

Communiqué

From Hizb ut Tahir in the Wilayah of Sudan to the Chief Justice

(Translated)

Some of the Khartoum newspapers published news on Sunday the 11th of Jumada Al-Akhirah 1437 AH, corresponding to the 20th of March 2016 CE which mentioned within it: “The Chief Justice Professor Haidar Ahmad Ahmad Daf’ullah issued a criminal law decree to amend the amount of the value of the full blood money that was established in accordance to the criminal law decree (3/2009) for it to be 330 thousand pounds alongside an amendment to binding Diyah (blood money) so that it will be 337 thousand (Sudanese) pounds working in accordance to Ahkam of the Article 42/1 from the criminal law of the year 1991 and the Article 212 from the law of criminal measures. This was to realise the needs of the street in respect to suppressing the criminals and to prevent and deter... And the decree indicated that the rulings of this law will come into force in relation to the insurance companies in that which is related to traffic accidents, six months after the date of its issuing. Similarly, it called for the Ahkaam of the decree (3/2009) to remain in force upon insurance policies issued until the end of the time mentioned in the third paragraph for them to be applied upon the insurance companies”.

Firstly: The station of pure worship to Allah (swt) that Allah has honoured us with, dictates that we issue Ahkam (rulings) upon the basis of Islam, which is the Deen that Allah revealed as a divine inspiration (Wahi) upon our master Muhammad (saw).

Secondly: The Ahkam of Islam are taken by the strength of the Daleel (evidence) from the Book and the Sunnah and what these two have guided to in terms of the Ijmaa’ As-Sahaabah and the Shar’i Qiyaas. Anything other than Islam means the following of the desires and it means judging by other than what Allah has revealed which our Mawlaa (swt) has warned us about when He Ta’Aalaa said:

﴿وَمَنْ لَّمْ يَحْكَمْ بِمَا أَنزَلَ اللَّهُ فَأُولَٰئِكَ هُمُ الظَّالِمُونَ﴾

“And whosoever does not rule by what Allah has revealed then those are the Zhaalimun (transgressors/oppressors)” [Al-Ma’idah: 45].

Thirdly: The non-application of the Ahkam Ash-Shar’i in terms of the Hudood, Qisaas and blood money amongst other rulings, is a direct cause for the spilling of blood being made cheap, for the absence of security. This includes this ruling related to the blood money in addition to the corrupt customs and laws. This is like the paying of the blood money through the intermediary of the tribes or insurance companies, or other Ahkam which Allah did not reveal any proof or evidence for.

Fourthly: The Legislator (swt) has specified the Diyah (blood money) in such a way that there can be no ambiguity. It is 100 camels (ibil), forty of which are pregnant. This is taken in the case of the intentional or deliberate killing if the Waliy Al-’Aql chooses that (i.e. to take the blood money) and it is also the punishment for the Shibhu Al-’Amd (semi-intentional) and this is called the Diyah Mughallazha. As for the blood money which is not Taghleezh then it is 100 camels which is taken in the case of the mistaken (or unintentional) killing and what runs the course of the mistake. The evidence for that is what An-Nasaa’iy related in respect to ‘Amr Bin Hazm relating in his book that the Messenger of Allah (saw) wrote to the people of Yemen: «وفي النفس المؤمنة مائة من الإبل» “In respect to the life of a female believer, it (the Diyah) is 100 camels.”

And Abu Bakr Bin Muhammad Bin ‘Amr Bin Hazm related from his father from his grandfather that the Messenger of Allah (saw) wrote a letter to the people of Yemen and that this letter contained: أن من اعتبط مؤمناً قتلاً عن بينة فإنه قوداً إلا أن يرضى أولياء المقتول، وإن في النفس الدية مائة من الإبل “That whoever kills a believer haphazardly with evidence, then he is retaliated against unless the Awliyyaa of the killed person are content, and in respect to the life the Diyah (blood money) is 100 camels”.

And Abdullah Bin ‘Amr related from the Prophet (saw) that he said: «قتل الخطأ شبه العمد بالسوط والعصا فيها» “The killing by mistake, Shibhu I-’Amd by the whip or the stick has in respect to it (the Diyah of) 100 camels, forty of which are pregnant”.

As for the Diyah in monetary value then in Gold it is evaluated to be 1000 Dinar and in silver it is 12,000 Dirham. The Daleel for that is what An-Nisaa'i related from Abu Bakr Bin 'Amr Bin Hazm from his father from his grandfather: «وَعَلَى أَهْلِ الذَّهَبِ أَلْفَ دِينَارٍ» **“And 1000 Dinar is obliged upon the people of gold”**.

As for silver then it is due to what 'Ikramah related from Ibn 'Abbas who said: قَتَلَ رَجُلٌ عَلَى عَهْدِ رَسُولِ اللَّهِ ﷺ فَجَعَلَ النَّبِيُّ دِيَّتَهُ اثْنَيْ عَشَرَ أَلْفًا **“A man was killed at the time of the Messenger of Allah (saw) and so the Prophet made its Diyah 12,000.”**

The Shar'i Dinar is equal to the weight of 4.25 grams of gold which means the value of the Diyah (blood money) in gold is equal to 4250 grams.

These are the Shar'iah measures for the Diyah and it is not allowed according to the Shar'a to legislate a Diyah from the minds of men because that would be whims and desires in addition to be a judgement by other than what Allah has revealed. That is whist Al-Mawlaa 'Azza Wa Jalla has described the one who does not judge by what He has revealed with Fisq and Zhulm. So He whose Affair is lofty said: «وَمَنْ لَمْ يَحْكَمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الظَّالِمُونَ» **“And whosoever does not rule by what Allah has revealed then those are the Zhaalimun (transgressors/oppressors)”** [Al-Ma'idah: 45]. And He (swt) said: «وَمَنْ لَمْ يَحْكَمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الفَاسِقُونَ» **“And whosoever does not rule by what Allah has revealed then those are the Faasiqun (defiantly disobedient)”** [Al-Ma'idah: 45].

If we wanted to evaluate the Sha'riah Diyah (valid blood money) with the Sudanese pound we find that difference is still vast between what you have specified and what the Shar'iyah amount. So if we were to assume that a gram of gold was equal to 300 pounds then the value of the Diyah would equal 4250 x 300 which equals 1275000 pounds. This means that the Diyah that the Shar'a has obligated is equal to nearly four times what you have decided in your decree. So how did you evaluate the amount of 330 thousand pounds? And upon what basis?

Fifthly: The insurance companies are capitalist companies established upon an invalid basis and they conduct Haraam actions whilst their presence is a Munkar that is obligatory to falsify. It is therefore not permitted to represent a place of regard and consideration in respect to estimating the blood money. So (even greater than that) how would the case be if we were to know that the presence of these companies is from one of the most important reasons for the cheapness of blood. This is in the case where the honoured human life has become equal to an insurance document!

By way of advice, we call you to reverse your decree and to return to the Shar'a. It is the truth and nothing is above it. It is above every decision and decree. And you need to fear Allah in regards to yourselves and in regards to those who are you in terms of the judges who you are entering into sin by your judging by other than what the Shar'a has said, by that which the Kitaab of Allah and the Sunnah of His Messenger did not come with. And fear Allah in respect to His creation where the status of the human was raised and his killing made a major crime. Allah Exalted is His Affair said:

﴿وَمَا كَانَ لِمُؤْمِنٍ أَنْ يَقْتُلَ مُؤْمِنًا إِلَّا خَطَاً وَمَنْ قَتَلَ مُؤْمِنًا خَطَاً فَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ وَدِيَةٌ مُسَلَّمَةٌ إِلَى أَهْلِهِ إِلَّا أَنْ يَصَدَّقُوا فَإِنْ كَانَ مِنْ قَوْمٍ عَدُوٍّ لَكُمْ وَهُوَ مُؤْمِنٌ فَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ وَإِنْ كَانَ مِنْ قَوْمٍ بَيْنَكُمْ وَبَيْنَهُمْ مِيثَاقٌ فَدِيَةٌ مُسَلَّمَةٌ إِلَى أَهْلِهِ وَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ فَمَنْ لَمْ يَجِدْ فَصِيَامٌ شَهْرَيْنِ مُتَتَابِعَيْنِ تَوْبَةً مِنَ اللَّهِ وَكَانَ اللَّهُ عَلِيمًا حَكِيمًا ﴿٩٢﴾ وَمَنْ يَقْتُلْ مُؤْمِنًا مُتَعَمِّدًا فَجَزَاؤُهُ جَهَنَّمُ خَالِدًا فِيهَا وَغَضِبَ اللَّهُ عَلَيْهِ وَلَعَنَهُ وَأَعَدَّ لَهُ عَذَابًا عَظِيمًا ﴿٩٣﴾﴾

“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” [An-Nisaa' 92].

Wa Salaamu Alaikum Wa Rahmatullahi Wa Barakaatuhu

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