

Progressive Islam in Practice



ISLAM & THE DEATH PENALTY

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Is life a fundamental right in Islam?

Yes, it is. According to Islam the acts of giving life (*ijad*) and of taking life (*i'dam*) belong exclusively to God.

Humans are not allowed to imitate these actions or take responsibility for them, as they would violate an essential principle of Islam - *tawhid* - or the oneness of God and the divinity that is associated with this oneness.



So what about verse 6:151 in the Qur'an? Part I

In more than one verse, the Qur'an mentions the taking of another life. The most famous of these is verse 6:151, which reads *"Take not life, which God has made sacred, except by way of justice and law. Thus does He command you, so that you may learn wisdom."*

At first glance, this verse appears to condone the death penalty. However, it's important to understand the historical situation in which the Qur'an was revealed. Tribal and blood feuds were indisputable parts of 7th century Arabia, which meant killing in the name of justice was common.



So what about verse 6:151 in the Qur'an? Part II

7th century Arabia was made up of warring and competing tribes, which were ruled by the concept of *hamasa*. *Hamasa*, or courage, was used to refer to acts of revenge, specifically killing, as a result of blood feuds between tribes.

Verse 6:151 was appropriate given the hostile landscape at the time because it prevented the endless cycles of violence that were common between the competing tribes who sought violent revenge for any attack on a tribe member.



Is that why Muslim states use the death penalty?

Muslim majority states who give out the death penalty cite what they refer to as "Shari'a Law" to justify the permissibility of taking a human life.

However, in many instances, justifying death penalty in the name of "Shari'a Law" is a superficial excuse.

Rather than religious reasons, the death penalty is used to silence dissidents, instill fear across society, eliminate political rivals, including activists, and strengthen an authoritarian grip on a state.



How do these states use Shari'a to justify the death penalty?

These states justify the use of the death penalty by referring to 'Shari'a law'. However, Shari'a, which means way or path, is not a legal nor a judiciary system. Instead, Shari'a is a guide for how Muslims should live their lives.

Humans interpreted principles of Shari'a to create concrete Islamic law, which they used, alongside secular law, to develop a legal system in their country.

It is these Islamic laws, not Shari'a, that are used to justify the liberal allocation of death penalties.



Is Islamic Law fixed on the issue of the death penalty?

No. Since Islamic law is based on Shari'a but written by humans, it is dependent upon the individual's interpretation of Shari'a.

Within Islamic Law, there are three categories of penalties - *Qisas* (retribution), *Hudud* (claims against God), and *Ta'zir* (claims of the state/society).

How a Shaira court judge adjudicates varies based on the different schools of Islamic legal theory and sects of Islam.



What are the arguments against the death penalty? I

- The offenses for which Islamic law permits the death penalty are not clearly stated in the Qur'an.
- There is a lack of clarity in Shari'a on the right to appeal a death sentence.
- The Qur'an encourages victims to opt for forgiveness and financial compensation as an alternative to the death penalty.
- The Qur'an empowers the heirs of kin to forgive the perpetrator in order to achieve justice without having another life lost.



What are the arguments against the death penalty? II

- Islam prioritizes the rights of the child above all else. By executing a parent, the state prevents that parent from fulfilling their obligation as a parent to protect their child and deprives the child of their right to a parent.
- In today's modern age, alternative punishments exist, like rehabilitation programs, that have the opportunity to achieve justice in accordance with the principles of Shari'a.



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