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Investigating the Conflicts of Bone Fracture Rules

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Abstract

Abstract The Islamic Penal Code, based on Imamiyyah jurisprudence, has included two rules of the rules for the payment of the bones; One is the rule that states the rule of breaking the bone of a member, and the other rule that states the rule of crushing the bone of a member has a fixed amount, by using them, a big step can be taken in the direction of facilitating the laws related to the issue of the amount, but the legislator for many reasons such as ambiguity In the case of fracture and numerous conflicts in the rules of bone fracture, it has not been able to take full advantage of all the rules of the diet and has turned to case orientation instead of the rules of the diet, and this has caused the accumulation of a large amount of legal materials of the diet. In order to assist the legislator in solving these limitations and conflicts, he helped to provide solutions and reduce the case orientation of the laws. Some of what was stated as a rule or theory about bone injuries are not eligible for the title of rule or theory, because sometimes there is no corresponding case for them, and in some cases, the allocation of the majority occurs, which is an ugly thing among most jurists. As a result, it is necessary to specifically state the ruling on compensation for each of the injuries in each of the bones, and refrain from stating the rules for which there is no documentation.

Keywords: *Diat; Crimes Against Persons; Rule of Bone Fracture Payment; Conflict of Rules; Payment of Members*

Introduction

1- The concept of rules Al-Qa'zam is the plural of "Qa'za" and "Qa'ada" and in the word it means base and root, and for this reason it is called "Qazaam" which is the basis of scientific materials. Fakhr al-Din Tarihi, in Majma Al-Bahrin, has rules about the concept: "Some spiritual matters that have a basic and fundamental aspect are used; Like moral rules, Islamic rules and scientific rules, the plural of rules means the foundation for something that is above it. In general, the fundamental issues of any science, on which the ruling of many other issues stop, are called the rules of that science.

1-1 The concept of rule in jurisprudence Jurisprudential rules are the opposite of fundamental rules, and it means those general rules that are used in various chapters of jurisprudence and become the source of inferring partial rules, such as: the rule of "no harm" that is put forward whenever a person is harmed; And it is used in many chapters of jurisprudence, such as sale, rent, divorce, etc. There is no consensus among jurists in the definition of jurisprudence rules, and each of the definitions refers to one of the aspects of distinguishing a jurisprudence rule from other rules, some of which are described below: Some have said in the definition of jurisprudence: They are the rules of falling in the way of using the laws of God's law, and not only this is for inference and mediation, but for application. Jurisprudential rules are the rules that occur on the way to obtain divine rulings, but this use is not for inference and mediation, but for application.

Using the above definitions, the legal rule can be defined as follows: "Jurisprudential rule refers to a rule that is extracted and inferred from Shariah evidences and is consistent with examples that are a collection of jurisprudential rulings. As a general natural adaptation on people and its examples The rules of jurisprudence are very general and comprehensive laws (they are not specific to a particular case) which are the source of the derivation of more limited laws, because of this feature they can be the basis of many different laws that are more detailed. In other words, the rules of jurisprudence are a part of the issues of jurisprudence and, in another sense, of the issues of the science of the principles of jurisprudence, and they have aspects in common with both, at the same time, they also have differences with both of these sciences; In this way, it is different from the problems of the science of principles in this feature that they are only a means and intermediary to discover and deduce the rules, while the rules of jurisprudence are, in one respect, "rules" themselves, not a means for deriving the rules, but the problems of the science of principles have such a description. are. For example, the rule of "harmless" itself is a Shariah ruling, because of which, "rules of harm" and causing harm to others have been negated. On the other hand, jurisprudence rules differ from jurisprudence issues in that they are general and inclusive, not specific and specific. For example, there is a difference between the no-harm rule, which is a general rule, and this issue, which says: If someone's house well causes damage to someone else, the owner of the well must compensate for the damage.

Some writers, especially recent Arabic speakers, have used jurisprudential rules as a synonym for "general theory of jurisprudence"; But with a little reflection, the difference between these two terms will become clear. The term "general theory of jurisprudence" is completely new and apparently it has penetrated contemporary Islamic jurisprudence works by Muslim jurists who, in addition to familiarity with jurisprudence, have been influenced by western law, only for the purpose of comparison and comparison between two systems of jurisprudence and jurisprudence. Discussing jurisprudence based on new methods. Here, it is necessary to point out the exact distinction that exists between the rules of jurisprudence and the general theories of jurisprudence. The general theory of jurisprudence is, in fact, a set of elements, conditions and provisions that the unity of the subject governing all those elements has established a jurisprudential relationship between them.

For example, the contract theory, which corresponds to the "contractual theory" in Western law, is in fact "contract jurisprudence" and corresponds to the "law of contracts" and consists of the summaries, elements, terms and conditions of the contract. In this regard, Senhouri says: "In ancient Islamic jurisprudence, there was no general theory about marriage. Traditional jurisprudence discussed only certain contracts separately, and for a general theory about contracts, researchers should obtain common provisions from among the various provisions of these contracts, which predominantly govern all contracts. Therefore, Jurisprudence rules are issues that are the basis of jurisprudence issues and as it was said in their definition, they are the source of inferences; While the general theory is obtained by the jurist by considering the common features between different rulings. In other words, the rule of jurisprudence is established or created by the Shariah, while the theory of jurisprudence is discovered by the jurisprudence with the consensus of opinion. For example, the Holy Sharia says: "I am the waste of

another's property, fahu lah zaman" (whoever wastes another's property is the guarantor of it) which is a jurisprudential rule, but when a jurist sees that in the contract of sale, rent, marriage and the like, wisdom and growth is valid, then carefully in the fact that such conditions are related to the intention of the author, he admits that insanity and smallness are also the cause of disturbance in the intention and therefore he comes to the theory that in all legal actions the competence is valid and therefore we say the theory of competence in Contracts and events.

According to what has been said, it should be confirmed that some of the rules of jurisprudence, whose content is only what the jurists have deduced by considering many cases as a common feature, and for this reason, they are not the basis of the issues and the source of deriving branches and rulings. It can be considered part of general theories. In addition, it seems that what is written by Shia and Sunni jurists under the name of "Eshabah wa Nazar" is more in line with the term of the general theory of jurisprudence than with the rules of jurisprudence.

1-2 The concept of rule in the term of rights A rule that is binding and its compliance is guaranteed by the government and is general and general and is not bound to a specific person and is used to regulate social relations is called a legal rule. Although it is not possible to provide a true definition for the legal rule, like many phenomena, due to the lack of coincidence in the basic nature of each of its various attributes; But in an educational definition - briefly - it can be said that "legal rule" is a general and binding rule that governs human social life in order to establish order and establish justice, and its implementation is guaranteed by the government. Therefore, according to the provided definition, the basic features of a legal rule are: 1) having generality and generality; 2) being binding; 3) being sociable, in such a way that its purpose is to create order and regulate social relations; 4) executive guarantee from the government. The thought that provides this definition for the legal rule considers it to be a manifestation of the agreement and will of the members of the society; As he claims, it is the will, attention and desire of the people of the society that characterizes a rule and turns it into a legal rule. Even though this feeling and will is embryonic and unconsciously and does not find an external existence. This idea considers the role of the government to be the only support and guarantee of enforcement of legal rules. Contrary to another idea that considers the government and its will as the source of legal rules and claims that rights originate from the will of the government.

1-3 The difference between jurisprudential rule and principled rule The difference between the jurisprudential rule and the principled rule is that the jurisprudential rule is a general Shari'i ruling that applies to its examples through application, but the fundamental rule leads us to the Shari'i ruling through inference. In fact, the principle rule regarding the rulings of the obligees has an intermediary aspect and the jurisprudential rule has a comparative aspect. The jurisprudential rule itself is a general Shari'i ruling, and the principled rule is an intermediary in proving the Shari'i ruling. The jurisprudential rule is independent, while the usuli rule is dependent and is a tool for deriving rulings. The purpose of the Usuli rule is to explain the ijtihad-inferential methods, but the purpose of the jurisprudence rule is to express the verdict of minor incidents.

2- The concept of bone fracture Before determining the purpose and concept of bone fracture, one must first understand the bone itself. the concept of bone; Bone is the living tissue that makes up the skeleton of the body, and it is mainly composed of calcium salts, which totals 206 pieces in the human body. In other words, bone is a calcified and living connective tissue that makes up most of the skeletal system. Bone consists of calcified intercellular matrix, macrofilaments and several types of cells in the matrix. Bone is a metabolically active tissue that facilitates movement and protects vital organs. It plays an important role in regulating the balance of minerals and acids. It also provides an environment for

hematopoiesis (production of blood cells) inside the bone marrow the concept of bone fracture; Bone fracture is a term in medicine and it means any kind of disturbance in the integrity of the bone. The types of fractures are divided into three categories: closed, open and complex. In the closed type, the skin remains healthy and does not get injured. In the open type, the skin tears. In such a way that the fracture is related to the wound and in the third type it causes damage to other organs such as veins or nerves. Fractures are defined as complete or incomplete breaks in the integrity of the bone and are classified based on the type and extent of the injury. Based on this, bones can break in different ways. Closed fractures, also called simple fractures, are protected by surrounding soft tissue that helps them heal. An open fracture that protrudes from the skin and increases the chance of infection and bleeding. In this talk, the types of fractures are discussed.

3- The concept of conflicts Conflicts plural of conflict and conflict is one of the most used words in literature, management, psychology and behavioral sciences. If you read decision making books, you will come across this word many times. If you take a negotiation course, you will be constantly told about conflict management. Organizational behavior specialists are always concerned about conflict in organizations. One of the concerns of human resource managers is role conflict and related problems. Experts in the field of strategy also talk about the conflict of interests and believe that the root of part of the functional problems and inefficiencies of organizations should be sought in the conflict and conflict of interests.

The literal meaning of conflict; Conflict is an Arabic word and the infinitive of interaction comes from the word meaning "to object to each other" and to exchange with each other. Although in the custom of the society, the word conflict refers to any conflicting event. The conflict is actually the conflict of two or more reasons according to the implication and in the proof stage; in such a way that there is a contradiction or contradiction between them. which refers to "opposing", "having enmity", "not aligning" and "obstructing each other". For example, you have seen that when a group attacks a building, they describe that group with the term "opposing forces" and say that an "attack" has been made. Or when a fraudulent person sells land or property to several people, it is said that a "contrary transaction" has been done. It means that there is a situation where each transaction prevents the implementation of another transaction and it is not possible to execute all of them. Conflict sometimes means opposition and verbal argument. For example, we read in Tazkira al-Awaliya: "The sign of the honest poor is that they don't ask questions and don't argue, and if someone disagrees with them, they shut up." In the sense that it suggests that you should not argue with others and if someone starts an argument with you, be silent and do not continue that argument.

It refers to almost the same meaning of opposition, collision and obstruction. If we want to choose a Persian word as the equivalent of conflict, "incompatibility" is one of the best options, and at least in the field of management and psychology, it can convey the message of the words conflict and conflict.

4-Monetor, Conflicts Theories The documentary and evidence of the rule of "Bone Fracture" is a delicate narrative. The narrative has been quoted by the scholars of their narrative societies (al -Kafi, al -Taqbib, and I am a pilgrimage) in twelve ways or documents, including the document of five valid narratives. From the various spines of the delicate narrative, five of them have been cited as the cause of the Diyat of fractures. By examining the action, it was found that the spine is not fully compatible with the provisions of the rule, and in addition, the fourteen or part of the delicate narrative itself is in conflict with the claims of the alleged rule. Is limited and does not include many fractures; Including: Bone fractures of members lacking blood money, fractures of bones that have a blood money, and fractures of the bones that have a specific sentence.

4-1 Legal theory on Diyat's rules conflict The philosophy of adopting the rules and regulations in society is the establishment of social order and social security for individual and collective legalization of individuals and the administration of justice, as everything is put in its place, and everyone will attain what is right and no one is right. Do not violate the rights and freedoms of others, and the person or individuals of a society may not be exposed to insecurity and fear now. Also, according to valid documents and documents, it is an objective and external affair. Whatever the outside world is, it is certain that it is exposed to our vision and that this right is not increased or increased, while the law that preserves generations and keep society moderate and control the abstraction is the law of God. And the rules of bone fractures that cause divine blessing are such, and since we are obliged to claim such a right, we cannot observe this right without any evidence of this right. Let's comment on it. Therefore, a comprehensive examination of the rules of bone fracture and the study of their legal and jurisprudential aspects can indicate that these rules are the most rational and appropriate option for financial loss and sometimes punishment. The fundamental position of the Shari'a in the constitution and its impact on the legislative system in Iran is one of the things that in many legal contexts has opened the way of jurisprudence to intervene directly in most laws and judicial opinions, so with the above interpretations, Islam A well -known religion that has the necessary orders in all individual and social aspects, and has specifically obliged its Islamic State to intervene in the public and even private affairs of citizens in accordance with the basics. The belief of the Islamic Republic of the Islamic Republic is not a "government", not as an impartial institution in religious and ideological matters, but as required to exercise and oversee the implementation of the principles of the Shari'a and utilize all its possibilities to attain The goals are foreseen. Therefore, in all criminal laws and subjects, it does not see its non -Shari'a and jurisprudence.

4-2 Jurisprudential theory on the Rules of Diyat Income: Resources of the Diyat of the Fractures; One of the strongest sources of the Diyat of fractures is the delicate narrative that has been cited as a documentary of the fractures, Zarif Ibn Nasseh believed in the Imamiyyah religion. The delicate nickname "Baya al -Akfan" meant the seller. Zarif has understood Imam Muhammad Baqir (PBUH). Najashi says in his biography: Zarif was originally Kufic but not in Baghdad. It was true in expressing the hadith. Zarif has books, including the book of Diaat. Other delicate books are the Book of Book, the Book of Nawadar, and a comprehensive book in other halal and forbidden. Najashi said in the Diaat Book Document that some of our companions said: "It was said to Abdullah bin Ja'far and I heard:" Hadith Kurdish, Hassan ibn Zarif of Zarif. . Zarif has been quoted from numerous narrations that come up with thirty -one narrations. In the narrations, he is sometimes referred to as delicate and is sometimes referred to as the delicate and sometimes delicate al -Akfan. His other title is Zarif Abolhassan, who is the name of his son Hassan, and is stated in the biography of Hassan ibn Zarif:

In the delicate description, Najashi and Haley are called: Zarif was true and true in the expression of hadith. The book of al -Diyat or the delicate principle, though quoted by Imam Sadiq (as) and Imam Reza (PBUH), is quoted as the believer said that some Shiites of the Imam al -Mu'minin (PBUH) in the era of that Prophet (PBUH). They have been written from spelling or from his line and writing. During the Bani -Umayyad rule, due to their hostile movement with the Imams of the Ahlul -Bayt (PBUH) and their followers, the attachment of the narrators of the hadith with those who have taken them directly from the infallible; Until during the time of Imam Ja'far Sadiq (PBUH), the book of Dat, which had come to him from his past, was presented to Imam Reza (PBUH) after him. And since then, the chain of the narrators has been available from the two noble Imams to the hadith elders. It is as if this book has been preserved for breasts and was told to them during the time of the two Imams Sadegh and Reza (PBUH) and they have confirmed it. Sheikh al -Tusi quoted this narrative in six ways and, after expressing the way, the hadith from Imam Reza (PBUH) is stated:

"Yes, the material is right, and Amir al -Mu'minin (as) was executing its agents." Sheikh Saduq expresses the book of Diyat in another way and then quotes Imam Sadiq (PBUH) about this book: Yes, the material is right, and the Amir al -Mu'minin (PBUH) ordered its agents to execute it. Thus, in the documents and narratives of a book such as Dat, there is a kind of interference and interference, and therefore it turns out that the existence of a weak narrator in one of the documents, referring to the chain of the narrators in the other document, in the other document. He compensates. Some jurisprudents have approved the principle or book of delicate Diyat: Sheikh Mufid (RA): The decrees of Diaat are detailed in several books that have been detailed, including Zarif bin Naseh. مانJewelry Owner: The delicate book is in some ways of correct narrative. Ayatollah Khoi (RA): The delicate principle is in conflict with the traditional hadiths, and it should be referred to the rules of conflict that is the right of public and subtle hadiths opposed to the public. Therefore, the delicate hadith is superior to the traditional hadiths. The late Majlis (Allah Almighty): The delicate book is correct but can be said to be more consistent.

And acknowledging many other jurisprudents in some ways of delicate narrative and citing it to prove the Shari'a and transmit this book in valid narrative societies in order to divide the late Klein and to bring each part of the delicate narrative about its specific chapter. Sheikh al -Tusi has both brought together in a different way, and separately in different abuses, and Sheikh Saduq brings the book of Dayat, which indicates the accuracy of the document and the possibility of citing and practicing this book. The following category can be presented to the jurisprudents' opinions on the book of al -Dayat: 1. Some jurists do not consider the narrative to be weakened and do not consider it even, despite the reputation of the practice among the jurists, or consider acting or acting against it. 2. Some jurisprudents see and act as compensation for the famous act of the jurisprudents as compensation for the weakness of the narrative. 3. A group of jurists like Ardebili in the book of al -Fayyad and al -Barahan al -Fayi al -Rashad al -Zahhan are considered to be good and correct. They have presented comments in this regard. In his theories, the subtleties confirm the correctness of the delicate narrative, and in the book of the lessons of al -Fiqh al -Fiqh al -Mujab al -Jafari, the chapter is dedicated to the delicate narrative and in the discussions of the Diath of the narrative. It has delicate. As well as Movahedi Lankrani in the detailed book of al -Shariyyah in the commentary of Tahrir al -Wasili -al -Diyat, Shushtari, in the book al -Naja'i al -Maqi al -Maqa'i, and the owner of al -Jawir, the delicate narrative is correct and referred to as correct. 4. Other jurists such as Seyyed Sadegh Hosseini Rouhani in the Jurisprudence of Al -Sadiq, which have a few jurisprudential collections that the author of jurisprudence has thoroughly explored from purity to Dat, and especially in the Diyat topic, albeit in the opinions of Islamic scholars. It does not care, but in detail it deals with the delicate narrative and considers it authentic. Nasser Makarem Shirazi in his book Jurisprudence examines many of the jurisprudential principles from the perspective of various jurists, including Diyat, as valid, as well as Ayatollah Hashemi Shahroudi, Tabatabai Haeri, Tabrizi, Seyyed Sabzevari Khoi considers the delicate narrative to be authentic, Ayatollah Khansari is one of the jurists who validate the hadith and the delicate narrative in their works, and the reason and the accuracy of the reasons and in the Hadiqah al -Mu'minin Tabatabai Haeri. I know Bob Dayat, and especially fractures Therefore, the book of al -Diyat or the delicate principle is the main source of bone injuries that have been accepted and accepted by jurisprudents and can be extracted according to its texts. Of course, the delicate principle is not the only narrative in the expression of bone damage, but as the main source of Diyat extracting the damage to most bones and the termination of the rules and theories in this matter, given that a small number of jurists have rejected it. No, we needed to take a brief overview of the document. Other narratives mentioned in the thesis are accepted and acted upon by jurists. In this part of the treatise, parts of the delicate narrative covered in numerous jurisprudential books are examined. These books include: I have come up with all the existing documents, almost a single text:

5. General conflicts about the Diyat of fractures My jurisprudents have different opinions and different parts of those parts. There are two points to note about this claim: - The amount of Diyat fracture varies in recovery and non -recovery, because after recovery, the amount of physical damage is determined and the recovery and non -recovery conditions cannot be considered the same as the same as the Diyat. Recovery is relevant; But since there is no such statement that is in accordance with the rule, and in fact it means accepting because it will not only be a documentary for the rule, but it will disagree with the rule. Assuming the decline in opposition to the preceding spine with the theme and provisions of the rule, the spine can be only documentary and evidence for the provisions of part of the rule, not all. The claim could have been valid if in other parts of Zarif bin Nasseh's views, the Diyat for fractures, conflicts and conflicts with the spreads, while the various parts of this opinion are in conflict with the spine: - "Whenever the forearm breaks and heals without any defects, its blood money is one -third of the Diyat of the soul (ie 333 dinars and a third dinar)." However, according to the rules of the Diyat, the hand of the hand of the hand in the assumption of complete recovery - which this narrative also refers to the same issue - must be (eighty dinars), the four twenty -fifths of the Diyat, not 333 dinars, but one -third of the Diyat of the soul.

Even if the forearm is intended to be the forearm in this case, the amount of Diyat for bone fracture in this part of the narrative will not be compatible with the rule of fracture. There is no dispute between the jurisprudents of religion; And if one cuts the sum of one hand or one toes, his blood money is half the full blood money. The jeweler in this regard says: - "In the fracture of one of the wrists, fifty dinars and the fracture of both of them are one hundred dinars." A wrist, if broken, according to the rules of fractures, should be considered a hundred dinars in the assumption of non -recovery, that is, one -fifth of the hand -breaking blood, and eighty dinars must be considered in the assumption of complete recovery, ie four hundred hundred dinars; However, according to this part of the narrative, the fracture of each wrist has fifty dinars of the Diyat. - In the arm of the hand, when it breaks and is good without any flaws, one -fifth of the Diyat's hand is constant, which is a hundred dinars. Thus, the Diyat of the forearm fracture should be eighty dinars, not one hundred dinars.

5-1 the conflict contained in the rules of Diyat fracture bone Before examining the conflicts in the rules of the bone fracture, the remarks of some of the important points in the study can be important and helpful. The most important of these are: 5.1 1 1-to-top assumption of acceptance of the Bone Diyat Bone Diyat, I should note that the scope of this rule is merely the bone fracture of members with the precedent of the legal material (in the case of a specific) (in the absence of legal material, valid Shari'a). Have no different fracture for their fracture. Therefore, the rule of fracture of the organs does not flow in the following cases: (A) If a member of the Shari'ah does not have a blood money, the bone fracture shall not be subject to the "bone fracture rule". In the better sense, these cases are specifically excluded from the "bone fracture rule". Like the case of fractures of the ribs - it should be determined by the fracture of the fracture, and if the specific narrative does not state the bone fracture of that member, it must be determined by the criteria for determining the Arash in these cases; Whether or not the amount of decayer is more than the blood money set at the base of the bone fracture or less. B) If a member has a predestined Diyat (like a nose); But for the bone fracture of that organ, there is no specific blood money in the law, such as the "bone fracture rule" and their specific ordinances precede the rule of law and thus have their own order to determine the amount of blood money. C) The provisions of the "Bone Fracture Bone" explains the blood money of the members of the organs itself, not those who are the bones themselves, so the rule of the rule does not include the bone itself, as a result Those bones are independently determined by the Diyat, such as the clavicle bone; Because these bones themselves are considered separate members and have their own blood money, not bone from another member.

Therefore, from the legal point of view, the fracture of such bones from other materials of the law, other than Article 569. It is obtained that if there is no particular material about those that explain their fracture order, they must obtain their blood money from authentic jurisprudential sources and determine the amount of blood money based on jurisprudential sources. If the valid jurisprudential texts and fatwas have not specified a specific Diyat for fracture of such bones, the legislative criteria for those fractures must be determined. (D) The fracture of some bones in the narrative texts and fatwas of the jurisprudents has a specific and specific sentence, which is preceded by general and general order (the rule of bone fracture). Therefore, even on the basis of the fatwas of the "bone fracture", the fracture of these members will be adapted to the same sentence; It is as if in the case of spine fractures, upper jaws and ribs, specific sentences related to these types of fractures are adapted, not bone fracture rules. E) The last point is that in the delicate narrative, there are some other bones such as "Saqabah" and "quoted" that may be fractured from the perspective of medical science and customary vision; But such injuries also have their own sentences and are excluded from the "bone fracture rule".

5-1-2 The assumption of the entirety of the Diyat of the bone fracture, there are problems with the implementation of this rule, some of which are: A) Assuming the authority and accuracy of the fractures, can the provisions of this rule be extended to any part of the body with a predestined blood money and bone - such as the fingers of the fingers; However, does not refer to the mystical part of the body? If this rule is generalized, the fracture of the fracture of the fracture must be only the fingerprint in the fracture of the fracture of the fracture; Because the finger is independently determined by the Diyat, and if the rule does not have such a generalization, the criterion for calculating the bone fracture Diyat will be complete. The first possibility is more rational and more regulated; However, the second probability is closer to the appearance of the jurisprudents' phrases, which have said: B) In members with multiple bones such as forearm and calf, does the rule be fractured by a bone or with a fracture of both bones? In other words, in members such as the leg and forearm, does the fractures of the fractures flow with a bone fracture, or is the flow of the rule depending on the fracture of both bones? If it is necessary to break both bones for the flow of the bone, should a bone fracture be considered or Diyat? (C) Given that multiple fractures, according to the rule of non - interference, have multiple diets, what are the many fractures of the bone crushing? In other words, if the wrist is broken from a few points close to each other, whether the number of fractures should be paid for a fracture (one -fifth or four -fifth of one fifth of the fractures) or the fractures are multicolored or fractured and paid. Is it enough for blood money? Given the above, examining the conflicts in the rules of bone fracture will be done separately in the two parts of the country and Islamic jurisprudence.

6. The conflict contained in the rules of the Diyat bone fracture in legal documents 6-1 The conflicts in the Diyat break the spine The Note 1 of Article 647 BC states: "Note 1- The meaning of the spine breaking is to break one or more vertebrae of the spine except the neck and bone vertebrae." The note states that if the injury is broken by several vertebrae, it is sentenced to breaking a vertebra. Assuming this is true, the question comes to the mind that if the injury results in a fracture of one vertebra and another vertebral dislocation, Article 574 of the Act shall be determined for each fracture and dislocation of a particular Diyat, but if the two Fracture in two vertebrae only one fracture Diyat is fixed. Therefore, it seems that the number of fractures in the vertebrae should also be given a multiplicity of blood money in accordance with Article 570, and the initial part of Note 1 Article 647 has been edited. D. Investigating whether or not the complication is not recovery: Are the complications of spine fractures such as lack of stool recordings or inability to sit or ... one of the instances of non -recovery and the determination of blood money plus the Diyat of the complication?

According to the penal code, the refusal to recover only, including cases where the bone or vertebra itself did not return to its original form and does not include complications. Because we read in

paragraph b of Article 647: "Breaking the spine that is not treated and causes the complications in paragraph (b), in addition to the complete Diyat of the spine fracture, it also causes the Diyat or Arash of any of the resulting complications. » In this paragraph, the absence of the spine and the complications derived from the spine fracture, and each of its specific Diyat, which means the failure of the spine is other than the complications and the failure to recover is back to the spine itself. . It can be concluded from the concept of this clause that the spine cannot be recovered when the complications of the spine fracture are assumed to be recovered. This argument was correct, but in conflict with Article 647, because in this paragraph, the only blood money is set for the complications, and this blood money is like the Diyat of the spine. Therefore, there is a complexity in the context of the law and it cannot be explicitly stated whether the complications are due to the failure of the spine.

But according to the narrative texts and the separate expression of the Diyat, the spine and the Diyat of the complications can be said to be said that the sacred law of the spine is other than the complications and the lack of recovery will be determined by the spine itself. .

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7. Conflict in the rules of Diyat bone fracture in jurisprudence Rules and Diaries related to bone injuries including: انDiyat for bone breaking; مانDiyat of bones; انیDiyat disorders of the bones; مان Diyatah in the bones; مانDiyat of displacement or bone transfers; انDiyat leaving bone removal; One of the things that in many jurisprudential books and the views of the jurisprudents and the jurisprudence of the jurisprudence to the process of Diyat these are in jurisprudential texts. The jurisprudents have issued various fatwas for bone fracture by measuring al-Hadith and al-Hadith jurisprudence-but these fatwas are seeing many implementation problems and problems that require the use of experts and physicians in this field. Because in the past, jurists did not have sufficient knowledge and knowledge of fractures, and this requires the opinion of experts and the right laws in this regard. In this section, according to the division of jurisprudents, we pay attention to their attention to bone injuries. Sheikh Mufid is the first jurisprudent to say that some bone damage in the form of jurisprudence or theory. After that, the other jurists have expressed these rules and theories. In his jurisprudential books, Sheikh Saduq has not addressed these rules and theories and only expresses the delicate principle. The documentary of these rules in some cases was generally stated and did not refer to a specific narrative and in accordance with the rule. In a sense, the jurisprudents had some of these rules from narrative texts, and, consequently, the subsequent jurisprudents obeyed them and expressed these rules or theories.

The late Mohaghegh Hali is the first jurisprudent to document these rules, and Ibn Hamza is the first jurisprudent to express Diyat according to his own traditions and has not adhered to the rules and theories. It will be stated that most of the latest rules and theories have been adhered to and stated in their jurisprudential books, but some have objected to the generality of these rules, the Diyat has specifically examined the damage of each bone. The contemporaries of the jurisprudents have also divided into the two categories in the latest and expressed their views. All the jurists have taken note of the bloodshed of these injuries, but some have only been quoted as saying. In this discussion, we examine the rules mentioned in the narrative and jurisprudential texts. Some of these rules have been found in jurisprudence, and some have been subjected to commonalities in the majority of the bones. In the meantime, some of the rules have been able to make their termination of narrative texts that have not been addressed by the jurisprudents, which have been attempted to examine other rules in addition to the rules referred to in Prouzal.

Jurisprudential theory represents a subject that has many instances and is true to all instances unless exceptions. In this discussion, we examine the jurisprudential theories stated in the Diyat of bone

damage. But why the title of theory should be put on it, and why these theories are not referred to as "rule". We find in the jurisprudential texts that none of the jurisprudents stated in the determination of the Diyat the bone damage as "rule", while in such as waste, iodine, and so on. The iodine rule has stated. This refers to the fact that the truth of the rule is not true. The late jewelry owner has used the title for these. Therefore, as some contemporary jurisprudents have taken into account the difference between "jurisprudential rule" and "jurisprudential theory": "The general theory is obtained by the jurisprudent by consideration of joint aspects between different rulings. In other words, the jurisprudential rule is established or created by the Shari'ah, while the jurisprudential theory is discovered by the jurisprudent. For example, the holy Shari'ah says, "I am a guarantor of al -Ghir al -Ghir al -Fahu" (whoever is killed by another property) is a jurisprudential rule, but when the jurisprudent sees that in the contract, rent, marriage, marriage And as these are valid wisdom and growth, then carefully that such conditions are related to the intent, acknowledges that madness and minor are also intentional, and therefore this theory That is to say, in all the legal practices of the authority, we say "the theory of the authority in contracts and beliefs". Jurisprudential theory represents a subject that has many instances and is true to all instances unless exceptions. In this discussion, we examine the jurisprudential theories stated in the Diyat of bone damage. But why the title of theory should be put on it, and why these theories are not referred to as "rule". We find in the jurisprudential texts that none of the jurisprudents stated in the determination of the Diyat the bone damage as "rule", while in such as waste, iodine, and so on. The iodine rule has stated. This refers to the fact that the truth of the rule is not true. The late jewelry owner has used the title for these. Therefore, as some contemporary jurisprudents have taken into account the difference between "jurisprudential rule" and "jurisprudential theory": "The general theory is obtained by the jurisprudent by consideration of joint aspects between different rulings. In other words, the jurisprudential rule is established or created by the Shari'ah, while the jurisprudential theory is discovered by the jurisprudent. For example, the holy Shari'ah says, "I am a guarantor of al -Ghir al -Ghir al -Fahu" (whoever is killed by another property) is a jurisprudential rule, but when the jurisprudent sees that in the contract, rent, marriage, marriage And as these are valid wisdom and growth, then carefully that such conditions are related to the intent, acknowledges that madness and minor are also intentional, and therefore this theory That is to say, in all the legal acts of the authority, we say "the theory of the authority in contracts". "

In another subject, Sanehuri is paying attention to the theory and says: "In ancient Islamic jurisprudence, there was no general theory of contract. Traditional jurisprudence only discussed a certain contract separately, and the researchers must obtain common commandments that are predominantly dominated by all the contracts of the contract. " In the documentary mentioned for these theories, jurists have not cited a hadith as stated in the jurisprudential rule, but stated that the documentary is a delicate book, which includes the expression of Diyat, the damage to numerous bones. Therefore, the general content of the Diyat of the bone injury if the documentary was not explicitly one hadith but by discovering the commonality between several bones, should be referred to as the theory and what the documentary is a hadith.

8. Solve some executive problems By examining the narrations, one can provide a solution to solve one of the common executive problems in the above rules and theories that in most cases where the Diyat is defined with a proportion of fracture is the ratio of Diyat damage to fracture with proper recovery. It is except for the chest that in the crimes of the subject, dislocation, and the piercing (carpet) of the ratio in these injuries, with the Diyat specified for non -recovery. In some cases, the fracture Diyat has been expressed absolutely, and there is no separation or recovery to recovery or non -recovery. According to the determination of the Diyat for the fracture, the ratio in injuries can be adapted to the fracture with recovery because In most bones, the Diyat fracture is expressed with recovery. Therefore, if the title of the rule can be regarded as a matter of violations in some cases, the above clauses are true, in the damage in which the ratio with a measured fracture is meant by recovery, except for the chest.

Other jurisprudents have long stated a ruling in their jurisprudential texts and consider the blood money in the body to be as a ratio. This sentence states: Diyat of bone dislocation, like the bone

dislocation of the head, is, of course, given the ratio mentioned in the head of the head in determining bone dislocation. Also, except for dislocation of injuries. The Islamic Penal Code has also accepted this jurisprudential ruling and has provided Article 710. Although the sentence is stated in jurisprudential texts and includes all types of injuries such as fractures, dislocation, etc., the legislator, with the abolition of the scope, has only considered the injuries to the injuries, Damiyeh, Maqdah, Samaq, and constant location. In other injuries he has ordered another. This jurisprudential ruling is only expressed by some jurisprudents, and the jurisprudents after them have refused to give such a ruling. Because this verdict has been contradictory in determining the amount of bloodthirsty texts, the example of which is stated in the dislocation. In addition, as the deceased owner of the jeweler has said according to the texts: Diyat of body injuries is not the same as injuries. Of course, if another narrative knows some of the damage to the bone, such as injuries to the head, they will be exceptional to the above hadith and will not be incompatible with each other.

Research Results: What to examine the narratives and jurisprudential texts in examining the conflicts of the rules of the Diyat fracture of the bones; And their solution is that the jurisprudents appear to have made a rule or theory in some cases after colliding with several phrases that have performed the ratio of injury with the Diyat or the injury ratio of the damage to the bone fracture Diyat. And throughout history, they have been given a place of celebrity by ordering several jurisprudents in accordance with it and obeying the other jurisprudents without referring to its documentary. Some jurisprudents have dare to do so and express the jurisprudents who did not act in accordance with the delicate principle and have acted in a well -known rule: The jurisprudents have sometimes issued a fatwa and sometimes rejected it. A jurisprudent, like the martyr Sani, who considers the delicate principle to be weak, cites the delicate principle in determining the Diyat of the clavicle and the chest. This refers to instability in the fatwa of bone injuries in jurisprudence. Strangely enough, Sheikh Mufid, as one of the ancients who expressed some rules and theories and his words were documented by other jurists, after expressing some of the rules and theories, confirming the delicate principle and details of the bone injuries. The principle provides that their domination of this principle has expressed some of these rules and theories.

In contrast, some jurisprudents broke this fame and, according to the specific narrations, at the forefront of which is the delicate principle and the validity of the document was proved, the Diyat determines the damage of each bone, and in cases where the Diyat is not specifically determined. If the rule or theory of documentary texts is valid and the sentence has been damaged, it would be done and the Arash would be determined. The jurisprudents who have stated the rule, although most of them have given the same rule, for example, in the fracture of one fifth of the Diyat, if they fail to recover from one -fifth, but some have given a fifth in the event of recovery. If there is a rule of the delicate principle, the sentence was more acceptable, because in cases where the ratio and the sentence were given to one fifth of the Diyat, the subject of fracture narrative is recovery. Therefore, some of what is stated as a rule or theory of bone damage lack the conditions for the truth of the rule or theory on them because they are sometimes found for no compliance, and in some cases the most allocations are found to be. It is an evil thing among most jurists. Therefore, it is necessary for the Diyat to be sentenced to each of the bones in particular and avoid expressing rules that are not documentary. In some bones, such as chest and clavicle, the Penal Code also expresses the Diyat of injuries specifically and in accordance with narrative texts, and in most bones, it has determined the order of Diyat according to the aforementioned rules and theories. It was stated that the implementation of these rules and theories is accompanied by problems and ambiguities and that the judges are having trouble reviewing and resolving them. Accordingly, the famous opinion of the jurists, whose penal code is written in accordance with the field of writing, is inaccurate. In contrast, some jurisprudents have broken this fame and, according to the specific traditions at the head of which are delicate principle, the Diyat has determined the fracture of each bone and has been valued in cases where the Diyat was not specifically determined.

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