

The Quran and its Message

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Salamun Alaikum (Peace be upon you)

QURANIC PUNISHMENT - MURDER vs MANSLAUGHTER

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Please refer to your own translations. For purposes of the flow of the article in note form, only relevant Arabic phrases have been cited in **bold** along with the verse numbers in **red** from which the directives can be sourced.

From the Quran's perspective, the right to take life is only allowable in **two** circumstances **(5:32)**. This is a **generic law** (applicable to all) and has been cited in the context of the Children of Israel in the backdrop of the first murder ever committed. This being the murder of one son of Adam by another **(5:27-31)**

TWO CIRCUMSTANCES

- (1) As a retribution for causing 'fasaad' (gross mischief / evil, beyond all bounds) in the land (punishable by the state)
- (2) As a retribution for murder (punishable by the state).

MURDER

- An appropriate punishment is to be carried out by the state or those in governance, given all the evidence and circumstances. This will be in accordance with **2:178** where the right of legal retribution (**qisas**) in matters of murder have been stipulated.
- Verse **17:33** further confirms the right of such legal retribution for murder.
- Verse **2:178** suggests that the perpetrator is responsible to receive the same punishment as to that they have committed. So for murder, the consequences could be fatal.

- This is no different in some respects to what was prescribed as law for the followers of earlier revelations as we note in the Quranic verse **5:45 (*)** (**nafsa bil-nafsi, wal-ayna bil ayni** ... life for life, eye for the eye etc for the Children of Israel).
- In the case of a believer killing a believer, then there is further condemnation to hell (**4:93**)
- An exception is granted to the brethren / brother (**akhihi**) (**) if he pardons (**ufiya**) the murderer. In this case, a suitable payment (**ma'rufi wa-adaon**) with kindness (**bi-ihsanin**) is given as a concession (**takhfifun**) (**2:178**) to the 'akhihi' (**)

[Again, the exception of pardon was also granted to the Children of Israel (**5:45**)]

[(**) The Quranic statement (**5:45**) with regards the Children of Israel can be further ratified from the Hebrew Tanakh (Jewish Old Testament) **Exodus 21:22-25** (**23** - life (soul) for life (soul) - **Hebrew: nephesh [neh'-fesh] for nephesh [neh'-fesh]**); **Leviticus 24:19-21** (so it shall be done to him (**19** - done, accomplished - **Hebrew: asah [aw-saw]**)) and confirmed in respects by **Deuteronomy 19:16-21**]

(**) The Arabic word 'akhihi' (his brother) in the expression '**faman ufiya lahu min akhihi**' in my humble opinion may not necessarily represent 'his brother' literally. This would amount to an unnecessary linguistic restriction as a literal brother may not always be applicable in the case of the murdered. The term 'akhihi' within the context may denote 'brethren in faith' which would then possibly imply the legal heirs or community.

MANSLAUGHTER

- Verse **4:92** deals specifically with believers and the punishment for death by mistake (**khata-an**). A recompense (**diya**) is stipulated with an additional recompense. In the case of 7th century Arabia, a freeing of a slave was stipulated. If the people were of a hostile group, then the freeing of a slave sufficed. However, if there was a covenant (non hostile), then the additional recompense of freeing a slave stood. In cases where this was not appropriate, a two month fast was stipulated instead.
- The prescription of recompense (**diya**) in the case of manslaughter is given as a Quranic right and includes certain requirements. The concession (**takhfifun**) in murder is dependent on the proviso that the murderer is pardoned (**ufiya**) by his 'akhihi' (**). No such proviso is present in the case of receiving 'diya' in the case of manslaughter.

Please Note:

- Verse **42:40** is related to any evil deed or injury afflicted (**sayyiatin**). This verse does not deal with murder. The victim in this case has the right to make reconciliation with the aggressor.

FINAL THOUGHTS

No individual has the right to take another life. The Quran only sanctions the right to take a life in two cases:

- (1) As a retribution for causing 'fasaad' (gross mischief / evil, beyond all bounds) in the land.
- (2) As a retribution for murder.

In both cases, they must be sanctioned and administered by the state. Murder and manslaughter attract different punishments.

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