

donation (*al-tabarru' bi-l-dam*) are, however, not unlawful ('Abduh et al., *al-Fatāwā al-Islāmiyya* 10:3702-3715; Gangohī, *Fatāwā Maḥmūdiyya* 27:320-322; al-Qaṭṭān, "al-Ijtihād al-fiqhī lil-tabarru' bil-dam wa-naqlih" p. 55; Shafi', *Ālāt-i jadīda* p. 179-181, 580); rather, both are meritorious since they help to preserve life (Shinqīṭī, *Aḥkām al-jirāḥa*, p. 580) which is one of the five higher objectives (*al-maqāṣid al-khamsat al-kubrā*) of the Sacred Law: preservation of Religion, life, lineage, wealth, and intellect (al-Shāṭibī, *al-Muwāfaqāt* p. 222; cf. Āmidī, *Iḥkām*, 3:274; Rāzī, *Maḥṣūl*, 5:160; Qarāfī, *Nafā'is*, 4:1932).

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See also: 'ALĀQA; ANIMALS; BLOOD MONEY; BLOODSHED; BUYING AND SELLING; CARRION; CHILDREN OF ISRĀ'ĪL; CORRUPTION; COVENANT; FIR'AWN; FOOD AND DRINK; HAJJ; JĀHILIYYA; KA'BA; LAWFUL AND UNLAWFUL; MENSTRUATION; MŪSĀ, UPON HIM PEACE; RITUAL PURITY AND IMPURITY; SACRIFICE; SIGNS OF ALLAH; YA'QŪB, UPON HIM PEACE; YŪSUF, UPON HIM PEACE.

MUZAFFAR IQBAL

BLOOD-MONEY

DIYA

Definitions and Usage

"Blood-money" (*diyya*, pl. *diyāt*) in criminal judgments (*aqdiyya*) is a specific sum of money (originally one hundred camels) paid to the inheritors of the murdered as "a substitute for the life" (*fī badal al-naḥs*) (al-Maydānī, *al-Lubāb* 3:153; al-Sarakhsī, *al-Mabsūṭ* 26:59; Jurjānī, *Kitāb al-Ta'rifāt, sub dāl*) or to the one wrongly injured. Blood-money for bodily injury falls under the legal term *wrūsh al-jimāyāt* ("compensation for injuries") or *al-ḥukūmāt* ("judgments") and is left to the discretion of a judge to assess according to the loss caused, whereas blood-money for life falls under the *ḥudūd* laws (see BOUNDARIES OF ALLAH) and hence is a specific amount that cannot be changed (

Ibn Qudāma, *Kāfi*, 5:149-150; Bājūrī, *Hāshiya*, 2:216). The feminine noun *diyya* is derived from the root *w-d-y*, where the final *tā'* *marbūṭa'* “is an addendum to compensate the loss of the initial *wāw*” (Jawharī). The Form IV verb *awdā* bears the meaning of “*ahlaka*—to destroy”, consequently *diyya* is so called because the slain was destroyed (*li-halāk ṣāhibihā*); then *diyya* came to denote the amount given in camels or in *dīmārs* (al-Samīn al-Ḥalabī, *Umda*, bāb al-wāw, faṣl al-wāw wal-dāl), as “the right of the slain” (*ḥaqq al-qatīl*) (Ibn Manẓūr, *sub w-d-y*). The verbal noun *maxw'ūda* is used in Q 81:8 for a female infant buried alive (see BURIAL) (Ibn Fāris, *sub w-d-y*). The word *diyya* occurs twice in Q 4:92; in Q 2:178, blood-money is referred to with the word *adā'* (“payment”) (Muqātil) with the options given to the family of the slain to accept conciliation (*ṣulḥ*) and blood-money in place of their right of retaliatory punishment (*qisās*) (see FORGIVENESS AND FORBEARANCE; JUSTICE; RETRIBUTION). An indirect reference to *diyya* is also made by the noun *adā'* (fulfillment, payment) in Q 2:178 that says *and payment in fairness* (Muqātil, Ṭabarī).

The Qur'ān lays down blood-money prescriptions for unintentional killing (manslaughter) in Q 4:92 and for intentional killing (murder) in Q 2:178 (see below for both verses). The former is called “mother of legal rulings” by Abū 'Abd Allāh Muḥammad b. Aḥmad al-Qurṭubī (600-671/1204-1273), who elucidates twenty enquiries arising from the verse (*Tafsīr*).

Blood-money for Unintentional Killing

(“Manslaughter”): Q 4:92

It is not for a believer to slay a believer, unless it be in error. Whosoever has slain a believer in error, let him set free a believing slave and pay compensation to the victim's family, unless they remit it in charity. If he belonged to a people at war with you, but was a believer, then a believing slave is to be set free. And if he belonged to a people with whom you have a covenant, let him pay compensation to the victim's family, and let him set free a believing slave. Whosoever finds not [the means], let him fast two consecutive months as a penance from Allah; Allah is Knowing, Wise.

The verse accentuates the gravity of a believer's killing of another believer by rhetorically placing it in the realm of the inconceivable. The Tunisian exegete al-Ṭāhir b. 'Āshūr (1296-1393/1879-1973) observes that it is as though the Qur'ān declares that “the essence of faith, which is common between the killer and the deceased, is inconsistent with the act of killing,

for the two are opposites and cannot be combined. By doing so, the verse conveys that when a believer kills a believer, he is stripped of faith (*suliba 'anhu al-īmān*) and is no longer a believer” (*Tafsīr*, *sub* Q 4:92). “It is an explicit prohibition to kill a believer” (Sam'ānī). The sense of gravity is reinforced in other verses (e.g., Q 4:93; 6:151; and 25:68) as well as Hadith texts, such as the hadith stating that the killer endures in hell forever (Muslim...) and the hadith, “By the One in Whose Hand is my soul, killing a believer is more grievous to Allah than the extinction of the whole world” (Nasā'ī, Ṭaḥrīm al-dam, ta'zīm al-dam).

The exegetes elucidate various aspects of the Qur'ānic rulings in Q 4:92. For instance, Ibn 'Āshūr says the wisdom behind emancipating a slave in case of manslaughter lies in the fact that the killer has caused a living soul to die (even if mistakenly), and so in recompense is obliged to set free (or, figuratively, to restore to life) another life (*Tafsīr*). The *believing slave* (*fa-taḥrīru raqabatini mu'mina*) is defined as the one who prays and declares Absolute Unicity (*tawḥīd*) of Allah (Muqātil), which implies the existence of belief and knowledge of religion (Ṭabarī, Ibn Abī Ḥātim), and firm creedal faith (Jaṣṣās); this is imposed upon the killer for he destroyed (*atlaḥa*) an inviolable soul (Māturīdī); thus, he has to free another believing soul for the worship of his Lord (Ibn al-'Arabī). The second obligation that exists between the killer and the inheritors of the murdered is blood-money given to the closest relatives as a compensation (*iwāḍan*) to them for the loss (Ibn Kathīr).

The Sacred Law otherwise establishes that Muslims are pardoned for mistaken actions (Ibn Mājah, Ṭalāq, ṭalāq al-mukrah wal-nāsī), yet the Qur'ān here prescribes a two-month fast as penance and as a substitute for emancipating a slave for those unable to do the latter. The prescription of the two-month fast is a purifying expiation intended to remove any censure and culpability for the killer's imprudence (*'adam al-mu'ākhadha fī tark al-taḥaffuz*) (al-Kiyā al-Harrāsī, *Aḥkām*). The verse names the remission of blood-money a charity (*ṣadaqa*) in order to encourage believers to forgive. Ibn 'Abbās explained forgiveness in the verse means acceptance of blood-money (Bukhārī, al-Qur'ān, bāb *yā ayyuhā al-ladhīna āmanū kutiba 'alaykum al-qisās...*).

The mistake (*khata'*) mentioned in the verse is explained by jurists to mean either a mistaken object (e.g., if one intends to target a battlefield opponent (*ḥarbī*) but misses one's mark and kills a fellow Muslim), or a mistaken action (whether one intended another