

Wergild or blood money from the Islamic point of view

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Abstract: The information of this research is summarized as follows. Wergild: in terms of lexical is "Farewell" to financial that The killer pays for the victim in exchange for her life, and it's Vedat origin is to the conquest of Waw and the stillness of the Dal, is called infinitive to Dit, and then Fa has been removed in exchange for Ha. atonement : called wergild for what is obligatory without spirit and instead of spirit and government of justice also applies.

Also, wergild existed before Islam, the purpose of wergild and blood money is to prevention and forbidding the perpetration of crime and support of the people's life Therefore wergild and blood money should be so hard and the amount should be huge and serious.

The Prophet (peace and blessings of Allah be upon him) himself stated that a Muslim man is a free camel, wergild should be paid from the property of convict whether is a man or is a woman and wergild is obligatory on him. That is to say, the murder's wergild is when nemesis should be abolished.

The blood money of a woman is half the blood money of a man, and also the blood money of her parts of body and the blood money of her wounds is half the blood money of a man's parts of body and injuries, and most scholars agree on this.

Key words: Atonement, Gastrulation, Assassination, Blood Money, Wergild, High-Prices, Commutation

Introduction

All praise due to Allah, and peace and blessing be upon the Prophet Mohammad (God's blessing and peace be upon him), on his family and all his companions and Whoever follows them in goodness until the Day of Judgment

Without any doubt, I would like to thank God the Majestic for His kindness and help, which was in the light of this attention and kindness, that an article entitled (wergild or blood money from the perspective

of Islam) that all of them helped me with the blessing and virtue of God Almighty (the Majestic) and because of these blessings that cannot be counted, and praise and glorify that holy essence of dignity, And I ask him to help me not to cut off this grace from me, do not take from me the competence and talent that he has given me, and accept this effort from me. For all is the benevolence of that essence, and its name is blessed, its arrogant essence is sacred, and its attributes are glorious and pure.

Research Methods: In this article, the library research method has been used and in its richness, valid scientific books and the theories of scientists and jurists have been used.

Wergild or blood money from the Islamic point of view

Definition of Wergild: in terms of lexical is " Farewell " to financial that The killer pays for the victim in exchange for her life, and it's Vedat origin is to the conquest of Waw and the stillness of the Dal, is called infinitive to Dit, and then Fa has been removed in exchange for Ha.

Wergild in religious law: It is a financial name that is paid in exchange for the soul, not a name for the object in the infinitive, because this is a religious property. (12: c: 3: 405).

In other words, it is a financial ransom that is due to a crime and is given to the victim or his guardian, which includes both cases that cause retribution and others. (5: c: 2: 707).

wergild is also called "intellect", it is called "intellect" because when the killer commits murder, he collects the camels of wergild and kneels in the yard of the relatives of the victim to submit to them. Wisdom on such and such (it means, I paid compensation, wergild and blood money for crime) (9: c: 3: 583).

Atonement of wergild: A name for what becomes obligatory without the soul, and refers to the exchange of soul and the rule of justice (2: J: 5: 368).

Legitimacy of wergild: The legitimacy of wergild to the Qur'an, the tradition of the Messenger of God (peace be upon him) and consensus is fixed (8: c: 7: 5702).

1.The Qur'an: God (the Majestic) has said:

No believer will reach the point of killing another believer unless he commits it by mistake, and if a believer kills a believer by mistake, must (expiation for it) release a believer servant. And to hand over the blood money of it to its owner unless the heirs of slain forgive the blood money. And if the believer's slain is from a people who are enemies and combatant of you, the killer should not pay a wergild, it is incumbent upon him to release a believer servant, and if the slain is from a people with whom you have a treaty, then he should pay the blood money to the owner of the blood and free the believing servant (to its expiation), and if (a slave) does not find one, he should fast for two consecutive months. This is penitence that is accepted from God, and God is All-knowing and All-wise. (AL-Nesa92)

2. Messenger of God (peace be upon him) is the reason and obligation to pay the wergild according to the hadith of Abu Hurayrah that say (6: c: 2: 1021):

Two women quarreled together from the Hudhil tribe, one of them threw a stone at the other, killing the woman and the child in her uterus, The Prophet (peace and blessings of Allaah be upon him) took the wergild of the woman's fetus or appointed a maid, and placed the wergild of the woman on the nerve of the woman.

3. consensus: All scholar's agree on its necessity (8: c: 7: 5703)

Philosophy of wergild:

The purpose of wergild and blood money is to prevent and forbid the perpetration of crime and support of the people's life Therefore, blood money must be so expensive and the amount should be costly, which will make the imposer pain and hardship and pinch, Obviously, this goal is achieved when the amount of wergild is so high that it greatly reduces the property of the criminals and they pay it to the victim in difficulty to his heirs. Wergild is a punishment that includes punishment and compensation for both(7: 62).

Types of wergild:

There are two types of wergild: high-prices or heavy and commutation or light: Light wergild becomes obligatory when killing by mistake, and heavy wergild becomes obligatory when someone is killed with intention.

Imam Shafi'i and the Hanbalis say: In intentional murder, if the owner of the blood forgives the killer, then a heavy wergild becomes obligatory.

But Abu Hanifa (God have mercy on him) says: In intentional murder, there is no wergild, but something becomes obligatory in intentional murder that the parties make peace and agreement, and it must be paid in cash and without promise. (9: c: 3: 588).

high-prices or heavy wergild:

One hundred camels, which forty of them are pregnant, because of what the Prophet (peace and blessings of Allaah be upon him) said (10: c: 7: 21).

(Be aware that the wergild for the intentional murder that committed mistakenly with a whip and a cane is one hundred camels.)

Forty of their camels are pregnant, and the camels should be paid only from the killer's property.

But the payment of the wergild of intentional murder must be paid by paternal family and elderly including relatives of the man from the father who are mature, rich and wise.

And the elderly includes the blind and the chronically ill and the old if they are rich, but it does not include women, the poor, children, crazy people and anyone who is not a criminal of religion, because the basis of this work is cooperation and these people are not qualified to cooperate. (5: c: 2: 710).

The reason for the obligation to pay wergild on the wise is the hadith of Abu Hurairah, he said (6: c: 2: 1021):

Two women from the Hudhil tribe quarreled, one of them threw a stone at her and killed the woman and the child in her womb, The Prophet (peace and blessings of Allaah be upon him) took the wergild of the woman's fetus or appointed a slave girl and entrusted the wergild of the woman on the woman's paternal family.

The amount of wergild

Scholars have differed on the extent and rate of the measure:

Opinion of Imam Abu Hanifa, Malik and Imam Shafi'i in their ancient religion: that wergild becomes obligatory in one of three types of property: Camel, gold, and silver (8: 7: 5707). And their reason is proved in the book of Amr ibn Hazm in wergild (3: 5: 124): There are a hundred camels in the believer's soul. And Hazrat Omar suppose for the owners of gold one thousand dinars and for the owners of silver ten thousand dirhams (3: c: 4: 361). And Abu Hanifa's opinion is correct. (7: 7: 5706).

The wergild for the intentional likeness murder is hundreds of four types of twenty-five camels, which are:

1. One-year-old female camel: It is a female camel that has completed one year and entered the second year.
2. Two-year-old female camel: It is a female camel that has completed two years and entered the third year.
3. Three-year-old female camel: It is a female camel that has completed three years and is in the fourth year.
4. Four-year-old female camel: It is a female camel that has completed four years and is in its fifth year.

This wergild is heavy or high-priced, which must be camel, and non-camel is not permissible, and whenever camel is given, it must be paid in four types, unlike the error wergild, which must be paid in five types. Therefore, any sentences other than wergild of a camel is not concentrated, even if it does not pay more than ten thousand silver dirhams and one thousand gold. The Imams agree that the blood money from the goldsmith in a mistake and an intentional likeness is thousand dinars and wergild is for five types of camels in mistake, which in addition to the types of camels that mentioned heretofore, are also given from the type of two-years-old male camels, namely, twenty camels should be given for any kind, or one thousand gold's Dinars or ten thousand silver's Dirhams. And there is no doubt that the payment of wergild in gold and silver is easier in the present age. (12: 3: 406).

Expiation of intention likeness murder and murder in mistake

Imam Quduri (God bless her and grant her peace) has said that in an intention likeness murder manner the mind is high-priced and the expiation is on the murderer (11: 8: 191).

God (the Majestic) has said about: - Quran: God (the Majestic) has said... (And never is it for a believer to kill a believer except by mistake. And whoever kills a believer by mistake - then the freeing of a believing slave and a compensation payment presented to the deceased's family [is required] unless they give [up their right as] charity. But if the deceased was from a people at war with you and he was a believer - then [only] the freeing of a believing slave; and if he was from a people with whom you have a treaty - then a compensation payment presented to his family and the freeing of a believing slave. And whoever does not find [one or cannot afford to buy one] - then [instead], a fast for two months consecutively, [seeking] acceptance of repentance from Allah. And Allah is ever Knowing and Wise. :AL-Nesa92) There is no believer who kills another believer, unless commits it by mistake, and if a believer kills another believer by mistake, must (expiation for it) release the believer's servant and hand over his blood money to its owner, unless the heir (to killer) forgives the blood money. And if the believer's slain is from a people who are enemies and combatant of you, the killer should not pay a wergild, it is incumbent upon him to release a believer servant, and if the slain is from a people with whom you have a treaty, then he should pay the blood money to the owner of the blood and free the believing servant (to its expiation), and if (a slave) does not find one, he should fast for two consecutive months. This is penitence that is accepted from God, and God is All-knowing and All-wise.

And if it is intention likeness murder, it means mistake in it, so the ruling of expiation is also fixed in it, so, if the murderer is unable to free the believer 's slave during the time of obligation, Fast for two months consecutive, unlike other expiations, in the case of murder by mistake and intention likeness, it is not expiation's feed, because there is no religious text in feed, And the legal value is forbidden, and it is not known except by revelation (12: 3: 407).

Female's wergild

Absolutely the female's wergild is half the man's wergild, whether in the spirit or not in the spirit (11: 8: 199).

The reason is the hadith of the Prophet (peace and blessings of Allaah be upon him) who said: The female's wergild is half the man's wergild (14: 8: 167).

Ibn Munther and Ibn Abd al-Barr say: The scholars are of the consensus that the female's wergild is half the man's wergild, apart from these two, it has been narrated from Ibn Alayh Wasim that said: According to the saying of the Holy Prophet (peace be upon him), the female's wergild is same as the man's wergild, The Holiness said: The believer female's wergild is one hundred camels. This is a uncommon and rare saying that contradicts the consensus of the Companions and the Sunnah of the Prophet (peace and blessings of Allaah be upon him), Because it is stated in the letter of Amr ibn Hazm: " The female's wergild is half the man's wergild The blood money of a woman is half the blood money of a man" (4: 8: 166).

And perhaps the reason of "God knows best" is that the harm done to a woman's parents by her murder is less than the harm done to them by a man's murder, And the owner of the guidance refers to the same meaning and says: The woman is more deficiency than the man and her benefit is more less than the man, and the effect of the deficient is half revealed in the spirit. (13: 4: 168).

Wergild of people of the book

Jewish and Christian wergild said: But Imam Shafi'i is equal. Dhimmi says in the presence of Imam Abu Hanifa that the Muslim's blood money is a Jewish blood money and says: Imam Malik (RA) and the blood money of the magician are eight hundred dirhams. It is four thousand dirhams; the blood money of an infidel is half the blood money of a Muslim. They have said: Because that Imam (peace be upon him) is a Christian for six thousand dirhams, And the full wergild for him is twelve thousand dirhams.

There are 4,000 Jewish narrators who have argued for the Christian ransom and for what the Holy Prophet (PBUH) and Imam Shafi'i (may God bless him and grant him peace) and Imam Abu Hanifa (may God bless him and grant him peace) argue for this hadith, the Magian wergild is eight hundred dirhams. The dirham and wergild of each owner of the contract whose contract is faithful is one thousand dinars. The Messenger of God (peace be upon him) who said: And also Abu Bakr and Umar have judgeship according to this, and what Imam Shafi'i narrated, the narrator of which he knew, narrated from what Imam Malik did not say, which is not Imam Abu Hanifa and is not mentioned in the book of hadith (178:4:13). Kardeh is more famous because the action of the companions is fixed and the dhimmi wergild at the time of the Messenger of God (God's blessing and peace be upon him), narrated from the poison of Rabia ibn Abd al-Rahman who said: Uthman (May Allah be pleased with him) was like the wergild of a Muslim until the beginning of the caliphate of Mu'awiyah(RZ) Mu'awiyah Omar and the time of Abu Bakr and said: If its people are harmed, without a doubt, the treasury of the Muslims is also one of those harmed, because the dowry that it paid is lost, so give the other half to its people and pay the other half to the treasury(160:18:4).

Part of body's wergild:

Every human being has part, some of which are one part, such as the nose, tongue, and penis, and some of which are two parts, such as two eyes, two ears, and two hands.

There are more than two parts:

Therefore, whenever a person destroys one of the parts of one or two other parts, the full wergild becomes obligatory on him. 5: 2: (711)

There are four types of human parts of body:

1. parts who are individual and they are three: the nose, tongue, and penis, the meanings (senses and perceptions) that are in a person's body are: Wisdom, spirit, dynamism and taste (12: 3: 409). So the blood money of nose is complete Because it is useful in collecting odors by the nasal canal which is connected to the nose and when this canal is cut, it is no longer useful in the nose (.9: 3: 594).
2. The two parts in the body are: eyes, ears, eyebrows, lips, hands, woman's breasts, and two testicles of a man and legs, in both of these, the wergild is full, and in one it is half a wergild.
3. The four parts are: The eyelids, which are a quarter of the wergild in each eyelid.
4. There are ten parts: the fingers and toes, to whose collection the full wergild is awarded, and for each one alone one tenth of the wergild is awarded. And what is more than this is the teeth, in each of which there is one tenth of the blood money. (2: 5: 369).

It is narrated from Abu Bakr ibn Muhammad ibn Umar and ibn Hazm from his father from his ancestor that the Prophet (peace be upon him) wrote a letter to the people of Yemen and specified the precept, traditions and wergild. The letter stated: " wergild of suicide is one hundred camels " And for the goldsmiths of a thousand dinars, cutting the nose from the base is a full wergild, cutting the tongue full wergild and two lips full wergild , two testicles full wergild , mentioning full wergild , the back of the "waist" full wergild , two eyes full wergild , one foot half wergild, "Ameh" stroke is one third of the full wergild, "Jaegeh" stroke is one third of the full wergild, "camel" stroke is fifteen camels, amputation each fingers and toes is ten camels, each tooth is five camels, and "mahma" stroke is five camel as wergild. (15: 2: 325).

wergild of the benefit of members and organs:

Whenever a human being beats and impacts another human being and loosed his intellect and he goes mad, his full wergild becomes obligatory, because by intellect, human is privileged over other animals. Also, if any of his senses is lost, a full wergild becomes obligatory, such as hearing or seeing, or dynamics, or tasting, or speaking in all words, Because the titivation and beauty of one of these senses is due to their benefits and profits, so when it is not in these profits, these senses are no longer useful and are not alive.

In the time of Holiness Umar (RA), a man had beaten another man, who had lost his hearing, sight, sexual power and intellect, but he was alive, and Holiness Umar ordered that four wergild be taken from him. Whenever the sight of one eye or the hearing of one ear is lost, whether the other eye or the other ear is good or healthy half a wergild becomes obligatory, (569: 3: 9).

If someone cuts off the penis and two testicles another person together, in order to destroy the benefit of emptying the semen and the generation, it is necessary to pay two wergilds. In amputating a woman's breast, nipples and two thighs, whenever they are cut from the stump, the wergild is full. And for the amputation of a man's breast judges the rule of justice. In the amputation of four eyelids, whenever it is uprooted and you no longer go, the wergild is full, and in the amputation of one, it is a quarter of the wergild. And if he cuts off the eyes and eyelids, two wergilds become obligatory: the wergild of the eyes is the wergild of their eyelids, because they are of two kinds, like hands and feet. (12: 3: 411).

Head injuries wergild:

Head injury the plural of head injuries, and in the word they say a wound that reaches the head and face, but the wound that reaches other than the two is called a wound: There are ten types of wounds, which are (12: 3: 413):.

1. Breaking outer skin: Slight tearing of the skin.
2. Tearing the skin and flesh: A wound that, in addition to tearing the skin of the flesh, has also cut.
3. Bleeding: A wound from which blood drips and blood flows.
4. Motlahemeh: A wound with a deep cleft in the flesh.
5. Periosteum: A wound with a deep cleft in the flesh.
6. Mozeheh: A wound so that the bone is found and visible.
7. Skull fracture: A wound so that the bone is broken and crushed.
8. Bone dislocation: A wound that a bone is found, visible and broken and a bone is displaced.
9. Lesser brain wound or Ameh: A wound that is so deep and passes through the bone and reaches the thin covering of the brain.
10. Inside body wound: A wound that has penetrated inside the head. (597: 3: 9).

Fetal blood money:

Whenever the fetus dies as a result of a deliberate crime or by mistake on the mother without her mother dying, the slave or maid is its blood money, it does not matter if the mother is dead in the womb or separated from her mother and born dead, and the girl or boy is different. If his mother also dies, his ransom must be paid (5: 2: 716).

It is narrated on the authority of Abu Hurayrah: (6: 2: 1021) "Two women from the tribe of Hudhil quarreled. One of them threw a stone at the other and killed the woman and the child in her womb. They took the case to the Prophet (peace and blessings of Allaah be upon him) The Prophet (peace and blessings of Allaah be upon him) took the ransom of the fetus or appointed a maid, and placed the ransom of the woman on the "paternal relatives" of the murderer, who inherited the son of the victim and his other heirs."
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But if the baby is born alive and then dies, the full wergild becomes obligatory, if it is a boy, a hundred camels, and if it is a girl, fifty camels, it is his wergild, because we are sure that his death was due to a crime and therefore resembles a non-fetus.

Dispute: The system of blood money or punishment is a just system that is based on the strong and surrounded complete in what is good for the affairs of the people and It is the observance of the instincts of the people that causes tin and repression and reduces the level of crimes among them. Despite full justice in the size of the wergild or the punishment of imposing it as an amount of the fine, Also, in applying the high punishment to all of us, we saw the baselessness of the protesters' confessions about the boundaries of wergild. structures of Just retaliation and wergild have more power in the penal code of Islam, and we know its advantage over other status laws. And also to purify the needs of the people and to complete security and tranquility to the extent that no one is in conflict or separation, and the law of status is not the same, this is also one of the reasons for the establishment of Islamic law by God (c).

Findings:

The purpose of blood money and wergild is to prevent and forbid the commission of crime and to protect people lives. Imam Shafi'i and Hanbalis say: In premeditated murder, if the owner forgives and changes the killer, then a heavy ransom becomes obligatory. Imam Abu Hanifa (RA) says: In premeditated murder, there is no blood money, but in intentional murder, something becomes obligatory that the parties agree on peace and must be paid in cash and without prepayment. The wergild is high-priced or heavy, or it is light or commutation. The wergild of a man is one hundred camels and the wergild of a woman is absolutely half of the wergild of a man.

Conclusion:

Islam is the religion of justice and fairness and equity. Islam is a religion that seeks equality and brotherhood among human beings. Penalty in Islamic law is both this worldly and other worldly, but the circumstances of life and the need for the establishment and peace of society and the formation of relationships between individuals clearly and the guarantee of their rights cause that society should be this worldly and other worldly penalty.

It is clear that nemesis and wergild are a type of retribution in Islamic circumstances. This torment and retribution becomes obligatory in rape of the soul and beyond it, that is, in the crimes of murder, wounding, amputation, amputation of hands, parts of body, sometimes in the crime of murder, wergild becomes obligatory.

There is a rule in jurisprudence about the wergild of parts of body. That according to it, a crime against a part of a human's body being that is a pair, such as a hand, an ear, and an eye, if it is on both, causes a full wergild, and if it is on one of the two, it causes half a full wergild. And a crime against any parts, such as the tongue, penis and nose, causes a full wergild. The full wergild is the wergild of the spirit.

According to Imam Abu Hanifa (RA), the Muslim wergild is equal to Dhimmi, in the religion of Imam Shafi'i (RA), if the Dhimmi is a Christian or a Jew, then his wergild is four thousand dirhams and if he was a magician, then his wergild is eight hundred dirhams. According to Imam Malik, the wergild of Jewish and Christian is six thousand dirhams.

In this article, while discussing the documents or analyzing the provisions of wergild, its Inclusion and benefits in relation to the benefits of female and male's body parts have been examined and discussed.

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