

## The Penalty (Retribution) for Homicide

This idea is a variation of a general view that is held by some experts of the philosophy of law who believe now that a man has been killed, why should a second life be claimed?

Although this has an appealing surface, but we cannot accept it as such, since it has to be taken into consideration that human lives are so interconnected that if one's life is claimed the whole uneasy will remain.<sup>1</sup> To put it otherwise, murder causes such uneasiness among human individuals that their own lives would seem to have been destroyed.

Of course, you will say that today we no longer see such sentiments among human beings. I have frequently said and still say that the characteristics of machine-stricken contemporary man to human nature are as such. Today's machine-plagued man is one being and the human being who is naturally benefited from all of his gifts and existential capitals is another entity. This divide should not be fallen on deaf ears. It is indeed a logical fact that the more man is dominated by machine, the more his sense of primordial harmony and unity between human souls insofar will decline, as man gradually "vanishes" between the cogs of the machine and turns into a heap of senseless metal scraps that never becomes impressed by the murder of a human individual or even the whole mass. As a Western politician once said, "If an individual dies, it is described as a tragic catastrophe, but if a million people are systematically slaughtered, it is merely considered a matter of statistics!"

As far as machine-stricken man is concerned, this issue is simply conceivable, but it is not tolerable from the human primordial nature's point of view. Accordingly, man –

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1- This is a renowned hemistich of a line by Sa'di, Iranian poet of thirteenth century and the author of *Bustan* ("The Orchard") completed in 1257 and *Gulistan* ("The Rose Garden") in 1258. Sa'di sees all human beings as members of the same family and invites humanity to be attentive to this primordial existential reality may it extinguishes the fire of conflicts between nations:

*Human beings are members of a whole*

*In creation of one essence and soul.*

*If one member is afflicted with pain, other members uneasy will remain.*

*If you have no sympathy for human pain,*

*The name "human" you cannot retain!*

(English translations of lines are by M. Aryanpour). (Translator).

who is the favorite creature of the Lord and has been created for a noble purpose – is like a sea whose waves continually fail to impress the sea, no matter where or when, high or low.

The other significant issue worth mentioning is that retribution is not the only penalty for homicide. When an intentional homicide takes place, three jurisprudential options are raised:

1- Blood-money and pecuniary punishment: If the family of the slain accepts the ransom in the spirit of forgiveness, kindness, beneficence and goodness, the murderer will not be executed. Thus, we can spread this spirit of forgiveness among citizens only if we are certain that there will be no more homicide or systematic slaughter.

Succinctly speaking, if the family and relatives of the slain have been brought up in accordance with the goodness and beneficence that are at the heart of Islamic ethics, they would not remorselessly narrow their options down to revenge.

2- Remission: Such human qualities as compassion, mercy and kindness require us to forgive each other even when one has lost one's most beloved one. We have witnessed numerous examples of remission of the murderer in the Islamic society.

3- Retribution: Even the slightest hint of the existence of mental disorder or imbalance in the case of the murderer at the crime scene makes the homicide unintentional and nullifies retribution. Accordingly, the punishment of the murderer is determined based on the degree of intention that has been involved in crime. This judiciary principle is extrapolated from a hadith that reads:

*The slightest doubt nullifies punishments and judgments.*

As you see, retribution is more an interceptive means for social control rather than being a cruel punishment for every form of homicide. There is also another issue that is worth mentioning here. As the major source of Islam, the Quran has stated the philosophy of retribution in the following words:

*And there is life for you in (the law of) retribution, o' men of understanding, that you may guard yourselves.* (The Cow 2:179)

The verse suggests that retribution insures your life. Many might think that hanging the murderer in public is a guarantee for peaceful life as it is a clear message for all that whoever kills an innocent man shall end up on the gallows. Thus conceived, retribution is merely a mechanic lever to adjust social behaviors. This is the general understanding of the aforementioned verse. Although this is admittedly a necessary working of the law of retribution, it is still supposed to convey a more vital message. Unfortunately, this side of retribution has been sorely neglected in the West and also in many other lands.

To put it otherwise, the law of retribution reveals the true value and significance of human life as it suggests that you should not play with other people's lives since it will cost you your own life. In other words, your life is respected when you respect other

lives. This is indeed a sensible equation by both plain and sophisticated minds.

Retribution sheds light on the primordial value of human life and, at the same time, warns people against the consequences of suicide. This is the very indirect implication of the law of retribution which has gone unnoticed by lawyers. Islam regards suicide as an instance of intentional homicide. Said differently, according to Islam, taking one's own life is tantamount to murdering other people. As the intentional murderer is promised to be burnt in the flames of Hell, the suicider has also been cursed to the same degree.

Revealing the primordial significance and value of life, the law of retribution therefore not only guarantees human life against diabolic encroachments from the outside, but it also safeguards it against suicide threats.

**Despite this majestic law of retribution, why has the inauspicious phenomenon of homicide not been uprooted yet in Islamic societies, while we are reported today of societies in the world where homicide cases are far fewer than Islamic communities?**

The following issues must be taken into account in this regard:

- 1- A cursory look at the history of these societies shows that there once were strict penalties for homicide there. This firm stand on murder has led to the emergence of a culture of pacifism and non-violence.
- 2- The enhancement of education and the internalization of the culture of peaceful coexistence is also one reason for the lower record of homicide in those communities.
- 3- Social justice and intelligent policy makers have decreased together the fatal conflicts almost down to zero. As a result, it is totally natural to hear of the lower record of homicide in these societies.

But the question why these actions have not been taken in Islamic societies is not indeed a matter of Islam or the Quran, in the same way that the high rates of suicide, regional and world wars in the so-called developed countries have anything to do with their legal system, culture or religion. Moreover, we see many despots throughout the history of Islam who have suspended or abused many Islamic laws to reach their diabolic goals.

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