

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Series of Questions Addressed to Scholar Sheikh Ata Bin Khalil Abu Al-Rashtah,
Ameer of Hizb ut Tahrir through his "Fiqhi" Facebook Page

Answer to Question

Ad-Diyah (Blood Money) for the Unintentional Killing and the Deliberate Killing To Abu Ahmad Abd (Translated)

Question:

Assalaamu Alaikum Wa Rahmatullahi Wa Barakatuhu,

The Diyah (blood money) for the unintentional killing (*Al-Qatl Al-Khata'*) is obligatory and is paid to the family (relatives) of the one killed. It has been reported from the Messenger of Allah (saw) that it is 100 camels for the Bedouins or 1000 Dinar of gold or 12,000 Dirham of silver. Amr Bin Hazm mentioned in his book that the Messenger of Allah (saw) wrote to the people of Yemen: «وإن في النفس المؤمنة مائة من الإبل، وعلى أهل الورق ألف دينار» **“That there is due in respect to the life of the believer 100 camels and upon the people of gold 1000 Dinar”** (An-Nisaa'i). And Ibn 'Abbas related: That a man from Bani 'Adiy was killed **ديته اثني عشر ألفاً** **“And so the Prophet (saw) made its blood money 12,000”** (Narrated by Abu Dawud and Ibn Majah). Ash-Sha'bi related that 'Umar set 1000 Dinar for the people who dealt in gold and it was related from 'Amr Bin Shu'aib from his father from his grandfather: That 'Umar stood to address them and then said: “Verily the camels have become expensive and so make its value upon the people of gold 1000 Dinar, the people of silver (Wiraq) 12,000, upon the people of cows 200 cows, upon the people of sheep 1000 sheep and the people who deal in garments 200 garments” (Abu Dawud).

Our Sheikh, may Allah honour you with the leadership of the Ummah via the rightly guided Khilafah State soon, Insha'Allah, we see here a difference in respect to the payment of the blood money at the time of 'Umar ibn Al-Khatib and what he commanded. As such, is this considered to be an Ijmaa' (consensus) of the Sahabah and consequently it is obligatory to adopt that which 'Umar ibn Al-Khatib ordered? And is it permissible to pay today in silver (Al-Wiraq) despite the vast difference between the price of gold and silver which is evaluated today to be approaching 90% **i.e. that the blood money by gold is ten times the amount of the blood money with silver. It is here that the difference becomes evident and the vast gap between the two blood monies. Therefore, by which is the Qadi (judge) obliged to judge with today?**

Jazaakallahu Khairan

Answer:

Wa Alaikum Assalaam Wa Rahmatullahi Wa Barakaatuhu,

The Diyah (blood money) can be from the grazing livestock and can be from monetary currency (Nuqood). As for the blood money of the livestock without cruelty or harshness; it is 100 camels and it is taken for the mistaken or unintentional killing and what is similar to its unintentional reality. The Daleel for that is what An-Nisaa'i related from 'Amr Bin Shu'aib from his father, from his grandfather, that the Messenger of Allah (saw) said: **«مَنْ قَتَلَ حَطَأً فَدِيَّتُهُ مِائَةٌ مِنَ الْإِبِلِ...»** **“Whoever is killed unintentionally (by mistake) then his Diyah (blood money) is 100 camels...”**.

As for the semi-intentional then An-Nisaa'i related from 'Abdullah Ibn 'Amr from the Prophet (saw) who said: **«قَتِيلُ الْحَطَأِ شَبِيهِ الْعَمْدِ بِالسَّوْطِ أَوْ الْعَصَا، مِائَةٌ مِنَ الْإِبِلِ أَرْبَعُونَ مِنْهَا فِي بَطُونِهَا أَوْلَادُهَا»** **“(In regards to) the one killed by mistake in a semi-intentional manner by a whip or stick, 100 camels are due, forty of which are pregnant”**. This is also the Diyah (blood money) for the intentional killing if the family of the killed person accept the blood money instead of the Qisaas (punishment by death).

As for the Diyah by monetary currency then upon it is 1000 Dinar in gold for the people who deal with gold; and 12,000 Dirham for the people who deal with silver. An-Nisaa'i related from Abu Bakr Bin Muhammad Bin 'Amr Bin Hazm from his father from his grandfather: "That the Messenger of Allah (saw) wrote a letter to the people of Yemen dealing with loans, Sunan and blood monies..." And it was mentioned within it: «...وَعَلَى أَهْلِ الذَّهَبِ أَلْفُ دِينَارٍ» **"...And upon the people of gold is 1000 Dinar"**. And Abu Dawud related in his Sunan from 'Ikramah, from Ibn 'Abbas, that a man from Bani 'Adi was killed; «فَجَعَلَ عَلَيْهِ وَسَلَّمَ دِيَتَهُ اثْنَيْ عَشَرَ أَلْفًا» **"And so the Prophet (saw) made its blood money 12,000"**.

The Shar'i Dinar is equal to the weight of 4.25 grams of gold and this represents the Shar'i weight. The Shar'i Dirham is equal to 2.975 grams of silver. Based upon that the blood money of the killed person is equal to the weight of 4250 grams of gold; and equals to 35700 grams of silver.

It is paid in paper currency based upon the 1000 Dinar of gold according to the amount of 4250 grams of gold and the 12,000 Dirham of silver evaluated at the amount of 35700 grams of silver.

However, the paper currency today is not backed by gold and silver and so it does not fall under the people of gold nor under the people of silver.

It is considered to be a currency by way of analogy due to the existence of an 'Illah (reasoning) extracted from the text and that is 'An-Naqdiyah' (being used as a currency) as has been made clear in its chapter in the book, *Funds in the Islamic State*, and in other places from our books.

The evaluation of the blood money by gold according to the current paper currency is of greater value than the evaluation of the blood money by silver according to the current paper currency and considering these papers in relation to the Diyaat (blood monies) rests upon Ijtihad being undertaken in this Mas'alah (issue). **What I view possible is that there is no problem in evaluating it by silver in respect to the blood money of the one killed by mistake. That is because the one to whom the killing is attributed did not commit a sin. The Diyah (blood money) is not because he committed a Haraam act but rather the Diyah here is for a Hikmah that Allah knows. Therefore, the lesser of the two measured amounts in relation to paying the Diyah for the mistaken killing fits with the killer not having perpetrated a Haraam. As for the Diyah in relation to the intentional killing then I see its evaluation to be done by gold and that is because the intentional killing has committed and perpetrated a Haraam act and so lightening does not befit him, rather the most severe of the two measured amounts is befitting of him.**

And I ask Allah (swt) that I have been brought to that which is correct.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

5th Sha'ban 1437 AH

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The link to the answer from the Ameer's Facebook page:

<https://www.facebook.com/AmeerhtAtabinKhalil/photos/a.122855544578192.1073741828.122848424578904/476739815856428/?type=3&theater>

The link to the answer from the Ameer's Google Plus page:

<https://plus.google.com/u/0/b/100431756357007517653/100431756357007517653/posts/9foBW2SvbSvW>

The link to the answer from the Ameer's Twitter page:

<https://twitter.com/ataabualrashtah/status/732247505019240448?lang=ar>