

Errors in implementation of the Islamic Inheritance: A Descriptive Case Study of Northern Ghana

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ABSTRACT

Islam came to organize people's lives in a way that ensures security and peaceful coexistence among all people in general, and among family members and relatives in particular. For this reason, Islamic laws were revealed to establish justice and security for everyone. Among the most just legislations known to humanity are the laws of inheritance in Islam, which ensure fairness, security, and the prevention of disputes.

However, this great legislation—known as the science of inheritance—has been marred by certain errors that negatively affect the implementation of the inheritance system as intended by Islamic law in the Tamale community (Northern Ghana). Therefore, this study has been conducted to identify and examine these errors and thereafter propose suitable solutions to address them. And Allah is the Guide to success.

Keywords: Islamic laws, Islamic inheritance, science of inheritance, Error, Fard, Wasiyyah, Kalalah

INTRODUCTION

The science of inheritance (*'ilm al-mawārīth*) is among the most significant and noble Islamic sciences. It deals with one of the most essential needs of human life—wealth, which God has made a means of sustenance for people. Wealth plays a major role in a person's life, as God has placed it to fulfill human needs such as food, drink, housing, and clothing. Wealth also contributes to improving quality of life by providing access to education, entertainment, and travel. All of this leads to stability and reduces anxiety and stress.

— On another level, wealth is an important factor in establishing good relationships among people. The one who spends his wealth rightfully is of the “upper hand” and more beloved to God. Wealth also enables a person to fulfill family and social responsibilities properly. God has created people with a deep love for wealth, and due to this strong attachment, many disputes arise over it. Most conflicts among people occur because of wealth, and disagreements become even more intense after the death of the one who gathered or owned it. Inheritance disputes are almost countless—you find relatives severing ties over inheritance, friends of the deceased angry with their friend's heirs over inheritance, and courts filled with litigants fighting inheritance cases.

1.1 Definition of the Science of Inheritance (al-Farā'id)

Linguistic meaning of al-Farā'id: The word *farā'id* (الفرائض) (is the plural of *farā'id* , فريضة) (which is derived from *fard* . الفرض) (The word *fard* in Arabic carries several meanings, among them:

- **Cutting off or assigning:** as in the saying, “*I have allotted (faradtu) for you such and such from the wealth,*” meaning *I have cut out/assigned for you.*

- **Estimation:** as in the verse of Allah the Exalted:

{...then half of what you have prescribed (faradtu)} (Qur'an 2:237), meaning *what you have estimated.*

- **A notch or mark:** as in *fard al-qaws* (the notch of the bow) at its end where the string is placed.

- **Obligation:** *farḍ* can also mean *what is obligatory (wājib)*. Allah the Exalted said: *{...a surah which We have enjoined (faradnāhā)}* (Qur'an 24:1), meaning *We made its rulings obligatory*.
- **Clarification and detailing:** as in His saying, the Exalted:
{Allah has already ordained (farada) for you ...} (Qur'an 66:2), meaning *He has clarified/explained for you*.
- **A fixed and allotted portion:** as in His saying, the Exalted:
{For men is a share (naṣībān mafrūḍān)} (Qur'an 4:7), meaning *a specified, cut-out portion*.
- Among its usages also: *a prescribed sunnah (ḥurma musannah)*.

Technical definition of the Science of al-Farā'id:

Scholars have given several definitions, most of them close in meaning. I will suffice with one comprehensive and precise definition: "It is the knowledge of the division of inheritances, jurisprudentially and mathematically."

1.2 Importance of the Science of Inheritance

From a review of the verses and hadiths that deal with *al-Farā'id*, the importance of this science may be understood in the following points:

1. **Allah the Exalted has detailed the rulings of inheritance comprehensively in His Book**, and did not leave their clarification to His Prophet. ﷺ This is unlike other rulings, such as those concerning prayer, zakat, fasting, and hajj, where Allah mentioned them generally and entrusted the details and explanations to His Prophet. ﷺ
2. **The laws of inheritance are a prescribed obligation from Allah, the Exalted.** He said: *{These are the limits set by Allah. And whoever obeys Allah and His Messenger, He will admit him to Gardens beneath which rivers flow, abiding therein forever. And that is the great success. But whoever disobeys Allah and His Messenger and transgresses His limits, He will admit him to the Fire, abiding therein, and he will have a humiliating punishment}* (Qur'an 4:13–14).

PROBLEM STATEMENT

From the best of our knowledge, there exist no research on inheritance in general, let alone a book that discusses the errors and problems that occur in it, whether in Ghana as a whole or specifically in Tamale and its suburbs. However, through the review on the several sources and platforms, there was an observation of some brief references by certain scholars pointing out some of the errors that occur in inheritance. Yet, these do not rise to the level of academic research. Among them are:

First: "Exposing Some Sharia Errors Committed in Inheritance" by Professor Dr. **Mohammed Ibrahim Al-Ashmawi**, Professor of Hadith and its Sciences at Al-Azhar University in Egypt.

He published it through his official Facebook page, and he addressed only **four reasons**, namely:

- Delaying the distribution of the estate after the death of the deceased, or distributing part of it and delaying the rest.
- Distributing the inheritance during the lifetime of the deceased.
- Allocating the best part of the estate to some heirs and the worst part to others.
- Giving inheritance to men while depriving women.

He elaborated on some of these points, may Allah reward him with good. However, as is clear, this does not amount to a **scientific research**, although our study has included all the errors that Dr. Al-Ashmawi pointed out, and we elaborated on them in detail.

Second: A work by Professor Dr. **Muadh bin Mohammed Al-Qifari**, which was an online lecture. He discussed issues such as the problem of properties that remain undivided, the problem of some heirs refusing to divide the inheritance, and the problem of the absence of documents proving the ownership of the deceased.

Third: Another article on YouTube by legal advisor **Saif Deif**, entitled “*How to Solve Inheritance Problems.*”

The main point he addressed, which he considered a solution to inheritance problems, is that each heir should be content with whatever share reaches him.

Fourth: “*Jurisprudential Errors in Inheritance and Bequests*” by **Khalid In‘akrash**.

In his book, he discussed the mistakes made by exegetes in interpreting and explaining the verses on inheritance, especially the verse about *kalālah* (one who dies leaving neither ascendants nor descendants). He clarified the reasons that lead to injustice in the distribution of inheritance.

There are also some online articles that point to one or two mistakes or problems in inheritance, but **all of them are not scientific research**. Therefore, I conclude by affirming that **there is no comprehensive study** on the problems occurring in inheritance in general, nor in **northern Ghana in particular**.

Research Questions

1. How do we identify the main types of errors committed in the administration and distribution of Islamic inheritance in Northern Ghana?
2. Why is inheritance often postponed, suspended, or completely abandoned in many households in Tamale and its surroundings?
3. To what extent are women, children, and mentally incapacitated persons denied of their inheritance rights?
4. What role do the wills(waṣīyyah) play in protecting inheritance disputes and safeguarding heirs’ rights.
5. What are the propose practical, Sharī‘ah-based solutions and policy recommendations for improving inheritance practices among Muslims in Northern Ghana?

Objectives of the Study

To descriptively examine the nature, forms, and causes of errors in the practice of Islamic inheritance among Muslim communities in Northern Ghana.

Specifically;

1. To identify the main types of errors committed in the administration and distribution of Islamic inheritance in Northern Ghana.
2. To analyze the causes of postponed, suspended, or abandoned inheritance distribution and their social, economic, and religious ramifications.
3. To investigate the extent to which women, children, the mentally incapacitated, and other vulnerable heirs are denied of their inheritance rights.
4. To assess the role of wills (waṣīyyah) in protecting inheritance disputes and safeguarding heirs’ rights.

5. To propose practical, Shari'ah-based solutions and policy recommendations for improving inheritance practices among Muslims in Northern Ghana.

Scope Of the Study

We tried not to broaden the scope of this research too much, so as not to distract the reader, and confined it to the following aspects:

When mentioning causes, we limited ourselves to those that actually influence the differences, without addressing those that have no effect.

When mentioning mistakes, we confined ourselves to those that have an impact on inheritance and its division according to Islamic law, without addressing mistakes that have no bearing on the division in Tamale and its suburbs. However, it is possible that other parts of the Muslim world may share with Tamale in most or even all of these problems.

SIGNIFICANCE AND JUSTIFICATION OF THE STUDY

The reasons that motivated us to write on this subject are as follows:

First: The researcher's personal experience in dealing with the disputes that occur among families in society because of inheritance.

Second: Many Muslims in the community are still ignorant of the basic rules of inheritance, so the research aims to provide them with such information.

Third: Injustice in inheritance is widespread, and many households are torn apart due to the absence of fairness in distributing inheritance. The research therefore aims to awaken those who tamper with inheritance without fearing Allah.

Fourth: Some preachers and exhorters take the matter of inheritance lightly, involving themselves in its division without sufficient knowledge of its rulings. This leads them to commit grave mistakes. Hence, this research aims to alert such students and preachers to the seriousness of their actions, in order to instill in them the fear of Allah and motivate them to repent.

Fifth: Many Muslims nowadays bring inheritance cases to courts that judge according to manmade laws, most of which do not conform to Islam. This research may thus help guide Muslims correctly towards the importance of adhering to Allah's rulings in inheritance.

Sixth: There is a need among students in society to understand the causes of inheritance disputes and the legitimate ways to resolve them. This book therefore seeks to raise awareness among students and preachers in this regard.

Seventh: I have not come across any book that comprehensively addresses all the causes leading to inheritance disputes up to this moment — according to my knowledge. Generally speaking, within the community, no one has previously written on the subject of inheritance, let alone delved into the problems and errors resulting from it. Therefore, this research may serve as a first building block in writing on this aspect.

LIMITATION OF THE STUDY

It is well known that field-based topics like this are not easy to address. Since the topic is relatively new—with no prior studies to our knowledge—the researchers expected to face many challenges, including:

First: Scarcity of sources and references related to this subject.

Second: Reluctance of many people to answer the questionnaire.

Third: Since the subject is an Islamic one, it required double the effort to keep pace with both Arabic and English. Indexes (Index of Qur'anic Verses, Index of Hadith, Index of Topics)

Index of Qur'anic Verses

- "...It is prescribed for you when death approaches one of you if he leaves wealth, that he makes a bequest for parents and near relatives, according to what is acceptable—a duty upon the righteous..." (Al-Baqarah: 180–182)
- "...And do not consume one another's wealth unjustly..." (Al-Baqarah: 188)
- "...And establish prayer and give zakah and bow with those who bow [in worship and obedience]." (Al-Baqarah: 238)
- "...O you who believe, when you contract a debt for a specified term, write it down..." (Al-Baqarah: 282)
- "For men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave—be it little or much, an obligatory share." (An-Nisa': 7)
- "Indeed, those who consume the property of orphans unjustly are only consuming fire into their bellies. And they will be burned in a Blaze." (An-Nisa': 10)
- "...From what is left by parents and those nearest related, after any bequest they may have made or debt..." (An-Nisa': 11)
- "These are the limits set by Allah, and whoever obeys Allah and His Messenger, He will admit him to Gardens beneath which rivers flow..." (An-Nisa': 13)
- "And whoever disobeys Allah and His Messenger and transgresses His limits, He will put him into the Fire to abide eternally therein, and he will have a humiliating punishment." (An-Nisa': 14)
- "Indeed, the hearing, the sight, and the heart—about all those [one] will be questioned." (Al-Isra': 36)

RESEARCH PLAN AND METHODOLOGY

The aim of this research is to highlight most of the problems that occur in inheritance among Muslims in Tamale and its surrounding areas, as well as the challenges facing the Islamic system of inheritance, and to propose appropriate solutions. This is therefore an analytical and descriptive study. The methodology followed in writing this research is as follows:

First: On gathering information

A questionnaire was distributed ... Thirty students from the Higher Diploma program, twenty secondary school students, and twenty preachers from among the imams and da'wah workers in the region responded to it.

Second: Their responses were studied and reorganized in a logical order and according to their impact. Thus, what has a greater effect on errors was given priority over what has a lesser effect.

Third: I tried as much as possible to avoid mentioning juristic disagreements among scholars in the study, and sufficed with what I considered to be the strongest opinion.

Fourth: Qur'anic verses were written according to the 'Uthmānic script, and we relied on ... for their translation into English.

Fifth: The hadiths and reports were traced back to their sources, and if they were found in both Ṣaḥīḥ collections or in either one of them, we sufficed with that.

Sixth: At the end, we included a summary of the research, as well as indexes for the verses, hadiths, and topics.

ERRORS IN ISLAMIC INHERITANCE

Ignorance of the rights related to the estate¹

It is well known that when a person dies, five rights are attached to his estate in a specific order:

1. Funeral expenses,
2. Debts attached to the estate itself,
3. Unsecured debts,
4. Bequests (wills),
5. Then the distribution of the estate or what remains after these four prior rights which take precedence over inheritance.

It is often noticed in many cases in society that there is little attention paid to these four prior rights. Many of those who undertake the division of the estate have no knowledge of them, let alone the general heirs in the community. As a result, ignorance or neglect of these rights attached to the estate leads to serious mistakes in inheritance distribution — for example, distributing the estate among the heirs while debts owed to human beings or to Allah are still outstanding. Sometimes debts are even incurred for the funeral expenses despite the deceased having left sufficient wealth to cover them. All these stems from ignorance of the rights attached to the estate.

Errors in the distribution of the deceased salary

Every state employee is required to specify the names of those who will benefit from his entitlements in the event of his death. Many governmental organizations deduct a portion of an employee's salary and invest those funds, later paying them to the employee upon retirement. In case of death, payments are made to close relatives such as children, wives, parents, and siblings — but only those whose names are listed in the relevant forms and official documents.

These governmental organizations are numerous. Among them is SSNIT (the Social Security and National Insurance Trust), which covers most state employees, and GUSSS, which covers university staff and others. These institutions handle the retirement pension system for employees. As noted earlier, enrollment in them is compulsory. Based on the names of the heirs listed in their official records and the shares specified for each one, payment is made after the employee's death.

However, the problems that arise regarding the inheritance of salaries or pension funds of deceased employees are multiple, such as:

- i. There may be other heirs who are not listed in these official records, though they are legitimate heirs according to Islamic law. But since their names are not registered, they do not receive anything from these funds. This results in depriving some heirs of their rights or of part of their rights.

¹ References: Tafsīr al-Qurṭubī 3/382; al-Fiqh wa Adillatuhu vol. 5, p. 3326; al-Mawsū'a alKuwaytiyya vol. 9, p. 80 and onwards; Fatāwā al-Lajna al-Dā'ima 13/122; Faḥḥ al-Bārī 4/531; disagreements among the imams and scholars, 1/523).

- ii. Sometimes the status of the heir or heirs changes, and if no amendment is made in the records of these organizations, the funds will still be disbursed to them even though they are no longer heirs. For example, an employee may, at the beginning of his employment, register the name of his sister and allocate her a certain share on the basis that he is unmarried, without a wife or children. If he later fails to update the record and dies in that condition, the organization will pay the funds to his sister and to whomever else is recorded with them. Other problems also arise from registration in pension and retirement systems.

The proposed solutions to this issue are as follows:

- a. The employee should consult scholars well-versed in the jurisprudence of inheritance. When registering beneficiaries, he can specify those who are legally entitled to inherit from him in his current situation, as well as the share of each one. Thus, he records the eligible relatives and assigns to them their rightful portions of the estate in case he were to die at that time. For example, if, when registering with the retirement system, the employee's father is alive along with his mother, wife, son, full brother, full sister, paternal uncle, and maternal uncle, then he should record the father and assign him one-sixth, the mother one-sixth, the wife one-eighth, and the remainder to his son. These are the only ones entitled to his estate if he were to die in his present state. If Allah decreed his death without any change in the circumstances, then whatever the retirement system disburses to the beneficiaries would match what the Shariah has determined.
- b. Another proposed solution is that the employee writes a will in which he stipulates that all beneficiaries must return whatever they have received so that it becomes part of his estate to be divided among his heirs according to Islamic law. This, we believe, may contribute to resolving the problems arising from funds received by relatives after the employee's death. And Allah knows best.

Distribution of the estate before death

Some people may find themselves in circumstances where they see it best to distribute their wealth among their relatives during their lifetime. The reason may be fear of disputes and disagreements arising among their heirs after death if he were to leave wealth behind. Sometimes the reason may be fear that certain relatives might seize his wealth and prevent his children from their due. It may also be due to the fear that his eldest son will take control of the wealth after his death and deny his other children, especially the younger ones, or from fear that his daughters or wives may be deprived.

Whether the wealth belongs solely to him, to him and others, or entirely to others, and the lack of clarity regarding whether part of his wealth is endowed (waqf) or not, or the anticipation of creditors and similar circumstances. Delays may also occur due to legal complications, disputes over the valuation of assets, or disagreements on the method of distribution. In such cases, the estate may take some time before it is properly distributed, until the issue causing the delay is resolved. This delay, however, should be within a reasonable period that does not harm the heirs or cause the estate to be wasted or lose its value.

Unjustified delays in the distribution of inheritance can result in several harms, such as:

- a) Loss or misplacement of part of the estate.
- b) Depreciation of certain assets as they become outdated or obsolete.
- c) Damage to parts of the estate or their becoming unfit for use, such as clothing, food, medicine, and the like.
- d) The death of some heirs before receiving their rightful shares.
- e) Disputes arising among the heirs.
- f) And other negative consequences resulting from delaying the division of inheritance.

Delay in the division of inheritance for a long period

Indeed, delaying the division of inheritance after the death of the deceased brings about harmful effects for the heirs and the estate itself. The Sharia urges promptness and speed in distributing inheritance, as Allah the Exalted said: “After any bequest he may have made or debt – without harming [anyone]” (Qur’an 4:11). There is no doubt that unnecessary delay or procrastination causes harm and is forbidden.

Thus, deliberately delaying the distribution of inheritance without a valid Sharia excuse is considered consuming people’s wealth unjustly. Allah the Exalted said: “Do not consume one another’s wealth unjustly” (Qur’an 2:188). Scholars have ruled that delaying inheritance division without a legitimate excuse is injustice, and the person responsible for it will be held accountable in this world and the Hereafter.

To resolve the issue of delayed inheritance distribution, the following solutions are proposed:

1. Warning those responsible for inheritance to fear Allah, and informing them of the negative consequences that result from their actions.
2. If a person fears that there may be delays in the distribution of his estate, he has the right to make a will and record that in his testament.
3. Those harmed by the delay should file complaints with the religious institutions concerned with inheritance or with the Sharia courts in the country, because delaying a right is the suspension of a right.

Complete suspension of the inheritance division

The previous section dealt with delaying the distribution of inheritance, whereas this section concerns the total abandonment of distribution. This too is among the problems of inheritance in society, where in some cases the estate is never divided at all, as is the case in many households. In most households of Tamale and its surroundings, inheritance remains undivided for many years, passed down to grandchildren and great-grandchildren. In fact, most houses in Tamale remain without division; sometimes the heirs do not benefit, but rather outsiders or certain individuals among the heirs claim ownership.

A survey has indicated that this phenomenon is widespread in Northern Ghana. Most of the houses in the old neighborhoods of Tamale—such as Aboabo, Sabonjida, Sakasaka, and other old quarters in Tamale and its surroundings—are estates that have never been divided. Instead, they are left for people to live in regardless of whether they are heirs or not. At times, even strangers with no connection to the estate or the deceased occupy them. In these neighborhoods, one finds mainly the grandchildren and great-grandchildren of the deceased, rather than the original heirs.

Undoubtedly, this constitutes an error and a violation of the rulings of Allah Almighty. It is the duty of the scholars in society to warn people and explain to them the harms of such conduct.

In order to protect society from the total suspension of inheritance division, the study proposes the following:

- a) Scholars and students of knowledge should raise awareness among people about the dangers of suspending inheritance division, clarifying that it contradicts the law of Allah, leads to injustice, and deprives rightful heirs of their due.
- b) The will plays an important role in addressing this issue. If people are encouraged to write wills that include the method of inheritance distribution, this could reduce the prevalence of this phenomenon in society to some extent.

Depriving women and the weak of their share in the estate

Many women—whether wives, daughters, sisters, or even mothers—are not given anything from inheritance. For example, in society, a wife is often deprived of her share of her husband’s estate. This practice is widespread,

except in rare cases where the wife is educated, aware of her rights, and able to defend them. Otherwise, most wives receive nothing from their husband's inheritance, similar to what used to happen in pre-Islamic times. In some cases, wives are even expelled from their late husband's homes, and his brothers take over the property. This is very common in society. Sometimes, a widow may prefer to stay in her husband's home to care for her children, yet she is forced out by force. Thus, in many communities, wives are denied their inheritance rights except in rare situations.

The situation of the deceased's daughters is no different from that of the wives. A daughter is often denied any share of her father's estate. The father may own cars, properties, and wealth, but after his death, the sons, the sons' wives, and even the grandsons take full control of these possessions. Meanwhile, the daughters live in their husbands' homes facing hardship and poverty. If they were to receive even a small portion of what they are entitled to, it would relieve some of their difficulties. The same applies to mothers—the community does not acknowledge their right to inherit from their sons. This phenomenon is almost present in every household, and many complaints are raised by wives and daughters about being deprived of their rightful shares of inheritance.

We propose the following solutions to address this error:

- A. Establish specialized religious centers dedicated to the distribution of estates.
- B. Encourage those harmed to bring their grievances to human rights institutions, religious leaders, courts, or estate management centers.
- C. Emphasize the importance of writing wills that clarify the rights of wives and children and ensure they receive their rightful shares of inheritance. This is another way to alleviate the impact of this problem.

Preventing those who lack mental capacity from inheritance.

Among the harmful practices in inheritance and estate distribution in society is the deliberate exclusion of those lacking full mental capacity, such as the insane, from their inheritance despite their legitimate entitlement. Frequently, inheritance is distributed among the heirs while intentionally neglecting the share of the mentally incapacitated, under the claim that they do not inherit, do not need wealth, or cannot manage it. This practice is contrary to Islamic law, as loss of mental capacity is not one of the legal impediments to inheritance. Depriving this group of their share of the estate is unjust and forbidden in Islam. This error can be addressed as follows:

First: Raising awareness regarding the rights of this group in inheritance, and educating society that losing one's sanity or having a mental disorder does not deprive a person of inheritance.

Second: Preparing those who will manage their wealth—spending, developing, and safeguarding it—from among those qualified, even if they are not relatives. And Allah knows best.

1.3 Inheritance between people of different religions

Among the problems that negatively affect inheritance and its distribution among Muslims in society is the issue of difference in religion: when the heir is Muslim while the deceased is Christian, or vice versa. Inheritance between people of different religions is a well-known issue in Islamic jurisprudence, and it is a disputed matter. Let us review the ruling on inheritance with religious difference.

It is authentically reported from Jābir that the Prophet (peace and blessings be upon him) said: “There is no inheritance between people of two different religions.”

And in another narration: “A Muslim does not inherit from a Christian, unless he is his slave or bondwoman.”

This is the established ruling among the majority of scholars. The same applies between nonMuslims of differing religions: a Christian does not inherit from a Jew, nor a Jew from a Magian, nor a Magian from a polytheist—based on the generality of the preceding texts. Yes, some scholars made exceptions:

- i. If the non-Muslim embraced Islam before the division of his Muslim relative's estate, then according to Imām Aḥmad, he inherits—encouraging him toward Islam.
- ii. Some held that inheritance by allegiance (walā') is not prevented by religious difference, so the freed slave may inherit from the master who freed him, even if they differ in faith.
- iii. Some excluded the hypocrite, saying he does not inherit, but the correct view is that his case is judged by outward appearances, and his inner state is left to his Creator.
- iv. They also excluded the case where a Muslim may inherit from his dhimmī (non-Muslim under protection) relative, but not the reverse.
- v. Some allowed that if an apostate died or was killed upon his apostasy, his Muslim relatives inherit from him.

But the correct ruling is general prohibition. Ibn 'Uthaymīn (may Allah have mercy on him) said: "The correct view is that nothing is to be excluded from this, due to the general evidence prohibiting inheritance between people of different religions."

These texts clearly indicate the prohibition of inheritance between people of different religions. However, this rule is difficult to apply in the wider society in Ghana in general, and in the north of Ghana in particular, because there are families in which some members belong to Islam while others are not Muslims. This situation creates a problem when dividing an inheritance: if a non-Muslim son is excluded from his father's estate because he is not a Muslim, it causes a great uproar, and the matter often ends up in court. Sometimes it even happens that the non-Muslim son is the one who provides for his Muslim parents and secures accommodation for them; then, after his death, it becomes problematic to evict his parents from his house simply because he was a non-Muslim, since Muslims do not inherit from non-Muslims, and similar issues arise.

Perhaps this problem can be solved through more awareness in society and by encouraging people to write wills after consulting scholars for clarification. If the scholars of the region could agree on a unified stance on the issue, that would also help in solving the problem.

Nevertheless, this matter still requires more solutions.

Inheriting on behalf of deceased predecessors.

Although this is not a widespread phenomenon in society, it does occur when a person writes a will for someone, but the beneficiary dies before the testator. Later, when the testator himself dies without having had the chance to amend his will, a problem arises with such a bequest. This issue frequently occurs when the testator is an employee of the government or a company, since the system in the country stipulates that wealth be distributed according to what is stated in the will or in official government documents.

I personally dealt with a case where a friend passed away—he had previously recorded in official documents the name of his (first) wife. Later, he married another woman and divorced the first wife, but he never amended his will. As a result, according to the documents, the divorced wife inherited, while the current wife—who was in his marital bond at the time of his death—was not entitled to anything from his estate. This case leads to another problem arising from neglecting to update one's will or failing to review official documents with the government or with banks when there is an increase or decrease in the number of children, wives, or similar changes. Such problems and related ones can be solved by taking care to maintain and revise the will whenever necessary.

The discrepancy between the country's inheritance system and Islamic rulings.

The system of inheritance in Islam is explained in precise detail in the Holy Qur'an. Due to the importance of inheritance, the Constitution of Ghana² also gives attention to inheritance matters. When comparing the details

² The Constitution of the Fourth Republic of Ghana, Article 111, written in 1985

of the Ghanaian Constitution regarding inheritance with the Islamic system, one finds agreement in many aspects. However, each of them differs from the other in certain details. For example, the principle of “for the male, a portion equal to that of two females” in Islam has no place in the state’s inheritance law. Likewise, a woman inherits once she has given birth to a man’s child, even if there was no marriage between them — which contradicts the Islamic system — and there are other such differences.

On another note, the Eighth Parliament of Ghana engaged in discussions about the possibility of criminalizing any person who distributes inheritance according to Islamic law. Although the discussion has not yet been concluded, this was the stance the Ghanaian Parliament had reached, even if it has not resulted in an enforceable system.

Thus, the fact that some clauses in the Ghanaian Constitution concerning inheritance contradict what is stated in Islam, in addition to the attempt to criminalize anyone who distributes inheritance without court approval, both of these issues negatively affect the practice of Islamic inheritance among Muslims in the country. And Allah is the One sought for help.

False claims and litigation against the deceased.

One of the problems faced by scholars when dividing inheritance is the existence of claims — by some heirs or by outsiders — that they have money or debts owed by the deceased. Upon investigation, it is often found that such debts are undocumented, with no witnesses or evidence to prove or support those claims. Most of these claims usually come from the wife or from close associates of the deceased. For example, the wife may claim at the time of distribution that her deceased husband had borrowed a certain sum of money from her and never returned it. Most of these claims are devoid of documentation.

If the other heirs support such a claim, then there is no problem, as the right is theirs. However, the problem arises when they deny it or are unaware of it. The emergence of such claims in inheritance often causes delays in the division of estates, and may lead to disputes among the heirs, resulting in accusations and conflicts among family members.

What could be done is to encourage people to abide by what Allah has obligated regarding debts, namely documenting them. For Allah has commanded the believers to record debts, saying:

“O you who believe, when you contract a debt for a fixed term, record it in writing ... and let a scribe write it down justly between you³. And in the Sunnah is his ﷺ statement in the ḥadīth of Ibn ‘Umar (may Allah be pleased with

In addition to giving due attention to a will, especially in such circumstances, this issue can only be resolved through the court, where the case and the evidence are examined, and then a ruling is issued accordingly. After that, the inheritance is distributed.

As for the debts formally documented against the deceased, they generally pose no problem, since the heirs are keen to settle them on behalf of their deceased relative, being aware of the grave danger of debt in Islam.

Ignorance of the deceased’s property.

One of the causes of problems in inheritance and a barrier to heirs receiving their full rights is the concealment of some of the deceased’s property after his death. Many Muslims in the region do not inform their families about their possessions such as lands, real estate, bank accounts, debts owed to them by others, and other financial entitlements. A person may die while having large sums of money in a bank, yet none of the heirs—whether wife, children, or other relatives—knows anything about that account. An employee at MTN Money Transfer told me that this happens frequently.

³ Al-Baqarah: 282

Nowadays, almost everyone with a mobile phone has an account with MTN, Vodafone, or similar companies, with a secret PIN code that no one knows except the owner. If sudden death or an accident occurs, it may be impossible for the heirs to access these accounts. Consequently, the money may be lost, and the heirs may find themselves impoverished after the death of their provider, despite the existence of large sums of money in such accounts.

To prevent this loss of wealth and financial assets after death, and to ensure that heirs benefit from them, everyone should adhere to the guidance of the wise Shariah: recording such matters and testifying to them, in obedience to the words of Allah Almighty:

“O you who believe! When you contract a debt for a fixed term, write it down. Let a scribe write it down in justice between you. No scribe should refuse to write as Allah has taught him, so let him write. And let the debtor dictate, and let him fear Allah, his Lord, and diminish nothing from it. If the debtor is of poor understanding, or weak, or unable to dictate himself, then let his guardian dictate in justice. And call two witnesses from among your men. If there are not two men, then a man and two women such as you approve as witnesses, so that if one of them errs, the other can remind her. And let not the witnesses refuse when they are called upon. Do not tire of writing it, whether small or large, along with its term. That is more just with Allah, stronger as evidence, and more likely to prevent doubt between you—unless it is an immediate trade you carry out among yourselves, then there is no blame if you do not write it down. But take witnesses when you make a contract of sale...”⁴.

“A Muslim has no right to spend two nights with something he wishes to bequeath in his possession without having his will written down with him.”⁵.

Muslims should encourage one another to write wills, for this helps in such critical situations by making it easier for heirs to obtain the wealth and entitlements left for them by their relatives.

Doubt about the deceased’s assets (assets undefined).

It is observed that many Muslims in the region are partners with others in their businesses. Two or more may come together to start a commercial venture, earning income from it. The partnership may be based on *muḍārabah* or other forms of partnership. Some Muslims may purchase a car, a tricycle (commonly known in society as “yellow-yellow” or *motorkia*), or similar vehicles, and hand them over to someone who works on them, with the earnings shared according to their agreement. These are examples of financial partnerships.

If sudden death or an accident befalls one of them, disputes often arise between the deceased’s heirs and his business partner. The reason is that such partnerships are usually undocumented and not witnessed. If the partner does not fear Allah, he may seize the deceased’s share of the business or deny his rights in the joint venture. This occurs very frequently. At times, the violation comes from the deceased’s heirs, who claim full ownership of a business or asset that was shared with their relative.

Courts have often dealt with such cases. What leads to doubt regarding the deceased’s assets is the neglect of Allah’s command to document such rights and have them witnessed.

Housing each wife separately.

Another cause of inheritance problems in society is that some men who can afford it provide each of their two, three, or four wives with a separate residence. He allocates to each wife and her children a private house, while the other wives live separately with their own children, seeking psychological comfort and minimizing the problems that usually arise from co-wives living together in one place.

⁴ Surah al-Baqarah, 2:282

⁵ Agreed upon – al-Bukhārī, no. 2738; Muslim, no. 1627

From a Sharī'ah perspective, this arrangement carries no objection. The husband giving each wife her own private residence with her children provides him with comfort and spares him many conflicts and disputes that commonly arise among co-wives living in the same household.

Often, a husband houses each of his wives in a separate dwelling, regardless of the number of children each wife may have. For example, the first may have five children, the second four, the third two, while the last may not yet have any children.

If the husband suddenly dies, perhaps in an accident, while the situation is like this, each wife tends to remain in the house where she and her children live. They consider this to be an automatic division of the estate. However, when the inheritance is actually divided in such a case, many problems arise. This is because the number of children and their gender (male or female) differ from one wife to another, and the number and gender of children is a significant factor in Islamic inheritance distribution. On the other hand, the houses may not be of equal standard, which causes another problem.

For these reasons, and due to the difficulty of handling the matter, some people responsible for distributing inheritance in such cases rule that each wife and her children should own the house they were living in at the time of the husband's death. Yet it is clear that such a ruling is problematic.

The reason is that the number of children differs from wife to wife, as does whether they are male or female — and all of this is taken into account in inheritance division. When the person in charge of the division tries to carry out God's command of justice in the distribution, he faces serious difficulties. This happens frequently in society. What this research proposes as a solution to this problem is the following:

- i. The husband should register all his properties in his own name only, not in the name of any of his wives. This would help convince them that all the houses — even if they live in them with their children — still belong to the deceased husband, and therefore must all be divided according to the Shariah, along with the rest of his estate.
- ii. The husband may also, during his lifetime, register each house in the name of the wife he intends to settle in it as a gift to her. In this case, after his death, each wife has a right to her house as her property along with her children. Here, justice must be observed in the quality, location, and size of the houses. Each wife would then hold on to her own house, which would be considered a lifetime gift to her and would no longer be subject to inheritance. The rest of the estate would remain as inheritance to be distributed among the heirs according to God's law.
- iii. Some also propose in such situations that ...

Some suggest, in such a situation, that the husband should write a will clarifying all the circumstances regarding those houses. He may stipulate in his will that all these houses will be subject to the Islamic inheritance system after his death. Writing a will and consulting scholars well-grounded in the science of inheritance contributes to resolving the problems that may arise regarding his estate after his passing.

There is no doubt that expanding awareness and education on these issues has a greater impact in convincing wives who may oppose the command of Allah due to ignorance of His law. And Allah knows best.

Partnership of an heir in a business that has become inheritance with both heirs and nonheirs

It is natural for sons and brothers to assist their father or elder brother in his work—whether this work is trade, farming, engineering, carpentry, plumbing, metalwork, or similar professions that generate income. The father or the head of the business usually provides for these sons and brothers who participate with him in the work. The problem, however, lies in the fate of the wealth that resulted from that business when it later becomes an inheritance. This is because some heirs had a role in generating that wealth along with the deceased.

Often, in such cases, disputes arise about the wealth that the deceased and some of the heirs jointly acquired. Some sons who worked with their father in building that wealth may claim that they have a greater right to it

than the other heirs, or that their share should be larger than that of others, arguing that they were partners with the deceased in earning those funds which have now become part of the estate. On the other hand, the remaining heirs—who did not directly participate in generating those funds that have become the inheritance—insist that the wealth belongs to all of them and must be divided equally, without giving preference to anyone simply because of his participation in the deceased’s work.

This, more often than not, leads to many disputes among heirs, which may escalate into estrangement, enmity, or even end up in the courts of the land—courts that do not necessarily apply the rulings of Islamic inheritance.

The study suggests that this negative outcome can be reduced or eliminated in society through the following steps:

i. The father, business owner, head of the profession, or founder should specify the entitlements of every worker with him, and treat their participation in his work as employment for which they are paid in full—whether daily, weekly, monthly, or after the completion of any particular task. For example, if some of the sons participate with him in construction work, they can be given their full wages immediately after the job is completed.

Either immediately after receiving the wage for the work, or at the end of each working day, the worker should be given his due. Based on this, if the deceased (the employer) dies, the heirs who used to work with him have no special right in the estate, and they should not demand it. Rather, all the wealth is subject to division among all the heirs without favoritism or preference, because the estate is then the exclusive right and property of the deceased.

- One possible solution to avoid this problem is drafting a will, where it is stated that such and-such heir should be given a certain portion. However, this suggestion cannot be applied here, because in this case the will would involve a bequest for an heir, and the Sunnah has prohibited that explicitly. Yet, it should be noted that the matter may fall under giving the heir his wage for work he actually performed, and not under bequeathing to an heir. And Allah knows best.

Partnership of non heir in a business that has become inheritance for the heirs

This is another form of utilizing others’ efforts to accumulate wealth which later becomes inheritance. For example, the owner of a business may be assisted by someone—perhaps a relative who is not an heir, or even a distant person not among his kin—in his business that generates income. This assistant is neither a partner in the business, nor is he entitled to a share of its profits. He only receives his due wages. When the employer dies, however, his heirs take possession of all the property as inheritance, and often deprive this assistant of his rightful wages, claiming that everything belongs exclusively to their deceased. This is very common in society and a frequent cause of disputes over inheritance.

The solution to this serious issue is to treat such assistants as employees entitled to their wages as soon as the work is completed without delay, in accordance with the Prophet’s saying: “Give the worker his wage before his sweat dries.”⁶

Also, it may be recorded in writing as a precaution. At that point, whatever remains in the business or workplace belongs exclusively to the employer, and no one other than the heirs have a claim to it. And Allah the Exalted knows best.

Partnership of the wife in construction, especially in cases of polygamy thereafter.

This is another scenario, singled out due to its importance and frequency in society. The situation is as follows: At the beginning of married life, a husband may seek the assistance of his wife—whether with her money or her effort—in establishing a home. Later, the husband may marry a second, a third, or even a fourth wife. The house that he lives in with his first wife may have been partly funded or supported by her.

⁶ Narrated by Ibn Mājah, no. 2443, authenticated by al-Albānī in *Ṣaḥīḥ al-Targhīb wa al-Tarhīb*, no. 1877

When the husband dies under such circumstances, the first wife who contributed to building the house may claim ownership rights in the house they live in, arguing that she contributed to its establishment—sometimes her contribution may have been limited to preparing food for the laborers or similar light tasks typically done by wives during construction.

Upon his death, she may then claim that she has a special right in the house, or that she had contributed to its establishment at a time when she was his only wife.

The solution: The wife's money should not be introduced into building projects or any other ventures of the husband. If the husband does use his wife's money for construction or any similar project, it should be considered a loan to be repaid to her as soon as possible. If she participates in any work, she should be regarded as an employee entitled to her due wages immediately upon completion of the work. And Allah knows best.

Spending part of the inheritance on funeral ceremonies.

It is known that when a Muslim die, it is required of those able to attend his funeral, prepare him for burial, and console his family. There is no harm in preparing food for the bereaved family, as mentioned in the ḥadīth: “Prepare food for the family of Ja‘far, for what has befallen them has preoccupied them.”⁷ Likewise, if those present in the deceased's home need food, then there is no harm in preparing meals for them.

As for holding mourning banquets during funerals, preparing food, and gathering in the house of the deceased on the third day, the seventh day, or the fortieth day after death—all of these are innovations (bid‘ah) in Islam, for which there is no evidence. What is obligatory upon the Muslim is to hold fast to what the Prophet ﷺ was upon, without introducing into his religion that which does not belong to it. The Prophet ﷺ said: “Whoever introduces into this affair of ours that which is not from it, it will be rejected.”

The Prophet ﷺ and his Companions buried hundreds of fellow Companions and other Muslims without ever establishing such gatherings on the third, seventh, or fortieth day after death. These practices are innovations that have nothing to do with Islam. Despite this, people spend money on these gatherings, preparing different types of food—sometimes in large quantities. Many people even view the food prepared for these occasions with disdain, and it often happens that tons of food are thrown away in the garbage, which in itself is extravagance. Extravagance is forbidden in Islam.

If the money spent on these mourning banquets comes from wealthy individuals, the matter is somewhat lighter; nevertheless, those responsible will still be held accountable for wasting wealth on illegitimate matters. The Prophet ﷺ said: “The feet of the son of Adam will not move on the Day of Resurrection until he is asked about four things: his life and how he spent it, his youth and how he used it up, his wealth—how he earned it and how he spent it, and his knowledge and what he did with it.”

In our issue here, however, the matter is even more serious: often those in charge of these gatherings spend the wealth of orphans and widows on them, leaving the orphans, widows, and heirs hungry and poor afterward. If they had instead invested these inheritances properly, it would have helped ease the difficulties of the orphans and widows, especially after most people have forgotten about them.

Frequently, inheritance money is used to buy cows, tons of maize and rice, and to rent chairs and tents—all just for holding such mourning feasts—leaving little or nothing for the heirs. If anything remains, it is very little.

This is undoubtedly forbidden, as it constitutes consuming the wealth of orphans and widows unlawfully, wasting the property of the vulnerable, extravagance in itself, encouraging innovations, oppressing the heirs, and diverting wealth away from its rightful recipients.

⁷ Narrated by Abū Dāwūd 3132, al-Tirmidhī 1019, Aḥmad in his Musnad 1751, and al-Ḥākim, who authenticated it, 1/372

There is no doubt about the prohibition of this.⁸

This sin is extremely dangerous, and those who commit it will be questioned before Allah about this wealth and about the suffering they cause the heirs. The burden of all of that will fall upon those responsible for such unjust actions, and Allah's help is sought.

This matter needs no special proposal to avoid it, except to raise people's awareness of the prohibition of this act, that its perpetrator is exposed to Allah's wrath and punishment, and that it is a form of forbidden extravagance. No one would accept such treatment for his own heirs, so how can they inflict it upon the heirs of others—forgetting, or pretending to forget, that debts never die? There is no power and no strength except with Allah the Almighty.

Ignorance of the rulings of bequests.

A will (waṣiyyah) is a directive concerning the disposal of wealth or other matters after death, within the limit of one-third of the estate or less if it involves property. It is legislated in the Qur'an, the Sunnah, and by consensus. Allah the Exalted says: "It is prescribed for you, when death approaches any of you, if he leaves any wealth, to make a bequest..."⁹

And the Prophet ﷺ said: "It is not befitting for a Muslim who has something to bequeath to stay for two nights without having his will written down with him."¹⁰ Muslims have unanimously agreed on its legitimacy within the boundaries of Sharī'ah. The aim here is not to detail all the rulings and conditions of wills—that belongs in the books of jurisprudence. Rather, the purpose is to highlight the importance of having a will, since it plays a major role and has a profound effect in resolving many issues that arise in matters of inheritance. Among the benefits of a will are:

1. The deceased benefits from a portion of his wealth after his death if he bequeaths it for charity or to establish a righteous project.
2. Through a will, the testator clarifies what rights and debts are upon him, making it easier to settle them after his death, which is a mercy for himself.
3. If his wealth is in partnership with others, the will helps clarify and settle matters, cutting off disputes.
4. A will also resolves disputes concerning the identification of heirs after death. Often disagreements arise regarding certain heirs—for example, it may be claimed that a certain son is not truly his biological child, though he considered him entitled to inheritance.

Sometimes it is said that a certain wife had been divorced, while he considered her still his lawful spouse. Divorcing one's wives while claiming that this affects inheritance, and other issues related to determining who inherits and who does not — the will is the best solution to all of these problems.

Fifthly: We previously pointed out that one of the problems of inheritance in society is that unqualified people undertake its distribution. A person has the right to make a will appointing someone to oversee the division of his estate, and this will must be executed. He may also stipulate who leads his funeral prayer, who oversees his burial, and may forbid in his will all the prohibited practices that he expects might occur at his funeral or with his estate, such as hosting banquets, preventing his daughters from inheritance, and the like.

⁸ Agreed upon. Al-Haythami said: Reported by al-Tabarani and al-Bazzar with a similar wording. The men of al-Tabarani are those of the authentic collections, except for Ṣāmit ibn Mu'ādh and 'Adiyy ibn 'Adiyy al-Kindi; both are trustworthy.

⁹ Al-Baqarah 2:180

¹⁰ Agreed upon: AlBukhārī no. 2738, Muslim no. 1627

Sixthly: One of the wisdoms of the will is that it reveals money and property unknown to the heirs. This includes bank accounts, financial shares, documents that only the testator knows of and their location, and other valuable possessions or hidden assets of which the heirs are unaware. The will preserves these assets for him and his heirs after his death, preventing their loss.

It has been noted that many people have what is called “MOMO,” a mobile money transfer system through their telecom company. All of them admit that no one else knows their PIN or account details except themselves. The writer is not far removed from what these people are facing. If sudden death occurs, there is no doubt that such money may vanish into nothing. How many people have left behind huge amounts of wealth that ended up benefiting financial institutions or other individuals, while the rightful heirs — who sometimes die of hunger — are deprived, simply because the deceased failed to disclose these assets? The will is what reveals and clarifies the location and size of such wealth.

The writer has personally witnessed many such cases: some acquaintances died in accidents, leaving behind vast sums in the hands of others. Those who feared Allah disclosed them, while others concealed them, and they will only be brought to account before Allah Almighty on the Day of Judgment.

Thus, the will was not prescribed in the Shariah without purpose; rather, it holds immense importance in safeguarding a person’s assets, especially after his death, and in preserving rights from being lost. It also helps fulfill the wishes and aspirations of the person after leaving this world.

Accordingly, every Muslim must give due attention to the will of the Prophet ﷺ, by writing his own will, reviewing it, and updating it from time to time. Writing a will is an act of worship, obedience to Allah — the true Inheritor — and obedience to His Messenger ﷺ. It is also following the example of the righteous predecessors, a form of wisdom that settles and ends most disputes within a family and among heirs after death.

It is clear that neglecting to write a will, if it leads to disputes and the loss of heirs’ rights, is prohibited and unjust. Without doubt, the one who is negligent will bear the consequences of his delay and disregard for this divine instruction. And Allah is the One who grants success.

Inheritance of divorced women.

One of the problems that occurs in matters of inheritance in society concerns divorced women. A man may have disputes with his wife or wives and then divorce her, and afterward he dies. This creates ambiguity regarding the status of his wife: Was she divorced with a final irrevocable divorce (ṭalāq bā’in) or a revocable divorce (ṭalāq raj’ī)? Has her waiting period (‘iddah) ended, or is she still within it?

The situation of divorced women thus causes disputes in determining whether she is considered an heir or no longer under the marital bond of the deceased. The cause of this confusion is that divorce in society is neither documented nor witnessed.

To illustrate this issue, we say that a married woman has an established right to her husband’s estate as long as she remains in his bond without dispute, and the woman... And regarding his wives: if he divorces one of them and then dies, the position of his wife toward him remains unclear — is she divorced with a final irrevocable divorce (ṭalāq bā’in) or a revocable divorce (ṭalāq raj’ī)? Has her waiting period (‘iddah) ended, or is she still within it? The situation of divorced women causes disputes in determining whether she is considered an heir or not under the deceased’s marital bond. The reason is that divorce in the community is often neither documented nor witnessed.

To clarify this matter: a married woman has an established right in her husband’s estate as long as she is under his marital bond without dispute. A woman divorced with a revocable divorce inherits from her husband if she is still within her waiting period, but if she was divorced with an irrevocable divorce, she does not inherit from him even if she is still in the waiting period. Of course, in such a case she is not entitled to maintenance either.

The problem lies in determining the type of divorce and whether she is still in her waiting period or it has ended. Most of these issues remain unclear, especially if the divorced wife is not known to the family, or if her only connection was with the deceased husband himself. In such cases, the heirs usually support her exclusion from inheritance and strive to prevent her from receiving any share, while the divorced woman, out of eagerness to inherit, may claim what supports her eligibility. This problem has caused much suffering in society, and we have personal experiences with it. For example, a close friend of ours died in an accident in 2023, leaving one wife under his marital bond — his second wife. As for the first wife, they had separated six years earlier. But when the man died in that tragic accident, the first wife — who, as far as we could tell, had been divorced — insisted that her husband had never divorced her, but only separated from her after informing her family. This claim caused the writer much distress until the father of the deceased judged in the matter, declaring that the claimant was no longer his son's wife, since she had been divorced years ago, and that she had been returned to the guardianship of her family. Thus, she had not been his wife since that time. Although divorce is a right specific to the husband, in practice fathers and guardians of marriages often divorce their sons' wives with or without the sons' consent. Many examples of this type exist in the community.

Inheritance of Endowments (Waqf)

Legally, waqf is the dedication of the corpus (the principal) and the allocation of its benefits, meaning that the asset itself is withheld from sale or transfer, while its benefit and yield are made available for the Muslims in general or for specific individuals appointed by the endower.

It is sanctioned by the Sunnah and consensus. In the two authentic collections, it is narrated that 'Umar said: "O Messenger of Allah, I have acquired wealth in Khaybar, and I have never obtained wealth more precious to me than this. What do you command me to do with it?" He said: "If you wish, withhold its principal and give away its yield in charity, on the condition that its principal cannot be sold, gifted, or inherited." So 'Umar gave it in charity for the poor, relatives, slaves seeking freedom, in the cause of Allah, for travelers, and for guests, with no blame upon the administrator.

He bequeathed it, and 'Umar gave it in charity to the poor, relatives, for freeing slaves, in the path of Allah, to the traveler, and to the guest. There is no blame on the one who administers it if he eats from it in moderation or feeds a friend without taking wealth from it. Waqf (endowment) is something unique to Muslims. Jābir (may Allah be pleased with him) said: "There was not one of the Companions of the Prophet ﷺ who had the means, except that he established a waqf."

The prevalent endowments in society are many, most prominently mosques, schools, Qur'an memorization circles, orphanages, graves, and the like.

The problem with these endowments, especially mosques and schools built either at the expense of their founders, or from donations of contributors inside or outside the country, is that sometimes the founder's role was only to supervise construction, or he simply donated a piece of his land for the building, or even part of his house, and so on. Whatever a person's contribution to building a mosque or school, it remains an endowment for the general Muslims to benefit from.

However, what happens in society is that after the death of those who were in charge of such schools and mosques, the heirs take control of these endowments and make them part of the inheritance, claiming their entitlement to them—though they were originally donations collected for the building of those mosques and schools. Sometimes the heirs even expel those who used to share with their deceased parent in taking care of these mosques and schools. At times, violent disputes break out among the heirs over these endowments, as the eldest heir may claim the exclusive right to manage the mosque or school, even if he is unqualified. How many times have we seen sons fighting over a school, mosque, or mosque complex founded or co-founded by their father.

Turning endowments into inheritance—and the attempts of heirs of the contributors to seize them—is a widespread phenomenon, even among people of knowledge. This issue requires a radical solution and deep study.

What this research initially proposes is that a waqf cannot, under any circumstances, be turned into inheritance, to be monopolized by some heirs for their own benefit while depriving the general Muslims for whom it was established.

If, however, the deceased himself had built a school entirely at his own expense, without any participation from others in money, effort, or land, and he intended it as an investment or as private property—not as a waqf nor as charity—then the ruling is different, because he did not intend it as a waqf. In that case, it may be considered inheritance to be shared among his heirs. Otherwise, waqf can never be turned into inheritance. Allah knows best. As I mentioned, the matter requires further research and consultation with scholars and specialists.¹¹

Domination of a relative over the inheritance and preventing the heirs of the deceased from receiving it

It is often observed in families that the elder relative—whether a brother of the deceased, an uncle, or even a father (though the latter rarely)—seizes the inheritance on the pretext that he will take care of the deceased’s family and manage the affairs of the orphans. He thus takes control of the estate under this declared purpose, but soon the inheritance becomes his own property and for the benefit of his own children. This is a widespread phenomenon in society.

Sometimes, they even threaten an heir who asks for his rightful share of the inheritance— warning him that if he continues to demand his share, they will cause his ruin, illness, or similar harm. In some cases, they even resort to sorcery against the heirs who demand their rightful shares. By doing this, they are in fact consuming the wealth of orphans unjustly. Allah the Exalted says: “Indeed, those who consume the wealth of orphans unjustly are only consuming fire into their bellies. And they will be burned in a Blaze.” [al-Nisā’ 4:10].

And He says: “And We shall set up the scales of justice on the Day of Resurrection, so no soul shall be wronged in anything. And if it be the weight of a mustard seed, We will bring it forth. And sufficient are We as Reckoners.” [al-Anbiyā’ 21:47]. And the Prophet ﷺ said: “The rights will be restored to their rightful owners on the Day of Resurrection, until even the hornless sheep will settle the score with the horned one.” (18). The research proposes the following as possible measures to reduce this injustice against children and the weak:

- A. Giving due care to writing a will and having it witnessed, which helps prevent this kind of oppression against weak heirs.
- B. Warning against this disgraceful act, reminding that its consequences are severe, and that it may cause the complete loss of blessing from their own children as a result of this wrongdoing.

Taking possession of the estate before the heirs—or some of them—reach maturity

Among the issues that cause disputes in inheritance within the community and lead to the loss of heirs’ rights is the disposal of estates before the heirs reach maturity.

If the estate consists of clothing, food, or similar items that may perish or spoil if left until the heirs reach maturity, the executors may distribute them among the poor and needy of the family, and even to outsiders, claiming that if they were left until the heirs matured, they would be ruined and useless. Out of fear of such loss, relatives often dispose of them before the heirs mature.¹²

This phenomenon is common in society. Some executors or elder heirs, when the inheritance includes clothes, utensils, or other perishable items, argue that if these items were kept until the minors matured to benefit from

¹¹ [Agreed upon]. This narration from Jābir was cited by Ibn Qudāmah in al-Mughnī (8/186) and by alKhaṭīb al-Shirbīnī in Mughnī al-Muḥtāj (2/376). I did not find anyone who traced it to the books of ḥadīth.

¹² Reported by Muslim, no. 2582.

them, they would decay and no one would benefit. Out of fear of this type of loss, they dispose of them without the consent of the minors.

Although the intentions of those who act this way may be good, such an act is impermissible. It is considered a person's disposal of property that does not belong to him, without the permission of its rightful owner. Such an act causes the loss of heirs' rights.

To avoid this harmful practice, the research suggests the following:

- If there is no way to avoid disposing of the inheritance out of fear of spoilage or loss, then everything must be recorded precisely, including number and value, with witnesses present. It may then be sold if it is something that can be sold, or given in charity if it cannot be sold and is at risk of ruin and decay, while retaining these documents.
- Once the child reaches maturity and sound judgment is observed, he is to be shown what was done on his behalf while he was a minor. If he accepts and is satisfied with it, then that is fine and the reward is his. But if he does not approve of what was done on his behalf, then the value of that estate which was disposed of must be returned to him.

However, if selling it and keeping its price or investing it is possible, then that is required. As the Almighty said:

“And test the orphans until they reach marriageable age; then if you perceive sound judgment in them, deliver to them their property”¹³.

For the ruler's actions concerning his subjects are tied to the subjects' welfare.

The fate of charitable donations during condolence gatherings

It is customary in society that people gather on the third day after a person's death for collective condolences. Relatives of the deceased, his friends, neighbors, and even sometimes non-Muslims gather on this day. Some preachers then admonish the people, reminding them of death, the Hereafter, and the rulings on mourning. They may speak of the virtue of caring for orphans and widows, and warn against certain innovations that occur in funerals, or highlight important matters related to burial rites.

It is known that this gathering on the third day after death for collective condolence has no basis in the Sunnah. Neither the Prophet (peace be upon him), nor his Companions, nor the generations after them practiced it with excellence. There is no authentic, explicit evidence to support its legitimacy. Sa'īd ibn al-Musayyib said: “We used to regard gathering for condolence as a form of wailing.”

Imam Ahmad and Ibn Mājah, with a sound chain, narrated from 'Abd Allāh al-Bajali (may Allah be pleased with him) who said: “We used to regard gathering at the house of the deceased and preparing food after burial as part of wailing.” (19)

Imam al-Shāfi'ī said: “It is disliked to sit for condolences,” and al-Awzā'ī said the same. Imam Ahmad also said: “It is an act of ignorance” and rejected it. (20)(21) Thus, gathering at the house of the deceased specifically on the third day has no evidence for its legitimacy.

Yes, this act is often carried out by Ahl al-Sunnah wal-Jamā'ah, who themselves oppose innovations, calling people to adhere to the Sunnah and to what the pious predecessors were upon. Even though they are the ones organizing collective condolences on the third day, none of them claim it is Sunnah, let alone obligatory. Some even reject it outright, while others see that although it has no basis in Sunnah, it provides a means to confront greater evils that happen in the homes of the deceased.

¹³ An-Nisā': 6

By gathering, they find an opportunity to remind people how a Muslim's funeral should be conducted. Through such meetings, they can denounce innovations, shirk, and unlawful practices widespread in funerals. They also consider this gathering a chance to raise donations for the orphans and widows of the deceased, to warn against mourning beyond three days for anyone other than the deceased's wives, and to prevent many prohibited practices associated with funerals.

They justify this gathering by saying that admonition in it achieves a legitimate benefit, fulfilling the Almighty's command: "So remind, if the reminder benefits"¹⁴.

They thus see that through it, religious benefits and objectives are realized through it.

And the purpose of this discussion is not to state the religious ruling regarding these gatherings, whether permissible or prohibited—for I have detailed that in another place in my book *Al-Mā'ah*—but rather to highlight the money that is collected in such gatherings and the problems that result from it.

These contributions collected during condolence gatherings are of two types: some are intended as support for orphans and widows, and these must not be spent except on them. Others are collected from contributors to cover the expenses of the gathering, hospitality for guests, and the like; these, too, must be spent according to the purpose intended by the contributors. Sometimes a portion is allocated to the preachers present at the condolence gathering, and it must be spent on them.¹⁵

In any case, these contributions often become a source of disputes and disagreements. What matters to us here is whether these contributions are considered part of the estate and thus subject to the rules of inheritance. If they are meant for covering the expenses of the gathering and hosting the guests, then they must be used for that purpose. Thus, determining the intent behind collecting these contributions is what resolves the matter and prevents disputes and conflicts over their distribution. And Allah knows best.

The problem of collective death (al-Mawt al-Jamā'ī).

Among the errors in Islamic inheritance that occur among Muslims in the region is that many of them fail to properly understand the rulings related to collective death.

Collective death refers to the death of two or more people who could inherit from one another, either at the same time or at different times, without knowing who among them died first. Collective death has two scenarios:

1. That two or more people who could inherit from each other die, but it is still possible to determine who died first—for example, if a father dies in an accident, then a minute later the son dies, and a few seconds after that the brother dies. In such cases, if it can be determined who died first, even by seconds or minutes, then the order of death is known.
2. The second scenario is the exact opposite: when a group of people who could inherit from one another die at the same instant, and it is impossible to know or distinguish who died first.

Collective death happens in car, train, or plane accidents, or in cases of collapse, drowning, poisoning, fire, or during wars. In such circumstances, it may be impossible to determine who died first, and thus it becomes difficult to establish who inherits from whom.

Collective death in its different forms causes errors in inheritance in the community, because many of those who undertake the division of estates in such cases do not properly apply the rulings related to collective death. As a result, many of them combine the estate of the first deceased with collective death in its various forms causes errors in inheritance distribution in society. Many of those who take on the task of dividing estates in such cases

¹⁴ Al-A'lā: 9

¹⁵ Reported by Imām Aḥmad, Al-Musnad, 2/204.

do not have a firm grasp of the rulings related to collective death. You often find them merging the estate of the first deceased with that of the other, and then distributing it among those they assume to be heirs. Undoubtedly, this is an incorrect practice, as it leads to giving inheritance to those who have no right to it, or depriving rightful heirs of their full or partial shares. The root of this error is ignorance and lack of precision in inheritance matters.

What should be done—as we previously stated—is to entrust the distribution of inheritance to students of knowledge and scholars who are well-versed in its rulings, and who combine their knowledge with piety and fear of Allah, the Exalted. And Allah Almighty knows best.

Merging several inheritances

The case of this issue is as follows: for example, a father dies and his estate is not distributed for some reason. Then his son (who is among his heirs) dies. The one handling the estates then merges the two estates and distributes them jointly among what he thinks are their heirs, while neglecting others. In this case, both estates end up being distributed to the remaining children of the first deceased (the father), while the heirs of the second deceased (the son) may be overlooked.

It is clear that merging two or more estates leads to serious errors. The heirs of the first deceased are not necessarily the heirs of the second. For instance, the second deceased (the son) may have children and a wife. The wife of the son, as is well known, does not inherit from her father-in-law, as she is unrelated to him. Likewise, the children of the son do not inherit in the presence of their grandfather's living sons. Thus, such practices cause many mistakes in inheritance distribution within society. The cause of this lies in ignorance of the rulings of inheritance. Therefore, this research advises everyone involved in inheritance division to fear Allah, avoid matters they have no knowledge of, and entrust inheritance distribution to specialists. And Allah knows best.

RESULTS AND DISCUSSION

We spent several months working on this research, and through it, we can highlight the most important findings as follows:

First: Ignorance of the science of inheritance, and the interference of some students of knowledge in dividing estates without sufficient knowledge of its rulings, is a major cause of inheritance disputes in society.

Second: The research revealed that it is permissible to stipulate a fee for dividing inheritances, though it is better to do it as an act of goodwill without seeking compensation.

Third: Some estate dividers deliberately allocate a portion of the estate to themselves before or during the division, which is impermissible.

Fourth: The ignorance of many Muslims in society regarding the rulings of wills and their importance is one of the causes of inheritance-related disputes.

Fifth: The ignorance of many Muslims regarding the rulings and sanctity of endowments (waqf) causes serious problems and disputes among heirs.

Sixth: Failure to properly document properties leads to the loss of many heirs' rights and also fuels disputes among the heirs themselves, as well as between heirs and their deceased relative's business partners—often resulting in grave consequences.

Seventh: Concealment of assets and attempts to withhold them from family members and heirs have contributed to many inheritance problems, leading to disputes among heirs and between heirs and the deceased's partners.

Eighth: Postponing or delaying the division of inheritance is a major cause of the loss of many heirs' rights.

Ninth: Lack of fear of Allah is one of the main causes of disputes in inheritance matters, often resulting in the denial of the rights of the weak.

Tenth: Delaying the execution of wills or altering them is a grave sin and a cause of many inheritance-related problems in society.

These are the most prominent findings we can point to. There are others, but they mostly stem from the issues mentioned above. And Allah knows best.

CONCLUSION AND RECOMMENDATION

After spending considerable time on this research, we propose the following to scholars and researchers:

First: Encourage students of knowledge and researchers to give more attention to topics that help find solutions to the challenges their communities face.

Second: Make serious efforts to establish Sharia-based courts to which inheritance issues and related disputes can be referred, since the rulings of such courts decisively settle conflicts among Muslims.

Third: Urge students to devote more attention to studying the science of inheritance and spreading its rulings within society.

Ethical Approval:

We can confirm that ethical approval was obtained for research involving individuals as respondents.

Conflict of Interest:

We can confirm without any form of dispute that there exist no potential conflicts of interest.

Data Availability:

Data for this study was purely primary collected through personal interview and interaction with the respondents

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