

JUDGMENT RULES OF DEEP WOUNDS (ALJAYIFA) IN ISLAMIC FIQH

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Received: 14 March 2020 Revised and Accepted: 8 July 2020

Introduction

Praise be to Allah, and may blessings and peace be upon our Prophet Muhammad, his family, and companions. The great purposes of Islamic Fiqh are to achieve the pillars of societal peace and life by stressing the necessity of preserving the souls of the people from sins and the necessity of respecting the human being and his right to live. Moreover, to prohibit any form of assault on any person, body, and soul. Any assault on any lives or people considered is one of the most heinous acts and major ugly sins. Islamic law did not rely only on the prohibition of killing innocent souls but also prohibited any kind of assault on people, and save their lives their bodies and preserved their dignity. The laws are contained severe penalties for those who kill innocent souls, taking lives or killing bodies, assaulting, or wounding bodies.

Among those laws that were endorsed on people, the rulers as well as the ruled, are known by Muslim scholars as to the Aljayifa which are the deep wounds in the human torso as a cause of an assault. These laws are related to the blood money (Al-Diya) given in return for harm causing including subterranean organs such as the liver, spleen, heart, lungs, woman's womb, and others. These laws are important because of the need to know the severity, especially with the large number of accidents leading to the injury of such organs and the disruption of their benefit. These laws and their importance made me research this issue and indicate the amount of their importance. Thus, this research is a doctrinal study related to criminal Fiqh and assaulting with intention of killing and the resulting rulings that are the blood money and clarifying its truth, amount, and rulings in light of contemporary reality. Here lies the importance of this topic, where I was motivated to study it as the reason for many things. The most important of them is to explain the value of a person in Islam, guaranteeing his rights and prohibiting aggression against him, and explaining the importance of penal legislation to deter and prevent violations on the human body leads to the loss of civil community security and peace.

The research was divided into an introduction, two chapters, and a conclusion.

The introduction is about the importance of the research, the reason for writing, and the methodology of writing:

The first chapter: defines the deep wounds (Aljayifa) in terms of language, terminology, and the statement of its ruling

The second chapter: the punishment of the deep wounds (Aljayifa)

The second chapter: it is punishments related to the deep wounds (Aljayifa), and it is divided into three sections:

The first section: the implemented punishment of deep wounds (Aljayifa).

The second section: the deep wound (Aljayifa) if it leads to death or injuring an organ or fracturing a bone.

The third section: participation in the felony of deep wounds (Aljayifa).

The conclusion, in which the disparity of opinions collected and what separates and the most important results is reached.

Then the sources and references

The first chapter: the definition of deep wounds (Aljayifa)

The first chapter: defining the deep wounds (Aljayifa) in language, terminology, and its punishment.

The first section: Defining the deep wounds (Aljayifa) in language and idiom:

Deep wounds (Aljayifa) in language: the stab that reaches the cavity. A stab wound: mixes the ground, and it was said: that it is that penetrates the flesh reaching the organ. Dry it out and dry it out: hit it ⁽¹⁾.

Scholars of doctrines are unanimous in developing a conventional definition for the deep wounds that do not go far from the meaning linguistically.

Idiomatically deep wounds are the wound that penetrates and reaches the cavity ⁽²⁾.

The deep (wound) occurs with everything that leads to the core of the hollow, so there is no difference between being stabbed with iron, wood, or prick with a needle stitch, or any other machine of any material made as long as it is it penetrates the body to the hollow, and there is also no difference between being broad or narrow cavity, even if it was of a needle ⁽³⁾.

The hollow of anything is the space in it ⁽⁴⁾. The Muslim Fuqaha' identified it as the space between the pulp ⁽⁵⁾ and the pubis, and they said that the places from which surgery is implemented through the hollow are the chest, back and abdomen, and the sides, or any place related to the cavity, such as between the female gentiles and the backbone because it is a site related to the cavity. Thus, if anyone stabbed between his genitals and anus, causing a wound and reaching the cavity, then it is a deep wound (Aljayifa),

(1) (Abu Bakr Al-Azdi, Jamahra Language: Article) Galloway (2/1043, Al-Zamakhshari, Al-Faek in Gharib Al-Hadith: Article) The Gym (1/246), Nasser Al-Matarzi, Morocco in the order of the Arabist: Article (The Gym with the Distraction) p.96, Murtada Al-Zubaidi, the Crown of the Bride: Article (Stamp): 22/467.

(2) Al-Barakati, Jurisprudential Definitions: Article (Cheese): 1/68, see: Ibn Abdin: Footnote: 10/241, Ibn Rushd: Beginning Al-Mujtahid: 2/420, Al Nuwi Wei: Rawda Al-Talebeen: 127/7, Ibn Qudama: Al-Mughni: 12/166.

(3) See: Ibn Abdin, a footnote to Ibn Abdin: 5/356, Ibn al-Hamam, Fateh al-Qadir: 8/313, al-Maliki, the adequacy of the student Explanation of the message: 2/243, Al-Hattab, The Talents of Galilee, for a brief explanation of Khalil 6/258, Al-Ramly, End of the Needed Explanation of the curriculum: 7/306, Al-Nawawi, Rawdat Al-Talebeen: 9/265, Al-Suyuti, Mawal Al-Nuha End: 6/265, Al-Bahouti, Mask Index: 6/54.

(4) (Ibn Manzur: Lisan Al-Arab, Al-Zubaidi: Crown of the Bride: 23/106, Al-Fayoumi: Bright Light: 1/159.

(5) Labba: It is the neck of the neck and is the oblique. See Abu Rahim Mustafa et al. Intermediate Dictionary: 811, Turquoise Abadi: The surrounding dictionary: 1/126

as well as if he insert something from the anus or bladder, and penetrates an organ in the abdomen ⁽⁶⁾. Moreover, even if penetrating a cavity from the neck or throat similar to a drink breaking fact ⁽⁷⁾. Thus, wounds that do not penetrate an organ in the body or head are not called deep wounds (Aljayifa). For instance, wounds of head, thigh, bites, legs, hands, throat, neck, and where the wounds do not penetrate an organ.

The second Section: The punishment of Deep wounds (Aljayifa)

Islam gives three options to the victim or his guardian: retribution, blood money, or tolerance. The Messenger, may Allah bless him and grant him peace, said: Whoever is afflicted with blood or dementia ⁽⁸⁾ has one of three options; either take retribution or takes blood money ⁽⁹⁾ or forgive ⁽¹⁰⁾, then the Fuqaha' agreed that deep wound punishment

is similar to take retribution. Ibn Abd al-Barr said: I do not know anyone who said that the punishment of deep wound is retribution. However, Ibn Hazm al-Dhahiri had another opinion in which he disagreed with the consensus of the Fuqaha’.

He stated that retribution is a must as the punishment of deep wounds. He invoked the general saying of the Almighty:

The punishment of wounds is retribution⁽¹²⁾. Then he said:“ If Allah Almighty knows that nothing of it is possible. Thus, the Almighty gives his command of retribution for the wounds as a whole and did not specify anything. Then, we take the Holy Qur’an verse for granted without any argument because it is the word of Allah teaches us that the Almighty does not specify certain types of wounds’ punishment are without retribution, it was mentioned in the Holy Qur’an, however, it was not for any specified type of wounds but rather all of them.

(6) (See: Al-Jawhara Al-Naira: 2/219, Ibn Rushd: The Beginning of Al-Mujtahid: 2/420, Al-Mawardi: Al-Hawi Al-Kabeer: 12/240, Sufficient in the Fiqh of Imam Ahmed: 4/23

(7) See: Al-Sarkhasi, Al-Mabsut: 26/99, Al-Sharh Al-Kabeer: 4/270 Al-Shafei, Mother: 6/84, Ibn Qudamah, Al-Mughni: 8/474.

(8) What is meant by blood, i.e. killing, and dementia is the wound. See: The end in Hadith Gharib and Al-Athar 3/534

(9) Mind: blood money the same source

(10) Sunan Abi Dawood, Kitab al-Diyat, Bab al-Imam ordering pardon 4/287, hadith number 4498, Sunan ibn Majah, the book of blood money, the chapter of one who kills a dead man, he is the choice between one of three, 2/876, hadith No. 2623.

(11) Ibn Abd al-Barr, Recall: 25/125.

(12) Al-Baqarah, verse 194.

(13) See: Ibn Hazm, Al-Mahli: 11/98.

The Muslim scholars quoted the evidence of no retribution from a set of transferable and mental evidence, including:

1. On the authority of Al-Abbas bin Abdul Muttalib, may Allah be pleased with him, said: The Messenger of Allah, may Allah’s prayers and peace be upon him, said: “no punishment for head hit⁽¹⁴⁾ and deep wounds nor bone fracture⁽¹⁵⁾.

2. On the authority of Ali, may Allah be pleased with him that he said: there is no retribution in headbangs, fractures, and deep wounds.

3. Retribution of deep wounds does not mean transgression, and it is impossible as being similar to the incident or returning the right as a condition of implementing the retribution. It does not guarantee justice. Thus, if retribution is impossible, it is necessary to have an alternative which is blood money. Retribution is only necessary when it is compensation for the victim and does not cause harm.

Currently, Muslim scholars see that if retribution is not compensatory in wounds that are deep but these punishments were implemented in the past that were accompanied by such incidents and make such punishments necessary. Retribution was done in a primitive device that was impossible to return the right of the victim through it. However, nowadays things have changed and medicine is improved and also surgery where it is possible to get even through retribution without injustice. Thus, Fatwa for retribution is possible. However, this opinion is rejected by the researcher in the issue of deep wounds (Aljayifa) even if justice is reached and taking the rights of the victim for two reasons:

The first reason: The prophetic text of the aforementioned mentioned, "There is no retribution in the head hit, nor the deep wound, nor bone fracture " ⁽¹⁹⁾. When the text is mentioned, there is no independent reasoning (interpretation), especially since the text here is explicit and cannot be interpreted. Moreover, the Prophet Companions had acted on it as mentioned before and spent it in the era of the rightly guided caliphs

The second reason: is that even of similarity in retribution and not violated due to the scientific and medical development, however, the side effects of the wound and its complications in the future remain unknown. The wound may develop causing damage to the organs or stopping them, while the victim's wound may recover

(14) The Nation: The chaos that broke the bone of the family and reached the mother's brain and is called the maternity. See the Fiqh Dictionary, p. 23.

(15) It was included by Ibn Majah in his Sunnah, Kitab al-Dyat, Chapter on Unquestioning: 2/881, Al-Bayhaqi, Great Sunan Book. Felonies, Chapter No. 14/14. It is a good hadith: See al-Qadeer inundation: 6/436.

(16) The transmitted: It is the shuja that transmits bone after fracture. See: Fiqh definitions, p. 219, and the hadith narrated by Ibn Abu Shaybah in Al-Musannaf, Kitab al-Dyat, Book of those who said that he is neither a leader nor a congregation, 5/393 No. (27293).

(17) See: Al-Mawardi, Al-Hawi: 12/240, Ibn Qudamah, Al-Mughni: 8/323.

(18) Criminal Jurisprudence in Islam, Amir Abdulaziz, p. 126.

(19) The hadith was previously quoted, p. 5.

Side effects occur. Here we lose the condition of similarity and equality in retribution because the wounds of the cavity cannot be healed and not healthy stable due to a person's health.

The Muslim scholars were unanimous about the lack of retribution in the deep wound. Thus, they unanimously agreed on the blood money in it and agreed on the amount of the blood money is one-third of the killing's blood money, whether intentional or unintentional ⁽²⁰⁾.

The Fuqaha' have inferred that as follows:

1. On the authority of Malik on the authority of Abdullah bin Abi Bakr bin Muhammad bin Amr bin Hazm, on the authority of his father, he said, that in The book that was written by the Messenger of Allah, may Allah bless him and grant him peace, to Amr ibn Hazm in the rationale of judgments is the retribution of one soul is a hundred camels, and in the nose, if intentional also one hundred camels. The punishment of a head cut and the deep wound is third the blood money of killing. While for the eye is fifty camels, similar to the hand. And in man fifty. Moreover, for a leg is fifty, for finger, ten while teeth are five ⁽²¹⁾.
2. In the narration of Amr ibn Shuaib on the authority of his father, on the authority of his grandfather: for deep wounds, punishment is only one-third of the blood-money of killing ⁽²³⁾ The two Hadiths are clear about the necessity of blood money in deep wounds and an indication of the amount of one third. Makhoul disagreed with this consensus, and he said: (If the deep wound is deliberate, then there are two-thirds of the blood money if it is a mistake then only one-third ⁽²⁴⁾. Imam Ibn Al-Mundhir described this as an anomaly ⁽²⁵⁾. Likewise, Imam Ibn said Qudama:(This is the general saying of the scholars, including the people of Medina, the people of Kufa, the people of hadith, and companions, except for the Makhoul, said that the punishment is two-thirds of the blood money ⁽²⁶⁾.

(20) See: Al-Qurtubi, Introductions, The Prologues: 3/325, Al-Kasani, Al-Bada'i: 7/30, Ibn Abidin, Rid Al-Muhtar. Ali Al-Durr Al-Mukhtar: 310/5, Al-Shafii, Mother: 6/84, Ibn Qudamah, Al-Mughni: 9/624.

(21) Explained: The shagah shows the bone white. See: Fiqhi Dictionary, p. 382

(22) Malik included it in Al-Muwatta: Chapter of Minds, Book of Minds 2/849 No. (1), and Al-Nasa'i, Book of Qasamah, The chapter on the hadith of Amr ibn Hazm is mentioned in Al-Aqoul 4/430 No. 4872, and it was authenticated by Ibn Hibban in his Sahih (6559), and the ruler is corrective (1447.)

(23) The hadith was narrated by Ahmad in Al-Musnad, the first chapter of the Musnad of Abdullah bin Amr bin Al-Aas 6/460 No. (7034). Abu Dawud, Kitab al-Dyat, Chapter on members' diets, 4/313, Al-Sunan Al-Kubra Al-Bayhaqi, Book of Intercourse Without the psyche, chapter of the congregation: 145/8, No. (16207) and its chain of transmission is good.

24 (See: Ibn al-Qattan, Persuasion in Conciliation Matters: 2/286 Ibn al-Mundhir, al-Ashraf: 2/174.

(25) Ibn al-Mundhir: Consensus, p. 170.

(26) Ibn Qudamah, Al-Mughni: 8/474.

The Second Chapter: Punishments related to Deep wounds (Aljayifa)

First Section: Deep wounds that Penetrate the Body or an Organ

The deep wound that penetrates the body on one side, and exits on the other side, like the arrows, the bullet, and others making hollow.

The majority of Fuqaha' agreed that deep wounds penetrate, their punishments are two-third of blood money each. The famous story mentioned by Hanafi, Shafi'i and Malik, Ahmad and most of the scholars⁽²⁷⁾, Ibn Abd Al-Bir said: I do not think the Fuqaha disagree about this issue⁽²⁸⁾. Imam Al-Aini said: if deep wounds penetrate then the punishment is two-third the blood money of killing. . . because if it is penetrated then it is just like two deep wounds punishments,: one from the side of the abdomen, and the other from the backbone side. Thus, in every deep wound accident, the punishment is the third of the blood money, and it is compulsory to have two-thirds of the blood money⁽²⁹⁾. The companions of al-Shafi'i said that there should be a blood money punishment for deep wound penetrating and reaching an organ, and it has to be penetrating the organ⁽³⁰⁾ must be penetrated⁽³¹⁾. They argue that deep wound reaching an organ and penetrating through it has less punishment⁽³²⁾ relying on the narration of Malik that it has only one deep wound blood money.

He argues that only a third of the blood-money was given as a punishment, when a deep wound resulting in stopping a vital organ, for instance, a heart, liver, and so on. Other than that, and this only fears when the strike is from outside and its influence from inside to outside be unjust.⁽³⁴⁾ Abu Hanifa mentioned that its punishment is similar to one blood money.

These two sayings were not missed by one of the Fuqaha of the doctrines, and they are not used to contradicting the first saying who argue they are saying from:

(27) see: Ibn Abdin: footnote: 5/356, Abu al-Hasan al-Maliki, student sufficiency: 2/243, al-Hattab as talents Galilee: 6 / 246,258, Al-Zarqani in its explanation: 8/35, Al-Ramly, End of the Needy: 8/306 - 307, Al-Nawawi, Rawda the students: 9/256, Al-Bhouti, Scout of the Mask: 6 / 54-56, Al-Suyuti, Al-Awal Al-Nuha: 6/132.

(28) See: Al-Nawawi, Al-Majmoo ', Sharh Al-Mohdheb: 19/74.

(29) See: Al-Ainy, Al-Banna, Explanation of Guidance: 13/191, 192.

(30) Meaning of government: It is all the crimes that are not punishable for what is less than the soul, and it has no fate and so on. See: Al-Bada'a, 7/323, Jurisprudence Laws, p. 354

(31) See: Al-Mawardi, Al-Hawi: 12/242, Al-Shirazi, Al-Muhadhab: 3/218.

(32) See: Al-Mawardi, Al-Hawi Al-Kabeer: 12/242.

(33) See: Imam Malik, Blog: 4/576, Abu Abdullah al-Muwaq, Crown and Corona: 8/337.

(34) See: Abu Abdullah Al-Muwaq, Crown and Diadem: 338/8.

(35) See: Al-Aini Building Explanation of Guidance: 12/239.

On the authority of Abu Bakr, may Allah Almighty be pleased with him, that the punishment of deep wound reaching an organ to the other side of the body has to pay two-thirds blood money (diyya) because if it penetrates. It is similar to two deep wounds, one from the stomach side, and the other from the backside. This punishment was agreed upon by all the prophet's Companions and all of them had consensus⁽³⁶⁾.

2. What penetrates the abdomen cavity is similar to a deep wound⁽³⁷⁾.

3. It is like two deep wounds, one from the side of the abdomen, and the other from the backside. Thus, the punishment of each one of them is one-third of the blood money (Diyya)⁽³⁸⁾.

The second Section: the deep wound leading to death, or stops the hit organ, or fracture a bone.

For research purposes, I will limit this section into two issues.

The first issue: Deep wound leading to death.

If a deep wound leads to death, it is either intentionally or inadvertently. If it was intentional, the Fuqaha agreed that there is retribution for it because the wound became life-threatening. The Hanafis, Maliki, and Hanbalis believe that retribution to be done by a sword⁽³⁹⁾, then what is approved at Shafi'i is to do the same as the offender did, to kill⁽⁴⁰⁾. However, if the felony of the deep wound is a mistake on any of the subterranean organs and leads to death, blood money is the retribution for that⁽⁴¹⁾.

(36) Al-Athar on the authority of Abu Bakr, may God be pleased with him, "It was judged in a sin." Abd al-Razzaq included it in his work, The Book of Minds, Bab Al-Jifa'a: 9/369. Al-Bayhaqi, Knowledge of Sunnah and Antiquities, Book of Diyat, Chapter on Interpretation of Al-Shajaj: 12/123

(37) See: Al-Mawardi, Al-Hawi: 12/242.

(38) See: Al-Sarakhsi, Al-Mabsut: 26/75.

(39) See: Al-Shaybani, the original known by Al-Mabsut: 4/506, Al-Kasani, Al-Bada'i: 7/710, Al-Qaduri, Abstraction: 11. / 5600. Ibn Rushd, The Beginning of Al-Mujtahid: 2/399, Al-Lakhmi, Al-Tabsrah: 13/6396, Al-Bahwati, Scouting the Mask: 6 / 54 - 56, Ibn Saad al-Suyuti, Ma'al Awal al-Nuha, Explanation of the End of the End: 6/132.

(40) See: Al-Ramly, End of the Needed Explanation of the Curriculum: 7/291, 306-30, Ibn Omar, footnote to the camel on explanation of the curriculum: 5/64.

(41) See: Al-Kasani, Bada'a, Sanayeh: 7/320, Al-Bahwati, Scouting the Mask: 6 / 54-56, Al-Ramly, End of the Needed To explain the curriculum: 7/291, 306 - 307, Al-Lakhmi, Al-Tabsrah: 13/6396.

The second issue: A deep wound that hits the organs inside the abdomen cavity, or breaks bone.

A deep wound in the abdomen of chest organs that do not lead to death is one of

The following cases:

First case: The deep wound that hit an organ and then stops it.

The second case: A deep wound led to hurt the organs or breaking ribs in the chest or backbone.

I will discuss these two cases as follows:

First case: The deep wound that hit an organ and then stops it.

A felony for any of the internal organs may impair the organ, and this is on

Two types:

1. The organ is total stops (malfunction).
2. Part of the organ malfunctions.

I will discuss it in detail:

The Fuqaha unanimously agreed that the blood-money must be paid for the vital organ of the body. The organs in the abdomen cavity, such as the liver, spleen, stomach, and intestine. The gall bladder is excluded from that the body organs may work without it.

The Fuqaha 'agreed that full blood-money should be paid to any harm to the urinary tract and the digestive tract ⁽⁴²⁾.

The Fuqaha' agreed that any harm to the bladder is full blood money (Diya') ⁽⁴³⁾.

They said, Al-Fuqaha' that the felony of any harm in the intestine is punished with full blood money as well ⁽⁴⁴⁾ and in the esophagus is also full blood money if it is harmed completely and no longer functional ⁽⁴⁵⁾. For the womb of the woman, full blood money is paid for stopping pregnancy, and pregnancy cannot occur without the womb, which is the place of pregnancy, as well as the ovaries that produce eggs ⁽⁴⁶⁾.

(42) See: Al-Kasani, Al-Bada'i: 7/311, and Al-Desouki in his retinue: 4/27, 278, Al-Sherbini, Mughni Al-Muhtaj: 4/74, 75, Ibn Qudamah, Al-Mughni, 8/51.

(43) See: Ibn Abdin: Footnote: 10/239, Ibn Qudamah al-Mughni: 13/151, Ibn al-Fur, Jurisprudential Matters from the book of two novels and two sides: 2/278.

(44) See: Ibn Abdin: footnote: 10/239, Ibn Qudamah al-Mughni: 13/151.

(45) Al-Nawawi: Kindergarten of the students: 7/160.

(46) See: Ibn Hajar: Tuhfat Al-Muhtaj: 8/61, Al-Sherbini: Mughni Al-Muhtaj: 4/98, Ibn Al-Mundhir, supervisor of the doctrines of Fuqaha': 7/435.

As for the gall bladder: it is an organ whose benefit is limited and a person can dispense with it and does not lead to death, but its eradication or malfunctioning may affect liver functions ⁽⁴⁷⁾, so the Fuqaha' stated that in the malfunctioning of the gall bladder, there is a punishment ⁽⁴⁸⁾ because it is impossible to reach the reason for giving blood money, for stopping the work of a vital organ.

However, if the harm is done in the abdomen cavity, such as the kidneys, ureters, ovaries and lungs, The blood money (Dyia') must be given for malfunctioning them, such as the failure of the kidneys or ovaries, half-blood money is given, for malfunctioning one of them regardless the size or the place in the right or left, compared to the legs and hands, the testes, the breasts, and the eyes, because there is no need to differentiate in blood money (Dyias) between similar organs ⁽⁴⁹⁾ as the prophet may Allah peace be upon him said (fingers are similar, and teeth are such as molars ⁽⁵⁰⁾). Moreover, evidence to support this is the prophet's message to Amru Ibn Hazim, there blood money (Dyia') for any harm in the eyes, in one of them, only half the payment of blood money. Also in the ears, the blood money is fifty camels ⁽⁵¹⁾. This is an explicit text that half-blood money is given for harm in one ear, where all Fuqaha' had consensus on this judgment ⁽⁵²⁾.

2. A deep wound that leads to the malfunctioning of an internal organ

A complete amount of blood money (Dyia) is given for an internal abdomen organs failure because of the deep wound as mentioned earlier in this research, then if a deep wound causes only little harm or damage for the internal abdomen organs such as the heart, liver, spleen without malfunctioning them

(47) Abu Shadi Al-Roubi: The Liver, Gallbladder, and Pancreas, p. 186.

(48) see: Al-Kasani, Al-Bada'i: 7/311, and Al-Dasuqi in his retinue: 4/277, 278, Al-Sherbini, Mughni Al-Muhtaj: 4/74, 75, Ibn Qudamah, Al-Mughni, 8/51.

(49) See: Al-Kasani, Bada'i Al-Sanayi ': 7/296, Al-Mawardi, Al-Hawi Al-Kabeer: 12/551, Ibn Muflih, Al-Mubda`i 8 / 310. Kuwaiti Jurisprudence Encyclopedia: 3/105.

(50) Hadith brother Rajah Abu Dawood in his Sunnah on the authority of Ibn Abbas, Kitab al-Dyat, Chapter on the Blood money of members, No. 4561) 4 / 312 Al-Bukhari has directed it towards him in the Book of blood money, the chapter on blood money, No. (889) 6895.

(51) Part of Amr Ibn Hazm's book on blood money and his graduation has been presented.

(52) See: Al-Qahtani: The Consensus Collection in Islamic Jurisprudence: 11402

Without mutilation, knowing the amount of damage to the organ from doctors, thus the amount of blood money (Dyia) is measured by the damage of the organ specified by the doctors⁽⁵³⁾. If doctors could not specify the amount of damage, then an unspecified amount of (Dyia) is given which is referred by the Fuqaha' as 'justice judgment'⁽⁵⁴⁾. if an organ is half or less harmed by deep wound then doctors' decision of the amount of the organ damage to specify the amount of blood money (Dyia) in half, half the blood money is paid in return to the organ damage. While one-fourth or one-third of the organ is harmed and doctors confirm the damage then more blood money is given⁽⁵⁵⁾. However, if more than damage is caused by the deep wound and was specified and confirmed by the doctors then more of the blood money is given, balancing the amount of harm caused to the organ. For instance, if two-third of the liver is damaged and the doctors confirm that only half of the liver is functioning, that is to say, that half of its function is lost, then two-third or more of the blood money (Dyia) is paid. The Muslim Fuqaha justified this that each organ and its function is related to the amount of the blood money given for it, for instance, cutting part of the tongue and some speech cannot be produced as a reason for this incident⁽⁵⁶⁾.

The Second Case: The deep wound that causes only small hurt to the organ or results in chest rip breaking of backbone fracture.

If the attacker hits with a knife and hurts a person's internal abdomen organs without cutting anything or reducing their functions, only scratching them or breaking a chest rip or a bone from the back, then the Fuqaha' are consensus that the punishment is one-third of the blood money is paid off small harm by a knife to the spleen, liver or breaking the chest rip of bone.

(53) See: Al-Zayla'i: Explaining the Truth Explanation, Treasure of the Minutes, and a footnote to al-Shalabi: 6/128, Al-Shirazi: Al-Muhadhab: 5/121, Al-Nawawi: Rawda Al-Talebeen: 7/150, Ibn Qudamah, Al-Mughni: 9/605, Al-Azhari: Proximal fruit. Explanation of Ibn Risala Abi Zaid Kairouan: p. 578.

(54) See: Al-Zayla'i, Explaining the Truths Explaining the Treasure of the Minutes and the footnote to Al-Shalabi: 6/128. Al-Nawawi: Kindergarten of the Talibin: 7/156, Al-Sherbini: Mughni Al-Muhtaj: 4/73, Ibn Muflih: Al-Mubda'a: 7/320.

(55), Jintur: Previous sources.

(56) (See: the same sources.

(57) See: Al-Mawardi: Al-Hawi Al-Kabeer: 12 / 528. Kuwaiti Jurisprudence Encyclopedia: 15 /.

The third section: Participating in cause deep wound

For the cases that two persons participate in causing a deep wound, for example, someone stabs causing a deep wound and the other increases it, then the punishment is for two deep wounds where each one of them has to pay blood money for the deep wounds because each one of them causes separate deep wound thus, they are not exempted from the punishment just by joining the accident. If a deep wound is healed and then harmed by another

than he has to pay complete blood money (Dyia) which is one-third because the attack was recovered. If part of the deep wound healed and then a person harms the same wound then he has to give blood money and also has to pay for treatment of the wound, the stitching, and treatment. If the wound was healed and then was penetrated again then the attacker pays the full blood money. While if the deep wound was not healed and then penetrated by another person then he does not have to pay blood money only pays for the stitches and the treatment. However, if the wound was deepened then has to pay for the extra harm he caused. Moreover, if the wound was stitched and harmed by removing the stitches then the attacker has to pay for the stitches and for the treatment for causing without pay blood money. If he inserts a knife in a wound then he is reprehended without pay blood money ⁽⁵⁸⁾.

(58) See: Al-Bhouti, Scouting the Mask: 6/55, Al-Suyuti, First Claims of the End: 6/130, Al-Mawardi, Al-Hawi Al-Kabeer: 12/529, Al-Sherbini, Mughni Al-Muhtaj: 5/306, footnote to Qalioubi and Amira 4/2

Conclusion

Praise be to Allah, Lord of the worlds, and prayers and peace be upon our prophet Muhammad and his family, companions, and peace be upon them all.

After reaching the end of this research, I will mention the most important results obtained from it:

1. Humans have rights and these rights should not be violated in any way or by threatening their lives or causing harm by wounding them without losing their lives.
2. Islam has constituted punishment laws for any violations on humans to prevent committing crimes and punishing committers and keeping the rights of those attacked.
3. (Aljaiyha) the deep wound is the wound that reaches the internal cavity and occurs in the abdominal cavity where there is no difference between making wounds with iron or wooden tools or being wide or narrow even if it was made with a needle.
4. The cavity of anything is the internal area that has space and it was specified by the Fuqaha as the core and said that the areas of the body that deep wound may occur and reach the cavity is the chest, the back, the abdomen, and the two sides. Also, the areas that are between the anus and the gentiles.
5. The Fuqaha' agreed that there is no retribution for deep wounds that result in death and one-third of the blood money if it was intentional inadvertently.
6. The Fuqaha' agreed that if a deep wound is intentional the attacker is punished and they disagreed on the way to conduct it. While if it was inadvertent on any internal organ of the body and led to death, the punishment is a full blood money payment.
7. The Fuqaha also agreed that the punishment of the deep wound if implemented it has to be done from back to front of the body and the doer has to pay one-third of the blood money.
8. If a deep wound causes only small harm in the spleen, or liver of broke a rip, blood money is paid.
9. The felony of deep wounds in the internal cavity that do not lead to death is one of the following:

First: the deep wound hits an organ leads to its malfunction.

Second: the deep wound causes harm to an organ but keeps it functional. However, for each case of the two has its punishment.

10. If someone makes a deep wound, followed by another widening it, the two have to pay the blood money. If the wound heals and opens by another has to pay one-third of the blood money.

The deep wound if heals and then reopened by someone else then the doer has to pay the blood money. If widen by someone else from outside or inside, then the punishment is only for widening it without the punishment of a new deep wound. If the deep wound is stitched and then was reopened by another, then he is punished and has to pay for its treatment but not punished with new deep wound blood money.

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