Religious Jurisprudence Review of Death Penalty and Blood Money Punishment in Case of Death of the One who has been Accused of Murder, Quasi-Intentional or Absolute Mistake

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ABSTRACT

One of the most important titles in Islamic Juridical is retribution and blood money. The accused or guilty one may die during criminal proceedings. If this happen, to get the principle of self-punishment, the dead accused or guilty and his heirs could not been prosecuted in general aspect of the crime. But in reality and implementation of execution and blood money sometimes some things happen that it is needed to study and notice. One of such things is when an accused one or guilty to death penalty or blood money punishment, is dead. According to religious stories, blood money must be paid from dead murder’s property and if dead murderer does not have any asset, his family has to pay and if this is not possible, blood money must be paid from treasury. The original sentence for murder is death. With the death of the murderer in any way, the issue of retribution is cancelled and is not entitled to any compensation, maybe some exceptions. About Zeman Agheleh, being responsible principle of Zeman-e-Aghtehle, is undeniable. Therefore the principle of blood money and compensation to slain or his heirs is firm and unchangeable. But we don’t have to consider as unchangeable the amount or quality of blood money. Because the main aim is not to spoil muslim’s blood. And this is possible through consider constant blood money sentence in all times and places. But how to pay can be a function of common and social terms. Regarding of text of Islamic juridical and the principal of not loss, it seems can be compensated through legal obligation of heirs.

INTRODUCTION

Humans are social creatures and social life of humans depends on relations with others. Sometimes these relations are affected by some accidents that resulted in loss to others. This damage sometimes is originated by mistake and sometimes by purpose. One of these damages is murder. The first murder was committed by Gaubil. There is a story about Adam’s sons In Quran and the story of murder of one of them by the other is expressed. Haubil and Gaubil were Adam’s sons. These two brothers tried to close to the God by sacrificing. According religious Interpretation, Haubils’s best sheeps were being sacrificed and Haubil’s worst crop was being sacrificed. The God just accepted Haubil’s sacrifice. This made Gaubil jelious and he killed his brother Haubil. (Fazl allah, seyed mohammad hoesin, Tafsir man vahy al Quran page 125).

In this article we initially define retribution, blood money and kinds of murder.

Definition of Retribution:

Retribution: punishment for sin, Act of retaliation (Gesas al sher). (Moradef Gesasah, Gesah, Esm e-marrat) For the nominal advocated like the crime which was committed, whether the crime is murder or mutilation, hitting or making damage.

In Persian word it means punishment, penalty, reward, restitution, retaliation and the same behavior to subject just as he has committed the crime.

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Retribution in Islamic juridical term means punishment of guilty to fit the crime. Humans being in old days did not consider any limitation for crime and just a little crime would result in unlimited punishment. Retribution law was enacted based on religions whereby punishment became fit the crime. [24]

Meaning of the term of blood money:
Blood money is a fine which guilty has to pay to victim or his successor. Blood money is a punishment for crime which has been designated by lawgiver.

In the long history of human societies have always been wars and conflicts among people which resulted in the loss of countless innocent people have been and perhaps most of those conflicts had been due to selfishness. (Mir saeadi, Mansour)

According Imam Khomeini: blood money is the money which offender must pay to one who has lost his life or has been maimed whether the crime is murder or maiming or injury and whether the blood money is specified or not however the amount which has not been specified by lawgiver is called Arsh of crime or government and the sum is called blood money. (Khomeini Rooh allah).

Kill definition:
The term of kill means soul removing of body (Ragheb Isfihani) and loss of life. (Moustafavi, Hasan). In terms of jurisprudence this term is considered as the act which removes life from human and lead to death. This action is done by killer. (Ragheb Isfihani)

Murder:
According of Persian dictionary the term of murder is killing on purpose and this occurs when human’s life which always is supported by law and jurisprudence, to be molested on purpose. Great Quran also prohibits murder, for instance, the verse number 33, chapter Bani Israeal. In our history human’s life have been respected and sometimes bloody wars have been happened over the avenger of a murder among tribes. According to Imam khomeini’s definition “ getting soul out of innocent people purpose deliberately on conditions that will be explained later. (Imam Khomeini)

Quasi-intentional murder:
Based on IPC (Islamic Penal code) section 291 the resolution in 1392 (2013) the following crimes are considered as quasi-intentional murder:
A- When a criminal had not have intention to murder against a victim but in reality criminal action (murder) would have been done.
B- When a criminal commits a crime out of ignorance, for instance he thinks his criminal action is against an object or animal or people who are subjects to section 302 of IPC however the contrary result would be appear.
C- When the crime is committed because of the fault If the crime was not intentional or the like are covered by the definition of the crime.

Pure mistake murder:
This means no intention of killing action is performed against victim. The definition says if somebody does an action with no intention to kill and even no thought, he has committed a pure mistake murder. For instance, a mother who choked her baby Inadvertently while mother and the baby were asleep, and the action is Without premeditation. Actually the mother had not had any intention to kill her baby neither had thought of killing, but she has committed the crime involuntarily or pure mistake murder. (Mir mohhamd Sadeghi).

The most important crime which is punished by death is murder. This offense would have heavy penalties for which is intended. (The death sentence to life or long-term imprisonment), moreover in religious have been disgusted and it is emphasized on prohibition of murder and it is promised a severe punishment for murderers in the hereafter. Islam considers murder as grave sin. It is said In chapter of Nesaa, verse 93 “ If anyone kills a faithful person on purpose, he will has to face punishment in hell.”

It was narrated from the Great prophet Mohammad “The first thing that will be investigated by The God in the doomsday is unjustly blood shed, therefore he said murder includes 3 following rights:
1- The God’s right: When a person disregards the God’s order and commits the great sin, The God’s right appears and can be forgiven by repentance and atonement. Although it is narrated in religion if anyone kill someone because of his beliefs, the murderer’s repentance will not be accepted and he must be in hell constantly and repentance would be accepted just when that the reason of murder includes: greed of getting property and wrath and etc.
2- The right of inheritance: when someone kills other one, the victim has been deprived from his rights by the killer. It is the responsibility of the heirs to demand and heirs can do retribution the murderer or demand blood money or forgive him.
3- The victim’s right: includes the pains and agony of victim that caused by the murderer while killing action. This is victim’s right that victim would apply for retribution or forgiveness in judgment day.

Death of murderer in a murder case:

According to the explanation of the basic principle of punishment for murder, regardless of their most basic issues related to the murder, it has decisive role in response to questions and generally by committing a murder and providing the conditions which religion refers to them, next of kin have the right to do retribution according to the explicit text of the Quran.

Constantly the question is being asked that if the right of next of kin is a certain right or they are free to choose weather doing retribution or demanding blood money. In other words, the basic principle in a murder case is retribution or next of kin is free to demand blood money or doing retribution? Of course besides of the right of retaliation the right of forgiveness is undeniable and it is recommended in Quran that fraternity and brotherhood of believers are so deep and strong that even murder does not ruin the relationship and brotherhood. Amnesty urged his brother to represent the position of the noble Qur'an and forgiveness in Islamic culture and its role in the spiritual life of man. The most important outcome of the explanation of the basic principle of punishment in murder , is the answer to the question that demanding blood money is allowed if for any reason such as death or suicide of the murder, there would be not possibility doing retribution of murder? Or referring to blood money in a murder case is against the principle? Exploring in legal and religious sources shows that retribution is the primary principle and blood money depends on the next of kin’ willingness. In addition of many verses of holy Quran we can understand the principle from frequent and reliable narratives.

In this regard there are 2 views:

The first view: being certain of retribution:

Based on the popular vote and comment on the punishment for murder, retribution is clearly definite and if the next of kin give permission , blood money can be allowed. If the killer is not willing to pay blood money, the next of kin can not make the killer to pay blood money, because the prime punishment in murder case is retribution and any deviation needs a reliable reason. Sheikh Tusi in "Almbsout" in addition the emphasis of above theory, Shiite clerics approved it in accordance with the traditions and he claimed to Consensus on it according the narratives in the book “Khelaf”.(Touisi)

The late Eibne Edris in “ Saraei” besides of the acknowledgement of being well known of the mentioned theory, added there were no objection apart from one or two.(Alallami). The late Saheb Javaher also mentioned that murder will be result in retribution not blood money. The late Imam Khomeini said as well : retribution will be because of murder. He mentioned that even if there would be forgiveness, there would not be possibility to get blood money except the case would be resulted peacefully.

The second view: next of kin are free to choose retribution or getting blood money.

The great numbers of scholars on the basis of evidence which will be mentioned later, believe that in a murder case next of kin primarily are free between compensation and retribution choice. For instance the author of “ Mokhtalef Al sheia” named Omani and Oskafi as the jurists who believe in option in a murder case. The author of “Meflah Al keramah” mentioned to the above jurists and the point of view of “Ebn e joneid” as well, added apparently Kalam E Sheikh in Nahaiat also makes the imagination as if Sheikh believe in being free of next of kin between retribution and blood money in “Nahaiah”. It should be noted which continuance of Sheikh’s words in “ Nahaiat” removes the above imagination and about “Omani” the author of Javaher quoted of Omani as well and then concluded that in his words there was no mention of being free, then Omani has not believed in being free. Any way as can be seen , people who believe in being free to decide between retribution and blood money, are in minority group which would not change the primary point of view and its reliability.

Compensation payments of personal property of murderer in homicide:

In a murder case , retaliation is obligatory and next of kin are not free between retribution and blood money. According of sunni’ beliefs because of the chapter of Maedeh the verse 45 “ life for life” and the chapter of Baghareh the verse 178 “The faithful people. Retaliation is prescribed for your right, free to free.(Ameli)

But what if a murderer dies before before he is given forgiveness:

Based on Imam Khomeini’s point of view: if murder die before retribution, the retaliation ruled out.(Khomeini)

Ofcours there would be blood money if murderer could get Consent of the next of kin.;

According of quotation of Emam Sadegh , Halabi and Abdollah bin Senan: if one kills a faithful person, his retribution is certain, unless the next of kin would like to get blood money, then if this happen and murderer accept, blood money would be come into real. It is narrated from Imam Sadiq and Imam Baqir If someone who has committed murder, dies, Blood money must be taken from his property.
Otherwise, if there is not money, money would be taken respectively from those who are close to him. This rule can not be invoked because of the faint document because there is not reliable evidence. But a group of jurists have followed it, even some have claimed to have consensus and the prophet’s word confirms it, the word is: muslim’s blood is no wasted. Ebn e Edris believed that this regard retribution is canceled and there is no replacement because there is no reason to do retribution. He claims that there is even other consensus on the promise that this is strange.

In fact, the main argument of those who consider being effective payment as penalty of fines applicable to the deceased’s personal belongings, believe in being commercial aspect of the punishment. It explained that since the death of murderer opposed corporal punishment, it does not disappear capabilities, and it can be done by murderer’s properties. If murderer dies, it does not affect on blood money but it should be noticed that blood money is a sort of punishment as well and according to being private of crimes and punishments, the murderer must be punished and any payment of his property, any unfair pressure is pressure on heirs. According to the rule, when murderer dies, his property would be transferred to his heirs and its not fair to deprive heirs for their definite rights (because after murderer dies his property is heirs’ property). After he dies, his property with all debts and demands would be transferred to heirs. As we know sentencing must be done quickly as rules and the judiciary must sentence to collect cash of murderer’s assets without delay or keep him in prison and his punishment would not be canceled by his death because the penalty imposed on the convicted person not on his property and his property is a means to punish him and as if murderer sentenced to pay a fine of inability or refusal to comment he should be arrested and executing of punishment through payment of blood money or detention. This question must be answered that why Determination and collection of fines from the killer is necessary? Is not determined and collect the fines to punish him? We are going to pressure on murderer in order to not to do the same crime later, are not we? Run the fine on property of killer is not due to government debt but because we are going to punish him and in particular cases the most effective and practical punishment is fining the murderer. (getting some money of his property in favor of government) and murderer must choose payment according of law or be kept in prison and since the aim of it is his punishment, until the end of his life the punishment can be done and if he dies, there would not the same punishment that through doing of that we would punish him. (Samiie)

Compensation payments of someone else’s property in a murder case:

Sheik e toosi in the book Mabsoot and Ebn e Edris in the book Saraar believe if no conciliation and no forgiveness, blood money cannot be replaced. So both retribution and blood money would be canceled. And this is known as a consensus and they cited on “life against life”.

Allameh Helli said in Mokhtalef “blood money is obliged when murderer dies because he removed the murder case. So there replacement which is blood money is necessary. Monsef says in Shahry e Ershad says if a murderer dies abruptly or his death would not been in result of being prevented from retribution and being escaped so he has not been reinforced, and then says: except murderer escaped to die and the story support this as well. Jurists also refers to the assumption, so someone else’s does not pay money from his property as blood money.

Compensation payments from the treasury:

According to Islam, everyone is responsible for their actions and as a rule should not tolerate others’ losses thus, the offender will be punished and the other is not responsible for his actions. In some cases, the concept of the principle of self-punishment principle is valid. However, if the parties are conciliated to blood money because the death of the owner’s rights and abortion rights could get some money in return for compromise. If satisfactory compromises killer and tail, but the amount can be more or less than the amount of money. Compromise is related to them and its size would not been determined except their satisfaction. If the next kin ask blood money so it must be done. Because everyone needs to save his life even a murderer through paying blood money he can save his life. So if you can do it is obligatory upon him to pay compensation.

And the narration of Imam Sadegh said the murderer must be punished except the next kin agree to get blood money and A there is no objection. And it depends on how much the next kin request.

It seems according above if the offender before he dies could get the next kin’s agreement so after his death the blood money could be paid from his property.

The blood money is the money which must be taken from murderer’s property if the murderer escapes and dies and if there would be no property the blood money must be taken from his relatives and if no possibility to do that it must be paid from the treasury.

To confirm this, the expression refers to a narrative of the infallible Imams:

Younse Ebn Abdolrahman says: if anyone kills a man inadvertently and then dies, the heirs are responsible for it and if there would be no heirs it must be paid from treasury.

The blood money of Quasi-intentional is the same for murder. That is one of these 6 things: (100 camels, 200 cows, 200 goats, 1000 sheeps, 1000 Dinar, 10000 Darham.) The difference is that if blood money
must be paid in comparison with camel, it is not necessary the camels over 6 year old because the blood money in a Quasi-intentional case in comparison with a murder case is lower both the age of camels and how long the payment last. There are different points of view regarding of Quasi-intentional cases. Shafeie did not differ from the blood money of murder or Quasi-intentional case and said: for both states 3 of 3 is obliged( that is 30 camels which are 3 years old)

Malek said: in Quasi-intentional case like murder retribution is obliged and no blood money, because he did not believe in Quasi-intentional and consider it just as a murder.

Anyway the question is if after death of offender in a Quasi-intentional case, blood money is considered or not which will be explained:

**Payment from offender’s property in Quasi-intentional case:**

According to Emanie’ point of view in Quasi-intentional case offender must pay the blood money. Here all jurists unanimously have minor issues which one of these issues is death of offender which is convicted to pay blood money in quasi-intentional case.

**Payment from someone’s property in Quasi-intentional case:**

Some jurists believe that in a quasi-intentional murder the murderer is responsible for the payment of blood money and his relatives and paying from treasury is not permitted because it is against jurist’s beliefs and if someone is going to escape or if he dies , know murderer’s relatives or treasury responsible, it is needed a strong reason and except some news there is nothing available.

Great Ayatollah Khamenie “Required to pay compensation from the relatives of murder and in first-degree murder or in Quasi-intentional case when the murderer dies or escape and not available , is allowed just when his available property is not sufficient. Then when the offender dies his owe would not been from his property and when he escapes if his owe is for his needs, there would no exception. But if his owe is for his families so there would be exception.( Ayatollah Khamenei).

**Payment from treasury in Quasi-intentional case:**

In some cases, such as blood is like premeditated murder with the death of the murderer and not having sufficient heirloom ,his relatives is advocated and if it is not possible it is paid from treasury and also in pure mistake case when the offender and his heirloom has not enough property, it is paid from treasury.

If the next kin require blood money , judge can takes the blood money from offender’s family and one of his belongings must be kept and through observing the rules of invitation to do good things and forbidding from bad things and blood money is offender’s owe and for his family and relatives is task, and before the murderer’s trial his family and relatives can not be convicted.( Ayat Allah Sistani)

**Legal review in pure mistake case when offender dies:**

Here we are considering murder case caused by pure mistake and mistake pure mistake is interpreted into 2 types:

The first is shooting for hunting and a human is shot by mistake and makes him/her kill.

The second one is when someone without intention to kill someone or someone, like when someone slides and fell down on someone else and causes his death. In such cases the murder case is pure mistake and blood money is obliged. The God says in chapter Nessa the verse 92: if anybody kills a muslim person , he must release a muslim person and pay the blood money to slain’s family.

Here The God consider blood money as obligation and there is no word for retribution. And according to Great Prophet Mohhamad’s narrative : the blood money is 100 camels. This is lowered into 5 parts while in a murder case it is lowered into 3 parts.(Ashoor ). But if the offender is death, we are talking about that:

**Paying blood money from the offender’s property in a pure mistake case:**

In such cases the accused one has no intention to kill but he has done something that has resulted in the death of someone else. Here the slain is not aimed to be killed, that is the accused person neither has no intention to kill and nor has done something to kill him, in fact he kills the slain by mistake. Like when a person shoots to hunt an animal but he shot a person and cases his death. Here the accused person has had intention to shoot to an animal and does this on purpose but has no intention to shoot anyone and has not done it on purpose.

The punishment for pure mistake murder is blood money. According to jurists and Emam Khomeini’s point of view in Tahrir Al Vasileh” Blood money is considered the owe and after his death it must be paid from his property.

Therefore it is clear that what known jurists believe in it considering blood money out of punishment and in fact it is an asset which is considered as owe of deceased one.
Blood payment from others property in pure mistake murder:

Male relatives of mother and father who inherit respectively of classes is responsible to pay blood money equally. Immature, insane, insolvent, are not part of wises.

Regarding this issue there are 4 points of view recently:

First: It is the most famous one of former jurists and even contemporary, it is believed like old days of Islam wise family and relatives are responsible in a pure mistake case. One of them who believes are : Gourji P.H.D:

I think the point of view originates from natural support which there is among male relatives and so that it is possible to prove the origin of the money on someone's decision is supported by voluntary agreement… On this basis, the founder of sacred ordinances, such as rational liability, liability and so forth has said Jryrh which is in fact a form of insurance. At last some insurance is compulsory, such as providing rational and some optional such liability Jryrh.

Generally there are other rules which if we in Nahn e Fihe, some rules are against some people and there are some rules which are in favor of the same people as discussed verdicts and sentences normal or contractual provisions, and the next time they are in favor of people, normal or contractual provisions, for instance, as rational warrant for criminal liability in case of error is placed, for the rational as well as ASBEH advantage of inheritance is placed Similarly, the liability Jryrh, However, both conventional and indirect distorted.

2. In response to a question Ayat Allah Mazaher regarding providing rational said: The rational order of the original sentences and the Day of Judgment will not change the situation and the judgment of God.

3. Ayat Allah Makarem Shirazi one of contemporary scholars agree with the First point of view as well. He counts four sentenced to pay a blood of money for murder caused by pure mistake with the rational:

1. As the philosophy of solidarity and mutual insurance division pressure problems and accidents are responsible for a large group, the same philosophy is rational, he knows blood money to offender’s relatives as a family insurance.

2. This guarantee is in contrast with inheritance, specially some traditions have used the heirs rather than rational interpretation like the story of blood money upon his (killer) heirs is,(Allhar Alameli) which this narrative rational relative providing rational rule of evidence is known (the one who benefits of inheritance).

3. Compensation payments from the rational has deterrent effect because when people know that killing each other errors are responsible for paying compensation to invite caution.

4. The murder of an error by the rational compensation payments to safeguard and respect and Muslim blood is not wasted, because if you can not pay the money to the rational, in many cases the offender might have no ability to pay blood money or dies or not be available and muslim’s blood is wasted (Makarem Shirazi).

Among above ideas , the second idea which knows blood money against inheritance , is considerable . This is the view that Gorji P.H.D mentioned as well.

But about the first idea which knows blood money and inheritance as guarantee of each other, it must be said that Liability insurance with is a choice of two main pillars of the insurer and the insured will be realized. Here Basically, the obligation of the parties to each other, family insurance requirement is that the custom of family life, it is appropriate, while family life is not appropriate for such a thing.

About wisdom that deterrence should happen if everyone know that if they commit a crime, even if the error should pay the penalty, observe the precautions to be taken far more of its affiliates guarantee that the money will be paid by offender’s relatives.

About fourth Idea which says muslim “blood must not be wasted according to some narrates ,with assumption the offender dies or not be available . if some of his property is on reach, blood money must be paid from it otherwise like other owes it will be consider as an owe to pay gradually , and finally we can find other way to pay this owe .

A significant feature is that if a rational guarantee against hereditary those who who is surety as his share of the inheritance, that is if the offender dies, a person who inherits one of six of his property, must be responsible to pay one of six portion of his owe, while there is not the same.

The second idea: it seems this idea is belongs just to Ayat Allah Saneie, he answers to the question about when some relatives are responsible to pay blood money:

In my opinion definite amount of blood money of offender’s relative, is when offender’s relative has neglected regarding of committing the crime of offender, like when a he/she is responsible for a immature person or an insane person. Otherwise there is no responsibility of relatives. According to Great Quran “ no guilty person should not be responsible for another guilty person.

The meaning of Varz is heavy burden and sin. The chapter of Quran which is main icon of personal responsibility for punishment in Islam rights says: the other’s burden of sin and negative side effects of them must be limited just to themselves and even a father and his son must not be punishment for place of each other.

This idea seems to be offended for some reasons:

First, this definite amount which has been claimed is not stable.
Second, do all relatives are responsible for a small or insane person? Then why other people have to pay blood money because of parents imprudence?

Third, if parent or person who is responsible for an insane person, is keeping him not be well, and the insane person commits a crime, as much as he is close to him is responsible, and the responsibility depends on how much is close not for being relative.

Forth, it does not seem that what has been said which the sentence to blood money in pure mistake case is not reliable. Because according the narratives regarding what he has said, it is considered and apparently the legislator is going to say and even there would be any doubt, me must notice to what has been said.

Fifth, he does not know blood money as punishment, but he knows it as compensation, so his argument does not seem desirable to verse, because the pure mistake murder is not consider as Verz and the blood money which must be paid is not punishment so that we can not rely on the verse.

Then we believe that the objection of what has been said regarding of offender’s relatives, logically and rely or Great Quran and even definite religious principles is not firm to prove offender’s relatives.

The third idea:

Mohhamad Sadegh Tehrani, P.h.d thin that the murderer must pay blood money and his relatives are not responsible to pay. He had written in Tabsareh Al Foghaha which has been written to criticize Tabsareh Al Motalemin written by Allame helli:

Great Quran says: anyone who kills a faithful person by mistake, must release a slave. It means that just the killer has responsibility to do that, not someone els. Then this word of Allameh which is said: In addition of releasing of a slave, blood money must be paid to slain’s family. This has the same meaning which blood money payment is on the murderer’s shoulder, not anyone els.

So if paying the money and freeing slaves is on other one, it would be needed to say, because this opposes of justice and a logic.

But the question still remains which It is true that the Quran does not refer to liability to pay compensation in a no murder case caused by mistake, but we have no mention available in narratives. The answer can be found in the same book that: about blood money paid by murderer’s relatives, there are some narratives which are weak regarding of document, and text. (Tehrani)

Finally he talks about his reason:

Denied being responsible for the murder’s relatives is contrary to Scripture and tradition is fair, especially when the murderer is rich and mature and his relatives are poor although they are adult. And especially when families do not have the responsibility of maintaining killer so they can be convicted to pay blood money or releasing a slave. (Tehrani)

One of the verses which are opposed with relatives responsibility :

A) Nobody added anything except to himself and nobody took other’s responsibility.
B) Everybody’s good behaviors are on his favor and his bads are against him.

The fourth idea: One of following this idea is Ayat Allah Mohammad Hasan Marashi which in here initially we mention to his idea and then we will summarize the whole explanation.

He mentions in one of his articles with the title “ the responsibility of relatives In paying the blood money “ that one of the criticisms leveled at the discretion of the jurists, they refer to other religious traditions, resources, regardless of the circumstances of time And place.

Compensation paid by relatives as well as other issues such as the issue of Ataq, is something which depends on subject and proper circumstances. That is when the Legislator says to ignore the fasting day, a slave must be release, his depends on the subject and proper conditions. So when today there is no slave, so the issue is canceled.

He believes the relatives issue is the same above example, that is because of current social condition which most of communities have. Essentially the relatives issue is canceled. He continues:

Family responsibilities assigned to a society that is dominated by tribal system. So that such a system does not exist in our society and the rule of law dependence is canceled, murderer’s relatives are not responsible for the payment of blood money. As a matter of doubt whether such an order dedicated to the wash and we do not have tribal or does not have such a system, we have to ignore the doubt and there would be no responsibility for relatives (Marashi).

Ayat Allah Marashi continues the word Aghele which means relatives when the speech has been said refers to tribal solidarity between people exist in long time ago to compensation payments. He there is not logical reason to prove the responsibility of relatives and the consensus of the scholars in this case is not valid. (Marashi)

Although the practical result of the theory of the third and fourth ideas do not know any responsibility for relatives, but the difference is between 2 ideas when Ayat Allah Marashi and his followers is when the
legislation relating to the payment of compensation to the relatives of the murdered error, do not fail, But according to the circumstances of time, no longer matters.

But doctor Sadeghi Tehrani on the base of Quran verses and by ignoring the narratives and definite traditions, basically under the legislation in order to pay money to sign, and it is out of the question, he knows unfair such legislation in every time and place.

According to what has been stated, the view that the current circumstances and arguably more popular than it seems, is the fourth view the other three perspectives, the existence of true stories about people accept liability.

The first argument is the view that religious orders and communities to fully include all the places and times and hence the liability ruling relatives, people or tribes are not specialized.

And even says that if we consider the allocation, the idea of the immortality of the righteous religion is incompatible with the seal of Islam.

**Paying blood money from treasury in a pure mistake murder case:**

About the death of murderer in pure mistake murder case, although the narrative is compiled independently less discussed is the issue is not mentioned in most religious books which when murderer dies in a pure mistake murder case, what would be done?

It has been said that Imam Ali about the person who committed murder by mistake and he dies before paying blood money says: his heirs must pay the blood money and if there is not heirs and relatives, so the governor must pay.(Toosi)

Although the above narrative regarding relatives recognition have been used by jurists but have never used by them regarding death of murderer in pure mistake murder cases. It seems all jurists who know paying blood money allowed from treasury in Quasi-intentional cases, know allowed as well paying it from treasury in pure mistake cases when murderer and his heirs are poor. Because there is no difference between two cases regarding who is responsible to pay blood money.

Perhaps the jurists have not argued about the statues of paying blood money in pure mistake murder cases when the murderer has been died because they have not felt any reason for that, despite talking about the death of the killer in a Quasi-intentional case, It is not necessary to repeat it in pure mistake case.

Anyway according Younes Ebn Abdolrahman regarding knowing responsible treasury to pay blood money in a pure mistake murder case when the murderer dies and heirs cannot afford to pay it, is enough. Some contemporary scholars on the subject, following the theme of the story, the responsibility of the treasury have been clarified when the offender and his heirs are too poor to pay blood money (Mousavi Ardabili).

In pure mistake murder cases when the murderer has no heirs and relatives, or not able to pay blood money during 3 years, the blood money would be paid from treasury. If the offender have no relatives, the blood money is on treasury: Such minutiae that jurists have dealt is the same that if there is no one from offender’s family the blood money must be paid by treasury, Imam Khomeini added “or can afford to pay”. The author of the book Mabani Taklameh Almanhaj says: The corollary is the difference between jurists and it implies a series of narratives.

**Conclusion:**

Generally as regards the first sentence in murder case is retribution. For this reason, some like Ebn Edris in Saraer even the murderer escapes, blood money has not be accepted by them. Sentencing the murderer to pay compensation unlike the original and when the murderer escapes with a specific reason is excluded. So in other cases, the first sentence that is retribution is remain And the disorientation blood money, even the murderer committed suicide. But about the murderer’s relatives, the official canonization of kin in paying blood money is undeniable. But typically social orders that have been issued by the Prophet and Imams, the wisdom can or even should monitor the social and law, so that if circumstances change that Issue of an order is changed, consequently the order should be changed, also discussed is the subject of this. The principle of compensation and paying it to slain and his next of kin is a firm order in Islam rules. But there is no reason that we cannot know change things like the amount and quality of it, since the main purpose of the narrative (Muslim blood will not spoil) blood money order is constant at all times and places, but the way it will be subject to customary conditions and social.

It is noteworthy that where money is paid from public funds also if the death occurred in the sacred months the blood money would be more that is one third of blood money would be added, for example, if a person has been killed and no next of kin is available or have not been known and the offender pay blood money to public funds (treasury) the amount would be less. In short, according to the principle of personal penalties if the accused dies or suicides, the blood money is canceled. But because of Muslim blood is respected and to avoid spoiling it, it is better the blood money would be paid from public funds and in the special cases, as what was described it must be paid from the offender’s property, and if it is not available it must be paid from the next kin’s assets.
REFERENCES