# Alimony for Relatives is A Comparative Jurisprudential Matter

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#### **ABSTRACT**

- 1-The issue of alimony for relatives is summed up by the fact that the amount of this alimony on the relative has a known limit estimated by the same need, because people have different needs according to place, time, situation and custom
- 2- The spenders differ in their financial capabilities from one of them to another, between the wealthy who is comfortable and the wealthy for him, and the average for the case, Islam demanded that both sides be taken into account, so the spender according to his ability, and the spender on him and his need, so this need is met with knowledge, and the well-known is estimated according to the existing custom unless May God and His Messenger may God bless him and grant him peace value him among the obligatory rights, so the reference in it is to custom1
- 3- Islam affirmed the right of kinship to a relationship of the kinship, and among this connection is the consideration of the rich relative of the economic aspect of his poor relative and the provision of the needs he needs. ).
- 4- The bond of kinship is for every affluent relative to take into account his relative with the poor and needy, by inspecting him and his financial conditions and seeing what he needs to provide for him and has a meaning for solidarity and social solidarity and in this achievement of economic security
- 5- The alimony of the wealthy relative on his poor relative includes an investigation of social security, and it includes:
- A- Food, water, and clothing for winter and summer to suit both of them.
- B- Marrying someone who is eager to get married, and spending on his wife and dependents
- C- The dwelling and the associated furniture and bedding, and the servant for someone who is unable to serve himself
- D- The necessity of treatment and medication, according to the saying of the Messenger of God may God bless him and grant him peace -: ((Heal the servants of God, for God has not created a disease except for a medicine for it)).

  Keywords (Times New Roman, bold, 9)

#### Introduction

In the name of Allah the Merciful

Praise be to God, Lord of the Worlds, and may blessings and peace be upon the Master of the Messengers (Muhammad) and upon all his family and companions. Our Islamic religion has affirmed the rights of close relatives, and in the verses of his book and the hadiths of his Prophet may God bless him and grant him peace - he urged righteousness to them, connection and kindness to them. social security for them. God Almighty said that God commands justice and charity and kinsfolk} (Al-Nahl, verse 90) God said: {missed a kinship right and the poor and the son of the way it is better for those who want the face of God} (Ar-Rum, verse 38).

And he - may God bless him and grant him peace - said: ((The womb is attached to the leg of the throne, it says: Whoever has reached me, God will pray to him, and whoever interrupts me will be cut off by God.)3

So I collected his jurisprudential issues exclusively in relation to the expense of kinship, so I studied his issues in a comparative study with the opinions of the esteemed Islamic schools, the

Hanafi, Maliki, Shafi'i, Hanbali, Imamite, Zaydi, and that by showing the evidence they adopted while clarifying the aspect of The significance in it, then clarifying the most favorable of these opinions and according to the weightings. As for the research plan, it consisted of an introduction, four demands and a conclusion, and documented the sources and references. As for the introduction, it explained the topic of the research and the reason for choosing it.

ISSN: 1553-6939

The first requirement: alimony is a language and idiom. The second requirement: conditions of spending The third requirement: the legality of alimony and its divisions Fourth requirement: the ruling on the alimony of relatives and a summary of the most important results, and it is proven by sources and references

The first requirement: alimony in language and idiomatically.

Spending in the language: it is derived from spending, and it is the output, and it is not used except for good, it is said: money spent: that is, it is spent, and it is said: alimony because it goes to its own face, and the collection: expenses, and a

man who is hypocritical by breaking, that is: a lot of spending, and it is originally released On what a person spends on himself and his dependents.4

Definition of alimony conventionally: In the term alimony is used to refer to what is required of money to secure the necessities for survival, and to spend money and the like

in charitable causes.5

The second requirement: conditions for spending

And the obligation to spend four conditions.6 One of them is that they are poor who have neither money nor earnings to dispense with the spending of others. Because it is required as a consolation and the affluent is dispensed with consolation. The second: For the one who is obligated to spend on them should have what he spends on them in addition to the expense of himself, as for his money and from his earnings, as for whoever does not prefer anything from him, he has nothing on him when Al-Nasa'i narrated on the authority of Jabir bin Abdullah - may God be pleased with him - he said: The Messenger of God said - May God bless him and grant him peace -((Begin with yourself and give it charity, because if something is preferred for your family, if something is preferred for your family, then for your relatives, if something is preferred over your relatives, so and so on)).7

And Muslim narrated in his Sahih from the hadith of Abu Hurairah - may God be pleased with him -: (((A man came to the Prophet - may God bless him and grant him peace - and said: Messenger of God, I have a dinar, so he said, spend it on yourself. He said: I have another, and he said: Spend it on Your son, he said, I have another, he said: Spend it on your family)).8

Third: That the person on whom the spender has a womb is forbidden according to the Hanafi school, may God Almighty have mercy on them.9 As for the Malikis, may God Almighty have mercy on them, he is either a father or a son.10 And according to the Shafi'is may God Almighty

And according to the Shafi'is, may God Almighty have mercy on them, that it is one of the origins or branches.11

According to the Hanbalis, may God Almighty have mercy on them, that the spender should be the heir.12

Fourth: As for the condition of religious union: the jurists, may God Almighty have mercy on them, have agreed on the obligation of maintenance for the wife with the difference of religion, as long as she is not an apostate or apostate.13

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They differed on the condition of the union of religion to spend on the relative, so the Hanafis, may God Almighty have mercy on them, went to the non-condition of the union of religion in the expense of assets, and they stipulated the union of religion in other than these three categories, because of the ineligibility of inheritance between a Muslim and a non-Muslim.14. Maliki was not required.15, and Shafi'i.16- May God Almighty have mercy on them, the religion agreed in the necessity of spending. Rather, a Muslim spends on an infidel, and an infidel on a Muslim, because of the general evidence that requires alimony and the existence of the one that is obligatory, which is partiality

As for the Hanbalis, may God Almighty have mercy on them, the first is: alimony is required with the difference in religion, and the second, which is approved, does not have to spend with the difference in religion. Because it is consolation to righteousness, connection and lack of inheritance, and it separates the maintenance of wives; Because it is a compensation that is obligatory with insolvency, so the difference in religion, such as dowry and rent, did not prevent it.17

The third requirement: the legality of alimony and its divisions

First: Legality of alimony

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

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

Imam Al-San`ani, may God Almighty have mercy on him, said: (The maintenance of relatives is estimated without controversy, because it is obligatory for need and is estimated as much as is needed)).18.

And Imam al-Nawawi, may God Almighty have mercy on him, says: (Whoever is obliged to spend on him by kinship, his maintenance must be on the level of sufficiency, and if he needs someone to serve him, then his servant's alimony is required, and if he has a wife then his wife's alimony is obligatory, because that is completely sufficient.19.

And Imam Ibn Qudamah, may God Almighty have mercy on him, says: (Alimony for a relative is sufficiently assessed, because it is obligatory for need, so what should be paid with him, and if he needs someone to serve him then his servant's alimony is required, and if he has a wife, then his wife's alimony is obligatory, because it is completely sufficient.20.

He also says: (He has to be chaste by everyone who is obligated to spend, because it is of complete sufficiency).21

Second: The maintenance according to the jurists is divided into two parts

- 1- An alimony is obligatory for a person if he is able to it, and he has to provide it at the expense of someone else, for saying, PBUH: ((Start with yourself and then with whom you depend)22. That is: to whom you are obligated to spend.23
- 2-Aperson is obligated to spend on others, and the reasons for his obligation are three

A- Marriage ... ... b- kinship ... ... c- king.24 Relatives are divided into two types of origin: Relatives of birth like father and son.

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

Fourth requirement: rule for alimony for relatives

There is no disagreement among the jurists regarding the necessity of spending close to childbirth, but is maintenance required for other relatives?

The jurists differed concerning it over five schools of thought:

The first doctrine:

Alimony for relatives is not obligatory except as a matter of ties of kinship.

This is narrated on the authority of Al-Shaabi, and it is the Zaydi school of thought.25.

The second doctrine: Alimony is only obligatory for the lowly parents and the sons of the Crusaders.

ISSN: 1553-6939

It is the Maliki school of thought.26

The third doctrine:

Alimony is obligatory for the origin of a person, grandparents, such as parents, his children descendants. such as and grandchildren. ... and this is what Al-Mawardi favored by saying: (The conclusion is that whoever finds what suffices him, and has an extra amount that he can dispense with, he must spend it on the Mahaweej from his kinship and provide the closest and the closest as indicated by the evidence). and this is the Shafi'i school of thought.27.

The Fourth Doctrine:

Alimony is obligatory on every heir of his inheritance, whether he inherited it by imposition.28. Or blindfolding.29.

That is if they are of perpendicular proportions.30 If they are not of the vertical lineage, such as those with womb, then alimony is not obligatory for them, like the aunt and aunt. It is the Hanbali school of thought.31.

The Fifth Doctrine:

Their children and grandparents.

It is the tap doctrine.32

Evidence of the first sect:

1 - The Almighty said: (To spend an amount of his capacity, and whoever is able to provide for him, then spend from what he has given (he does not cost) a soul except what he brings. (Surat AlTalaq: verse 7).

Significance: Almighty has commanded: spending without specifying it to a person, rather it came in general terms, so it is not obligatory except by way of a relationship of kinship.

It is presented:

This verse is not valid to infer the obligation of maintenance for the insolvent, whether it is related to the relationship of kinship or otherwise, because the talk about it is about the provision of wives and children, so there is no evidence for what was mentioned.

2 - On the authority of Kulaib ibn Mafa'ah, on the authority of his grandfather: He came to the Prophet (and he said: O Messenger (Who is righteous? He said: Your mother, father, sister, brother, and your guardian, who follows that is a right and an obligation and a womb

connected).33. Narrated by Abu Dawood, Al-Bayhaqi, and Al-Tabarani

The indicative face:

This hadith and other hadiths about the relationship of wombs were general, and there was no evidence for anyone, but the womb in need of maintenance is the most deserving of the relationship.34.

#### It is presented:

That the Prophet (has made it (a right and an obligation)) on the one who wants righteousness, and this right can only be given as an affirmative.

3 - On the authority of Al-Shaabi, he said: I have never seen anyone forcing someone to pay anyone - that is, alimony.35.

Significance: He indicated that alimony was not obligatory for anyone in his time, indicating that it is not obligatory.

It is presented:

Ibn al-Qayyim said: And Al-Shaabi agreed to say this, but it seems that he wanted people to fear God that the rich need to force the ruler to spend on his needy relative, so the people were content with the Sharia's response to the ruler's response or forcing him.36.

Evidence of the second doctrine:

1 - The Almighty says: (And parents are kind to parents). (Surat Al-Talaq: verse 24)

The indicative face:

The term "parents" in the verse only deals with the lower mother and father and not other grandparents and grandmothers.37.

It is presented:

This is correct, but this does not prevent the granting of maintenance for them and righteousness with them, and what indicates that the father deals with grandparents also is the Almighty saying: (The religion of your father Abraham). (Surat Al-Hajj: Verse 78)

- with this letter, indicating that the grandfather approves of him as a father, and also that the difference in the relationship between the father and his right to the son's estate and the grandfather's inheritance, this is due to the division that made him (Almighty people and what each A person from a share, and that does not criticize the name of the grandfather as a father or his releasing him.
- 2 On the authority of Abu Huraira may he be pleased with him on the authority of the Prophet (he said: (The best of charity is that which is from it on the back of wealth, and the upper hand is

better than the lower hand, and start with the one who relies, and it was said: Who is dependent, O Messenger?) He said: Your wife is one of those who depend, You say: Feed me or it will leave me, and your maid says: Feed me and use me, and your child says: To whom will you leave me)38. Narrated by Ahmad, Al-Nasa'i, Al-Daraqutni, and Al-Bayhaqi, and Al-Hakim authenticated it.

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The indicative face:

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

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

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

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

Evidence for the third doctrine:

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

The indicative face:

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

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

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

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

The indicative face:

The Messenger () has permitted Hind to take from her husband's money what is sufficient for her, and her son is sufficient for her kind, and it is permissible for every child of her no matter what. He responds to this:

This does not prevent others from entering with them, and this evidence did not limit spending to them, so it was possible for others to be included among those included in the alimony.

Evidence of the fourth sect:

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

The indicative face:

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

It is presented:

That the verse was not limited to what they mentioned only, but rather it tolerates those with womb, as will be explained in the evidence of the fifth doctrine.

2 - On the authority of Kulaib bin Mafa'ah, on the authority of his grandfather - be pleased with them -: He came to the Prophet (and he said: O Messenger of God, who is righteous? He said: Your mother, father, sister, brother, and your master who is truly below you is a duty and a womb connected)44.

The indicative face:

The Messenger of God, may God's prayers and peace be upon him, obligated him (connection, righteousness, and maintenance from the relationship, which he made a right and an obligation)

Evidence for the Fifth sect:

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

The indicative face:

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

ISSN: 1553-6939

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

The indicative face:

The Almighty commanded him to be kind to his kinship and give him his right, and there is no doubt that whoever was fluctuating in blessings and his relative hurt him by hunger or nudity, then he is not good to him and does not stand in his right, whether he is of the mercy or not

3 - On the authority of Abu Hurairah - may he be pleased with him - he said: (A man came to the Messenger, may God's prayers and peace be upon him (and he said: Who is more deserving of people in my good company, O Messenger?) He said: Your mother, he said: Then who? He said: Your mother, he said: Then who? He said: Your mother, he said: Then who? He said: Your father, then he brought you near and brought you down.)48. Bukhari, Muslim, and Ibn Majah told him.

His command, may God bless him and grant him peace, (of good companionship to his mother, his father, and his relatives inferior and inferior, and there is no doubt that the people of his mercy are among the lowest in kinship who are entitled to spending if they are in need.

4 - That what the owners of the previous schools argued, did not come with evidence denying the necessity of maintenance for those in the family, but rather the goal of what they proved the necessity of maintenance for the father even if it is high, and for the son even if it comes down, and what the owners of this doctrine have mentioned is in addition to what the owners of the previous schools have proven.

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

### **Margins**

[1] See: the flags of the two sites 4/358-359.

- [2] Abu Dawood 4/192, and al-Tirmidhi 4/383, and he said: It is good and authentic
- [3] Sahih Muslim 4/1981 Hadith No. 2555.

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- [4] See: Tahdheeb Al-Lugha by Al-Azhari 9/192 article Tunnel, Lisan Al-Arab by Ibn Manzur 10 / 357- 358 Article Tunnel, and Taj Al-Arous by Zubaidi 7/79 Article Tunnel.
- [5] See: The Dictionary of the Language of the Scholars, p.485.
- [6] See: Tuhfat al-Fuqaha '2/167, see al-Taj wa al-Aklal 4/211, Total 18 / 297-298, Kindergarten of the Talibin 6 / 489-490, Al-Mughni 9 / 257-258, Al-Mubda 8/218, Al-Rawd Al-Murabba 3/237, Student's Guide 285.
- [7] Sahih Muslim 2/692 Hadith No. 997.
- [8] Sahih Ibn Hibban 8/126 Hadith No. 3337. The hadeeth was narrated by trustworthy / see: Abstract Al-Badr Al-Munir 2/256 Hadith No. 2189.
- [9] See: al-Dur al-Mukhtar 3 / 692-693, and al-Bahr al-Ra'iq 4/356.
- [10] See: Al-Qawun al-Fiqhiyyah / 148, and al-Taj wa al-Ikleel 4/208.
- [11] See: Mughni al-Muhtaj 3/447, and Umdat al-Salik / 162.
- [12] See: Al-Mubda '8/214, and Manar Al-Sabeel 2/272
- [13] See: Al-Hidayah, Sharh Al-Bidaya 2/46, Al-Qawanat Al-Fiqhiyyah/ 147 148, Al-Fakhah Al-Dawani 2/23, Al-Muhdhab 2/159, Al-Iqna 'Al-Sharbini 2/433, and Manar Al-Sabeel 2 / 266-267.
- [14] See: Badaa'i Al-Sanai '4/36.
- [15] See: Ahkam Al-Jizya 2/792, and Al-Taj wa Al-Ikleel 4/209.
- [16] See: Al-Iqna 'for al-Hijjawi 2/140, and aid to the students 11/11.
- [17] See: Al-Mughni 9/259.
- [18] See: Badaa` al-Sanay` 4/38.
- [19] See: Total explanation of al-Muhadhdhab 18/307

- [20] See: Al-Kafi 3/378.
- [21] Ibid. 3/379.
- [22] The hadith is a composite of two hadiths, so the first part was narrated by Muslim in his Sahih, The Book of Zakat the chapter on beginning to spend on self, then his family, then kinship, number 2310, and the second part narrated by Bukhari in his Sahih, Book of Expenditures Chapter on Obligation of Expenditure on Family and Children No. 4355.
- [23] See: Islamic jurisprudence by al-Zuhaili 10 / 7348-7349.
- [24] See: al-Najm al-Wahaj by al-Damiri 8/227, Mughni al-Muhtaj by al-Sharbini 5/151, and al-Muhtar's response to al-Dur al-Mukhtar by Ibn Abdin 5/283
- [25] See: Al-Bahr Al-Zakhkhar 4/279, Zad Al-Ma`ad 4/165, Al-Sail Al-Jarar 2/4, Al-Darari Al-illiwa 1/291.
- [26] See: Desouki's footnote 2/523, Al-Sawi's footnote on Al-Sharh Al-Saghir 2/751, Anwar Al-Burooq 3/181.
- [27] See: al-Umm 5/108, Mughni al-Muhtaj 5/186, Sharh al-Bahjah 4/398, Asna al-Muttalib 3/442.
- [28] See: the owners of hypotheses: they are those whose relatives are identified in the Qur'an. Jurisprudence of the Sunnah 3/612.
- [29] The League: A man's clique is his sons and his kinship to his father. They named that because they were blindfolded by him, ie he surrounded him, so the father is one side, the son is a side, and the brother is a side and the uncle is a side. See: Mukhtar As-Sahih, p. 435, The Illuminating Lamp, p. 445.
- [30] Vertical lineage: that is, who were its origins and descendants. Seen: Crown of the Bride 9/323.
- [31] See: Al-Mughni 11/218, Al-Insaaf 9/394, 9/394, Explanation of Muntaha Al-Aradat 3/241.

- [32] See: Al-Mabsut 5/215, Bada'i Al-Sanea 4/30, Explanation of Fath Al-Qadeer 4/419, Choice 4/11. Al-Rawda Al-Nada 2/80.
- [33] See: Sunan Abi Dawood 2/506, Sunan al-Bayhaqi 4/179, Mujam al-Tabarani al-Kabir 22/310.
- [34] See: Al-Darari Illuminated 1/291, Al-Torail Al-Jarrar 2/4.
- [35] See: Al-Mahalla 11/169, Zad Al-Ma'aad 4/165.
- [36] See: Zaded Al-Maad 4/165
- [37] See: Anwar Al-Buraq 3/143.
- [38] See: Musnad Ahmad 2/527, Sunan an-Nasa'i 5/385, Sunan al-Daraqutni 3/297, Sunan al-Bayhaqi 7/47, al-Mustadrak 1/414.
- [39] See: Sunan Abi Dawood 2/405, Sunan al-Tirmidhi 5/323, Sunan al-Nasa'i 1/532.
- [40] Al-Qud: is retribution, see: Mukhtar Al-Sahih, p. 555, The Illuminating Lamp, p. 563.
- [41] Mughni al-Muhtaj 5/197, Asna al-Muttalib 3/442, Sharh al-Bahjah 4/397.
- [42] See: Sahih Al-Bukhari by the margin of Al-Fath 9/444, Sahih Muslim 3/7, Musnad Ahmad 6/206, Sunan Al-Nasa'i 8/246.
- [43] See: Al-Mughni 11/218, Explanation of Muntaha Al-Aradat 3/242.
- [44] Hadith: It was previously quoted.
- [45] Seen: Al-Mughni 11/218.
- [46] See: Badaa`a al-Sanay` 4/31, Explanation of Fath al-Qadeer 4/420.
- [47] See: Al Rawda Al Nada 2/80.
- [48] Sahih Al-Bukhari 2/8, Sahih Muslim 7/69, Sunan Ibn Majah 2/1207.

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ISSN: 1553-6939

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