

The laws for murder in Islam

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- 2- It is permissible to slay the murderer the same way he slew his victim(s), or to punish the aggressor the same way he violated his victim.
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- 6- What is the punishment for the Muslim who kills an innocent disbeliever?
 - But why didn’t the law just exist in Islam?
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1- The laws of murder in Islam:

Let us look at what Allah Almighty said in the Noble Quran:

“O ye who believe! the law of equality is prescribed to you in cases of murder: the free for the free, the slave for the slave, the woman for the woman. But if any remission is made by the brother of the slain, then grant any reasonable demand, and compensate him with handsome gratitude, this is a concession and a Mercy from your Lord. After this whoever exceeds the limits shall be in grave penalty. (The Noble Quran, 2:178)”

The following Sayings of our Prophet Muhammad peace be upon him and other well-respected Islamic Scholars who lived during his time are direct explanations and elaboration to this Noble Verse:

Narrated Ibn ‘Abbas: “For the children of Israel the punishment for crime was Al-Qisas only (i.e., the law of equality in punishment) and the payment of Blood money was not permitted as an alternate. But Allah said to this nation (Muslims): ‘O you who believe! Qisas is prescribed for you in case of murder,(up to) ...end of the Verse. (2.178)”

Ibn ‘Abbas added: Remission (forgiveness) in this Verse, means to accept the Blood-money in an intentional murder. Ibn ‘Abbas added: The Verse: ‘Then the relatives should demand Blood-money in a reasonable manner.’ (2.178) means that the demand should be reasonable and it is to be compensated with handsome gratitude. (Translation of Sahih Bukhari, Blood Money (Ad-Diyat), Volume 9, Book 83, Number 20)”

Narrated Ibn Abbas: “The law of Qisas (i.e. equality in punishment) was prescribed for the children of Israel, but the Diya (i.e. blood money was not ordained for them). So Allah said to this Nation (i.e. Muslims):

“O you who believe! The law of Al-Qisas (i.e. equality in punishment) is prescribed for you in cases of murder: The free for the free, the slave for the slave, and the female for the female. But if the relatives (or one of them) of the killed (person) forgive their brother (i.e. the killers something of Qisas (i.e. not to kill the killer by accepting blood money in the case of intentional murder)—then the relatives (of the killed person) should demand blood-money in a reasonable manner and the killer must pay with handsome gratitude. This is an alleviation and a Mercy from your Lord, (in comparison to what was prescribed for the nations before you).

So after this, whoever transgresses the limits (i.e. to kill the killer after taking the blood-money) shall have a painful torment.” (2.178) (Translation of Sahih Bukhari, Prophetic Commentary on the Qur’an (Tafseer of the Prophet (pbuh)), Volume 6, Book 60, Number 25)”

In the above narrations, we clearly see that Allah Almighty used to punish to death those who commit intentional murders among the People of Israel. This law is still effective in Islam, and killing the murderer is still a valid law in Islam, but there is however another alternative for punishment, and that is accepting by choice the blood money.

If the relatives of the slain person wish to have an open and forgiving heart, then they can forgive the murderer under the condition that he compensate them with money for their slain son or relative. The demand should be reasonable.

If the relatives do not wish to forgive the murderer, then he is to get executed by the Islamic ruling authority.

2- It is permissible to slay the murderer the same way he slew his victim(s), or to punish the aggressor the same way he violated his victim:

Narrated Anas: “The Prophet said, “The prescribed Law of Allah is the equality in punishment (i.e. Al-Qisas).” (In cases of murders, etc.) (Translation of Sahih Bukhari, Prophetic Commentary on the Qur’an (Tafseer of the Prophet (pbuh)), Volume 6, Book 60, Number 26)”

Narrated Anas bin Malik: “A Jew crushed the head of a girl between two stones. It was said to her. “Who has done this to you, such-and-such person, such-and-such person?” When the name of the Jew was mentioned, she

nodded with her head, agreeing. So the Jew was brought and he confessed. The Prophet ordered that his head be crushed with the stones. (Hammam said, “with two stones.”) (Translation of Sahih Bukhari, Blood Money (Ad-Diyat), Volume 9, Book 83, Number 23)”

Narrated Anas bin Mali: “The Prophet killed a Jew for killing a girl in order to take her orna. (Translation of Sahih Bukhari, Blood Money (Ad-Diyat), Volume 9, Book 8, Number 24)”

Narrated Anas: “That his aunt, Ar-Rubai’ broke an incisor tooth of a girl. My aunt’s family requested the girl’s relatives for forgiveness but they refused; then they proposed a compensation, but they refused. Then they went to Allah’s Apostle and refused everything except Al-Qisas (i.e. equality in punishment).

So Allah’s Apostle passed the judgment of Al-Qisas (i.e. equality of punishment). Anas bin Al-Nadr said, “O Allah’s Apostle! Will the incisor tooth of Ar-Rubai be broken? No, by Him Who sent you with the Truth, her incisor tooth will not be broken.”

Allah’s Apostle said, “O Anas! The prescribed law of Allah is equality in punishment (i.e. Al-Qisas.)” Thereupon those people became satisfied and forgave her. Then Allah’s Apostle said, “Among Allah’s Worshippers there are some who, if they took Allah’s Oath (for something), Allah fulfill their oaths.” (Translation of Sahih Bukhari, Prophetic Commentary on the Qur’an (Tafseer of the Prophet (pbuh)), Volume 6, Book 60, Number 27)”

3- What does “the free for the free, the slave for the slave, the woman for the woman” mean? And can we apply the Noble Verse to the enemy?

Let’s analyze the Noble Verse:

“O ye who believe! the law of equality is prescribed to you in cases of murder: the free for the free, the slave for the slave, the woman for the woman. But if any remission is made by the brother of the slain, then grant any reasonable demand, and compensate him with handsome gratitude, this is a concession and a Mercy from your Lord. After this whoever exceeds the limits shall be in grave penalty. (The Noble Quran, 2:178)”

“Note first that this verse and the next make it clear that Islam has much mitigated the horrors of the pre-Islamic custom of retaliation. In order to meet the strict claims of justice, equality is prescribed, with a strong

recommendation for mercy and forgiveness. To translate qisas, therefore, by retaliation, is I think incorrect. The Latin legal term Lex Talionis may come near it, but even that is modified here.

In any case it is best to avoid technical terms for things that are very different. "Retaliation" in English has a wider meaning equivalent almost to returning evil for evil, and would more fitly apply to the blood-feuds of the Days of Ignorance.

Islam says: if you must take a life for a life, at least there should be some measure of equality in it; the killing of the slave of a tribe should not involve a blood feud where many free men would be killed; but the law of mercy, where it can be obtained by consent, with reasonable compensation, would be better.

Our law of equality only takes account of three conditions in civil society; free for free, slave for slave, woman for woman. Among free men or women, all are equal: you cannot ask that because a wealthy, or high-born, or influential man is killed, his life is equal to two or three lives among the poor or the lowly. Nor, in cases of murder, can you go into the value or abilities of a slave.

A woman is mentioned separately because her position as a mother or an economic worker is different. She does not form a third class, but a division in the other two classes. One life having been lost, do not waste many lives in retaliation: at most, let the Law take one life under strictly prescribed conditions, and shut the door to private vengeance or tribal retaliation.

But if the aggrieved party consents (and this condition of consent is laid down to prevent worse evils), forgiveness and brotherly love is better, and the door of Mercy is kept open. In Western law, no felony can be compounded.

The jurists have carefully laid down the law of qisas refers to murder only. Qisas is not applicable to manslaughter, due to a mistake or an accident. Then, there would be no capital punishment.

The brother: the term is perfectly general; all men are brothers in Islam. In this, and in all questions of inheritance, females have similar rights to males, and therefore the masculine gender imports both sexes.

Here we are considering the rights of the heirs in the light of the larger brotherhood. In (Noble Verses) 2:178-179 we have the rights of the heirs to life (as it were): in (Noble Verses) 2:180-182 we proceed to the heirs to property.

The demand should be such as can be met by the party concerned, i.e., within his means, and reasonable according to justice and good conscience. For example, a demand could not be made effecting the honour of a woman or a man. The whole penalty can be remitted if the aggrieved party agrees, out of brotherly love.

In meeting that demand the culprit or his friends should equally be generous and recognise the good will of the other side. There should be no subterfuges, no bribes, no unseemly byplay: otherwise the whole intention of mercy and peace is lost.” [2]

So the answer in regards to whether or not we can apply Noble Verse 2:178 to the enemies is yes, we can. If the enemy is really bad and doesn't believe in seeking peace, then Noble Verse 2:178 is the best answer to him.

Allah Almighty however did order the Muslims to offer and make peace with the enemy whenever is possible. Please visit [My explanation to the “Attack” on the US from the Islamic perspective](#). See the debate that I made up between pro and anti Sept. 11 attack on the US using the Noble Quran for both sides. You judge for yourself.

4- All people are equal in Islam:

It is important to know that all innocent lives are equal in Islam. There is no difference between the rich and the poor, the man and the woman, the free and the slave. All are equal in the eyes of Allah Almighty:

“...if any one slew a person – unless it be for murder or for spreading mischief in the land – it would be as if he slew the whole people: and if any one saved a life, it would be as if he saved the life of the whole people...(Noble Quran 5:32)”

“Those who invoke not, with God, any other god, nor sla such life as God has made sacred except for just cause, nor commit fornication; – and any that does this (not only) meets punishment. (But) the Penalty on the Day Of Judgement will be doubled To him, and he will dwell Therein in ignominy. (The Noble Quran, 25:68-69)”

Here the above Noble Verses, we see that if you kill one innocent soul (whether it was a Muslim soul or not), then it is like committing a crime against all people. We also see that Allah Almighty considers the innocent soul as a “sacred” soul. Notice that Allah Almighty will double the punishment for those who commit murders against any innocent souls.

Let us look at more analysis for Noble Verses 25:68-69 above:

“Here three things are expressly condemned:

- (1) false worship, which is a crime against Allah;
- (2) the taking of life; which is a crime against our fellow creatures; and
- (3) fornication, which is a crime against our self-respect, against ourselves. Every crime is against Allah, His creatures, and ourselves, but some may be viewed more in relation to one than to another.

The prohibition against taking life is qualified: “except for just cause”: e.g., in judicial punishment for murder, or in self-preservation, which may include not only self-defense in the legal sense, but also the clearing out of pests, and the provision of meat under conditions of Halal (lawful acts).” [3]

5- What if the death was accidental?

Let us look at what Allah Almighty said in the Noble Quran regarding accidental deaths:

“Never should a believer kill a believer; but (If it so happens) by mistake, (Compensation is due): If one (so) kills a believer, it is ordained that he should free a believing slave, and pay compensation to the deceased’s family, unless they remit it freely. If the deceased belonged to a people at war with you, and he was a believer, the freeing of a believing slave (Is enough).

If he belonged to a people with whom ye have treaty of Mutual alliance, compensation should be paid to his family, and a believing slave be freed. For those who find this beyond their means, (is prescribed) a fast for two months running: by way of repentance to God: for God hat all knowledge and all wisdom. (The Noble Quran, 4:92)”

If a believer kills a believer by mistake, then he/she should:

- 1- If the believer belonged to the same tribe or other Muslim tribes, then free a believing slave, and pay compensation to the family of the deceased unless they remit it freely.

2- If the deceased was a Muslim and belonged to non-Muslims at war with us, then free a believing slave. The reason why his family wouldn't get compensated is because they are not believers. Unless they are believers, no money shall be paid to them.

3- If the deceased was a Muslim and belonged to non-Muslims who were allies with us, then free a believing slave and pay compensation to his non-Muslim family.

4- If any of the above is not possible for the accidental murderer, then fast for two months consecutively.

6- What is the punishment for the Muslim who kills an innocent disbeliever?

Before I answer the question, I would like for you to read [What does Allah Almighty say about Justice for all in an Islamic State?](#) to see how Allah Almighty commanded the Muslims to be just at all time, even if it's against their own selves and families. This "Islamic Justice" can and does apply today for both Muslims and non-Muslims living under the Islamic Law, where if a Muslim kills a non-Muslim, then his punishment would be the same as the punishment of killing a Muslim.

Continuing with my answer:

No where in the Noble Quran or the Sayings (Hadiths) of Prophet Muhammad peace be upon him do we find a direct punishment to a Muslim who intentionally kills a non-Muslim. I gave this answer up front because I don't want the reader to think that I am trying to answer away any obvious problem in Islam. However, it is important to know why no such law exists.

1400 years ago, when the Noble Quran was revealed to Prophet Muhammad peace be upon him, it was revealed during times of hostile wars. The Muslims fought almost all of the 360 Pagan Arab tribes and the tribes of the Jews and Christians as well. Fighting the offending disbelievers was part of the Muslims' routine in dealing with the disbelievers.

Despite all of this hostility between the Muslims and the Pagans and the Jews and Christians, Allah Almighty in the Noble Quran prohibited for the Muslims to violate anyone who wanted peace:

"Fight in the cause of God those who fight you, but do not transgress limits; for God loveth not transgressors. (The Noble Quran, 2:190)"

Fighting in the cause of GOD Almighty those who fight us is what “Jihad” is all about. I can’t go and kill a non-Muslim just because he is a non-Muslim. That is absolutely forbidden in Islam.

Now, it is important to know that the Muslims never had an “Islamic State” or “Islamic Country” while the Noble Quran was revealed. There was never a “Muslim Nation” during Prophet Muhammad’s time. But however, Allah Almighty did recognize the existence of nations:

“O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other. Verily the most honoured of you in the sight of Allah is the most righteous of you. And Allah has full knowledge and is well-acquainted. (The Noble Quran, 49:13)”

Today, people are entirely divided into countries and nations. There isn’t any land on earth that isn’t under a government’s rulership. All national citizens’ lives in any nation are equal, except with those who oppose the dictators and end up getting killed by them. But the general equality between normal citizens exists today and had existed 1400 years ago when Noble Verse 49:13 was revealed.

So, what did Allah Almighty say about the citizens of any nation? Let us look at the following Noble Verses about the story of Abel and Cain, Adam’s sons in the Noble Quran:

“27. Recite to them the truth Of the story of the two sons Of Adam. Behold! they each Presented a sacrifice (to Allah): It was accepted from one, But not from the other. Said the latter: ‘Be sure I will slay thee.’ ‘Surely,’ Said the former, ‘Allah Doth accept of the sacrifice Of those who are righteous.

28. ‘If thou dost stretch thy hand Against me, to slay me, It is not for me to stretch My hand against thee To slay thee: for I do fear Allah, the Cherisher of the Worlds.

29. ‘For me, I intend to let Thee draw on thyself My sin as well as thine, For thou wilt be among the Companions of the Fire, And that is the reward Of those who do wrong.

30. The (selfish) soul of the other Led him to the murder Of his brother: he murdered Him, and became (himself) One of the lost ones.

31. The Allah sent a raven, Who scratched the ground, To show him how to hide The shame of his brother. ‘Woe is me!’ said he; ‘Was I not even able To be as this raven, And to hide the shame Of my brother?’ Then he became Full of regrets —

32. On that account: We ordained For the Children of Israel That if any one slew a person – unless it be for murder or for spreading mischief in the land – it would be as if he slew the whole people: and if any one saved a life, it would be as if he saved the life of the whole people. The although there came To them Our Messengers With clear Signs, yet, Even after that, many Of them continued to commit Excess in the land. (Noble Quran 5:27-32)”

As we clearly above in Noble Verses 5:32 and 2:190, Allah Almighty prohibits the killing of any innocent person. There are other Noble Verses where Allah Almighty commands the Muslims to honor any peace treaty they make with the enemy in the time of war and to never break it: Noble Verses 4:90 and 9:7. Please visit [What is Jihad and the Laws of War in Islam?](#) for more details.

So if there are several instances in the Noble Quran where Allah Almighty clearly prohibits the killing of any innocent non-Muslim, then violating Allah Almighty’s laws would result the offending Muslim in a sever consequence in the Day of Judgement.

But what about the judgement in life? I believe that since Allah Almighty clearly said “That if any one slew a person – unless it be for murder or for spreading mischief in the land – it would be as if he slew the whole people”, then this Noble Verse is referring to all of the people living in the country, hence, treating all citizens equally.

As I said, since no Islamic government and no Islamic nation really existed during Prophet Muhamad’s time 1400 years ago, then the idea of treating all citizens (Muslims and non-Muslims) equally under one country’s law, and executing anyone who kills anyone intentionally would definitely be a supported in Islam. If killing any innocent person is equivalent to killing everyone as clearly mentioned in Noble Verse 5:32 above, then it would definitely be appropriate to apply the conditions that are applied as shown above in the article to the murderer of any Muslim believer.

But why didn’t the law just exist in Islam?

I believe the reason why no law of executing any Muslim who kills an innocent non-Muslim was mentioned 1400 years ago, is because as I said, the hostility between the Muslims and the non-Muslims was very high. Muslims were at constant wars imposed upon them by the offending disbelievers.

But despite all of that hostility, we still find several Noble Verses in the Noble Quran that command the Muslims to not kill innocent non-Muslims

as clearly shown above. Today, laws are not run by arrogant tribes any more. Today we have governments and law. The law applies to everybody, Muslims and non-Muslims. The Noble Quran certainly supports such rulership.

As I said, since no Islamic government and no Islamic nation really existed during Prophet Muhammad's time 1400 years ago, then the idea of treating all citizens (Muslims and non-Muslims) equally under one country's law, and executing anyone who kills anyone intentionally would definitely be supported in Islam. If killing any innocent person is equivalent to killing everyone as clearly mentioned in Noble Verse 5:32 above, then it would definitely be appropriate to apply the conditions that are applied as shown above in the article to the murderer of any Muslim believer.

It was just impossible and inappropriate for Muslims to kill a fellow Muslim for intentionally killing a disbeliever even if that Muslim violated Allah Almighty's Commands to not kill an innocent non-Muslim, because

(1) the hostility between the Muslims and the non-Muslims back then as I said was very high, and there was no room for Muslims to lose men for people who didn't deserve life back then as far as the Muslims were concerned.

(2) It was impossible to let the Islam-hating Pagan family of the murdered disbeliever to determine the destiny of the Muslim murderer, because the enmity among the Muslims and the non-Muslims was very high.

What about accidental killing?

If a Muslim kills a non-Muslim accidentally today, then I believe the law of paying the blood-money or fasting for two consecutive months (only if the murderer is poor and can't afford the payment determined by the authorities) would apply to him. Please read the "What if the death was accidental?" section above for more details.

Allah Knows Best.

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Published by: Amana Publications, 10710 Tucker Street, Suite B, Beltsville,

Maryland 20705-2223 USA.
Telephone: (301) 595-5777.
Fax: (301) 595-5888.
ISBN: 0-91597-59-0 (HC).

2- The Meaning of the Holy Qur'an [1], foot notes #182-185, page 71.

3- The Meaning of the Holy Qur'an [1], foot note #3128, page 905.