

What is the ruling on gangs or individuals who steal from people, or kidnap women and violate their honor (rape), all at knife-point or gun-point?

Answer: All Praise be to Allah.

These crimes, which are committed by some people who have no religious commitment, are given a severe punishment in sharee'ah, which is known to the scholars as the hadd for haraabah (*waging war against Allaah and His Messenger*) or **Quta' al-Tareeq** (*banditry*). This is mentioned in the verse in which Allaah says:

﴿ إِنَّمَا جَزَاؤُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِّنْ خِلْفٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَٰلِكَ لَهُمْ خِزْيٌ فِي الدُّنْيَا وَلَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ ﴾

The recompense of those who wage war against Allah and His Messenger and do mischief in the land is only that they shall be killed or crucified or their hands and their feet be cut off from opposite sides, or be exiled from the land. That is their disgrace in this world, and a great torment is theirs in the Hereafter.¹

The Council of Senior Scholars in the Land of the Two Holy Sanctuaries, under the leadership of Shaykh 'Abdul-'Azeez ibn Baaz (رحمته الله تعالى) issued a statement concerning these crimes, in which it says:

The Council has studied what the scholars have mentioned about the shar'i rulings which in general dictate the obligation to protect the five essentials of life and ensure that they remain safe. They are: religion, life, honor, mental health and wealth. Islam acknowledges the great danger that can result from crimes of aggression against the sanctity of the Muslims' lives, honor and wealth, and the threat to public security that this can pose in the land.

Allah has guaranteed protection for the people's religion, physical well-being,

lives, honor and mental health by means of the punishments which He has prescribed to attain security on both the public and private levels. Implementing the verse concerning the hadd punishment for haraabah in accordance with the rulings of the Prophet (ﷺ) concerning muhaaribeen guarantees security and peace of mind, and deters those who would think of committing such crimes and transgressing against the Muslims. Allaah says:

﴿ إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِّنْ خَلْفٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ لَهُمْ خِزْيٌ فِي الدُّنْيَا وَلَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ ﴾

The recompense of those who wage war against Allah and His Messenger and do mischief in the land is only that they shall be killed or crucified or their hands and their feet be cut off from opposite sides, or be exiled from the land. That is their disgrace in this world, and a great torment is theirs in the Hereafter.²

In al-Saheehayn it is narrated that Anas (رضي الله عنه) said:

"Some people from 'Ukl came to the Prophet (ﷺ) and were in al-Suffah. The climate of Madeenah made them sick, so they said: O Messenger of Allaah (ﷺ), get us some milk. He said: "I think the best thing for you is to go to the camels of the Messenger of Allaah." So they went there and drank some of their milk and urine, then when they had recovered and gained weight, they killed the herdsman and drove away the camels. Someone came to the Messenger of Allaah (ﷺ) shouting for help, and he sent a party out in pursuit of them. Not much of the day had passed before they were caught and brought to him. He ordered that branding irons be heated and their eyes were put out, and their hands and feet were cut off, and not cauterized, then they were thrown into the Harrah where they asked for water but they were not given any, until they died."

Abu Qilaabah said: They stole, killed and waged war against Allaah and His Messenger ﷺ.

Based on the above, the Council has determined the following:

A: The crimes of kidnapping, robbery and transgression of the Muslims' sanctity by way of open and audacious hostility is a type of **Muhaarabah** (waging war

against Allaah and His Messenger) and doing mischief in the land, which deserves the punishment mentioned by Allaah in the verse in al-Ma'idah, whether that aggression is against people's lives, wealth or honor, or it is scaring wayfarers and cutting off routes (banditry). It makes no difference whether that happens in cities, villages, the desert or the wilderness, as is the correct view of the scholars (حفظهم الله).

Ibn al-'Arabi said, telling of the time when he was a judge: Some bandits were brought before me who had gone out to attack a group of travellers. They took a woman by force from her husband and the group of Muslims who were with him, and carried her off. Then they were hunted down, caught and brought to me. I asked one of the muftis with whom Allaah tested me about them and he said that they were not **Muhaaribeen**, because haraabah (*the crime of waging war against Allaah and His Messenger*) applies only with regard to wealth, not **rape!** I said to them:

﴿الَّذِينَ إِذَا أَصَابَتْهُمْ مُصِيبَةٌ قَالُوا إِنَّا لِلَّهِ وَإِنَّا إِلَيْهِ رَاجِعُونَ﴾

"Who, when afflicted with calamity, say: "Truly! To Allah we belong and truly, to Him we shall return."³

This is said by Muslims at times of calamity. Do you not know that haraabah (aggression) against honor is worse than aggression against wealth? All people would agree to lose their wealth and have it confiscated from them rather than to see aggression committed against their wives or daughters. If there were any punishment more severe than that which Allah has mentioned, it would be for those who kidnap women. End of quote.

B: The Council believes that in the verse in which Allah says "The recompense of those who wage war against Allah and His Messenger and do mischief in the land is only that they shall be killed or crucified or their hands and their feet be cut off from opposite sides, or be exiled from the land" **the word aw (or) means that there is a choice**, as is the apparent meaning of the verse. This is the view of the majority of scholars, (حفظهم الله).

C: The majority of the Council believes that the deputies of the ruler – the judges – have the obligation to prove the type of crime and to pass judgment accordingly. If it is proven that it is a crime that constitutes war against Allah and

His Messenger (*muhaarabah*) and spreading mischief in the land, then they have the choice of issuing a sentence of execution, crucifixion, cutting off a hand and foot on opposite sides, or exile from the land, based on their *Ijtihad* and paying attention to the situation of the criminal and the circumstances of the crime, as well as its impact on society and what may best achieve the interests of Islam and the Muslims, unless the *Muhaarib* has killed, in which case he should definitely be executed, as Ibn al-‘Arabi al-Maaliki narrated that there was consensus among the scholars on this point. Among the Hanbali, the author of *al-Insaaf* said: There is no dispute on this point. End quote from a paper published by the Council of Senior Scholars under the title *al-Hukm fi’l-Satw wa’l-Ikhtitaaf wa Muskiraat*, p. 192-104.

Footnotes:

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- ¹ Surah Al- Ma'idah:33
² Surah Al-Ma'idah :33
³ Surah Al Baqarah: 156