



## Blood Money in the Yesterday and Today Islam

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### ABSTRACT

The assertion of scholars must not be taken as the meaning last countries. Scholars assertion must mean effort in stating new command for a social or Update scientific problem not stateing imitated command from the previous Jurists. Perhaps prophet's opinion of exertion has been the above mentioned Meaning. As he stated when a judge efforts for understanding of correct Command and then perceives the correct commands. He will be rewarded with one spiritual reward. So just as we saw, in this reverse, the prophet (p.b.u.h) has referred to some commands to which there isn't any command and so the legist has to obsess their mind with the use of correct criterion which are derived from religion. Definitely legists who have judged to up to date dower must also judge to cases like blood money, women blood money, women retaliation, blood money and retaliation of non Muslims up to date and must be imitate the previous jurists .

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### Introduction

#### Blood money in the yesterday and today Islam

1-A research on blood money and retaliation blood money of women and Non Muslims in Islam.

Definition of terminology

1. Blood money concludes money that is paid to complainant of next of kin for the sake of doing crime.<sup>1</sup>

2. Dinar is gold coin as weigh as eighteen grains of pea.

3. Dirham(drachma): a silver coin as weigh as 12.6 a pea grains<sup>2</sup>.

#### Introduction

Prior to dissention of verses 179-188 from baqarah surah in which the decree of retaliation and blood money has been presented. Before of The Mohammad prophet of Islam (p.b.u.h) according to religious laws of Moses, murderer has only executed the decree of retaliation and he also in random slaying judged to expel out of the land<sup>3</sup>. With regard to the noble verses of Esra surah:

And slay not the life which Allah hath forbidden save with right. Whoso is slain wrongfully, we have given power unto his heir, but let him not commit excess in slaying. Lo! He will be helped.<sup>4</sup> or the in the maedah surah we see:

And we prescribed for them therein: the life for the life, and the eye for the eye, and the nose for the nose, and the ear for the ear, and the tooth for the tooth, and for wounds retaliation. But whoso forgot it in the way of charity (it shall be expiation for him). Whoso judges not by that which Allah hath revealed: such are wrong-doers<sup>5</sup>. Also in Talmud (The combination of books Mishnah and Gomorra)retaliation is for decree of deliberate murder and expel out of the land for decree of random murder has been stated. <sup>6</sup>After descending baqarah surahin the second

year of hijrah( the emigration of prophet's companions) and descending verses 178-179 from this surah for deduction of deliberate murder retaliation, the decree of blood money has descended upon the prophet. the contents of these two verses is that: O ye who believe! Retaliation is prescribed for you in the matter of the murdered; the freeman for the freeman, and the slave for the slave, and the female for the female. And for him who is forgiven somewhat by his) injured (brother, prosecution according to usage and payment unto him in kindness. This is alleviation and a mercy from your Lord. He who transgresses after this will have a painful doom (178) and there is life for you in retaliation, O men of understanding, that ye may ward off) evil (179).This two verses of baqarahsurah are famous as retaliation has been used in theseverses, and after of these verses descending we see a new verse in the baqarahsurah: They will question thee concerning what they should expend Say:" forgiveness"<sup>7</sup>. before descending these verses , Mohamed( p.b.u.h) has judged on the base of Moses religious laws, but in this verse, he has also stated retaliation for rescuing the murderer from murder retaliation. Mojahed quoted Mohammed saying that: only retaliation existed for children of Israel ( Moses companions) but honorable god for deduction of retaliation decree as compared with with mohamma d ( p.b.u.h) and descended the retaliation decree . it even seems that mohammad was not making any difference between man and woman in the case of retaliation decree. where as , mojahed tradition written a letter to amr- ibno- hazm saying.<sup>8</sup> one for murdering a

<sup>6</sup> . Cohn .a .Talmud 317-19

<sup>7</sup> - talliqani, sayyedmahmoud, interpretation of partvazquran( a sunshine of quran), vol2/ 118.Sahammie-amm publishing, Tehran. Iran 1979

Makaremshirazi, tafsirenemooneh, vol2/118

Al-modarresi, sayyedmohammadtaqi, min hoda al- qura. Vol 1/ 382 And then see ibnsolaiman, moqatil,tasiromoqatil, vol1/ 158,

<sup>8</sup> - nesae.Ibnshoaib, ahmad, Sonanvole 8/ 581<sup>st</sup> ed. Dar alfikr, birot, libanon, 1930

<sup>1</sup> - Ministry of justice. Islamic punishment law. Article14. 596.ministry of justice pub .Tehran. Iran. 1981

<sup>2</sup> - ibib 632

<sup>3</sup>-cohn.a.Talmud. Library of iran king. Tehran. Iran. 1978

<sup>4</sup>Esrasureh :43

<sup>5</sup> . ibid :45

woman is murdered and, also shafei among sunites imam believed that if a man kills a woman he will be killed in retaliation and even if a group kill a woman all of them will be killed in retaliation.<sup>9</sup>

#### Ibn-majah in his sunan says

Mohammad (p.b.u.h) has determined a hundred camels in random sailing for a murder among them thirty number of two-years she camel. Thirty number of three – years camel. Thirty numbers of four years camel and ten number two years camel must be existed.<sup>10</sup> he also determined four hundred dinar or equivalent to silver coins as blood money for urbanites. And for this reason amount of blood money depended on the prophet revision of humanities, , the more blood money was so the amount of blood money was deferent from four hundred dinar to eight hundred dinar or the amount of blood money reached at eight thousands silver dirhams( drachma).<sup>11</sup> Also Mohammad judged one who has cattle must give two hundreds cows and one who has flock must give one thousand sheep.<sup>12</sup> pay attention that the maximum blood money in Mohammed's age has reached to eight hundred gold coins (dinar) but the amount of blood money in the days of al caliphate ( the first imam of shia'h) in creased up to one thousand dinar.<sup>13</sup> even in jafarsadeq's age (jafar bin Mohammad bin Ali bin Husain) has determined the valued of a dinar according to its value in his age. Twelve dirham has been estimated as a dinar in value there for the value of twelve thousand dirham equal of one thousand dinar.<sup>14</sup>

And so just as we saw, in his age he has calculated the value of dirham (drachma) less than its value in previous ages.

Therefore every dinar has been calculated up to twelve dirham (drachma) even there is a verse in which the prophet has increased the amount of blood money in last part of his life and hasn't revised its amount. Because in the day of mecca conquest, he gave a lecture saying blood money for one who is killed uneasy by lash or stick is a hundred camels among them forty young pregnant camels which have passed half time gone with their children.<sup>15</sup> So just as we observed, Mohammad (p.b.u.h) in his decree has judged forty pregnant camels with a particular condition because such these camels has been so valuable and expensive.<sup>16</sup> That Arabs dared them as their life: therefor , providing these types of camels has been impossible for many people. abdalrahman bin al- hajjaj quoted bin abilaila saying: ' the amount of blood money in jahiliyah age ( the pagan state of the Arabs before Mohammad appearance )and Mohammad also confirmed this decree. <sup>17</sup> But the amount of blood money for cow –keepers ,has been two hundred cows, , shepherds has been a thousands sheep and cloth merchants a hundred silk shirts respectively. abd al rahman the asked jar ibn mohammad bin ali bin hosain about the correctness of bin abilaila ,s tradition and he answered : Ali determined the amount of blood money as a thousands dinar and ten dirham for adinar(10000dirham) those whose current money is gold must pay a thousands dinar and those whose current money is silver

must pay 10 thousands dirham for a blood money.<sup>18</sup> This command for another's states is a 1000 dinar and the amount of blood money for nomadies is a hundred camels and for colonies is two hundred cowor a 1000 sheep.<sup>19</sup> one day one of jafar bin Mohammad companions asked him: before our age ( form pre islamic era to the end of ottoman caliphate ( the yhird caliphate ) retaliation was determined by camel, cow and sheep , why now is blood money determined by silver coin ? jafar bin mohammd answered his: yes this decree has been one of the pre- islamic decrees when appeared silver coin became current money . and ali bin abitalib changed the retaliation to silver coin. but hakam asked a gain: if one nomad wants to pay blood money how should he pay it?

jafar bin mohammad answered: camel is as same value of silver coin and in paying retaliation camel is better than silver coin because they receipted a hundred camels in retaliation for random killing. The price of a camel was estimated a hundred dinar which was same up to thousand dirhams<sup>20</sup>. It must be noted that just as we observed the amount of blood money was determined according to the social convention by Islamic jurisprudent and sunnites. now that we are in the 21th century and may strange scientific changes has occurred and specially has situated instead of loss previous society and also the specialists connections over world wide levels has weighed their role whether blood money must be determined by camel value? For example if the prophet appears in germany in 21th century how he will state blood money decree? surely he slimed a relation between the amount of blood money , social-scientific role of people and poepls income in their useful lives and he never mentioned none of camel!. We dare say that, amount of received blood money in mohammad's age (p.b.u.h) has been so much that after receiving the next of kin could live comfortably. but does this amount of blood money in Islamic fifteen century and in 21th A.C deserved to muslim or non muslim's life? and whether third amount of blood money will have the some convenient effects as it had in the first century of hijrah( the flight of mohammad from mecca to medina in 623) absolutely not for this reason. the direct connection must be set up among blood money and people's role in the field fields of scientific , specialty, social and politics so that difference be exited between those who are useful socially and have been in the employ of humanity and those who are not useful toward humanity and even are harmful to the society . in prophet's age blood money was considered as a wealth but now it is not so. because as it has stated in the tradition : when one of mohammad's companions killed the other one ( after his companions took the murdered to mohammad) the prophet accused the assassin to pay twelve thousand derham then read them some part of the verse 74 from tawbah surah which is translated this way: just god and his prophets can make them wealthy<sup>21</sup>. so it is said that the interpretation of this type of wealth refers to the which is paid to the next of kin and whereby they becom wealthy.

#### Blood Money In Today Islam

(blood money)diah: the money that is paid to the killed one family means blood money and is derived from infinitive wadayat in which the letter, T has been set instead of letter W,

<sup>9</sup> - shafei. Al-umm.Vole 6/22

<sup>10</sup> - ibn- majah.sonan. hadith number 3630

<sup>11</sup> - ibid

<sup>12</sup> - nesaisonan , 4719. Al alamyiah, al- sakhr, amman, Jordan and inddavoud, sonan, 3930

<sup>13</sup> - kolaini, m.binjaqub. Al- kafi vol8/ 280-81

<sup>14</sup> - tousi, m. al- tahdhibvol 10/ 159

<sup>15</sup> - ibnmajeh, sonan. 2618

<sup>16</sup> Tkwirsura: 4

<sup>17</sup> - kolaini, al-kafi vol7/280

<sup>18</sup> - ibid.

<sup>19</sup> Ibid.

<sup>20</sup> -kolaini, mohammad bin yaqub, alkafivol 7 , 329-330

<sup>21</sup> -Ibnhazm, almohallavol 11/ 85

abudavoud, sonan hadith No. 3940

Ibnabihatam, tafsir al- quran al- azim, vol 6 page 1845-6

and w is omitted<sup>22</sup>. blood money will give to the next of kin if they forgive the murderer. the writer with using Islamic comparative jurisprudence and the five Islamic religions jurisprudence (Hanafi, Hanbali, Maleki, Shafei, and Shiah) tries to discuss on amount of blood money and man-woman's right equality in blood money and retaliation. It may claim that one of the reasons in existence of the six criterions in paying blood money and sexuality is reactionary fundamentalism that is separate from description essence of Islamic decree which is greatest human freedom herald, equality, fraternity, from any race, color and social- Economic class. That is an apostle fundamentalist just looks to the retaliation and verses superficially and studies in maximum document. whereas a real fundamentalist is the one who observes any decree with regarding to cause and expression philosophy in its description time then states correct decree of religion rights with regarding to symphony criteria of religion and civilization with Islamic legislation essence. by paying attention to the Hasan bin Ali bin Mohammad (al- Askari) 11<sup>th</sup> imam of Shia conditions in Islamic religion s we can understand that pillars of these communicable methods are based on three important principles:

1-up to date assertion

2-Deep extensive knowledge of prophet's narrations

3-Symphony between the Quran and prophet's law with regarding to time and place circumstances<sup>23</sup>. but unfortunately scholar's in the next decades appealed to obedience, imitative jurisprudence because of intellectual stiffness and then misunderstanding of chronology and place circumstances so they consciously and unconsciously prevented to spreading of religion and civilization and because of this, not only they didn't save the religion but also they didn't do try extension for Islam religion and even for centuries pushed the Islam back so that their religious meditation was not comparable to Mohammad's and his companions in even the five Islamic religions. we can obviously say that meaning and concept of a *faqih*<sup>24</sup> in prophet's family culture is the one who is aware of time and place circumstances because Jafar bin Mohammad al-Sadeq has commanded that "every one from my nation who recites forty narrations who about his needs of religions affairs, god will rouse him as a *faqih* and *alim*'s in resurrection day<sup>25</sup>. with some care we can understand that the meaning of *faqih*<sup>26</sup> in prophet's age has not been the current meaning of *faqih* because Islamic jurisprudence is the science which discusses on religious decrees in Islam, and this meaning was rampant after the second time of the second century of hijrah. *Sofaqih* meaning in mention verse is the one who has got knowledge and religious in sight into depth of Muslim's needs. For instance, Ahmad bin hanbal quoted abdallah yashkoree narrating that: He said to Mohammad prophet: advise me to a good deed which enters me in the paradise and rescues me from hell-fire and the prophet answered him; well done, though you were brief in your saying, you were well informed in your question (i.e. having high knowledge of insight.)<sup>27</sup>

Therefore in the Islamic first century the meaning of the word *fiqh* has been god-fearing devout, well-informed and aware of religion reality not religion decrees.<sup>28</sup> After some time in the middle of second century the rampant meaning of jurisprudent was common jurisprudent science. for instance, being a *mohaddith*<sup>29</sup> has been stated as the most important qualification for being a *faqih* by theal-Sadeq (Jafar bin Mohammad):

And he says that; prize the worth of my followers from the extent of the pretty tradition which they narrate because we don't know a person as a *faqih* unless he would be a *mohaddith* or he has commanded perceiving the meaning of a tradition is a better than narrating a thousand traditions and you wouldn't be a *faqih* unless you perceive the state ment conditions of my word.<sup>30</sup> Since any of my word has got seventy advisability (necessity) because we have commandments for any necessity. Obviously, Jafar al-Sadeq know the correct understanding of a tradition as the main condition of jurisprudence shia. Mohammad bin hasan al askari (almahdi imam of shia) when was asked about the conditions of deserving *faqih* by one of his deputies, answered him: you must refer to my ever narratives for your answer of future events commandment. As you see, he says; believe the solution of future events commands would be answered by referring to immaculate imams reverse and definitely his purpose of our narratives has been aware jurists consequently he has nominated awareness of time necessities as one of the jurists duties. as you observed in the previous reverse the immaculate imams have stated their verses so that according to place and time necessities we can elicit religious injunction from them<sup>31</sup>.

#### Temporal Abrogation of Commands

according to the hadith from Ali bin abitalleb 4<sup>th</sup> caliphate of Islam which is narrated in *nahj al- balaghah* by sayyedraddhi it can be believed that some parts of Islamic obligatory commands) determines by prophet (p.b.u.h) for the sake of extension. spreading local temporal of Islam and changing of local. Temporal conditions are revisable, sayyedraddhi writes as this:

Muslims asked Ali about duration of shaving command unlike Jews and Christians<sup>32</sup> and he answered" This command was performing when there were a few of Muslims but now that Islamic government has become strong and it borders has extended. every one is indulged to the way of shaving".<sup>33</sup>

This sentence is the prettiest one which we can find as a sign of Islamic dynamic religious. But unfortunately we have turned to fundamentalism instead of religious jurisprudence.

According to this word of Ali bin abitalib 4<sup>th</sup> caliphate religious and civilization are extending in dimensions of religious aim not in its opposite. We also believe that temporal abrogation would include the case of blood money for several reasons:

<sup>28</sup> - Daremi, sonan, 360

<sup>29</sup> - Mohaddith is a person who has extendent knowledge of mohammad tradition and narration. and meaning them and can verifying documents of them and analyzing them.

<sup>30</sup> - sadouq, m. maani al- akhbar, 71,

Majlesi, m, b. behar al-anwar vol 2, 184.

<sup>31</sup> - Al mjlesi- m.b. behar al- anwar vol2, 90

28- Rawandi, qotb al-din, alkharaejwa al- jaraehvol 3, 1114

<sup>32</sup> - Termedhi, sunan, hadith no. 2619

Ahmad bin hanbal, almosnad hadith no.8318.

<sup>33</sup> - Radhi. Nahjal- balaghah477

Ibnabelhadid, sharhonahj al- balaghah vol18, 122

Ameli, horre, wasael al shiah vol2, 87

<sup>22</sup> -Al- farahidi. Khalil. Bin ahmad. Kitab Al- ayn.. research al-makhzoomi, m. vol8/ 99

ibn-manzhour, lesanalarabvol 15/ 383.

<sup>23</sup> - al askari, hasan, al tafsir,299

<sup>24</sup> - Islamic knowledge of prays and indeeds.

<sup>25</sup> - Kolaini, m.y. alkafi, vol1, 50, and ameli, horrewasael al shiah vol27, 79

<sup>26</sup> - Islamic scholarship.

<sup>27</sup> - A. bin hanbal, almosnadhath number of 15321

1-If the prophet lived in 21th century whether he would determine human blood money of a 100 camels or not? Definitely, if he appears in this century, he determined the amount of blood money according to Current monetary law of any nation.

2-Effective of humanities rights of people. Since the prophet has been the greatest defender of human rights and he himself is aware of the fact that none of human deserves to hurt himself or the other and has command that. There must be no discrimination or less in Islam. Now how is it possible that they ignore conversation of people's scholar and spiritual profits? Definitely if he was in this time, he would pay attention to the least amount of scholar and spiritual harm and he would determine people's blood money to murder and spiritual harm with sheep or camels. Therefore it seems that the blood money command has been based on camel for these reasons:

1-the prophet (p.b.u.h) lived in aArabic tribal society in which people made a clearing bargain and the most important good was camel<sup>34</sup>. so in proportion of economic state development , the amount of blood money must be calculated according to the monetary common law

2-the previous Arabic society has been consisted of four classes of merchant, warier, farmer, and animal husband man and because our present society is specialized – scientific society which consists of social , politics, economies, and scientific different classes and can not be compared to the previous Arabic society .

3-It mustn't be forgotten that the duration period of Arabic colonization on Islamic societies has been a reason of the 6 permanent criterions in Islamic culture. Therefore this colonization in the cultural dimension has had influences on Islamic religious, and has replaced its own properties in Islamic state. So revision of blood money matter is definitely necessary because we live in the time that:

A: In very country has got its own monetary unit, like dollar in us and euro in Europe therefore , any country in proportion of its head money income and its economic state, has accepted a determined medium amount for any occupation as its head money income.

B: Opeople specialty role mustn't be neglected in determining the amount of blood money. just as i said: spiritual and secular profits blood money must not be forgotten. because in order to body blood money human has got the spirit and any mental harm would ask for spiritual blood money.

C: the amount of blood money must be calculated as a capital and financial wealth for dead's family and the next of kin , so that they keep on living after losing one member of their family

D: the entire human as a human being are equal to each other and there is no different between them. the rights of every human must be paid and it must be taken into account not religions. Sexuality, freedom, slavery, skill color or his race. sometimes, unfortunately we are charmed by religion, superstition, our race and sexuality so that we forget that the right owner is a human and he deserve, his natural right neither more nor less of the matters which i stated. all of my statement s were derived from different reverses for the reason imam ali writes to malik bin Ashtar : ( one of his commanders): people are 2 kinds, they are either your Religious brother or you're follow brother. So Islamic judge doesn't deserve to Meat with them like a bait.<sup>35</sup> If we choose Islamic civilization stability as an Important criterion for recognizing correct and non correct

deeds. And jafar bin Mohammad al sadeq declares: No different between blood money of Muslims and non Muslim.<sup>36</sup> The documents of this narration are true. but we don't know why the Muslims jurisprudence could not accept his judgment.

E: now that the worth of a camel is less than a cow in many countries and such Animal is not recognizable in many countries and also there is no sign of dirham or Dinar or Yemeni silk what would we do? it seems that the best way is turning to Social common law of countries and paying the blood money according to toper Capital income  $\times 20$ . in our opinion if we accept both secular and spiritual profits Of blood money the amount of blood money will not be a fixed rate and definitely the Number deliberate killing would be decreased . It is even possible that the blood Money of a woman's finger who has got social- scientist role in society like being a Blood money of a man . University professor or phisics specialist be much more that Of the bagrant,s where as the case is not this way and alternation of blood money Law seems to be necessary.

F: in the cases that all individual social role is very important besides taking blood Money for next of kin , the murderer must be condemned into custody and penalty.

#### **Wisdom as one of the legists criterion**

Actually wisdom is on of the important criterion in comprehending correct command because the legist must illicit the command which has not been stated in Quran and Sunnah or the command which needs to be revised.

it is quoted from ibnabbas saying that religion pillar are setup upon wisdom and religious obligation are obligated on the basis of wisdom<sup>37</sup>. Shaffi says just as the god has given wisdom to human to find their ways with the help of stars he has also prepared some ways and reasons in religion for eliciting matters which there is not any nomination for<sup>38</sup>.

Themuthhari concerning ijtehad says: ijtehad means scholarly effort with correct methods for comprehending Islamic regulations with sources of book, Sunnah, wisdom and consensus of opinions. He believed that reason of westernize and denying Islamic principals in recent countries has been immobility of ijtehad<sup>39</sup>. he says ijtehad on the relative and evolutional concept and any age asks for special insight. This relation results from 2 things: merit and interminable attitude of Islamic sources in case of discovery and research<sup>40</sup>. result:

in the century of revolution of sciences and human thoughts we need to revise in our traditional fundamentals in too many of our religious judgments. Now it can be asked: according to today's necessity whether command of blood money is revisable or not. surely, a deviated man from any time and place who has spent his life for studding several old books, adhering to the previous jurists and not to legist will response to "No". but we must ask those who response positively how it would be revised? whether according to the new price of camel's meet or the new criterion of social common law of any nation which is computed according to the social and specialty rule of a man and his world- wide role in our opinion in an inflated country like Malaysia we must at least compute the 20 useful ages of an individual on the basis of annual inflation and

<sup>36</sup> - Al- sadouq, m , al- faqih vol4/122 hadith no. 5254

Al- tousi, al- estebsar vol4/ 269 hadith no.

<sup>37</sup> - Al-majlesi, behar al- anwar vol 1/92

<sup>38</sup> - Shaffi, mohammad, al-resalah 503-505

<sup>39</sup> - Motahhari, morteza, Islamic revolution 18.

<sup>40</sup> - Ibid.23

<sup>34</sup> - Al- tousi, al- tibyan fi tafsire al- quran vol 10/ 281

<sup>35</sup> Radhi, sayyed , nahjalbaalaghah 421

*then determine the amount of blood money. definitely the blood money which is computed according to the command:*

*There must be no discrimination or less in Islam, would be on the basis of justice. And also it must guarantee the future life of next kin. this guarantee would be equivalent to computation of useful lifetime of an individual. this command can be taken into account as a fairly command instead of blood money command on a basis of the six criterion, calculating of women's blood money about half of the men's or amount of 800 silver coins 8% of a muslim for people of nonmuslims.*

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