

Review Article

Exclusion (*al-Hajab*): Its Application and Wisdom in the Islamic Law of Inheritance

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Article History

Received: 17.10.2025

Accepted: 09.12.2025

Published: 12.12.2025

Journal homepage:

<https://www.easpublisher.com>

Quick Response Code



Abstract: Islam as a comprehensive way of life touches every aspect of human endeavours. This is with a view to providing him the guidance that will make him enjoy his worldly sojourn happily and in tranquillity, and also emerge successful in his eternal abode in the life Hereafter. Indeed, one of the unique features of Islam in its divine laws is the principle of inheritance. No other religion in the world other than Islam provides a comprehensive explanation of who is to inherit who and who is not, and what portions are to be inherited, and who can prevent who from inheriting the deceased's property. It is against this background that this paper provides a clear exposition on the doctrine of exclusion in the Islamic law of inheritance, under which a clear determination has been provided on who is to exclude who among heirs from inheriting the estate of the dead person. The paper also extols the beauty of such blockage in the principles of Islamic law of inheritance. One of the findings of the paper is that the doctrine of exclusion is based on the blood relationship ties between the dead and the surviving relations.

Keywords: Doctrine, Exclusion, Wisdom, Inheritance, Application

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INTRODUCTION

The Arabic term Hajab is derived from the root hajaba, meaning veiled or screened. Al-Hajab, which implies blockage, is a process whereby a person is blocked either totally or partially. A person blocking or preventing another from taking a share is called a Hajib (i.e., blocker, excluder, or preventer) [¹]. In the language of the jurists, the term means preventing a rightful heir from having any share of the deceased's estate due to the presence of another heir, or being shifted from one portion to another deceased share (Badawi, 2000, p. 239). The principle behind who excludes who is the degree of closeness to the deceased. The closest relatives will exclude those who are not so close. Those who do not receive a share in the presence of other heirs are called Mahjub (i.e., the veiled or deprived), and the one because of whom they are denied a share is called a Hajib. In Islam, the principle of inheritance receives equitable treatment and adequate consideration due to the fact that it directly touches the socio-economic rights and well-being of Muslim believers regarding the affluence their closest relations might have possessed at the instance of their demise. Thus, it is Allah (S.W.T.),

in His own Divine Wisdom, who decided on the rulings about inheritance in the Glorious Qur'an (Qur'an 4:11–12, Qur'an 4:176). The reference verses are explicitly clear, without any ambiguity, about the shares allotted to each rightful heir from the deceased's property. Therefore, this paper explains the circumstances that can lead an heir to have his portion reduced as originally indicated in the Glorious Qur'an and further expatiated by the Muslim jurists.

Basis of Exclusion in *Shari'ah*

For every judgement (*hukm*) in *Shari'ah*, the jurists (*Fuqaha'*) and scholars of the principle of jurisprudence (*Usuliyun*) justified their position based on the evidence from the primary sources of Islamic law, viz, the Glorious Qur'an and Traditions (*Ahadith*) of the Prophet (S.A.W). Equally, the doctrine of exclusion in Muslim inheritance is not just a mere opinion of the jurists, but rather it has a strong backing from the Qur'an and *Hadith*. The clear text about exclusion, which could affect the right heirs of the deceased person, could be seen in the following verse of the Glorious Qur'an:

... And blood-relations among each other have closer personal ties, in the Decree of Allah

¹ <https://wasiyyah.com>, Retrieved on 25/11/2025

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(regarding inheritance) than the brotherhood of the believers and *Muhajirun*: except that you do kindness to those brothers. This has been written in the (Allah's Book of Divine) Decrees – (*Al-Lawh Al-Mahfuz*) (Qur'an, 33:6).

The quoted verse above is an abrogation of a ruling in which, due to the brotherhood fraternity between *Ansar* and *Muhajirun*, one can inherit the other. This was the case even in the absence of any blood relationship between them and in the presence of the blood related to the deceased. This was narrated by *Ibn Abbas*, *Sa'id bn Jubair*, and *Zubair bn Awwam*. However, with the verses of inheritance, the members of the family that are called "the right heirs" were identified in the Glorious Qur'an and *Ahadith*. For this reason, inheritance based on brotherhood and friendship was outrightly abrogated (*Ibn Kathir*, 2009, pp. 191- 192).

Meanwhile, the verse under review is still teaching us that even among blood relations, some are stronger than others. And as such, those whose ties are more intimate eliminate those who are distantly related. Alas! The justification for the doctrine of *Hajab* in Islamic inheritance.

Types of Exclusion

There are two types of exclusion: total exclusion and partial exclusion (Sabiq, nd, p. 320)

Total Exclusion

This refers to the complete denial of any share of inheritance to a person because of the presence of another heir who is more closely related to the deceased. An example here is the total prevention of a brother from inheriting his dead brother by the son of the latter. This is known as '*hajab al-hirman*' (exclusion from the actual inheritance). The total exclusion cannot affect the following six (6) heirs: mother, father, daughter, son, husband, and wife [²]. These are the six basic heirs that will always inherit something as long as they are alive. However, it is possible some of them to be partially excluded for one reason or the other. For example, the presence of a son reduces the share of the husband from one-half ($\frac{1}{2}$) to one-fourth ($\frac{1}{4}$) at the death of the husband's wife. Likewise, the wife is reduced from one-fourth to one-eighth ($\frac{1}{8}$) at the death of her husband by his child with her or with another woman (Ahmad, 2010, pp. 426-427).

The four schools of jurisprudence concur that parents, children and spouse are not excluded totally from inheritance and whenever they are present they will take their share from the inheritance without any obstruction, because they are the nearest to the decedent,

being related to him without any intermediary, while all others are related through an intermediary (Khan, 2018, p.169) This is to say that the former are directly related to the deceased while the latter are indirectly to him.

Partial Exclusion

Prevention from a part of the inheritance, such as the reduction of the mother's share by a brother from one-third to one-sixth, which is called "*hajab al-Nuqsan*" or "*hajab al-Intiqal*". Therefore, a partial exclusion means reducing the share of the estate an heir should have gotten due to the existence of another heir. For instance, a husband inherits half ($\frac{1}{2}$) of his wife's estate if she has no child, but supposing she has a child, even if from a previous husband, he gets one-quarter ($\frac{1}{4}$) of her estate. This reduction from $\frac{1}{2}$ to $\frac{1}{4}$ is called partial exclusion (Sabiq, nd, p. 32)

Differences between Exclusion and Impediment in the Law of Inheritance

It should be understood that there is a difference between exclusion and impediment. In exclusion, as mentioned earlier, a more closely related person to the dead person eliminates a distant one totally or partially.

As for impediment, it refers to preventing a heir from inheriting anything left by the deceased for one of the reasons outlined by *Shari'ah* viz:

1. **Slavery.** When one is in bondage, he or she cannot inherit, nor can his relative inherit him. This is because whosoever is in slavery is considered to be the property of his master. This is irrespective of the status [³], of his slavery (As-Sabuni, 2002, p. 33)
2. **Homicide.** This refers to intentional killing as judged in the Maliki school of law. Whoever kills his relative whom he is entitled to inherit, the *Shari'ah* ruling is that the killer is denied the right to inheritance of the person he murdered (Ali Lakhy, 2011, p.26).
3. **Difference in religion.** If the heir and the one to be inherited profess two different religions (i.e., Muslim and Christian). None of them could inherit the other. Prophet (S.A.W) was reported to have said: A Muslim cannot be the heir of a disbeliever nor can a disbeliever be the heir of a Muslim (Bukhari, vol. viii, p.498)
4. **Simultaneous death.** If two or more persons died at the same time under certain circumstances, like drowning or an accident, and are rightful heirs of one another, they could not inherit from each other. A good example here is a father and son or a husband and wife. This ruling applies only if it becomes uncertain who died first. However, if it is certain that the

² See <https://inheritance.sadtayyfoundation.org>, retrieved on 22/11/2025.

³ Whether he is *Qinan* (the slave in total bondage) or *Mudabbiran* (the slave to regain his freedom after the

death of his master) and or *makatiban* (a slave paying a ransom for his freedom).

one who died later, then he will inherit the one who died first, and the inheritance of the second person will be shared among his heirs (Muhammad, 2020, p.7).

5. 5. False swearing (*Li'an*). This occurs when a man denies the paternity of his wife's pregnancy, and they ended up swearing and cursing themselves as prescribed by Allah (*S.W.T*) (Qur'an, 24:6-9). In such a case, the child will not inherit from his paternal side.

Instances of Total Exclusion

Besides the six listed heirs who can never fall within the circle of total exclusion, all other remaining male and female relatives can be eliminated as a result of the presence of some relatives who are stronger in relation to the deceased.

Male Relatives that can be eliminated

The male relatives that can be eliminated by other male relatives are basically twelve (12) in number, according to some Muslim jurists, as enumerated below:

- i. Grandfather: He is eliminated by the father. Similarly, a more closely related grandparent excludes the remote one.
- ii. Full brother: He is counted out by the presence of the father, son, and son's son.
- iii. Paternal brother (half-brother): He is eliminated by the father, son, and son's son. He is equally disqualified as a full brother. A full sister, who happens to be an agnate by her own right, takes his position in the absence of a full brother (As-Sabuni, op.cit, p.62–63).
- iv. Maternal brother: He is excluded by the father and the grandfather, no matter how high, and also by the son and the son's son, no matter how low.
- v. Son's son: He is eliminated by the son. Equally, the closest son's son eliminates the more distant one, e.g., a son's son of the first degree disqualifies that of the second degree.
- vi. Son of a full brother: He is eliminated by the father and grandfather. He is also displaced by the son's son and the full brother.
- vii. Son of a paternal brother: He is eliminated by all those who can eliminate the son of a full brother, as shown in vi above. Additionally, the son of a full brother can eliminate him.
- viii. Full uncle: He is totally eliminated by the son of a paternal brother and all those who can eliminate the son of a paternal brother, as indicated in vii above.
- ix. Paternal uncle: He is prevented by the full uncle and those who can eliminate the full uncle, as indicated in viii.

- x. Son of a full uncle: He is eliminated by the uncle and all those who can eliminate the paternal uncle, as listed in ix above.
- xi. Son of a paternal uncle: He is covered by the son of a full uncle and those who can eliminate the son of an uncle, as mentioned in x above (As-Sabuni, Ibid., p.70–71).

Female Relatives that Can be Eliminated

The female relatives that can be totally eliminated by other relatives are basically five (5) in number, according to some Muslim jurists, as enumerated below:

- i. Absolute grandmother (mother of mother or mother of father): Prevented by the mother in all circumstances.
- ii. Son's daughter: She is eliminated by the son, whether she is one or more in number.
- iii. Consanguine sister: She is eliminated by the father, and also by the son's son, no matter how distant.
- iv. Paternal sister: She is disqualified by a full sister if the latter stands as an agnate by her own status. The father and other male descendants also eliminate her. Equally, two sisters or more also disqualify her unless she is accompanied by a male agnate.
- v. Maternal sister: She is totally disqualified by original male and female heirs (i.e., grandfather, father, son, son's son, daughter, etc.) (As-Sabuni, Ibid., p.71–72).

Examples of Total Exclusion:

- a. A man died leaving his father, three full brothers, and grandfather. In this case, the three full brothers and grandfather will all be exempted because of the presence of the father; the father will take the whole estate as an agnate (Kebbe, 2018, p.173).
- b. If a person dies and is survived by his father, mother, and two full brothers, the mother will take one-sixth (1/6) in the presence of two full brothers, who are totally excluded by the father. The father will take one-sixth (1/6) as his basic share and claim the remaining two-thirds (2/3) as agnate (Ibn Qudamah, 1999, vol.6, p.313).

Practical Exercise on Total Exclusion

A man dies and is survived by a daughter, son, mother, brother and two sisters. His total income is one million naira (#1, 000 000).

Looking at the heirs carefully, it is clear that brother and the two sisters were totally eliminated by the presence of the son. Thus, the distribution goes in this way:

The mother claims one sixth (1/6), daughter will take one third (1/3) of the remaining balance, while the male child will take two third (2/3) [4],

⁴ Note that; 1/3 and 2/3 are used to described the amount to be inherited by the son and daughter. In this case, both

the two are inheriting as agnates and not by any basic share. Had it been the daughters are two, the total amount

according to the rule that a male child takes double of the amount of a female child (Qur'an, 4:11). No matter the number of males and females; each male child will take double of the share of female child. It is worked out as follows:

The base is 6

$1000,000 \div 6 = 166,666.6$

Mother's share is 166,666.6

The remaining balance is 833,333.3 (to be divided by three):

$833,333.3 \div 3 = 277,777.7$

Therefore, the share of the daughter is 277,777.7

The share of the son is 555,555.4

Brother and the two sisters will not inherit anything because they are eliminated by the presence of the son.

Note that, if the approximation of the nearest whole number is applied, the total amount will increase by one naira (i.e., 1,000,001). That is the reason why our judges in *Shari'ah* courts of law ignore approximation to maintain accuracy. Moreover, kobos are also ignored because of their insignificant effect. For example, in this case, when we sum up the shares of the heirs without adding the kobos, the total will be #999,998, just a short of two (#2.00) naira only.

Instances of Partial Exclusion

- i. Mother: She is shifted by the brothers of the deceased from one-third ($1/3$) to one-sixth ($1/6$).
- ii. Husband: He is prevented from taking one-half ($1/2$) of the wealth of his deceased wife and is reduced to one-fourth ($1/4$) by her children.
- iii. Wife(s): She is shifted from one-fourth ($1/4$) to one-eighth ($1/8$) of her late husband's estate by his children.
- iv. Daughter: She is prevented from getting $1/2$ and instead gets $2/3$ in the presence of another daughter (if there are two, they will share $2/3$ instead of $1/2$ while being alone).
- v. Paternal sister: She is shifted from $1/2$ to $1/6$ by one full sister (Ali Lakhyi, 2011, p.108).

Examples of Partial Exclusion

- a. A woman dies and is survived by her mother, daughter, brother, and husband. The mother's share is one-sixth ($1/6$) because of the presence of the brother, while the husband is reduced to one-fourth ($1/4$) due to the presence of the daughter, whose share remains one-half ($1/2$).
- b. A person dies and is survived by his son, daughter, and wife. The share of the wife is reduced to one-eighth ($1/8$) by the daughter and

son. The son also shifts the daughter from her basic share of one-half ($1/2$) to agnation (ta'sib). In this case, the son will claim double the daughter's share from the remaining balance after the portion of the wife is taken away.

Practical Exercise on Partial Exclusion

In example "a" above, if a wife died and left behind her mother, daughter, and husband, her total estate (al-tarikah) is one million two hundred thousand naira only (#1,200,000). Looking at the status of the heirs, it is clear that the daughter has one-half ($1/2$) and she moves the mother from one-third ($1/3$) to one-sixth ($1/6$). Equally, the daughter shifts the husband from one-half ($1/2$) to one-fourth ($1/4$). The brother, in this case, is a residuary heir. The distribution goes thus:

The base is 24.

$1,200,000/24 = 50,000$ (this means to say; each portion is worth the value of #50,000)

The share of the mother is $50,000 \times 4 = 200,000$

The share of the husband is $50,000 \times 6 = 300,000$

The share of the daughter is $50,000 \times 12 = 600,000$

The remaining two portions, which amounted to #100,000, will be claimed by the brother as an agnate (residuary heir).

The Effect of Elimination on Agnate Heirs

Agnates refer to male-line relatives who are related to the deceased through the male lineage. Principally, these individuals include, among others, a son, father, grandfather, brother, and paternal uncle. If any of these individuals survive the deceased alone, he is to inherit whatever was left by the deceased (Ali, nd, pp. 299–231).

If, however, one or more of these categories exist, some of them will be shifted from inheriting by agnation to a basic share allotted to them in the Glorious Qur'an. For example, if a person dies and is survived by his father and son, the son shifts the father from being a residuary heir to the basic share of one-sixth ($1/6$):

Example:

The deceased left a total estate amounting to #2,000,000. Had the deceased died without a child (male or female), the father would inherit all the money. The contrary is the case if the deceased has a son. The son now shifts the father from agnation to a proportional status of $1/6$. It is worked out as follows:

$\#2,000,000 \div 6 = 333,333.3$

#333,333.3 is now the share of the father, while the remaining balance of #1,666,666.7 will be claimed by the son.

will be divided by four; each of the two daughters will take one portion and the female child take two portions.

Wisdom of the Doctrine of Exclusion

In Islam, it is believed that in every divine ruling, there lies beneath it a wisdom and benefit. The benefit is both mundane and spiritual. Thus, the principle of exclusion in the law of Islamic inheritance is no exception. Studying the verse quoted earlier, the following wisdom and benefits of exclusion can be discerned:

- i. Emphasising the importance of maintaining relationship ties in general without severing them.
- ii. Teaching us that of whatever good we want to do to others, we should consider those to whom we are more closely related by blood, then follow by others according to the degree of their proximity to us.
- iii. Indicating the relationship ties in a given family.
- iv. Showing the necessity of shouldering responsibilities for some relatives above others.
- v. Expressing the degree of relationship between the heirs and the deceased.
- vi. Encouraging peaceful coexistence and socio-economic consideration among family members.
- vii. Justifying the statement of Allah (S.W.T) in the Qur'an that those very close to us by blood relationship should be given preference for our material support.

Recommendations

Looking at the technicalities involved in the distribution of a deceased's estate, it is imperative to put forward the following recommendations:

Muslims should properly seek knowledge of Islamic inheritance and apply it accordingly. Muslim jurists should endeavour to write more books on Islamic law of succession with a view to simplifying its calculation and distribution. This will immensely help in avoiding unnecessary mistakes, which sometimes create hatred and enmity among heirs.

Judges at the Shari'ah courts should adopt all necessary measures to identify all the rightful heirs of the deceased with a view to ascertaining those who are supposed to inherit. This is because a lawful heir may not inherit in the presence of another heir, as explained vividly in this paper.

Governments should encourage their citizens to go for birth and death registration, and such documents should clearly explain the type of relationship of the registered person within a given family.

Finally, the doctrine of exclusion justifies the commandment of Allah (S.W.T) in the Glorious Qur'an that one should consider his closest relations, such as his parents and nearest kindreds, for goodness and kindness. The Qur'an states:

They ask you (O Muhammad S.A.W) what they should spend. Say: Whatever you spend of good must be for parents and kindred... (Qur'an, 2:215)

CONCLUSION

Looking into the discussion of this paper, it is clear that the law of Islamic inheritance is very delicate and sensitive. The clear expressions on the theme of this paper have shown that the knowledge of the basic shares of different heirs in the Glorious Qur'an, and to whom they should be allotted, cannot be fully understood without proper knowledge of the concept of Hajab (seclusion). Thus, the doctrine of seclusion could be seen as a necessary reference on which all practical applications of the distribution of a deceased's estate are based. This is due to the fact that numerous rightful heirs may survive the deceased, but not all of them could inherit because of their different degrees of closeness to the deceased. As such, having sound knowledge about the different positions of all the surviving heirs in relation to the deceased is a prerequisite for accurate and correct distribution of inheritance. The danger is that any attempt to distribute wealth without knowledge of elimination can tantamount to injustice, which can incite enmity and hatred among family members. Therefore, in order to avoid confusion and social unrest, it is the opinion of this writer that the distribution of inheritance should officially be handled by judges who are expected to have knowledge of Islamic law of inheritance in all its ramifications. Moreover, there should be strict sanctions for any scholar who is not a judge and attempts to operate on his own without official permission from the government through its judiciary section.

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Cite This Article: Bawa Dan Muhammad Anka & Abdullahi Haruna (2025). Exclusion (al-Hajab): Its Application and Wisdom in the Islamic Law of Inheritance. *East African Scholars J Edu Humanit Lit*, 8(12), 639-644.
