Barriers to Heritage

Mohammadi Mohammad

Bandar Gaz Branch, Islamic Azad University, Bandar Gaz, IRAN.

Abstract: Including cases where the heirs or the deprivation of property and precision property testator creates. Legislature has determined that the Islamic Republic of Iran. The precision of some controversy in the religious and legal scholars who have studied in this paper and the presentations and conclusions will be discussed. In the Persian word meaning a buffer. What is the term of its existence, no warrant is required. Although there needs to be inherited, and the lack of it does not need the original sentence. Murder in the subject matter of heritage, is one of the main topics. If the heirs, the testator to kill, shall be deprived of his inheritance. And jurists agree that the killings "premeditated and unlimited right" to inherit from. The tradition of " Amirat of the killer ".

Key words: Barriers, Inheritance, Murder, Suffered, Heritage.

INTRODUCTION

Or inherited trait that is present, or be against him, thus depriving him of the inheritance or inheritance and the prohibition of return, say stop. In civil law, Islamic Republic of Iran, from inherited factors is:

A. Murder testator, B. Disbelief, C. Suffered, D. Birth of adultery

But some of the obstacles inherited Statistics’ jurist after it has been introduced in three cases:

A. Death, B. Disbelief, C. Slavery

Forbidden to inherit the other toys, including Suffered for, demanding the right to work on the wand (like mortgages), and the absence of transport is obtained (N. Katizian, 2002).

Murder in the subject matter of heritage, is one of the main topics. If the heirs, the testator to kill, shall be deprived of his inheritance. To investigate the murder of Iranian Civil Code, Article 880 and 881 is two. And shall issue to each expression has a simple and useful. The main source of civil law, Islamic Republic of Iran on this issue (murder), is a Shiite jurisprudence. The elaboration of the law Shia books, the books follow the beliefs of Sunni jurisprudence, it is checked. The laws of other countries, Egypt and other countries in this matter will be investigated.

And jurists agree that the killings "premeditated and unlimited right" to inherit from. The tradition of " Amirat of the killer " is. Due to the wanted murderer, the rush was to inherit. In this case, contrary to his intention, he will be traded. Jurist about other kinds of murder, non-degree murder, disagree, that the inheritance is blocked or not?

The jurist Shia say one of their relatives, because of retaliation or self-defense, or to judge the righteous and the legal license to kill. In such cases from murder to inherit is not a murderer. An error does not prevent the murder of inheritance.

Jawahralclam the book said: " Mayabba insane by mistake, the error also includes the semi-premeditated " quasi-intentional murder is a father, his son “to discipline” and would punish the child's father, dies.

Syyed Hasan Isfahani in means of escape the book by saying: "Some Balzbebb, which can lead to wasted time, such as digging wells in the way. If you have relatives that it is well established that inherits from her relatives. However, on his personal bond and pay the blood money (digger) is obligatory. Accordingly, the barrier between the blood and is not entitled to inherit.

Each of the four Sunni Imams of religion about it (the murder of error) have voted. I agree with the owner of the jurist is Shia. Imam Shafei believes that, as a first-degree murder for killing an error, preventing the inheritance (the killer) is. As a murderer, is insane (inheritance is blocked) (M.J. moghni, 2000).

Imam Ahmd ben Hanbal that votes, which is inherited from murder, the punishment, even if financial punishment. Murder is right out of this category. So if someone's death or because of self-defense, to kill someone, or just a person, the rapist to kill in war, he inherits.

Imam Abu Hanifa favored it, inherited from murder, murder is, result in retribution or blood money or the atonement. Murder, the error is in this category. Murder” Balzbebb” and murder (by) insane and out of this issue is minor (Almoghni, 2003)
Murder or intentional or an error. Each has a unduly Unjustly and, to a legitimate and permissible. In any case, or is Balzbeb or Balambeshhr. Each of these forms, or is independent and alone, or with another company. Thus, each of them is the inheritance.

2 - The Deliberate Killing of Non-Legitimate:
The verdict is clear. Inheritance is the deliberate killing of non-legitimate means. For example, nephew, aunt kill himself, is the heir. Eligible to inherit, to commit murder, will be deprived of the inheritance.

And philosophy of being deprived of the inheritance of the killer and the victim is very clear. It can be stated as follows:
A - is the founder and legislator with a killer deal and reciprocity. In this case, the killer for murder violated the sanctity of the law has to be the victim's property. He is standing against the law, deprived him of the inheritance and the victim still has loot from reaching its destination.
B - Policy that the appropriate criminal, lawyer and legislator, to prevent the murder and to protect the testator's life, because of the greed and the inheritance of his property is at risk. Or denied recognition as heir, and the motivation of the killings destroy. To preserve his life. It is clear that removing the cause, is the best tool to eliminate the effect.

In the Second Book of Kingdoms Algaham countries, as Explain Hraih, this story also stated, " Word and sentence in which he inherited and if the killer did not feel safe where you kill an expedited legacy has required Madrth interest deprived him blamed the opposite Required." (Haj Sheikh Reza, 1935).

Appreciation of the jurists on this issue seems to be, because the Quran does not exist. Quran is silent in this regard.
To prove the wisdom of this rule could be the reasons for the deprivation of our killer. The tradition of consensus is invoked here.

A - Consensus:
The consensus is the rule. The student consensus and consensus on this rule is movable.

B - Tradition:
The most obvious reason for this rule's traditions and narrations that this has been. In the following we quote some of them (Javaher, 1936).

B-1:
The Prophet (PBUH) has said that narrated " Amirat of the killer " the narrative of Hisham ibn Salem way to correct this information., and others have narrated.

B-2:
There are another version of this phrase: " From killing people, "he said to Aarthh and had no other heir "means a person who murders another, he has not inherited, although he is the heir (S.A.Tabatabai, 1938).

3 - Murder legitimate:
This is necessary in the first degree murder is a legitimate explanation. It may be that what murder is legitimate?

It is legitimate to murder, the killer is right. The commission is authorized by law. Attacker in self-defense, such as murder, murder and sentenced to death on the death penalty, sentenced to death for the crime of murder Purely committing adultery, murder, waging war against one of the robbers are clear examples.

It is clear that some of these examples is only in jurisprudence (The owner of the Javaher, 1938).

This type of murder can be divided into two categories: lawful and obligatory.

Intentional killing of a legitimate, legally permissible, it is permissible to leave it as retribution. Sometimes it is not permitted to leave as condemned to death for killing an enemy (The great and leading edge, 2002).

The inheritance of murder is legitimate.

Intentional killing is legitimate or permissible or obligatory, no effect on inheritance. The murderer, the victim's inherited. For example, if the brother with the sword, to right the wrong, going to his brother John, a defense official, assuming the conditions of self-defense, the brothers (the attacker) to kill, his heir be. The incident killed, prevented from inheriting his brother (the killer) is not, would inherit his property.

Or any robbers, close to the caravan, one of his relatives, after his death, his heirs would kill her, will not be deprived of the inheritance.

Or the court administrator, the person who executed the court order, if the inheritance is eligible, inherits, inheritance does not prevent his execution.

This rule is the rule. Because of additional evidence will not be inherited. Is needed to prove the opposite.
However, it is social. The opposite opinion is expressed. If the argument we can say that, because his work is legitimate and lawful, he could not be deprived of origin (S.A. Tabatabai, 1938).

4 - The Murder an Error Illegitimate:
Whenever someone while cleaning his gun, regardless of the bullets in it, and no intention to murder, he fired a shot. And his father, who was near him, to kill. Murder committed error is illegitimate. But such killings, the children will inherit?

The assets of the Father, another of his only heir, a son (the killer), he seems?

This time the son inherits, as it is not working (Jorjani, 1984).

Opinions of jurists in this issue is different and they can be divided into three categories:
A - Illegally killing error barrier cannot be inherited.
B - Murder, is the inheritance.
C - The difference between what they will inherit. Say, the heir to the murderer, the victim's property until the moment of committing murder or deserving of it had been inherited. But the blood money and ransom, the killer must pay to commit murder, the other heir, his part of his inheritance, and he will be deprived of blood (End of the needy, 2002)

But there is another opinion, say, murder, illicit error, the killer is inherited. This opinion is:
A - General prophetic tradition (s) Amirat of the killer that time is disputed.
B - The story of Fazil Ben Ysar of the Imam has said: no one who has killed her, would not inherit. Although murder is an error (M. Jabbari, 2000).

5. The Legitimate Error Murder:
The murder is a legitimate error, sometimes the court has sentenced to death, or who killed him. Without intending to have him killed. Like the hunter rather than hunted robbers, killed him. The murder:
A - Errors. Because there is no intention to kill.
B - Legitimate. Because the court the victim had been sentenced to death.

Since, murder, loot error, will not inherit the opinion, the better to kill a legitimate error, and cannot be inherited from (A.M.J. Ameli, 2003).

6. Investigate the Murder of Inheritance Rights in Egypt:
Egyptian inheritance law, passed in 1943, the Executive still has it in common to the nation. The murder of the inheritance, in large amounts, the religion of al-Maliki has been developed. Hanafi religion has a lot of difference. Article 5 of this Act is:

One of the barriers to inheritance, the testator intentional murder. The killer is either independent or accomplice. Or witness is false. That his testimony led to the death penalty, and may have been performed. If it is, murder is wrong is right and no excuse. And wise and mature killer (fifteen years), the invasion of self-defense excuse is tangible (N. Katozian, 2002).

7 - The Solutions of the Iranian Civil Code:
Civil Code Article 880 and 881, and the murderer is discussed inheritance with Shia. But the issue does not raise blood money and ransom in the murder of an error. If the error is killing my Ashhar Muhammed has been selected, it does not prevent the inheritance. Another apparent difference is that, to the murder of civil law is interpreted. The legal language of Iran, against murder, murder is non-intentional. While the Shiite jurisprudence, the first-degree murder, intentional murder and error upon error, or the like is used. But the difference is apparent. The mean difference between civil law and jurisprudence is Shia (M. Jabbari, 2000).

8- Disbelief:
Jurists agree that non-Muslim cannot inherit from Muslims. But non-Muslims in Muslim inheritance, there is plenty of controversy.

Shiite jurisprudents say non-Muslims from Muslim inherits, but said that four jurisprudents of religion, Muslim and non-Muslim cannot inherit.

Whenever one of the children or relatives have died, is a non-Muslim. The death of the testator and the wand divided among heirs, Muslim, Islamic scholars to agree, would not inherit.

But so what, after death and before the split wand, Muslim, Islamic scholars disagree on this, whether inherited or not?

Shia jurisprudents and Hnabeleh say inherited. But jurisprudents Shafeh, Hnifie h Malekieh and say, cannot be inherited.
Shiite jurisprudents have said: if the heir is a Muslim, is his own inheritance. Islam is the heir of a Muslim, he will be for the benefit of the inheritance (Almoghni, 2003).

The term jurist, the unbelievers who are not Muslim. God and his religion, whether Islam is acceptable (such as Jewish and Christian), or no religion or atheism is not, and whether it is Military, or the principal obligation of Islam, or apostasy. Lord of the unique mission of each Prophet is no faith, or a religion of Islam (such as the resurrection) denies, is a disbeliever (Almoghni, 2003).

And consequently there may be one of the unbelievers is the faith of their parents, or the maturity to be disbelieved. The unbelievers say to the apostates. However, when the heir to inherit is a disbeliever, is deprived of its own.

Infidelity and faith at the time the measure is passed. If the heir, after the acquisition wand, and dividing it to be unbelievers, is not deprived of the inheritance. In jurisprudence, a disbelieving relatives, a division of the wand, Islam, the heir to one of the joins, and is placed in the same place, which is a worthy heir to the Muslims. Accepting the ruling, the civil code of silence about the inherited trait, requires that "disbelief continued to switch into" the inheritance seems to be difficult (Civil Code of Iran, 2008).

According to reject the rule of inheritance does not take for granted, so obviously inherited from the infidel. The heirs of the testator infidel infidel inheritance. Disbelieving in the implementation of this rule should be removed from the heirs and distribution switch so that if there is a disbeliever. Prohibits disbelieved in possession of the inheritance of incapability and wand is a kind of civil retribution.

9 - Charged with Crimes:
If male, the couple accused of adultery, the wife or the child is born, to deny, but the woman rejected him. And weakly man is not a woman to the crime charged. Of doing so: Four times the man of God is a witness in the scandal, which turns to his wife, is true.

Five times, he says: God damn, I'm a liar. The woman testified that four times, the man is lying. Five times she says the wrath of God, I tell you the right man.

So when a man does not do the crime charged, he may do so. If he was charged with a crime, but the woman refused, the woman can do too. When Mlaanh ended. The men and women is void. Separation between the two falls. He denied that the Son of man has not joined him. All jurists agree that, after the alleged crime, the separation between couples is necessary. Shafeh, Amamyh, Malekieh, Hnabeleh say, forbidden women to men is eternal. Even if you deny yourself, and he will not be solvent. Hnfieh jurisprudents say Mlaanh is like a divorce. Women were forbidden to be eternal. Suffered for is the result of the sanctions. So when it denied her, the sanctions will be.

Jurists agree that a husband and wife who are each charged with a crime, are not inherited from the encapsulation. Charged with crimes and those of his father and his father's relatives are charged with a crime, do not inherit from each other.

Shia jurisprudents say whenever I see them (and they deny their crimes charged in the declaration), after allegedly confessing the crime to children's children, the son inherited from his father. But will not inherit the father of the boy. Article 883 of the Civil Code has in this case (Law of Personal Status, 2003).

10 - Birth of Adultery:
Child born of adultery is to be, not the right man to woman marriage, marriage between them now or not at all, or in fact, he is forbidden, with one of the above, the illegitimate son is born. In this case, do not inherit from each other. The exclusion of women jurists agree that fertility inheritance. The children say the illegal relationship.

The daughter of the man's sister, daughter, son, daughter, sister, niece and daughter of his adultery, and marry. Because they are foreign, and of religious and not attributed to him. (Morocco's Personal Status Law, 2003).

Ahmad ibn Hanbal, Shia jurisprudents and Resurrection and say we attach details. We deprive him of the inheritance. Brother, father, and marry prohibit insider know. So it is not permissible for the father, the daughter of his adultery (to lust) to look at or touch her. However, his father, and he has not inherited from the father. (Republic of the Russian Civil Code, 2007).

Article 884 Civil Code of Iran, said: "Son of adultery will not inherit their parents and relatives. But with respect, which is the fruit of the child, the father of one of the fixed and the other due to the suspicion of adultery under duress or not, the child inherits only from the sides of his family and vice versa.

Under Article 133 of Syria's personal status law, if a doubt Low achieved, and the child is born between the minimum and maximum duration of transport, to join Low to doubt, and all related works such as prohibiting legitimate marriage and inheritance, alimony and the birth Positions will be.

According to Article 87 Conditions Morocco Personal Status, if the woman has no husband, to be Positions doubt, caused the child to Positions Low can join. Legitimate than it is at work. Obstacles inherited from the Republic of Tajikistan shows that:
A - unworthy heir: For those who do not inherit valuable and worthy. Those who do act with intent: intentionally. One of the possible heir to the testator or deprived of the yard. They were assassinated or yard. Not according to probate, and heir to the legacy of the law to have rights.

B - Persons who intend to practice for the testator's last intentions were prevented. In this way, for being invited to their heritage or the people, or for a large part of them belonged to the heritage, the assistance. Not according to the law of wills and heirs have no rights.

C - the parent of parental rights (parents) were excluded. This is the heritage of their rights in the opening moments. So parents and adult children, who were responsible for the enforcement of law has been left on their obligation, provided testator was rebellious, do not inherit rights law.

Conclusion:
Each of the four Sunni Imams of religion about it (the murder of error) have voted. I agree with the owner of the jurist is Shia. Inheritance is the deliberate killing of non-legitimate means. Intentional killing of a legitimate, legally permissible, it is permissible to leave it as retribution. Sometimes it is not permitted to leave as condemned to death for killing an enemy. Intentional killing is legitimate or permissible or obligatory, no effect on inheritance. One of the barriers to inheritance, the testator intentional murder. The killer is either independent or accomplice. Or witness is false. That his testimony led to the death penalty, and may have been performed. If it is, murder is wrong is right and no excuse. And wise and mature killer (fifteen years), the invasion of self-defense excuse is tangible. Jurists agree that non-Muslim cannot inherit from Muslims. But non-Muslims in Muslim inheritance, there is plenty of controversy. Prohibits disbelief in possession of the inheritance of incapability and wand is a kind of civil retribution. The daughter of the man's sister, daughter, son, daughter, daughter, sister, niece and daughter of his adultery, and marry. Because they are foreign, and of religious and not attributed to him.

REFERENCES
Civil Code of Iran, 2008.