

Reflecting on Admission or Rejection of Mother's Retribution for Killing her child Based on Jurisprudential Teachings

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Abstract

According to the first principle, intentional murderer is sentenced to retribution but in Islamic Sharia, the ruling of retribution depends on certain conditions so that the non-fulfillment of which is regarded as exception of this matter. One of these exceptions is the case that the murderer is the victim's father. The religious experts have consensus regarding the ruling of non- retribution when the victim's father is the supposed murderer, but the issue of whether the ruling of non- retribution is specific to the father and paternal ancestor or such exception covers the mother's side or not is a matter of dispute. The Imamiah Jurists make a distinction between retribution of murderous father and murderous mother. Article 301 of the Islamic Penal Code (approved in 2013) followed the same popular opinion and excluded the victim's murderous father from retribution decree while the murderous mother is sentenced to retribution in the same case. In contrast, Ibn Joneid and Sunni schools of jurisprudence other than Māleki, consider the rule of non- retribution to the murderous mother as well as the murderous father. This article with descriptive and analytical method, aims to prove the theory that the murderous mother like the murderous father is similarly exception from the non-retribution decree.

Keywords: retribution, intentional murder by mother, exception of father from retribution, attaching murderous mother to father in non-retribution decree

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