

يَتَأْتِيهَا الَّذِينَ ءَامَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ ۗ الْحُرُّ بِالْحُرِّ  
وَالْعَبْدُ بِالْعَبْدِ ۗ وَالْأُنثَىٰ بِالْأُنثَىٰ ۗ فَمَنْ عُفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتَّبِعْ  
بِالْمَعْرُوفِ ۗ وَأَدِّءْ إِلَيْهِ بِإِحْسَانٍ ۗ ذَٰلِكَ تَخْفِيفٌ مِّن رَّبِّكُمْ وَرَحْمَةٌ  
فَمَنِ اعْتَدَىٰ بَعْدَ ذَٰلِكَ فَلَهُ عَذَابٌ أَلِيمٌ ﴿١٧٨﴾

*Al-Baqara (The Cow) 2:178*

### **O You 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.

## **Commentary**

Allamah Taba Tabai (AR)

The verse is addressed to the believers. It means that the law promulgated herein applies to the Muslims only. As regards the non-Muslims - whether under protection of an Islamic State or not - the verse is silent about them. Some people think that this verse has abrogated the verse 5:45 (life is for life); because it does not allow killing of a free person for a slave, or of a man for a woman. But actually there is no room for this supposition. The position of this verse vis-à-vis the verse 5:45 is like that of an explanation vis-à-vis its text.

Its literal translation is: *then whoever is remitted any thing by his brother.* "Whoever" refers to the murderer; the heir/s of the murdered person may waive his/their right of retaliation. Therefore, "any thing" refers to that right; it is used here as a common noun, in order that the rule may cover all possibilities, whether there was a full remission or partial.

Let us say, for example, that there are many heirs and only some of them waive their right; then there shall be no retaliation; instead the blood money will be imposed. The heir of the murdered person who has the right of retaliation) has extraordinarily been described here as the "brother" of the murderer; this expression has been used to awaken the feeling of love and kindness in the heart of the aggrieved party, and gives a hint to him that remission and forgiveness is highly preferable in the eyes of Allah.

Its literal translation is: *then following according to usage, and payment to him in a good manner*. Both phrase are subjects with their predicates implied. Thus literally it would mean: then it is obligatory on the aggrieved "brother" to follow that remission with demand for the blood-money according to usage; and it is obligatory on the murderer to pay it to the aggrieved brother, that is, heir of the slain, in a good manner without any annoying delay.

The permission to commute the retaliation into blood-money is alleviation from your Lord, and therefore, once effected, it cannot be changed. The heir of the slain person cannot revert to retaliation after granting remission. If he transgresses the limit and retaliates after remission, then he shall have a painful chastisement.

Before this verse was revealed, the Arabs were fond of some adages and maxims (on the subject of murder and retaliation), of whose rhetoric and fluency they were very proud. For example: 'To kill some is to keep alive all', and 'To increase killing is to decrease killing'. And the most remarkable in their eyes was the sentence: 'Killing stamps out killing.'

But when this verse was revealed all were forgotten. Some of its distinguishing points are as follows: The verse has fewer letters, and is easy to pronounce. "the retaliation" with definite article is a proper noun, while "life " is common noun - it shows that the resulting good is greater and more widespread than the retaliation. It explains the result in clear words and describes the real philosophy of the law, that is, the life. It unambiguously shows by what means the desired result can be obtained: Obviously, it is the retaliation that leads to life, and not the killing. (After all, many killings are done unjustly, and they do not lead to life, they are negation of life.)

The word, "retaliation," covers also other punishments besides killing, that is, the reprisal in the matter of injury, etc. - and such retributions too lead to the society's life. The word conveys another extra meaning, as it shows that the retribution has resulted from unjust killing. (Compare it with their maxim, "Killing stamps out killing", which does not give any idea that "killing" refers to any punishment.) Then there is an exhortation in this sentence, as it points to a life reserved for the people, whom they are oblivious of; it behooves them to take hold of it as it really belongs to them; it is as if someone tells you: There is a property belonging to you with so – and - so, or in such and such a place.

Lastly, the opening word of the verse, that is, "for you" makes it clear to the men of understanding that the law-giver only desires to protect their interest, and no benefit is ever to accrue to him.

as-Sadiq (AS) said about the word of Allah, the free for the free:

A free man shall not be killed for the slave but he shall be beaten a severe beating and be fined the blood-money of the slave. And if a man kills a woman, and the heirs of the slain (woman) want to kill him, they shall pay half of his blood-money to the man's heirs.

(al-Ayyashi)

al-Halabi narrates from as-Sadiq (AS). He says:

I asked him about the word of Allah the Mighty, the Great: *but he who forgoes it, it shall be an expiation for him (5:45)*; he (the Imam) said:

His sins shall be expiated, as much as he forgives.

And I asked him about the word of Allah, the Mighty, the Great: *but if any remission is made to anyone by his (aggrieved) brother, then (the demand for the blood wit) should be made according to usage, and payment should be made to him in a good manner*. He said:

He who has got the right (i.e. the aggrieved party) should not put his brother (i.e. the murderer) in difficulty, when he has made settlement with him concerning the blood-money; and he who has got the duty (of paying the blood-money) should not delay in its payment when he has ability to do so; and he should pay it to him in a good manner.'

And I asked him about the word of Allah, the Mighty, the Great: *so whoever exceeds the limit, he shall have a painful chastisement*. He said:

It refers to a man who accepts blood-money or forgives, or makes compromise, then exceeds the limit (and kills the murderer); so he shall be killed as Allah, the Mighty, the Great, has said.

(al-Kafi)

Mir Ahmed Ali (AR) and Aqa Mahdi Puya (AR)

In this verse the *Law of Qisas* (requital, settlement) is set forth in detail. It is enforceable strictly according to the demands of justice tempered with the spirit of mercy. Allah is the forgiving, and therefore man must be able to forgive. The heirs of the slain have the choice to pardon the murderer if someone on behalf of him pays them the blood-price, after which brotherhood is again restored among the parties concerned.

Before the advent of Islam, more often than not, the scenario after a murder was a chain of brutal and bloodthirsty reactions. The families and the tribes of both the slayer and the slain used to engage themselves into a war of attrition, generation after generation, involving innocent men, women and children. Islam, through the Holy Prophet, put a stop to this barbaric collective human behaviour and gave a just and kind system of justice to the human race, which for the first time, without ignorance and superstition, applied compassion and understanding in order to live in peace and harmony.

"Payment should be made according to recognised usage in a good manner" is called *diyat* (blood-money). In the end this verse says that moderation in punishment is an alleviation from the Lord. Verse 92 of al-Nisa prescribes moderation when the murder is not premeditated and intentional. Verse 93 of al-Nisa clearly declares that a great punishment awaits the murderer who kills a believer intentionally. In addition to the legal penalty, in the hereafter, he will abide in hell for ever.

Verse 9 of al-Hujurat says that if two groups of believers fight one another, promote peace between them. Then if one of them turns aggressive against the other, fight against the aggressive party till it returns to Allah's authority. If it does so, make peace among them equitably and be impartial.

Compare these practical ways of ensuring peace and harmony among the conflicting forces, a regular and day-to-day phenomenon in the human society, with the imaginary, decorative and unreasonable slogans introduced by the Christian Church:

When a man hits you on the cheek, offer him the other cheek too; when a man takes your coat, let him have your shirt as well. Give to every one who asks you; when a man takes what is yours; do not demand it back.

(Luke 6: 29 and 30)

Ayatullah Sayyid Kamal Faqih Imani and a Group of Muslim Scholars

The custom in the Age of Ignorance among some Arabs was so that when an individual was murdered from their tribe, they would decide to kill as many members from the murderer's tribe as they could. Their thought was so harsh that they were ready to destroy even the entire people of the murderer's tribe for only a single murder. Then, the above verse was sent down and announced the just law of retaliation, (*Qisas*).

This Islamic decree was, indeed, a medial status between the two different injunctions which were current at that time. Before the revelation of this ordinance of Islam, some people considered retaliation necessary, with no changes, so that nothing else was permissible to substitute it, while some other groups believed that only the rule of blood-wit should be followed. So, Islam decreed the law of retaliation in the case of the discontent of the heirs of the murdered, and blood-wit when both parties agree upon it.

From this verse on, in the current Sura, a series of decrees and ordinances of Islam are stated and completed.

At first, it begins with the protection of the value of blood which is an extraordinary important problem in social connections. Through this verse, Islam makes all the concerning old customs invalid. The Qur'an, addressing the believers, says:

*"O' you who have Faith! Retaliation (Qisas) is prescribed for you in the matter of the (unlawfully) murdered ..."*

Thus, on one hand, the avengers of blood are advised not to be immoderate in taking a blood-price if they dispense with retaliation, and take the blood-wit with a fair price and according to what Islam has appointed and also by installments so that the party be able to pay it.

And, on the other hand, through the sentence: *"...let the payment be made to him with kindness"*, it recommends the murderer to pay the blood-price in a right style and without any negligence so that his debt be entirely paid on time. Therefore, the Qur'an has defined the duty of each party and how they should treat to each other.

At the end of the verse, for emphasis and to attract the attentions to the fact that transgressing the limits of Allah, from the side of whoever it may be, deserves a severe punishment, it says:

*"...This is an alleviation from your Lord, and a mercy; so whoever transgresses the limits after this, he shall have a painful punishment."*

This equitable command for 'retaliation' and 'forgiveness' which makes up a quite logical manly assemblage, condemns, on one hand, the wrong method of the Ignorance Age which considered no equality in retaliation and, similar to the tyrants of this very age of space, sometimes killed hundreds of people in excuse of the murder of one person.

And, on the other hand, it does not shut the door of pardon to people. In the meantime, it does not lower the respect of blood, and does not allow murderers to become bold and presumptuous.

And also, thirdly, it announces that neither of the two parties is permitted to transgress the limits after accepting the principle of pardon and blood-wit. This command was issued in spite of the old custom of the Ignorant tribes where the heirs of the murdered might kill the murderer even after forgiving him and taking the blood-wit.