the sons of son and the grandsons of son and obscures the origin of each branch without the other branch, and each branch deserves the share his origin only, while the sons of daughter who died before her father or her mother does not deserve the due commandment.

Evidences of the Second Team said: that the eligible of due commandments are the sons of male son only.

1-The sons of the daughter are considered deprived from inheritance, because the presence of uncles and aunties,

<sup>1</sup>Qasim, Alwajez Fe AlmerathWalwasia, (op. Cit.), P.264.

<sup>2</sup>Abu Zahra: Sharhqanon Al-Wasiyah (176) (Op. Cit.), Barraj: AhkamAlmwareth(123).

<sup>3</sup>Abu Zahra: Sharhqanon Al-Wasiyah(179) (Op. Cit.)Al-Zoheily: AlfiqhAlislamiWaAdellatoh, (10/ 7566).

<sup>4</sup>Qasim, Alwajez Fe AlmerathWalwasia(Op. Cit.) (267), Abu Albasal: AhkamAltarekat(Op. Cit.) (289 ), Alashqar: (explanation), QanonAlahwalAlshakhsiaAlordoni, (318).

<sup>5</sup>Qasim, Awajez Fe AlmerathWalwasia (264).

<sup>6</sup>Egyptian law (Article 76).

<sup>7</sup>Kuwaiti law (Article 1).

<sup>8</sup>Abu Zahra: AhkamAlmwarethWaAltarekat (230), Badran: AlmwarethWaAlwasiaWaAlheba 167.

<sup>9</sup>QanonAlAhwalAlshakhsiaAlmwahad: AlmothakaraAledahia 400.

<sup>10</sup>Syrian law (Article 257).

<sup>11</sup>Jordanian law (Article 279).



and they do not inherit the origin because of the presence who had the right<sup>1</sup>.

2-That the sons of the daughter who died before their father and their father is alive and spending on them and take care of them.

3-The wisdom of the legislation of due commandment to solve the problem of the deceased son's sons in his father's life because of their orphaned and poverty and this defect does not present in the sons of daughters who enjoy mostly the lives of their father<sup>2</sup>.

4. The sons of the daughter for their grandfather to the father of the mother inherit from him in the back level legitimately and that the sons of the daughter have other legacy as essential heirs from the side of their father<sup>3</sup>.

5-The son of the daughter does not considered as rational, fined with wrong felonies with his grandfather and uncles, but the sons of sons who fined<sup>4</sup>.

6. If the grandfather seriously is in need and he has sons of sons, and sons of daughters, the expense will be on the sons of his sons<sup>5</sup>.

The second requirement: The reason for the dispute to due commandment maturity

Researchers believe that the reason for the dispute to due commandment maturity back to the following:

**First, the difference in purpose and motives:**

Some considered that due commandment stemmed passionate and humane dimension so that pervaded in the branch of who died in the life of his father whether male or female, while others see it though stemmed from passionate and humane dimension, but with controls and restrictions so its limited for the branch of the male son only.

Second, the difference in the conditioning due commandment:

Some considered the commandment restricted with many concepts in the inheritance of whom being from close relatives.

Fourth requirement: the commandment due in Jordanian law

Interim Jordanian Personal Status Law 2010 / of Article (279) - that "if one died and he had sons of son, and that son died before him or with him, shall be for the grandsons in the third left by legitimacy and the will of the extent and the following conditions are met: (a) due Commandment for those grandsons shall be equal to the father's share of the inheritance as if he was alive, that does not exceed one third of the estate, (B) Those grandsons does not deserve commandment if they were the heirs to the origin of their father weather was a grandfather or grandmother or had recommended or gave them in his life without compensation, if he recommend them with less than that, it is obliged to be completed, and if he recommend them with more than that, the added amount is considered as an optional commandment, and if he recommended for some of them it shall be the same share for others.

(C) The commandment shall be for sons of son and grandsons of son, if they were one or more the male has the portion of two females, every origin blocks its branch without the others, and every branch take the share of its origin only.

The researchers believe that the reason for enactment of the law is repeating the complaint on the status of the father's death in the life of his father and leaves his young sons poor and needy, then the grandfather dies seriously and there uncles take the whole inheritance, and keep these grandsons poor, while their father if he were alive he would have a share of the inheritance.

The researchers saw these observations on the law as following:

First: that this substance constitutes a clear distinction between the male and female in due commandment, despite the fact that the bond forensic for this commandment did not differentiate between the sons of the daughter and the sons of the Son, and that if the son died before the grandfather or grandmother, sons shall inherit the share of the benefit deceased, provided that no more than third of the estate, while the daughter that if she died before her father or her mother, the sons and daughters do not inherit.

And that the allocation of grandsons as sons of male son is an allocation without a dedicated legitimate or legal, due commandment is a diligence of contemporary scholars with a fatwa from Al-Azhar, and blessed by scholars, however, that the fatwa that issued at the beginning of the last century provided for entering the sons of sons and the sons of the daughter, the Legislative logic requires, and the son has the right of the legacy of his father, and the daughter has same right, and that this exception has no supporting and justifying.

As well as to those who say that the sons of daughters have the due commandment, and they does not deserve except for the first layer only (the son of a daughter, a daughter of daughter), and when it was allocated

<sup>1</sup>Al-Zoheily, Mohammed Al-Zoheily, Alfara'edWalmwarethWalWasaya , PT1, 1422

2001 , Dar AlkalemAltaieb, p.107, Kaplan, HishamKaplan, AlwasiaAlwajeba Fe Alislam, PT2,1985,Manshourat Owaidat-Beirut, p.62, QanonAlahwalAlshakhsia, (AlmothakaraAledahia) 400.

<sup>2</sup>QanonAlahwalAlshakhsiaAlmwahad: AlmothakaraAledahia(400), Kaplan: AlwasiaAlwajeba(63).

<sup>3</sup>QanonAlahwalAlshakhsiaAlmwahad: AlmothakaraAledahia(400), Kaplan: AlwasiaAlwajeba(63).

<sup>4</sup>Dradkh, AlwasiaAlwajeba "MajalatAlshare'aWaderasatAlislamia " College of Sharia KU Fifth Issue in 1986 (p. 357)

<sup>5</sup>Dradkh: AlwasiaAlwajeba, p.357.

to the first layer of the sons of daughters and deprived the rest, while the male sons have the right in the will, and this incompatible with the spirit of justice and fairness in the Islamic Legislation.

Second, if the reason for enactment of the law is the death of the father in the life of his father and left poor and needy young sons and then the grandfather dies and uncles will take the whole inheritance, why the law gave the grandsons part of the estate and did not require their poverty? He gave them even if they are rich, and it should be limited to the case of need, "and the fact if we obligatory must consider the need; because the commandments of alms section should be for the poor, because due commandment has the priority among other ones, and shall be relatively clearer"<sup>1</sup>.

Grandsons may be rich and there uncles (the sons of the Dead) are poor, and the law in this case also gives the grandsons part of the estate under the name of "due commandment" however, uncles have the priority of this money; because they are closer to the Dead, and there need of it.

And supported by the statement in the verse: "if he left something to be good" Al-Bakara,180, and that's mean a lot of money; to enrich the heirs then to move to non-relatives heirs.

It was mentioned by Ibn Hazm "and leave his relatives in need were extracted and returned to his relatives, and if was not any poor in his family, then for whom is poor"<sup>2</sup> which confirms the need to balance the benefits and blights.

Third, not to be confined to a particular sect or group of relatives, but makes it public for them, as (ALLAH) God says(the will for parents and relatives) Al-Bakara,180, and that the word "relatives" is general and remains in general except if it mentioned as allocated, brevity of obligatory on the grandsons whom their father died before their grandfather, from the section of allocation without an allocate<sup>3</sup>.

Fourth: relatives law limits of those who deserve this commandment to grandsons only, and gave them the share of their father, and it will be understood from the law that the doctrine of Ibn Hazm, and this is not his doctrine, Ibn Hazm did not allocate them, but to be for all the relatives non-heirs, and requires the testator to recommend three of his relatives at least, because this is the least combination<sup>4</sup>.

Fifth: Why the law take into account, grandsons and does not respect non-heirs grandparents, although they are often the most who in need and they are mostly sick and unable to work, and they need to treat and expenses, yet they equal with grandsons in the class, so taking care with interests grandsons and leave the interests of grandparents inflicted them with materially and morally harm.

Sixth, there is a clear imbalance in some cases of the law such as: daughter of a daughter may take more than daughter of a son inherits, so if someone died for a daughter, and a daughter of a died daughter, and a daughter of a son, leaving 30,000 dinars, the amount of due commandment for the daughter of a daughter here is the third of legacy which is 10 thousand dinars per her mother if she was alive.

And the daughter and daughter of a son take presumably ratio of 1: 3, so the daughter's share is five thousand dinars, or half of what the daughter of a daughter took.

Although that the daughter of a Son has the priority, and therefore consensus of scholarly held that the daughter of a son inherits, and that the daughter of a daughter does not inherit, so how is the non-heir given more than the heir, even though they in nearly one level.

- That the daughter of a Son may take more than daughter, and that if a person dies for two daughter, and a daughter of deceased son, and sister, leaving 18,000 dinars, the amount of the commandment to the daughter of a Son is third of the estate, which is 6 thousand dinars, and the rest is divided between two daughters and sister, the daughters getting two-thirds 8,000 dinars, 4 thousand dinars for each, and the sister take the rest four thousand dinars.

Thus, the researchers believe that due commandment require new regulations and conditions; so the non-heir do not take more than the heir.

Seventh: The commandment in this way make enmity and hatred between relatives because of denying them from it, with their poverty and need to it and the lack of legal barriers which require depriving them, as well as whether the non-heir's share is more than the share of the heir.

Eighth: Then that Ibn Hazm did not specify the portion of money recommended by a specific amount, but whatever what the testator wants, and if he did not recommend, the heirs and guardian can determine how much of the money shall be taken out for relatives.

Ibn Hazm, said: "who died and did not recommend: so it is Imposed to give charity; because of the imposition of the commandment, it must be something that comes out of his property after death, therefore, since it also has landed his property what should be gotten out of his money. No limit in this, except for what the heirs

<sup>1</sup>Abu Zahra, AhkamAltarekatWaAlwasaya, 244.

<sup>2</sup>Ibn Hazm, Almohalla, 8/353.

<sup>3</sup>Riadh, Mohammad Riadh, AhkamAlmwareth Bain AlnatharAlfiqhiWaAltatbeqAla'amaly, P.342.

<sup>4</sup>Ibn Hazm, Almohalla, 8/353

saw, or guardian, which does not prejudice the heirs<sup>1</sup> "Ibn Hazm states that there is no limit to the allocation of this commandment".

Ninth: It is not a commandment in consider that of what to be understood, however it is optional in one-third of the money for after death, but became in fact a legacy, so grandsons take this share even if the deceased did not recommend anything to them, and they take it whether it is a lot of money or a little, and whether they are rich or poor, and all of this indicates that it's a legacy.

**Most correct to say:**

The obligatory of the commandment for relatives who have been deprived of the inheritance, and proved their poor and in need, and the necessity for reconciliation between the grandsons whom their father died before their grandfather, whether they are sons of sons, or sons or daughters

## 8. Results and recommendations:

### 8.1. Results:

1. - that the commandment to relatives unanimously legitimate, and desirable for relatives.
2. That the guardian have the right of restricting the permissible, where he sees the benefit; because it is a matter of bringing benefits and warding off blights.
3. Due commandment in the current Jordanian law need to be reconsidered.

### 8.2. Recommendations

A. The researchers recommend with further studies on due commandment, and to review the conditions and controls and the beneficiaries, and the researchers suggest the following matters:

- Not be constrained by one-third and leave it to the discretion of the judge; so that not more than one-third.
- Poverty and the need to achieve the wisdom of due commandment.
- The share does not exceed the share of the first heir, causing no harm to the heirs.
- And not fewer than three relatives of the poor, and the priority to be given for grandparents and grandsons and most poor.
- Not restriction with grandsons.
- That the deceased has left a lot of money.

(B) modifying the Jordanian temporary law for the year 2010, and to remove of discrimination inflicted on the sons of daughters, and to include the heirs of the deceased son or daughter without discrimination between male and female, and that includes the right of the poor relatives who have been deprived of inheritance, and not just limited to sons of male sons, especially since that this law is still temporary and there is a real opportunity to accept these proposals before converting it into a permanent law.

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<sup>1</sup>Ibn Hazm, Almohalla, 8/353

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