

Qatl (Homicide) and Qasās (Law of Equality) in Islam; A Predicament of Crime Taxonomy Under Hudūd in Islamic Criminal Law

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Abstract

This study focuses on the idea of ‘limit’ is thus basic both to the literal as well as the technical meanings of *ḥadd*. The classification of *ḥadd* as the right of Allah signifies that it is meant to be a mandatory punishment which requires fulfillment and no one, including the victim, judge, legislator or ruler has the authority to decrease, increase, alter, pardon or suspend it. The punishment of *qisās* is not *ḥadd* because it has been fixed as the right of individuals and it is for this reason that it can be pardoned by the victim or his heirs. *Ḥadd* also means the crime for which punishment has been fixed either by the Holy Qur’an or Sunnah of the Prophet as the right of Allah. *Qatl* (Homicide) is completely forbidden in Islamic law and is a crime punishable by Islam, capital punishment is reserved for the most extreme crimes: those that harm individual victims or destabilize society. Despite the fact that in contemporary days many Islamic laws are not been practice and also change, among them equating *Qatl* (Homicide). The methodological approach used in this paper is descriptive, prescriptive and annalistic; meanwhile the method of data collection is empirical.

Keywords: *Ḥadd* (Punishment), Islamic Law, *Qatl* (Homicide), *Qasās* (Law of Equality)

Introduction

Ḥadd literally means boundary or limit which separates one thing from another. The watchman is called *ḥaddad* as he prevents the public from entering the place which he protects and separates. In terms of Islamic criminal law *Ḥadd* means the punishment fixed either by the Holy Qur’an or Sunnah of the Holy Prophet for a crime as the Right of Allah. Fixed punishments are known as *hudud* because they are meant to prevent crimes and they have fixed limits for punishments.¹ The following are the crimes liable to *Ḥadd* in Islamic criminal law:

- i. *Al-Qatl* (Homicide) and *Qasās* (Law of Equality)
- ii. *Zina* (Adultery or fornication).
- iii. *Qazf* (Defamation or Accusation of zina).
- iv. *Sariqah* (Theft).

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- v. *Hirabah* (Robbery and dacoity or Brigandage).
- vi. *Khamr* (Intoxicant or intoxicating liquor)
- vii. Rebellion.
- viii. *Riddah* (Apostasy).²

Qatl (Homicide) and Qasas (Law of Equality)

In no other religion in the world human life is considered to be so sacred that one man's murder is considered to be the murder of all the human race, and whoever saves a life it is as if he had saved the lives of all mankind.³

أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا

“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 anyone saved a life. It would be as if he saved the life of the whole people.” (5:32).

This is the way in which the legal injunctions of the Qur'an have declared protection of human life. In Surah Bani Isra'il Allah has said:

“Do not kill a soul which Allah has made sacred except through the due process if law”, (6:15).

In this verse, homicide has been distinguished from destruction of life carried out in pursuit of justice. Only a competent Qazi will, decide whether or not an individual has 'forfeited his right to life' by disregarding the right to life and peace of other human beings; Prophet Muhammad (S.A.W) has declared homicide as the greatest sin next to polytheism (Shirk). He said: “The greatest sins are to associate something or someone with Allah and to kill human/beings.”⁴

One forfeits one's right to life in the following five situations:

- 1) Law of Equality (Qasās) applied for a Criminal who killed someone intentionally.
- 2) In the war of defense (Jihad) against the enemies of Islam, it is natural that some of the combatants will be killed.
- 3) Punishment of death to the traitors who try to plot a overthrow Islamic government (Fasad fil ard).
- 4) A married man or a woman who is given *Hadd* punishment for adultery (Zina).
- 5) Those who commit highway robbery (Hirābah).⁵

The crime of committing a murder of a Muslim is so very horrible that the criminal after getting his *Hadd* punishment, still goes to hell and becomes an object of anger and curse of Allah:

وَمَنْ يَقْتُلْ مُؤْمِنًا مُتَعَمِّدًا فَجَزَاؤُهُ جَهَنَّمُ خَالِدًا فِيهَا وَغَضِبَ اللَّهُ عَلَيْهِ وَلَعَنَهُ وَأَعَدَّ لَهُ عَذَابًا عَظِيمًا (93)

“If a man kills a believer-intentionally, his recompense is Hell, to abide there is forever: and the wrath and curse of Allah are upon him, and a dreadful penalty is prepared for him.” (4:93).⁶

It is not merely the life of a grown up person, even the life of a child or even a child who is an embryo and not yet born must not be taken under any pretext whatsoever. No amount of poverty and hunger must drive a man or a woman to kill children; The Holy Qur'an says:

وَلَا تَقْتُلُوا أَوْلَادَكُمْ مِنْ إِمْلَاقٍ نَحْنُ نَرْزُقُكُمْ وَإِيَّاهُمْ (151)

“Kill not your children on the plea of want; ~ we provide sustenance for them and for you” (6:151)

It is not only that human life is sacred, but all life is sacred. Even in killing animals for food, a dedicatory formula “Bismilléh, Allahu Akbar” has to be employed. Killing embryos through

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abortion is becoming a fashion in the modern promiscuous society of today. Some medical Practitioners are also culprits of killing children in embryo in order to earn quick money. The parents of such a child yet to be born and the doctors who perform such operations are all guilty of this crime.⁷ These little children will be asked by Allah on the Day of Resurrection with great anger:

وَإِذَا الْمَوْءُودَةُ سُئِلَتْ (8) بِأَيِّ ذَنْبٍ قُتِلَتْ (9)

“When the female infant buried alive will be questioned for what crime she was killed?” (81:8-9).⁸

The question in the above verses is directed to the pagan Quraysh who used to commit female infanticide sometimes due to the imaginary fear of poverty and sometimes they felt ashamed to being addressed as father-in-law’ when their daughters grew up.

Hence, they used to kill their female children by burying them alive. In this world of sin, so much unjust suffering is caused through taking innocent lives without even a trace being left, by which offenders can be brought to justice: The present day killing through abortion is also done secretly and unnoticed by the society. In some countries, abortion is legalized.⁹

The crime was committed in the past and is still committed today in the guise of social plausibility in secret collusion. But in the spiritual world of justice, questions will be asked by Allah, and the victim who is dumb here will be able to give evidence on the Day of Judgment. The proofs will be drawn from the very means used for concealment of the crime.¹⁰

Not only is the killing of others forbidden in Islamic Sinari‘ah, one even has no right to take his own life. Suicide is the work of a coward, and a great punishment awaits him in the Next World. The Qur’an commands:

وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا (29)

“Nor kill (or destroy) yourself”(4:29)

Apart from the Holy Qur’an, the Holy Prophet dwelt upon itāt length in his Farewell Pilgrimage (Hajj al- Wida) address on this subject:

“O People! Your blood, property and honor is made completely forbidden upon one another. The respect for these things is such as it is the respect of this (Day of Pilgrimage), and the respect of the month of Dhul hijjah and the respect of the city (Mecca). Beware, let it not happen after me that you begin to be each other’s lives and be in the category of unbelievers”.¹¹

Acting on this exhortation himself, the Prophet further said:

“All the murders of the days of *Jahiliyyah* are under my feet (i.e to revenge for them). First revenge which I forgive is of the killing of a member of my own faintly, the murder of the son of Rabiah bin al-Hadith, which was committed by Bani Hudhail. I forgive it”.¹²

Qasās: The Law of Equality

The word *Qasā’s* is derived from an Arabic word *Qassa* meaning he cut or he followed his track in pursuit, and it comes therefore to mean Law of Equality or equitable retaliation for the murder already committed. The treatment of the murderer should be the same as his horrible act, that is, his own life should be taken just as he took the life of his fellow man. This does not mean that he should also be killed with the same instrument or weapon.¹³

During the *Jahilryyah* period before Islam; the Arabs were always prone to take revenge even if it was done from centuries. If a member of their clan or tribe was killed by-a member of another

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clan, the revenge was taken by killing any innocent person belonging to the enemy clan. The chain reaction that would start would not end for generations.¹⁴

There is a famous incident recorded in the books of history that an old man, on his death-bed asked all his sons to come by his side and thus admonished them: “{I am dying but I have not taken revenge from certain tribes. If you want me to achieve- peace after death, take revenge on my behalf". The only love they had was for the life of their own clan.

They used to demand the life of a man of the same rank from the clan of the murderer. The injunctions on Qasās in the Qur'an are based on the principles of strict justice and equality of the value of human life.¹⁵

يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ الْحُرُّ بِالْحُرِّ وَالْعَبْدُ بِالْعَبْدِ وَالْأُنْثَىٰ بِالْأُنْثَىٰ فَمَنْ عُفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتَّبِعْ بِالْمَعْرُوفِ وَأَدَاءٌ إِلَيْهِ بِإِحْسَانٍ ذَلِكَ تَخْفِيفٌ مِنْ رَبِّكُمْ وَرَحْمَةٌ فَمَنِ اعْتَدَىٰ بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ (178)

“O you who believe! the law of equality is prescribed you in cases of murder that free for the free, the slave for the slave, the woman for the women. But 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". (2:178).¹⁶

In this verse, Islam has mitigated the horrors, of revenge and retaliation which were practiced in the Jahiliyyah period or much of which is even prescribed in a slight modified form in the modern so-called civilized world of ours. Equality in retaliation is prescribed with: strict sense of justice, but it makes a clear provision for mercy and forgiveness. The brother of the slain can make remission on the basis of granting his reasonable demand and compensation with handsome gratitude.¹⁷

Qasās in the Books of Ahl Al-Kitab

The law of Qasās was not totally new to the Ummah of Prophet Muhammad. The followers of other religions who believe in the revealed books of Allah were also given the law of Qasās:

وَكُتِبْنَا عَلَيْهِمْ فِيهَا أَنَّ النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ وَالْأَنْفَ بِالْأَنْفِ وَالْأُذُنَ بِالْأُذُنِ وَالسِّنَّ بِالسِّنِّ وَالْجُرُوحَ قِصَاصٌ فَمَنْ تَصَدَّقَ بِهِ فَهُوَ كَفَّارَةٌ لَهُ وَمَنْ لَمْ يَحْكَمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الظَّالِمُونَ (45)

“We ordained therein for them: ‘Life for life; eye for eye; nose for nose; ear for ear; tooth for tooth, and wounds equal for equal. ‘ But if any one remits’ the retaliation by way of charity it is an act of atonement for himself. And if any fail to Judge ‘by (the light on what God hath revealed. they are (no better than) wrong-doers. (5:45).¹⁸

وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَمَنْ قُتِلَ مَظْلُومًا فَقَدْ جَعَلْنَا لَوْلِيهِ سُلْطَانًا فَلَا يُسْرِفُ فِي الْقَتْلِ إِنَّهُ كَانَ مَنْصُورًا (33)

Nor take life which God has made sacred except for just cause. And if anyone is slain wrongfully, we have given his heir authority (to demand Qisās or to forgive); but let him not exceed bounds in the matter of taking life; for he is helped (by the Law) (17:33).¹⁹

The Holy Prophet (S.A.W) has also ordained that the punishment of murderer is death as *qisās* The following ahadith are worth mentioning:

“We shall kill the person who kills another person”.²⁰

It has been related that in the period of the Prophet (S.A.W) a Jew robbed a girl of her ornaments and then killed her by hitting her head within two stones. The Prophet ordered to hit his head within two stones and was thus killed by hitting his head "within two stones."²¹

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The killing of a Muslim is not permissible except in three cases, namely,

- (i) When he kills another person;
- (ii) When he commits *zina* after marriage and
- (iii) When he becomes apostate.

Whoever intentionally causes death to a person shall be liable for *qisās* i.e. death unless the victim's heirs forgive him.²²

The jurists of all schools of thought concur that the person who commits intentional murder shall be punished with death as *Qisās* means to give such punishment to the offender as he has caused to the victim. In the case of an offence of intentional murder *qisās* means death of the offender and in the case of hurt it means to cause similar hurt to the offender as he has caused to the victim. *Qisās* is the basic punishment in the case of intentional murder. Compensation and other punishments are not basic punishments but are secondary punishments.²³

The Punishment of *Qisās* and its Execution

The Holy Qur'an says:

وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَمَنْ قُتِلَ مَظْلُومًا فَقَدْ جَعَلْنَا لَوْلِيهِ سُلْطَانًا فَلَا يَسْرِفُ فِي الْقَتْلِ إِنَّهُ كَانَ مَنْصُورًا (33)
And if anyone is slain wrongfully, we have given his heir authority (to demand qisās or to forgive); but let him not exceed bounds in the matter of taking life. (17:33)

The Holy Prophet said, "The heir of the victim in a murder case or the victim in case of hurt has three choices, namely:

- i. to take *qisās* from the convict,
- ii. to pardon him or
- iii. to take *diyat* or compensation".²⁴

The Islamic criminal law has conferred the right of *qisās* on the heir of the victim. It is based on human nature as well as the interests of both individual and the community. It is the nature of every human being that he craves to retaliate in person the wrong done to him. Thus the Islamic criminal law first authorizes the heir to retaliate the death of the victim and has thus left the offender within his reach and to his discretion. But at the same time it has authorized the heir of the victim to pardon the offender in lieu of compensation or otherwise, this is the spirit which ensures maintenance of peace and tranquility between human groups. The object in bestowing the right of *qisās* on the victim's heir is to Purge the inner self, resolve the dispute between rival parties, maintain peace and security, reduce the incidents of crime and forestall the possibility of excess in the application of death punishment. However, to take *qisās* is a right and not an obligation. Heirs of the victim in a murder case means the persons who are entitled to their shares in the estate of the victim whether male or female and whether they have actually got the shares in the inheritance or not. This is the view of Imam Abu Hani'fah, Imam Shafi'i and Imam Ahmad. But according to Imam Malik an heir of the victim in a murder case means his male agnate heir only such as son, father or brother.²⁵

Thus, the execution of the punishment of death is open to the heirs of the victim. According to Imam Abu Hanifah and one view of Imam Ahmad the convict shall be beheaded with a sword or another similar weapon, and according to Imam Malik, Imam Shafi'i and one view of Imam Ahmad, the convict, if possible, shall be killed in the same way as he has killed the victim. However, if the heirs of the victim agree that the convict should be killed in a way other than that

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he has used for the death of the victim, it is permissible. The jurists, therefore, allow the use of any weapon or any other mode for the execution of punishment of death in intentional murder which causes the death of the convict with least pain or suffering to him.²⁶

If the convict is a pregnant woman, the execution of the punishment shall be postponed until the birth of the child or miscarriage. And if there is no alternate arrangement for the maintenance of the child, the execution of the punishment shall be postponed until the expiration of a period of two years after the birth of the child and during this period she may be released on bail or kept in jail as in simple imprisonment. Before the execution of the punishment of death, a medical officer shall have to examine the convict and certify that he is medically fit for such punishment. The punishment of death in intentional murder shall be executed when the heirs of the victim demand it. If the heirs of the murdered person are more than one, all must express this desire and if one of them remits retaliation, the remission affects all and the convict shall be subjected to *diyat* to be paid to the other heirs if the one has pardoned him without anything and if he has pardoned him, against *diyat*, he shall also be liable for in the *diyat*. If one of them 'is a minor, insane or absent, punishment shall be delayed until he becomes an adult, sane or returns from the journey and expresses his desire for retaliation of the convict. This is the View of Imam Shafi'i and Imam Ahmad. But according to Imam Abu Hanifah and Imam Malik in case an heir is a minor or mad, the punishment should not be delayed and when the adult heirs demand it, it should be implemented forthwith. They base their View on the will of Hadrat 'Ali to his elder son, Hadrat Hassan when he was attacked by Ibn Muljim wherein he said, "Imprison him. If I survive, I shall exercise my right to deal with him as I choose. But if die, kill him as he killed me". Hadrat Hassan later on killed him in the absence of some minor heirs of Hadrat 'Ali. Further they opine that in case of an absent heir, the punishment of retaliation shall be delayed till he is present and expresses his desire for retaliation of the convict. The convict will be kept in prison during the waiting period.²⁷

According to Imam Malik the right of retaliation or its pardoning is first vested in the son of the murdered, then grandson and if he has no son or grandson, then any close male relative on the father's side like father, brother etc. But according to Imam Abu Hanifah, Imam Shafi'i and Imam Ahmad the right of retaliation or its pardoning vests in the legal heirs of the murdered person who are entitled to inherit his property whether he has left property or not irrespective of whether they are male or female. And if a murdered person has no relative or heir, then the government shall be his avenger of blood (*wali*).²⁸

The right of the punishment of *qisās* vests in the heir or heirs of the murdered person but they are not allowed to execute the punishment as it amounts to disturbing the peace in society and affects the authority of the Islamic state. The jurists have agreed that the execution of the punishment should be carried out by the government through trained staff and under an organized institution after getting permission from the avengers of blood (*walis*). The Government is allowed to execute the punishment of death in intentional murder by any means which easily and rapidly causes the death of the convict.²⁹ It is pertinent to reproduce the commentary of Abdul Majid Darya Abadi on verse 2: 178. He writes:

“*Qisās* (retaliation) is not a synonym of naked vengeance that every individual may take it himself from another individual. On the other hand it is the name of an organized, civilized and systemized form of punishment in criminal law. It is collective law for the whole Ummah. The duty of its executing falls on the government or its delegated officers.”

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The punishment of *qisās* may not be executed until all the heirs of the victim are present, either personally or through their representatives authorized by them in writing in this behalf. However, if any of the heirs or all of them fail to be present after being informed of the date and place of the execution, the punishment will be executed in their absence. If a person, with the intention of causing death, causes the death of the two or more persons, he shall be punished with death and his death shall be the punishment of all the deaths he has caused without any further liability.³⁰

Exceptions from the Punishment of *Qisās* i.e. Death

The person who commits intentional murder shall be exempted from the punishment of *qisās* in the following cases. However, the offender in such cases shall be punished with *diyat* or *ta'zir* to be determined by the legislator or court.³¹

Father Killing his Son

According to Imam Abu Hanifah, Imam Shafi'i and Imam Ahmad if a father, with the intention of causing death, causes the death of his son, he shall not be liable to *qisās* i.e. death.

They base their view on a hadith of the Prophet (S.A.W) Who said, "A father shall not be punished with *qisās* for causing death to his son."

Similar is the case of the grandfather, grandmother who shall not be punished with death for causing intentional murder to his/her grandson or son. The Daughter is also like a son in this matter.³²

But according to Imam Malik if a father, with the intention of reformation, causes the death of his son, he shall not be liable to the punishment of death. This is meant by the hadith relied upon by Imam Abu Hanifah and others. But if a father, with the intention of causing death, causes the death of his son not for his reformation but otherwise, he shall be liable to the punishment of retaliation i.e. death like any other person. Similar will be the case with the grandfather, mother and grandmother.³³

Difference in Religion

According to Imam Malik and Imam Shafi'i, if a Muslim, with the intention of causing death, causes the death of a non-Muslim, he shall not be liable to *qisās* i.e. death. They base their view on a Hadith wherein the Prophet (S.A.W) said, "A Muslim shall not be subjected to *qisās* for causing death to a non-Muslim" But according to Imam Abu Hanifah if a Muslim, with the intention of causing death, causes the death of a non-Muslim, he shall be punished with *qisās* i.e. death. He bases his views on a hadith in which the Prophet (S.A.W) ordered the execution of a Muslim who had intentionally caused the death of a non-Muslim and said, "I am responsible for the redress of a non-Muslim resident of the Islamic state (dhimmi)". He further argues that the hadith relied upon by Imam Malik and Imam Shafi'i is about such non-Muslims who are at war with the Muslims and have no contractual obligations and guarantees. Moreover the Qur'an says, "life for life which includes the murder of a non-Muslim by a Muslim."³⁴

The difference of the jurists is due to the varied derivations from the Shariah texts and the more correct derivation is the one which declares Muslims and non-Muslims equal, for it is in harmony with the generality of the Shariah texts and is in accord with the Principle of equality for the two individuals guilty of the same offence.

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Minor or Insane offender

If a minor or insane person who intentionally causes the death of a person he shall not be liable to *qisās*. However, the jurists opine that his *aqilah* if any, shall be liable for *diyat* to be paid to the heirs of the victim.³⁵

Pardon of *Qisās* by the Heir or Heirs of the Victim

The heir or heirs of the victim in an intentional murder can pardon the punishment of *qisās* of the convict either against *diyat* or without anything. This is the View of Imam Shafi'i and Imam Abu Hanifah pardoning of *qisās* means to pardon *qisās* without taking anything. The Holy Qur'an states:

يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ الْحُرُّ بِالْحُرِّ وَالْعَبْدُ بِالْعَبْدِ وَالْأُنْثَىٰ بِالْأُنْثَىٰ فَمَنْ عُفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتَّبِعْ بِالْمَعْرُوفِ وَأَدَاءٌ إِلَيْهِ بِإِحْسَانٍ ذَلِكَ تَخْفِيفٌ مِّن رَّبِّكُمْ وَرَحْمَةٌ فَمَنِ اغْتَدَىٰ بِغَدَاةٍ فَلَهُ عَذَابٌ أَلِيمٌ (178)

*Oh you who believe! The law of retaliation is prescribed for you in cases of murder. The free for free, the slave for slave, the woman for woman. But if any remission is made by the brother of slain, then grant any reasonable demand and compensate him with handsome gratitude. This is a concession and mercy from your Lord. After this whoever exceeds the limits shall be in grave penalty. (2:178).*³⁶

وَكُتِبْنَا عَلَيْهِمْ فِيهَا أَنَّ النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ وَالْأَنْفَ بِالْأَنْفِ وَالْأُذُنَ بِالْأُذُنِ وَالسِّنَّ بِالسِّنِّ وَالْجُرُوحَ قِصَاصٌ فَمَن تَصَدَّقَ بِهِ فَهُوَ كَفَّارَةٌ لَهُ وَمَن لَّمْ يَحْكَمْ بِمَا أَنزَلَ اللَّهُ فَأُولَٰئِكَ هُمُ الظَّالِمُونَ (45)

*We ordained therein for them: "Life for life, eye for eye, nose for nose, ear for ear, tooth for tooth and for wounds retaliation. But if anyone remits the retaliation by way Of charity, it is an act of atonement for himself. (5:45).*³⁷

Compromise for removing *Qisās*

The jurists concur that intentional murder is a compoundable offence and the heir or heirs of the victim are authorized to make a compromise for the release of the offender from *qisās* against any valuable thing agreed upon between the parties whether the thing agreed upon is more in value or less, or whether it is paid on the spot or on deferred basis.³⁸

The difference between waiver and compromise is that waiver is usually made without taking any compensation while compromise is made against any valuable thing. Compromise has been encouraged in Islam in all matters. The Holy Qur'an says:

وَإِن امْرَأَةٌ خَافَتْ مِن بَعْلِهَا نُشُورًا أَوْ إِعْرَاضًا فَلَا جُنَاحَ عَلَيْهِمَا أَن يُصْلِحَا بَيْنَهُمَا صُلْحًا وَالصُّلْحُ خَيْرٌ (128)

And compromise is better. (4: 128)

The Holy Prophet said, "He who commits intentional murder, remains at the discretion of the heirs of the victim who have three options:

- i. to kill him
- ii. to demand *diyat* comprising 30 camels three years -old, 30 camels four years old and 40 pregnant she-camels or
- iii. to make compromise on anything to be taken by them"³⁹

Thus compromise with the convict is open to the heirs of the victim at any stage and against anything they mutually agreed upon. The amount is to be given or paid to them as agreed upon in

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the compromise. The thing on which compromise is made between the convict and the heirs of the victim is called *Badal al-Sulh*.

Some jurists further opine that the guardian of a minor or insane heir of a victim is not allowed to make a compromise for the removal of *qisās* on less than the amount of *diyat* so as to protect the interests of the heir.⁴⁰

When the heirs of the victim make a compromise with the convict, the convict shall be released forthwith according to Imam Shafi'i and Imam Ahmad.

But according to Imam Abu Hanifah and Imam Malik he may be punished with *ta'zir* if it is required in the circumstances of a case or in public interest. Imam Malik, in case of waiver and compromise, fixes *ta'zir* punishment as imprisonment for one year and whipping 100 strokes.⁴¹

All other conditions for the pardoning of *qisās* shall apply to the compromise as well. It is relevant to mention that if the heirs of the victim in intentional murder make a compromise on *diyat*, such *diyat* shall be paid by the convict himself and not by his *aqilah*. Similarly, whenever a convict in an intentional murder is punished with *diyat*, he himself shall be liable for its payment to the heirs of the victim.⁴²

If a convict dies before the execution of the punishment of *qisās* all his liabilities cease and his heirs are not liable for anything as punishment for his offence. This is the view of Imam Abu Hanifah and Imam Malik. But according to Imam Shafi'i and Imam Ahmad *diyat* is to be paid from his property to the heirs of the victim.

It is pertinent to mention that pardon of *qisās* in case of intentional murder may either be with or without compensation and a compromise is not required.⁴³

Denial of Inheritance

The convict in intentional murder shall be deprived of the inheritance in the property of the victim if he is his heir. The Prophet said, "A murderer has no right in the inheritance (of the murdered)". Further according to Imam Malik the convict in intentional murder and quasi-intentional murder is deprived of inheritance in the property of the murdered but not in murder by mistake. According to Imam Abu Hanifah a murderer who causes the death of the murdered directly is deprived of the inheritance in the property of the murdered irrespective of whether the murder is intentional murder, quasi-intentional murder or murder by mistake. However, a child and person of unsound mind shall not be deprived of the inheritance. The preferable Opinion of the Shafi'aite school is that the murderer stands disinherited in all cases, whether the murder is intentional or unintentional, whether he is sane or insane or a minor or adult. But according to Imam Ahmad only unjustifiable murder annuls the right to inheritance and legitimate murder does not stand in the way of inheritance, for instance, killing in self-defense or as *qisās*.⁴⁴

The later jurists, however, opine that only in the case of an intentional murder the offender will be deprived of the inheritance of the victim if he is his heir and not in the case of quasi-intentional murder or murder by mistake. Similarly the murderer shall be deprived of the will of the murdered if he has made a will for him in his property.⁴⁵

Punishment of Quasi-Intentional Murder

The Punishment of Quasi-Intentional Murder is *Diyat* and *Ta'Zir*.

It is based on a hadith of the Prophet (S.A.W) who said, "If a person kills another by throwing a stone, a whip or with a staff, its *diyat* (blood money) will 'be one hundred camels". This hadith

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relates to the causing of death by a stone, whip or staff which would not ordinarily be sufficient to cause death and as such from the use of such a weapon no conclusion of intentional murder can be drawn.⁴⁶

The *diyat* payable in quasi-intentional murder is heavy and will be paid either in lump sum or in installments to the heirs of the victim within a period of three years.

According to Imam Abu Hanifah, Imam Shafi'i and Imam Ahmad *diyat* of quasi-intentional murder is payable by the '*aqilah*' of the convict. It is based on a hadith of the Prophet (S.A.W) related on the authority of Abu Hurairah that in the period of the Prophet (S.A.W) two women of Huzayl tribe fought with one another. One of them hit the other with a stone which caused the death of that woman as well as the child in her womb. The Prophet (S.A.W) ordered that *diyat* should be paid by the *aqilah* of the convict (woman) to the heirs of the victim and a slave to be freed for the death of the child in the womb of the mother. As this was a quasi-intentional murder, the Prophet (S.A.W) ordered for the payment of *diyat* by the *aqilah* of the convict. In another hadith the Prophet said, "*Diyat* in quasi-intentional murder wherein murder is caused with a stick or stroke is one hundred camels including forty pregnant she-camels. The heirs of the victim in quasi-intentional murder can remit the whole of *diyat* or a portion thereof and can also make a compromise with the convict as well on any valuable thing."⁴⁷

Expiation

The convict in a quasi-intentional murder will also be liable for expiation. Expiation is to free a believing slave and if one cannot afford it, he should fast for two consecutive months. This should not be imposed by the court.⁴⁸

Ta'zir

The convict in a quasi-intentional murder, in addition to the punishment of *diyat* etc. may also be punished with *ta'zir* if it is required in the interest of the public or the circumstances of the case.⁴⁹

Punishment of Murder by Mistake

The punishment of murder by mistake is *diyat* (blood money). The Qur'an says:

وَمَنْ قَتَلَ مُؤْمِنًا خَطَاً فَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ وَدِيَةٌ مُسَلَّمَةٌ إِلَىٰ أَهْلِهِ إِلَّا أَنْ يَصَدَّقُوا

He who has killed a believer by mistake must set free a believing slave and pay diyat (compensation) to the deceased's family unless they remit it freely. (4:92).⁴⁰

The payment of *diyat* in murder by mistake is the liability of the *aqilah* of the convict. The *diyat* in murder by mistake will be paid to the heirs of the victim either in lump sum or in equal installments within a period of three years. If a murder by mistake is committed because of the negligence of the accused for example a driver was driving a vehicle at a high speed in a populated area or he was not following traffic rules and thereby killed a person in an accident, he shall be punished with *ta'zir* for his negligent driving while *diyat* will also be paid by his *aqilah* to the heirs of the victim.⁵⁰

The convict in murder by mistake will also be liable for expiation i.e. to set free a believing slave and if he cannot afford it, he should fast for two months. The punishment of expiation will, however, not be given by the court. The heirs of the victim in murder by mistake can remit the whole or a portion of *diyat*.⁵¹

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Diyat and its Value

Diyat means prescribed compensation to be paid to the heirs of the victim in cases of murder by mistake and quasi-intentional murder or to the victim in cases of certain hurts. The Holy Qur'an states:

وَمَنْ قَتَلَ مُؤْمِنًا خَطَاً فَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ وَدِيَةٌ مُسَلَّمَةٌ إِلَى أَهْلِهِ إِلَّا أَنْ يَصَدَّقُوا

He who killed a believer by mistake must set free a believing slave and pay diyat (compensation) to the deceased's family unless they remit it freely. (4:92).

The Holy Prophet says, "Whoever is killed inadvertently as by flogging or beating with a stick or being hit by a stone, his *diyat* is hundred camels". The value of *diyat* is one hundred camels. The Holy Prophet, in a letter to Amr bin Hazm wrote, "In the matter of murder the *diyat* is one hundred camels".⁵²

Hadrat 'Umar in his Céliphate. declared that as the price of a camel is very high, *diyat* is prescribed as 1,000 dinars for the People of gold i.e. the people of Egypt and Syria and 12,000 dirhams for the people of silver i.e. the people of Iraq, two hundred cows, two thousand sheep or two hundred pairs of garments for concerned people.⁵³

According to Imam Abu Hanifah, Imam Malik and the old opinion of Imam Shafi'i the value of *diyat* is determined in any of the three things i.e. camels, gold and silver. But according to Imam Ahmad it is determined in any of the six things i.e. camels, gold, silver, cows, sheep and garments.⁵⁴

Further the jurists concur that the value of *diyat* in gold is 1000 dinars which is equal to 4250 grams of gold. But as far as the value of *diyat* in silver is concerned according to Imam Malik, Imam Ahmad and Imam Shafi'i the value of *diyat* is 12,000 dirhams, but according to Imam Abu Hanifah the value of *diyat* is 10,000 dirhams. As the price of gold is very high in some countries, the value is determined in silver therein. But in other countries gold is the base of the determination of the value of *diyat*. If the *diyat* is paid in gold or silver then it is equal for all kinds of murder, and if it is paid in the form of camels then *diyat* to be paid in murder by mistake is twenty she-camels one year old, twenty two years old, twenty she-camels two years old,⁵⁵

twenty she-camels three years old and twenty she-camels four years old. *Diyat* in intentional murder is twenty five she-camels one year old, twenty five two years old, twenty five three years old and twenty five four years old. According to one hadith *diyat* in quasi-intentional murder is one hundred camels out of which forty must be pregnant. Sometimes due to severity of a murder liable for *diyat*, the *diyat* is made heavier which includes the camels of a determined type and higher age.⁵⁶

Diyat in the modern Muslim countries is determined in gold or silver due to the non-availability or extremely high price of the camels therein. The legislator has to determine the value of the prescribed quantity of gold and silver from time to time in the prevailing currency.

According to Imam Abu Hanifah the amount of *diyat* in intentional murder should be paid by the convict either in lump sum or in installments. But according to other jurists, *diyat* in intentional murder should be paid by the convict forthwith in lump sum or as agreed upon in the pact of compromise. The amount of *diyat* shall be paid to the heirs of the victim according to their respective shares in the inheritance.⁵⁷

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But if there is no ‘*aqilah*’ of the offender or his ‘*aqilah*’ cannot bear the payment of *diyat*, *diyat* shall be paid by the Government. *Diyat* in quasi-intentional murder and murder by mistake} shall be paid by the ‘*aqilah*’ of the convict either in lump sum or in installments within a period of three years.⁵⁸

The word *Diyat* is a fixed compensation and the court can neither enhance nor diminish it. *Diyat* for a quasi-intentional murder is different from that intended for murder by mistake. It is also different for various hurts. There is no difference between the *diyat* of a child and an adult, the weak and the strong, the young and the old, the ruler and the ruled. *Diyat* is also liable in an offence of intentional murder wherein *qisas* is not liable. *Diyat* in an intentional murder and quasi-intentional murder is heavy while in the case of murder by mistake it is light.⁵⁹

Moreover *diyat* is necessary even if the offender is a minor or insane and in such a case the *diyat* will be paid by the family of the offender to the victim or his heirs as the case may be.

According to the majority of the jurists, *diyat* in case of a female victim is half of that of a male victim in any kind of murder. They rely on a hadith of the Prophet who said, “*diyat* of a woman is half of that of a man”. According to some jurists like Ibn Ulayyah and Abu Bakr al-Asim the *diyat* of a man and a woman is equal. They rely on the hadith related on the authority of Arm, bin Hazm wherein the words are [In the murder of a Muslim (man or woman) are one hundred camels] and they consider the hadith relied upon by the majority of the jurists as weak and unreliable. However, according to some later jurists there is no difference in the *diyat* of a male and a female and it has been preferred by the later jurists.⁶⁰

No manner of an *aqilah* shall be made liable to pay more than 44.55 grams of silver or 6.35 grams of gold or their value in the prevailing currency as *diyat* annually. Where an *aqilah* is made liable for payment of *diyat*, the convict shall be deemed to be a member of such *aqilah* and shall pay the proportional share of the *diyat*. Women and children are not liable to pay *diyat*. If a convict or his *aqilah* liable for the payment of *diyat* fails to pay *diyat* or any part thereof within the specified period, it shall be recovered with force from them.⁶¹

Looking at the situation of *diyat* critically, it is relevant to mention that full *diyat* is paid not only for the loss of life, but also for the destruction of any single member or joint in the body, privation of complete sight or complete hearing, loss of sexual power, hurt on head which permanently reduces the intelligence quotient of the brain of the victim and cutting of part of the nose or the whole of it, resulting in permanent disfiguring of the face. In these cases the *diyat* is paid by the convict to the victim.⁶²

It is also pertinent to mention that if the victim of murder by mistake or quasi-intentional murder has been insured by an insurance company in accordance with the Islamic principles, the amount payable to him by such company on his accidental death as insurance benefits may be deducted from the amount of the *diyat*. In case the amount of such insurance benefits is equal to or more than the amount of *diyat*, *diyat* may not be paid to the victim in such a case.⁶³

Similarly if the victim of murder by mistake is a rich Person, *diyat* may not be paid in such a case. The offender shall, however, be punished for his negligence in such cases with imprisonment and fine as deemed fit according to the circumstances of the case.⁶⁴

Institution of Aqilah

‘*Aqilah*’ in term of Islamic criminal law means agnatic male relatives of a person on his father’s side, or an institution or organization from which he receives or expects to receive support or help.

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In pre-Islamic Arabs when a person of a tribe committed murder, the whole tribe especially its adult and sane male members were obliged to pay *diyat* (blood money) irrespective of whether the offender killed the victim intentionally or unintentionally. It was based on the principle that the people of the family and tribe being in a position to influence the actions of the offender should be reminded of their duty of keeping the offender and similar other persons under control and check their criminal activities. This was a form of collective fine on the relatives and supporters of the offender which was a successful method in a homogenous society of the Arabs. But Islam changed this concept and imposed the payment of *diyat* on ‘*aqilah* only in unintentional murder and quasi-intentional murder. It has been related that in the period of the Holy Prophet (S.A.W), two women from Hudhayl tribe quarreled with each other, one of them who was pregnant was killed by the other with a stone, which hit her in the womb. The Prophet said that *diyat* shall be paid to the heirs of the victim by her ‘*adqilah* i.e. agnates.⁶⁵

According to Imam Malik, Imam Shafi‘i and Imam Ahmad *aqilah* means the agnate relatives of a person on the father’s side such as brothers, nephews, uncles, cousins. It does not include son, father, maternal relations, husbands and other relatives who are not paternal. But according to later Hanafis ‘*aqilah* means the institution or organization to Which a person belongs and from which he receives or expects to receive help or support such as the army, ministry, university, or bank.⁶⁶

If a person does not belong to any institution or organization then his *aqilah* is his paternal relative, tribe or anyone from whom he receives or expects to receive help or support. If a person has no *aqilah* or his *aqilah* cannot bear the burden of *diyat*, the Government will pay *diyat*.⁶⁷

According to Imam Malik and Imam Abu Hanifah the offender shall be included in his ‘*aqilah* as liable for the payment of his share in *diyat* but according to Imam Shafi‘i and Imam Ahmad, the offender is not liable for any portion of *diyat* at all and the whole *diyat* will be paid by his *aqilah*.⁶⁸ There are two opinions in case the offender has no ‘*aqilah* or if he is destitute or the number of his family members is so small that they cannot bear the burden of the *diyat*:

- The first opinion is that the Government will take the place of *aqilah*. If there is no ‘*aqilah* at all or there is ‘*aqilah* but the persons concerned are poor, then the *diyat* will be paid by the Government. If the number of the family members is small and cannot pay the whole *diyat*, the balance will be paid by the Government. This is the opinion of Imam Malik and Imam Shafi‘i. The apparent position of the Hanafites and the Hanbaleites is also the same.
- The second opinion is that *diyat* will be recoverable from the assets or property of the offender, for in reality the offender alone is responsible for the payment of *diyat*. The family bears the burden simply by way of helping him. Hence if there is no family, the obligation of the payment of *diyat* would revert to the origin. This opinion has been quoted by Imam Muhammad with reference to Imam Abu Hanifah. Some of the Hanbaleites also subscribe to this opinion.⁶⁹

The payment of *diyat* by ‘*aqilah* was in force till the period of Hadrat ‘Umar. But in the period of Hadrat ‘Umar, when he saw that the structure of society had changed, he declared in the presence of *sahabah* (companions of the Prophet) that lists (*diwan*) of the persons serving in the army should be drawn up in various districts. The persons whose names contained in those *diwan* owed one another mutual assistance and had to contribute to the payment of *diyat* if any of them committed murder unintentionally.

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Conclusion

Conclusively, the concept of *Haddis* boundary or limit which separates one thing from another. The watchman is called *Haddād* as he prevents the public from entering the place which he protects and separates. In terms of Islamic criminal law *Hadd* means the punishment fixed either by the Holy Qur'an or Sunnah of the Holy Prophet for a crime as the Right of Allah. It is pertinent to mention here that some later Hanafi jurists like Ibn 'Abidin opine that in the modern world the offender himself shall be liable for the payment of *diyat* alone if he is rich and can afford it. If he is a person with ordinary means, he can be held liable for the payment of a Portion of *diyat*, to the extent that can afford it, and if he is too poor to pay *diyat*, then *diyat* shall be paid by the Government from the fund maintained for this purpose. Ibn 'Abidin further states that the people of one profession in a Specific area may contribute a small amount to a fund from which *diyat* will be paid in case anyone of them causes death to a person by mistake.

Bibliography

- Anwarullah, "the criminal law of Islam", (Islamabad: Shari'ah Academy, International Islamic University, 2017)
- Dauda A., "*Advanced level Islamic Studies*", (Kano: Gidan Dabino Publishers Nigeria, 2007)
- Dauda A., "An Introduction to Shari'ah", (Kano: Benchmark, publishers Limited, 2005)
- Doi Abdurrahman, "Shari'ah the Islamic Law" (London: Delux Press, 1984)
- Muhawesh, O. A., "*Youth and Morals*", (Qum-Iran: Islamic Culture and Development Office, 1990)
- Nyae I. A. K., "Theories of Islamic Law," (Islamabad: Islamic Research Institute, 2014)
- Taqi-u-deen, M., and Khan, M. M, "*The Noble Qur'an English translation of the meaning and Commentary*", (Medina: King Fahd Complex for the printing of the Holy Qur'an, 2003)
- Rizvi Aatir, "Muslim Law and Jurisprudence," (Lahore: Jahangir Books, 2013)
- Sabiq, S., "Fiqh al-Sunnah". (Lebanon: Dar al-Kitab al-Ilmiyyah. Vol. II, 1987)

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References

- ¹ : Nyaee I. A. K., "Theories of Isamic Law," (Islamabad: Islamic Research Institute, 2014), 111
- ² : Doi Abdurrahman, "Shari'ah the Islamic Law" (London: Delux Press, 1984), 229
- ³ : Ibid.
- ⁴ : Ibid., 229
- ⁵ : Ibid., 229-230
- ⁶ : Ibid
- ⁷ : Ibid., 229
- ⁸ : Ibid., 229-230
- ⁹ : Ibid.
- ¹⁰ : Ibid.
- ¹¹ : Ibid., 231
- ¹² : Ibid., 231
- ¹³ : Nyaee I. A. K., "Theories of Isamic Law," (Islamabad: Islamic Research Institute, 2014), 115
- ¹⁴ : Doi Abdurrahman, "Shari'ah the Islamic Law" , p.232
- ¹⁵ : Ibid., 232
- ¹⁶ : Ibid., 233
- ¹⁷ : Taqi-u-deen, M., and Khan, M. M, "*The Noble Qur'an English translation of the meaning ands Commentary*", (Medina: King Fahd Complex for the printing of the Holy Qur'an, 2003), 801
- ¹⁸ : Ibid., 913
- ¹⁹ : Ibid., 201
- ²⁰ : Anwarullah, "the criminal law of Islam", p. 88
- ²¹ : Doi Abdurrahman, "Shari'ah the Islamic Law" p. 235
- ²² : Anwarullah, "the criminal law of Islam", p. 89
- ²³ : Ibid.
- ²⁴ : Ibid. 90
- ²⁵ : Ibid.
- ²⁶ : Ibid.
- ²⁷ : Ibid. 91
- ²⁸ : Ibid. 92
- ²⁹ : Ibid.
- ³⁰ : Ibid.
- ³¹ : Rizvi Aatir, "Muslim Law and Jurisprudence," (Lahore: Jahangir Books, 2013), 109
- ³² : Doi Abdurrahman, "Shari'ah the Islamic Law" p. 237
- ³³ : Anwarullah, "the criminal law of Islam", p. 92-93
- ³⁴ : Ibid.
- ³⁵ : Ibid. 236
- ³⁶ : Taqi-u-deen, M., and Khan, M. M, "*The Noble Qur'an English translation of the meaning and Commentary*", (Medina: King Fahd Complex for the printing of the Holy Qur'an, 2003), 721
- ³⁷ : Ibid. 603
- ³⁸ : Doi Abdurrahman, "Shari'ah the Islamic Law" p. 237
- ³⁹ : Anwarullah, "the criminal law of Islam", p. 95
- ⁴⁰ : Ibid.
- ⁴¹ : Anwarullah, "the criminal law of Islam", p. 99
- ⁴² : Ibid. 100
- ⁴³ : Ibid.
- ⁴⁴ : Muhawesh, O. A., "*Youth and Morals*", (Qum-Iran: Islamic Culture and Development Office, 1990), 77
- ⁴⁵ : Anwarullah, "the criminal law of Islam", p. 101
- ⁴⁶ : Ibid. 101-102

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- ⁴⁷ : Ibid.
- ⁴⁸ : Ibid. p. 103
- ⁴⁹ : Dauda A., “An Introduction to Shari’ah”, (Kano: Benchmark, publishers Limited, 2005), 72
- ⁵⁰ : Anwarullah, “the criminal law of Islam”, p. 104
- ⁵¹ : Ibid.
- ⁵² : Ibid. p. 100
- ⁵³ : Ibid. 101
- ⁵⁴ : Dauda A., “*Advanced level Islamic Studies*”, (Kano: Gidan Dabino Publishers Nigeria, 2007), 95
- ⁵⁵ : Anwarullah, “the criminal law of Islam”, p. 105
- ⁵⁶ : Ibid.
- ⁵⁷ : Dauda A., “An Introduction to Shari’ah”, p. 74
- ⁵⁸ : Sabiq, S., “*Fiqh al-Sunnah*”. (Lebanon: Dar al-Kitab al-Ilmiyyah. Vol. II, 1987), 222
- ⁵⁹ : Dauda A., “An Introduction to Shari’ah”, p. 81
- ⁶⁰ : Ibid. p. 77
- ⁶¹ : Anwarullah, “the criminal law of Islam”, p. 109
- ⁶² : Dauda A., “An Introduction to Shari’ah”, p. 78
- ⁶³ : Ibid.
- ⁶⁴ : Anwarullah, “the criminal law of Islam”, p. 107
- ⁶⁵ : Ibid. 108
- ⁶⁶ : Dauda A., “An Introduction to Shari’ah”, p. 79
- ⁶⁷ : Sabiq, S., “*Fiqh al-Sunnah*”. (Lebanon: Dar al-Kitab al-Ilmiyyah. Vol. II, 1987), 222
- ⁶⁸ : Dauda A., “An Introduction to Shari’ah”, p. 81
- ⁶⁹ : Sabiq, S., “*Fiqh al-Sunnah*”. P. 225