



Research Article

Volume-02|Issue-05|2021

Oku-Riro (Death Avenging) As Punishment for Murder among Yoruba Muslims: The Islamic Perspectives

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Article History

Received: 03.05.2021

Accepted: 20.05.2021

Published: 30.05.2021

Citation

Is'aq, A. R. A. (2021). Oku-Riro (Death Avenging) As Punishment for Murder among Yoruba Muslims: The Islamic Perspectives. *Indiana Journal of Arts & Literature*, 2(5), 3-8.

Abstract: *Oku-riro* (death avenging) is a spiritual method used by the Yoruba people to retaliate and punish a suspected murderer. Findings have shown that while some Yoruba Muslims do not see anything wrong in *oku-riro* (death avenging) some others see it as antithetical to Islam arguing that Islam as a religion has its laid down laws to punish anyone found guilty of murder. The aim of this study, therefore, is to examine the concept of *oku-riro* and to determine, using the Islamic parameter, its lawfulness or otherwise. The methodology used in this paper is analytic and descriptive research methodologies. The paper found out that the preparation of *oku-riro* (death avenging) involves the use of charm and incantation which, according to Islamic orthodoxy, is considered as *Shirk* (Polytheism). Furthermore, Islam has stipulated some conditions that must be followed to establish guilt before an alleged murderer can be punished whereas that is not always the situation in the case of *oku-riro*. Based on the above findings, the paper concludes that the application and the process of *oku-riro* (dead-avenging) is totally disallowed in Islam.

Keywords: *Oku-riro*, *Shirk*, Murder, Yoruba Muslims, Islamic perspectives.

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INTRODUCTION

Al-Qatl (murder) is one of the grievous sins in any given society. Islam considers murder to be a heinous crime against humanity. The blood of a human being is secured under the shadow of Islam. That is the reason Almighty Allah laid down severe punishment for those who commit murder. Murder can be also called *Al-jināyat 'ala an-nafs* (To kill a sacred soul, damage a part of human body or injure him).¹ Almighty Allah says

"... وَلَا تَقْتُلُوا أَنْفُسَكُمْ ..."

"... And do not kill yourselves..." 4 : 29

The Prophet (SAW) has declared homicide (murder) as one of the greatest sins. He said: "The greatest sins are to associate something or someone with Allah and to kill human being".²

The Yoruba people have a long-standing tradition of issues relating to the society. The Yoruba tradition frowns at wrong doings and impropriety of manners. The offences are as many as they correspond to the kind of punishment meted out.³ According to the Yoruba culture, if a person dies suddenly and his/her death is considered unnatural, Yoruba people have their own spiritual rites that will be carried out to avenge such dead person which is known as *Oku-riro* (death avenging). Among the Yoruba people are Muslims who do not see anything wrong in the concept of *oku-riro* (death avenging) and others who condemn it outright and consider it unIslamic. It is for this reason that this paper aims to discuss the Islamic perspective on the concept

and process of *oku-riro* as punishment for alleged murderer.

Islamic Position on *Qatl* (murder)

Qatl (Murder) is an Islamic legal term referring to killing a sacred soul. It is one of the most atrocious acts in the society. As far as murder is concerned, the Qur'an says that murdering a person is like murdering the whole of mankind. Al-Qur'an states:

"... أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا..."

"He who killed a human being without the latter being guilty of killing another or of spreading disorder in the land should be looked upon as if he killed all of mankind" Q.5 : 32. The Qur'an has, in a number of places, warned against *Qatl* (murder). It declares:

"وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَمَنْ قَتَلَ مَطْلُومًا فَقَدْ جَعَلْنَا لَوْلِيهِ سُلْطَانًا فَلَا يَسْرِفُ فِي الْقَتْلِ إِنَّهُ كَانَ مُنْصُورًا" {الإسراء/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 (Law of Equality in Punishment) or to forgive but let him not exceed bounds matter of taking life; for he is helped by the law". Q. 17:33.

Furthermore, the Qur'an says that a person who commits such a grave offence particularly against a Muslim shall face the eternal punishment of Hell.

"وَمَنْ يَقْتُلْ مُؤْمِنًا مُتَعَمِدًا فَجَزَاؤُهُ جَهَنَّمَ خَالِدًا فِيهَا وَغَضِبَ اللَّهُ عَلَيْهِ وَلَعَنَهُ وَأَعَدَّ لَهُ عَذَابًا عَظِيمًا" {النساء/93}

“And whoever kills a believer intentionally, his recompense is Hell to abide therein, and Wrath and the Curse of Allah are upon him, and a great punishment is prepared for him” (Q.4: 93). The Qur’an also provides for retaliation against the individual who commits a *Qisas* crime, but also expresses a preference for forgiveness. The Qur’an says:

" يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ الْحُرُّ بِالْحُرِّ وَالْعَبْدُ بِالْعَبْدِ وَالْأَنْثَىٰ بِالْأُنثَىٰ فَمَنْ عُفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتِّبَاعُ بِالْمَعْرُوفِ وَأَدَاءٌ إِلَيْهِ بِإِحْسَانٍ ذَلِكَ تَخْفِيفٌ مِّن رَّبِّكُمْ وَرَحْمَةٌ فَمَنْ أَعَدَّىٰ بُعِدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ" {البقرة/178}

O ye who believe! The law of equality is prescribed to you in cases of murder: the free for free, the slave for the slave, the woman for the woman. But if the killer is forgiven by the brother (or the relatives etc) of the killed against blood-money, then adhering to it with fairness and payment of the blood-money to the heir should be made in fairness. This is an alleviation and a mercy from your Lord. So after this, whoever transgresses the limits (i.e. kills the killer after taking the blood-money), he shall have a painful torment” Q.2:178.

As earlier noted, Prophet Muhammad (SAW) has declared homicide (murder) as one of the greatest sins when he said:

"أول ما يقض بين الناس يوم القيامة في الدماء"

“The first thing that will be judge between mankind on the day of resurrection will be the blood.⁴ In another prophetic tradition, the prophet said:

عن عبد الله بن مسعود رضى الله عنه قال : قال رسول الله (ص) : " لا يحل دم امرئ مسلم يشهد أن لا إله إلا الله وأنى رسول الله إلا بإحدى ثلاث: الثيب الزاني ، والنفس بالنفس ، والتارك لدينه المفارق للجماعة"

It is not right to shed the blood of a Muslim who confesses that there is no God but Allah and Muhammad (SAW) is His (Allah's) apostle, unless he falls into any of the following three situations: when he intentionally kills another person; when he commits *zina* after marriage; and when he becomes apostate.⁵

According to the majority of the jurists, homicide (murder) in Islamic criminal law is of five kinds, namely:

- *Qatl 'Amd* (willful murder consisting of murderer's will, voluntary act, and use of mortal weapon);
- *Qatl shibhi 'l-'Amd* (willful murder, but the instrument used is not considered to endanger life);
- *Qatl khata'* (accidental murder);
- *Qatl Jari majra al-Khata'* (equivalent to accidental or involuntary murder);
- *Qatl bi't-tasabbur* (indirect murder).⁶

Punishment of *Qatl* (Murder) in Islamic Law Punishments for Intentional Murder

Before the punishment of *qatl* is meted out to the murderer, the guilt of the offence must first be established. Under the *Shari'ah*, the ways to establish guilt of offence could be by confession which has been discussed elaborately by Muslim Jurists in their various *Fiqh* books. It could also be through witnesses. Muslim Jurists have also laid down the law of *Qasamah* (compurgation) which refers to a number of oaths taken to clear someone from the accusation of murdering an innocent person. According to Fawzan, “such procedure of taking oath is to be followed when the body of a murdered person is found, the identity of his murderer is not known, and someone in particular is suspected”.⁷

The punishment prescribed in the Qur’an for deliberate homicide is the killing of the culprit (*Qisas*) or the payment of blood money (*diyat*). *Diyat* is the only punishment for quasi-deliberate homicide. In cases of deliberate homicide *diyat* is due only when the nearest relatives of the victim do not insist on *qisas* against the culprit.⁸ Whenever the relatives insist upon the payment of *diyat*, it is to be in the value of one hundred camels, and the same *diyat* is due in all cases of quasi-deliberate homicide. Although *diyat* is originally fixed in terms of camels, it is almost universally admitted that it can be paid by an equivalent amount of money, either gold or silver, cows, sheep or garments. The Holy Qur’an says " قُتِلَ مَظْلُومًا فَقَدْ جَعَلْنَا لَوْلِيهِ سُلْطَانًا فَلَا يَسْرِفُ فِي الْقَتْلِ إِنَّهُ كَانَ مَنْصُورًا" {الإسراء/33} ".... And if anyone is slain wrongfully, we have given his heir authority to demand *Qisas* (Law of Equality in Punishment) or to forgive but let him not exceed bounds matter of taking life; for he is helped by the law”. Q. 17:33.

Even if *qisas* is forgiven by the legal heirs, the offender may also be punished with *ta'zir* (punishment given at the discretion of the judge) if it is required in the interest of the public and the circumstances of the case.¹⁰ It could therefore be concluded that the penalty for *Qatl 'amd* (intentional murder) is *qisas* (retaliation) unless the heirs or representatives of the slain forgive. The murderer is also excluded from inheritance of the property of the slain if he or she is an heir.

The Islamic criminal law conferred the right of *qisas* on the heirs of the victim. It is based on human nature as well as the interest 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. At the same time it has authorised the heir of the victim to pardon the offender in lieu of blood money or otherwise. This is the spirit which ensures maintenance of peace and tranquility between human groups.¹¹

The punishment of death of intentional murder shall be executed when the heirs of the victim demand it.

If the heirs of the victim are more than one, all must express this desire, and if one of them remits retaliation, it affects all and *qisas* becomes unenforceable and the offender 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 his portion in the *diyat*. If one of them is minor, insane or absent, punishment shall be delayed until he becomes adult or sane or returns from journey and expresses his desire for retaliation of the offender. This is the view of Imam Shafi^c and Imam Ahmad. But according to Imam Abu Hanifah and Imam Malik in case an heir is minor or mad, the punishment should not be delayed and when the adult heirs demand it, it should be implemented forthwith. Thus the execution of the punishment of death is open to the heirs of the victim.¹²

There is a debate about the mode of execution of this punishment of death. The Hanafi and Hanbali schools hold that the culprit should be killed by the sword, whether or not he has killed his victim in this manner. The Maliki and Shafi^c Schools on the other hand, hold that the murderer should be put to death in the same manner in which he killed his victim. The first view assumes that the purpose of prescribing *qisas* as a punishment is solely to put the murderer to death for his crime; hence he should be executed in the easiest and most efficient way. The second view depends on an interpretation of the meaning of the word *qisas* as 'equality'¹², accordingly, equality should be considered both in the taking of the culprits life and in the means by which it is taken. Retaliation for deliberate homicide is the punishment prescribed in the Qur'an and that it should be carried out in the manner that causes the least possible pain. One should not concern oneself with the jurists' views about such a subject. It is related that the Prophet (SAW) ordered the believers to improve the method of killing even for the slaughtering of animals; hence whatever quick, easy and efficient means of execution that can be found should be used.¹³

There are a few cases of homicide with *amd* (intentional murder) in which there is no retaliation such as where a father or mother kills his/her own son; the ascendant kills his own descendant and the master kills his own slave or the slave of his descendant. In all these cases, the murderer is exempted from *qisas* but must pay the 'heavier' blood money. If there are several culprits and one is exempted from retaliation for this or any other reason, the others are exempted too, but all of them must pay the 'heavier' blood-money. The 'heavier' blood money must further be paid by him who kills an insane or a minor with '*amd*' in self defence but according to Imam Abu Yusuf and Imam Shafi^c, in this case *diyat* is not payable because the murderer has killed the deceased for self defence.¹⁴ There is a controversy about these points. The Hanafi, Shafi^c and Hanbali Schools hold that a father who kills his son is not liable to *qisas*, while the Maliki School hold an opposite view, according to which the father is liable to *qisas* for killing his son if homicide

is proved. The first view relied upon a tradition reported by Ibn ^cAbbas which reveals that Prophet Muhammad (SAW) uttered exemption to a father on the murder of his son but *diyat* must be paid.¹⁵ This *hadith* is however considered weak¹⁶ and not trustworthy, and can therefore not be used as evidence to prove or to refute any legal view. The argument of some scholars in support of this is based on the deduction of *fiqh* (juristic interpretation) that father being '*asl*' (original) can eliminate its extension (*Tauseeh*) i.e. child but not the other way. According to some scholars, a father is a life giver hence the *qisas* of his life cannot be taken upon killing his children.¹⁷ In this case the murderer may be punished under *ta'zir*. The Maliki view is supported by the general import of the Qur'anic verses, which do not distinguish one from another or one victim from another. Again this view is supported by all the contemporary writers concerning the subject, as it is in harmony with the Islamic legal principles of equality as applied in the law of *qisas*.¹⁸

Punishment of Quasi-Intentional Murder

The punishment of quasi-intentional murder is *diyat* (blood money) and *ta'zir* (reprimand). It is based on a *hadith* of Prophet (SAW) who said, 'if a person kills another by throwing stone, by a whip or by a staff, its *diyat* will be one hundred camels.' This *hadith* relates to the causing of death by such stone, whip or staff which would not be ordinarily sufficient to cause death and as such by the use of such weapon no conclusion of intentional murder can be drawn. The *diyat* payable in quasi-intentional murder is heavy and will be paid to the heirs of the victim.¹⁹ Punishment for this offense is also of religious expiation (atonement through acts such as fasting, giving alms to the poor, the freeing of slaves). The offender may also be punished with *ta'zir* if it is required in the interest of the public and the circumstances of the case. Moreover, the slayer is prohibited from inheriting the victim's property if he or she is an heir.²⁰

Punishment for Murder by Mistake

The punishment of murder by mistake is *diyat* (blood money). The Holy Qur'an says about accidental or unintentional murder that:

" وَمَا كَانَ لِمُؤْمِنٍ أَنْ يَقتُلَ مُؤْمِنًا إِلَّا خَطَاً وَمَنْ قَتَلَ مُؤْمِنًا خَطَاً فَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ وَدِيَةٌ مُسَلَّمَةٌ إِلَى أَهْلِهِ إِلَّا أَنْ يَصَدَّقُوا فَإِنْ كَانَ مِنْ قَوْمٍ عَدُوٍّ لَكُمْ وَهُوَ مُؤْمِنٌ فَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ وَإِنْ كَانَ مِنْ قَوْمٍ بَيْنَكُمْ وَبَيْنَهُمْ مِيثَاقٌ فَدِيَةٌ مُسَلَّمَةٌ إِلَى أَهْلِهِ وَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ فَمَنْ لَمْ يَجِدْ فَصِيَامٌ شَهْرَيْنِ مُتَتَابِعَيْنِ تَوْبَةً مِنَ اللَّهِ وَكَانَ اللَّهُ عَلِيمًا حَكِيمًا " {النساء/92}

Never should a believer kill a believer; but (if it so happens) by mistake, (compensation is due); If one (so) kills a believer, it is ordained that he should free a believing slave, and pay *diyat* to the deceased's family, unless they remit it freely. If the deceased belonged to a people at war with you and he was a believer, the freeing of a believing slave (is enough). If he belonged to a people with whom ye have a treaty of

mutual alliance, *diyat* should be paid to his family, and a believing slave be freed. For those who find this beyond their means, (is prescribed) a fast for two months running: by way of repentance to Allah; for Allah hath all knowledge and all wisdom (Q.4 vs 92).

Therefore, the punishment for this offence is required to free a Muslim slave, or fast two months and pay blood money. The offender is also prohibited from inheriting property from the victim if he or she is an heir. As with all homicides, the victim's heirs have the discretion to pardon the killer.²¹

Punishment for *Qatl Jari majra al-Khata'* (equivalent to mistake or accidental murder)

It is a murder in which the factor of deliberation is lacking in the action like murder by mistake. *Qatl Jari majra al-Khata* is such kind of homicide by misadventure which has been extended to encompass killings resulting from unconscious acts, such as an individual who rolls over in his sleep and suffocates his spouse. This kind of homicide is also called *Qatl-shibhi 'l-khata'* (involuntary murder). The offender in such murder is not guilty of intentional murder. Here the slayer is required to free a Muslim slave, or fast two months and pay blood money. The offender if he or she is an heir is also prohibited from inheriting property from the victim. As with all homicides, the victim's heirs have the discretion to pardon the killer. Imam Malik, Imam Shafi' and Imam Ahmad include it in murder by mistake and do not consider it an independent kind of murder.²²

Punishment for *Qatl bi 't-tasabbur* (Murder by intermediate cause)

Qatl bi 't-tasabbur is the death resulting from an independent cause such as a wall collapse or an individual falling into an open well (i.e. someone brings about the death of another person without doing anything directly against him). For instance, a person digs a well in thoroughfare without any intention to cause death of someone and someone falls into it and dies therein. According to Imam Abu Hanifah, the offender in this case will be liable to indirect murder and if the person who dies is a protected person, the penalty will be the payment of *diyat* by the accused. It creates liability to pay *diyat* as the person has done the work without care and caution. But other Imams do not consider it an independent kind of murder and include it in murder by mistake because the person who digs the well has no intention to cause death of the person who falls into it.²³

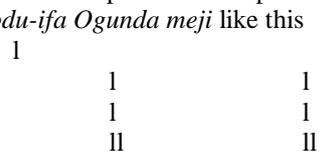
***Oku-Riro* (Death avenging) as Punishment for Murder among the Yoruba People**

Oku-Riro is a spiritual rite among the Yoruba people. It is done as avenger against unidentified murderer / killer of a deceased. On the other hand, it is used to determine the cause of death of a person who died as a result of assassination or spiritual attack from anonymous source. What the Yoruba do in such a

situation is to allow the corpse of the deceased pass through *Oku-riro* (spiritual rite to Avenge the dead) so that the spirit of the dead person will rise to take revenge on anybody responsible or has a hand in his demise.

According to the Yoruba belief, the spirit of the deceased undoubtedly reaches the perpetrator immediately after the process of the spiritual rite is completed.²⁴ basically, death revenge can be categorized into two; namely: *Oku-riro* (spiritual rite to avenge the dead) itself and *Ibura Ilepa* (Oath taken with the dead).

As for *oku-riro* (Spiritual rite to avenge the dead), the process involves the use of *Ikin Ifa-oku* (the sacred waste of a deceased), *Ewe-Ina* (Leave of horned cucumber which is also called nettle leave with cucumismetuliferus as its botanical name), *ewe esinsin* (*Tragia tenuifolia* or *tragaia vogeli*), *Etu ibon* (gun powder), *Iru-oka* (tail of cobra), *ajaku apo ode to ti ku* (an old hunting sack of a deceased hunter), *odidi ataare kan* (alligator pepper/citratum), *aso dudu* (black cloth) and *aso pupa* (red cloth). All these items will be burnt together and ground into powder. The powder will be used to imprint *odu-ifa Ogunda meji* like this



A new local gun loaded with bullet and topped with some of the prepared spiritual powder will be also put in the right hand of the deceased. Then, a new local gun loaded with bullet topped with the prepared spiritual powder tied with red cloth and a new sharpened cutlass tied with black cloth and tall three cane and a knife will be also provided. It should be noted that the corpse would be wrapped with red cloth. The gun tied with the black cloth will be put in the right hand of the corpse, the cutlass will be put in the left hand of the corpse and the mentioned three cane with knife will also be put on the chest of the corpse. The deceased will be instructed with incantations to go and avenge his or her death in brutal way on anybody who might have hand in his death. It is after the above process has been completed that the casket will be covered and six yards of white cloth together with cover gourd of water will also be placed on the casket. Both are useful for the corpse after completion of his mission to wash his hands and change his dress.²⁵

It should be noted that contrary to the belief that *Oku-riro* (dead avenging) has faded away from Yorubaland, instances of it are still being reported in some dailies. The case of a politician, Mufutau Olanipekun who was assassinated by unknown men at his residence in Ile- Ateere, Ita- Maya, off Oke- Ado road, Ibadan, Oyo State reported on 25th May, 2011 is an apt example. The deceased's brother whose name is Abdul-Wahid Olanipekun vowed that that the corpse must be avenged. Although, the Imam of their compound

opposed the idea of the dead avenging that is highly disallowed in Islam.²⁶

Also, Alhaji Azeez Ayinde affirmed that *Oku-riro* (dead avenging) is still being practiced by some Yoruba people. According to him one of his relations was murdered in a suspicious manner at Akinyele Area, Ibadan, Oyo State by unidentified people. According to Alhaji Azeez Ayinde, one of the deceased's relation who happened to be a Muslim vowed that the corpse must be avenged but he was later curbed by the elders of the family not to do so.²⁷

There is other way that Yoruba do employ to detect the suspect murdering situation where someone comes after the death of a deceased claiming that the deceased owed him some amounts of money that nobody knows about. The claimant will be asked to drink from some processed mixtures and take oath too. Then, the relatives of the deceased will pay the claimant who will be mysteriously dealt with seriously by the spirit of the deceased if he made a false claim.

The processed mixtures in this sphere, are two items namely: *Ilepa – oku* (which is the inner soft sand dug out from the grave of the deceased) and *Igbanu Oku* (which is a small piece of white cloth used to tie the mouth of the corpse. It is normally removed before the corpse is buried). *Ibura Ilepa* is usually resorted to where there is a suspect. The suspicion may be borne out of rumor or some weighty evidences. The process is that a little bit of *Ilepa-Oku* (inner soft sands dug out from the grave of the deceased) will be put inside the *Igbanu-oku* (a small piece of white cloth used to tie the mouth of the corpse) and kept for a while. Thereafter, a little portion of the *Ilepa-Oku* will be put inside small potable water while the suspect will be asked to drink the mixture and take oath that he/she is not responsible or has no hand in the death of the deceased, and that the deceased spirit should take revenge if he/she is responsible or has a hand in the death of the deceased.

Oku-Riro as Punishment for Murder: The Islamic Perspectives

Islam is a universal religion that does not allow for any transgression. The laws of Islam as contained in the Qur'an and the prophetic traditions are to be adhered to strictly by all Muslims. The genesis and source of *Shari'ah* (Islamic rule) is the word of Allah and *Hadith* (prophetic tradition). The Glorious Qur'an says:

"فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ
بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا" {النساء/59}

"... And if you differ in anything amongst yourselves, refer it to Allah and his Messenger, if you believe in Allah and in the Last Day. That is better and more suitable for final determination (Q. 4:59).

Islamic Law has explained the rules and judgment for whoever commits murder intentionally, willfully and accidentally with real evidence and

witnesses. Another issue is that if a person is murdered by an unknown person or people, or a person is seen coming out from an unoccupied house in fear and anxiety with a knife covered with blood in his hand and in the house a dead body is found with its throat cut, these facts will be regarded as proofs that the person who was seen coming out murdered him while he may also be given the benefit of the doubt. It is in this respect that Islamic Law introduces *Al-Qasamah*.

Al-qasamah literally means "taking an oath" but in the terminology of the *Shari'ah* (Islamic Law), it is an oath of a particular type and taken under particular condition. For example, when a man is found slain, and the identity of his slayer is unknown, fifty people from the nearest district will take an oath each that they neither killed him nor knew who did it. If they take their oath, they are free in paying *Diyah* (Blood money) but if they refuse to take oath, payment of the blood money is mandatory on them all.²⁸ Due to the above mentioned on the punishment which *Shari'ah* laid down for the murderers, it is clear that the processing of *Oku-riro* (dead avenging) is not allowed by the Islamic injunction because of the following reasons:

- The Islamic Ordinances lay the expiation for those who are suspected to be the murderers of a corpse. The expiation is taking an oath which should be repeated fifty times by fifty persons or less of the place of the crime to exonerate themselves or the relations of the victim in a case of murder where the offender is not known.
- *Diyah* (Blood money) of the deceased should be paid by the Islamic Government when fifty persons selected for taking an oath have done it.
- If the refusal of taking an oath ensues from the residents of the place of the crime, they have to serve a term of imprisonment and payment of the blood money which shall be shared by the members of the community towards providing a financial security against the tragedy encountered by the legal heirs of the deceased, by losing their loved one. All the Islamic stipulated rules that should be met in homicide before dealing with the murderer are not in *Oku-riro* (death avenging).
- *Oku riro* (death avenging) involves the use of charm and magic. It is prepared with some items which are forbidden in *Shari'ah*. This serves as *Sihir* (bewitchment and incantation). In Islamic orthodoxy, *Sihir* (incantation) is highly prohibited by Allah. Almighty Allah says:
"وَأَنَّهُ كَانَ رِجَالٌ مِنَ الْإِنسِ يُعُودُونَ بِرِجَالٍ مِّنَ الْجِنِّ فَزَادُوهُمْ رَهَقًا" {الجن/6}

"And verily, there were men among mankind who took shelter with the masculine among the *Jinns*, but they (*Jinns*) increased them (mankind) in sin and disbelieved" (Q.72:6). *Jinn* are intelligent beings that would definitely not allow themselves to be taken for a ride by men. As such, the assistance and services, which they render to their allies among men are not free of

charge. They are, rather, predicated on agreed terms of contract. The *Sahir* (magician, sorcerer) who is their client may be paying back with some devotions such as glorification (to the *jinn*), offering of sacrifice, prostration and some other forms of groveling worships – all of which compel the *Sahir* to take the *jinn* as an object of worship (*'Ibadat*) and another god (*'ilah*) besides Allah.²⁹ Prior to the above, scholars have their own consensus on *Sihir* (magic) that it is one of the grave sins and *Kufr* (infidelity) so, therefore, the magician is an unbeliever (*Kafir*).³⁰

There are some scholars who said that *Sahir* should be sentenced to death because their existence in the world may lead to restraining people from the right path. The *Malikites* are of the view that the repentance of the magician would not be acceptable. He should be executed with immediate effect³¹ and they also used the following verse as their evidence, Allah says:

" فَلَمْ يَكُ يَنْفَعُهُمْ إِيمَانُهُمْ لَمَّا رَأَوْا بَأْسَنَا... "

"Then their faith (in Islamic Monotheism) could not avail them when they saw Our Punishment..." Q40:85.

As a result of these, the use of magic in Islamic jurisprudence is highly unacceptable and it is tantamount to (disbelief in Allah). For Muslims who practice it or partake in it, it amounts to mixing faith with *Zulm* (gossiping) as pointed out in Q.6:82. It is clear in the verse that any creed that has traces of *Shirk* has no place in Islamic religion. Therefore, the use of *oku riro* is not part of Islamic monotheism (*Tawheed*).

CONCLUSION

From the point highlighted above, it can be concluded that murder/ homicide is a big offence that can destabilize the society and that teachings from both Qur'an and *Hadith* are the best way to resolve the problem of murder. *Oku riro* (death avenging) is an evil

spirit which is applied to punish murderers in Yorubaland and it is disallowed in the light of Islam. Islam has laid punishment and conditions for those who commit murder which are not considered in the process of *Oku-riro* (dead avenging) among Yoruba. The process of *Oku-riro* (death avenging) involves the use of charm and incantation which are considered as *shirk* (Polytheism).

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