

Studying the husband and wife inheritance in Imamate Jurisprudence and Hanafiyeh jurisprudence

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ABSTRACT: Undoubtedly, the basis of Islam has been built on the healthy and correct nature and all aspect of its life is regarded and the most important issue that has long been one of the most basic human concerns is property maintenance and uncertain future of property and wealth has the increasing concern in the spirit. There fore, Islam that completes heaven religions pays attention this. There fore, I studied the idea of Islam about spouse heritance in two Hanafiyeh and Imamate religion by library and analytical method; it is hopeful that I have Islamic topics in new frame. Men inherits all properties of his wife in Hanafiyeh and Imamate jurisprudence and Iran civil rights, but there is difference about the property that woman inherits. According to Quran, woman inherits all property, woman deprivation is of the cost of some property and the last idea is preference between the mother and father of child and child: woman that has child inherits all man properties, but woman who doesn't have child, deprives of some properties. The famous idea of some jurists is about the heritage of woman from the price of building tree and deprivation of land price that the article 946 of civil law follows it. In reform in 2008 of the mentioned article, woman is deprived of the heritage of, immovable properties including land, but is not deprived of their price.

Keywords: inheritance, heritage, husband, wife, beneficiaries.

INTRODUCTION

Humans have close relationship with wealth category according to the economical and social factors and the rules have been imposed in chronological conditions. Such rules that play important and effective role in the maintenance of properties and wealth, are the rules related to heritage and in Islamic jurisprudence, its rules and regulations are considered part of orders. There fore, Islam view is close to common law and common law system the rights and inheritance are determined by law and giving and free transfer of owner ship is uniquely easy, in other words people will does not change the laws of inheritance and the property left by the deceased people is forcibly transferred into kins. The difference of Imamate and Hanafiyeh wife heritage is that wife inherits all her husband property other inherited persons and Quran said that sunni jurists use these verses and share wife in all property but most Shiite jurists believe that wife deprives of all inheritance of some property such as land and building. This examined the husband and wife heritage in Imamate and sunni.

Features and advantages of Islam inheritance system over other systems

According to the materials, it can be understood that there is much difference between inheritance systems of paganism and contemporary time with Islam`s inheritance system:

1. The laws of inheritance in Islam are part of the religion of Islam, because it is based on the definitive texts of the Quran and Hadith and the analogy does not interfere with their compilation for this reason, there are few issue about heritage that there are difference in opinions among muslim ulamas unless in some cases, that the explicit order is not issued and the texts have some semantic possibilities.

2. Islam religion introduces major and minor (parent and child) the most important heirs. This law is compatible with human nature, because human always tries to provide life and comfort of own Childs. In Islam this tendency is quite considerable.
3. Islam does not allow its inherited person to deprive inheritors of his/her property and if he/she make his/her will, his/her will is void and heir forcibly inherits his/her property.

The concept of "inheritance" in words and terms

In Qamus Alloqa it is said:

Heritage means the survival and remaining and heir means the remaining, one of the names of God. Heritage in Arab word "varas, Yars, Vrsa and Arsa" means the transfer of the property or assets of the deceased to others (relatives or in-laws), without contract (Qhan).

Also in Moein dictionary few meanings are listed for heritage word, including. Inherited, the owner of the property and assets of the deceased, leaving property after death, either with or without a will, the rights that entitled to it due to the death of the person.

Philosophy in difference of men and women inheritance

Islam has not established inheritance laws based on gender (sex factor, the non-Muslim nations mentioned above have been considered) but it is based on financial responsibilities and to see responsibilities and duties that have been placed upon them. Thus, different inheritance is consistent with a general view of Islam to family and division of duties and responsibilities.

Less female inheritance does not mean that Islam has been ignored the female character and worth, but is simply to economic and social factors.

Comparative inheritance from view of Hanafiyeh and Imamate religion

Given the context of contemporary debates in all sciences, it will certainly play a major role in closeness of Islamic religions. Thus, the spreaders of the range of inheritance sciences in practical plans of human life such as transactions and family orders and other individual and social programs necessitate this science. By emergence of different judicial religions and close relationship of people to each other, especially in complex contemporary age, this is not desirable to ignore judicial ideas of others. Thus, religion thinkers attempt to compile the ideas of judicial religions under different titles and before contemporary jurisprudence, comparative jurisprudence and religion jurisprudence so on. Comparative jurisprudence comprise abundance benefits that if it is addressed by fair, extra observant spirit, specially and research procedures, it is effective to access the culture of tolerance, votes, joy, empathy, eliminating differences and misunderstandings and access to similarities. I tend to research in the field of comparative sciences in judicial issues and the most important contemporary jurisprudence includes.

1. Access to the votes and ideas of judicial religions and clergy men that will ease the research for researchers
2. Awareness to orders of comparative jurisprudence in different religions
3. Comparative jurisprudence, particularly with reasons, preferences and balance between them in ideas and finally removing the misunderstanding and prejudices and empathy, joy peace and approximation between-religions is much work.

Why man inheritance is twice than woman?

While the man inheritance is twice than woman, but it is clear that from one perspective, woman inheritance is twice. And is for the support of women rights.

Islam puts duties on men that with respect to it, one-half of men income spends for women, men must pay the cost of life based on her requirements, feeding stuffs and other clothing accessories and must provide the requirements of young children, while women are exempt from any charge, even for themselves, so a woman can save all share of her inheritance, while men must spend it for himself, his wife and children, the result is that one-half of this income spends for woman and-half for himself, while women share remains.

Conclusion:

Humans have close relationship with wealth category due to social and economic factors and the laws have been enacted for the survival of wealth in proportion to the time. Such rules that play an important and effective role in the maintenance of property and wealth, are the rules related to inheritance and in Islamic jurisprudence, its rules and regulations are considered part of orders. There fore, Islam view is close to common law and common law system, the rights and inheritance are determined by law and giving and free transfer of ownership is uniquely easy.

Heritage legal system in common law results from Islam inheritance system that consider all aspects. The rights and inheritance share of heirs are determined by law and by will, one- third of property is a kind of gift, in other words, inheritance rules have not been changed by people will and the remained property of deceased person transfer forcibly into close relatives.

Because the basic of woman heritage of husband leaving is according to Quran order, it is not possible to change Islamic legal systems and different Islamic religion agree, but if we tend to do measures for the shortage of woman inheritance and meeting her needs after the death of husband and preventing possible evil deeds due to financial poverty that is one of the factors of moral deviations, we can seek secondary answers that wife after the death of her husband does not involve into financial problems and meet her financial needs. In this regard, Islam advise that in addition to alimony and inheritance share, expiration marriage portion of husband leave also be paid, especially, she spend the long years of her youth and energy for matrimony life and parenting and service can replaced the limitations of woman inheritance that wife lost it to supply the material.

Couple inheritance has been traditional and existed from the earliest period and has been changed during history women inheritance is not excluded and according to the ancient Romans, women (daughter, wife, mother) never had the right to inherit and in Greece, the eldest son only inherits and women and children generally never had the inheritance right. In india, Egypt and china, women deprive of inheritance. Among ancient Iranian that incest, frequent partner and adoption were common. Beloved wife of the great condition and unmarried girls, boys and adoptive boys inherit.

But Arab women seemed absolutely deprive of inheritance and the eldest son only inherits. When different traditions and rules of inheritance governed on the world, inheritance verses revealed.

2. Islam heritage system is precise that even all details are mentioned and the right of each owner with certain values ($\frac{1}{2}, \frac{1}{4}, \frac{1}{6}, \frac{1}{8}$) is completely certain that judge can not interfere it and also heir can not change it his/her favorite.

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