



Hadith 14: Prohibition of Blood of a Muslim

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عَنْ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ قَالَ، قَالَ رَسُولُ اللَّهِ
صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ إِلَّا
بِأَحَدٍ ثَلَاثٍ: الثَّيِّبُ الزَّانِي، وَالنَّفْسُ بِالنَّفْسِ،
وَالتَّارِكُ لِدِينِهِ الْمُفَارِقُ لِلْجَمَاعَةِ - رَوَاهُ الْبُخَارِيُّ
وَمُسْلِمٌ.

On the authority of Ibn Mas'ood (may Allah be pleased with him) who said : The Messenger of Allaah (peace and blessings of Allah be upon him) said:

It is not permissible to spill the blood of a Muslim except in three [instances] : the married person who commits adultery, a life for a life, and the one who forsakes his religion and separates from the community.

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Commentary Summary

Written commentary compiled by volunteers utilizing Sh. Jamaal Diwan's audio commentary above and English translation of Ibn Daqiq Al-Id's commentary on The Forty Hadith of Imam al-Nawawi.

Ruling Only For Government

Someone's blood and life is a very big issue. This is not something that you can take into your own hands; it's not something available for your own opinion. It is something that must be established and known through textual sources. The text has to be there and it is what clarifies whether or not there is any opening or discussion to these issues. In addition, they are issues of capital punishment and government. They are not issues of personal vendettas or issues that can be carried out by individuals. They have to be carried out by governmental bodies.

The Prophet (pbuh) had many roles in the society, and amongst those roles he ran a state, he was a judge, and he gave opinions to people according to the religion. If it was something he did as a ruler or a judge, then we have to leave it that way, and it should not be something that applies to everyone else's personal behavior. So, this isn't really applicable to Muslims in the west.

How It's Established

For the one that commits adultery, committing sexual acts outside the contract of marriage, then the conditions for establishing such an act in front the court, and thereby requiring such a punishment, are very strict. There has to be four male witnesses that witnessed the actual act itself, and they all have to come to court at the same time. If someone comes and makes this claim without having these four witnesses, then they will actually be punished for slandering the people that were accused. It's severe because if someone is making an accusation like this, they have to make sure they have all of their evidences, otherwise the accuser themselves get punished, and this is done publicly. The other possibility is if someone confesses, there's nothing you can do about it. Some scholars have done research on the rulings on the Ottoman Empire. They were actually shocked that there were people who committed adultery and then go to the court and confess it.

For the life for a life, they need to have two reliable witnesses and established by the court.

As for someone leaving the religion, it is not something that is carried out by every individual. We can't say some said or did this, and they are no longer Muslim so we have to kill them or take away their property. This is nonsense. It needs to establish by some level of body that is official where there is a governmental body.

If the ruling is being applied, it's by a governmental body. If we are talking about whether or not the person is considered to be outside the fold of Islam, then it needs to be done by scholars. These scholars would need to sit down with the person, ask particular questions, see what's going on with them, and address any issues that can possibly be addressed. Once that has all taken place and there is still no reconcile, then at that point, that particular individual can be labeled as a "kafir", as someone who has left the religion of Islam. And just a reminder, this is not something that can be done by regular people. Anyone that goes around calling someone else a kafir is absolute nonsense, they should be shunned from the community, and we should seek to help them and try to fix their understanding because this is very dangerous.

The Actual Punishment

The person who has been married and commits adultery is saying that their blood is permissible. The majority of scholars throughout history have said that the punishment for such person is that they are killed, but there is a very minority opinion that says their punishment is to be lashed, and government has the option of having capital punishment on top of the lashing.

There has been disagreement historically about the punishment a life for a life. What if a slave kills a free person, what if a non-Muslim kills a Muslim, or vice versa in either case? The opinion that I believe is stronger, which I rarely say, is what is more applicable to our modern society, is that everyone is the same. Anyone that takes someone else's life away, regardless of their social, religious, political status is eligible to receive the capital punishment. This punishment and whether it is to be carried out is in the hands of the family of the victim, whether they agree to the capital punishment or forgive them.

The third case in which the person leaves Islam and the community, you have to realize that it needs to be where the entire political and religious system is based on Islam. Not only do they leave their religion, but they are calling against the religion and fighting against the community. Some scholars say regardless of whether they turn against the community or not, once they leave the religion, they should receive capital punishment. Other scholars in history and modern time say it's not applicable to someone that only leaves Islam but if they leave Islam and commit treason to receive death penalty.

At the end of the day, these are all eligibilities the government chooses what laws it implements. Just because it's a possibility, doesn't mean it will be chosen. So governance and political theory gets very complicated.

Overall, someone else's life and blood is very important and has to be established by text and a governmental body that have the right to carry out such penalty in these cases. There are also strict ways to establish it. On that note, someone that commits adultery, it is very hard to find four witnesses. When it comes to confessing, some scholars say it's actually better not to confess, keep it to themselves, and not tell anyone. Instead, they should make sincere repentance to Allah and move on.

May Allah (swt) give us an understanding and forgive us for our sins and shortcomings.