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## Kidnapping Associated with Rape and Murder a Jurisprudential Study

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### *The research is derived from a master's thesis (research summary)*

*The crime of kidnapping is one of the crimes that are increasing in Muslim societies, especially since this crime has taken on an unusual character and unknown means than before., and even the goals and objectives of the kidnapping have changed... Before that, kidnapping for ransom was happening and the focus was on wealthy families, but in this era kidnapping falls on any group of society and is accompanied by crimes more heinous than the kidnapping itself, and these images accompanying this crime are the crime of rape and the crime of murder after rape, and this crime often falls on children, whether they are males or females, Therefore, the research showed the concept of these crimes, the types and methods of kidnapping and rape, the reasons and reasons for the spread of these crimes in our societies, and the position of Islamic law on these acts and what is their punishment specified in Islamic criminal jurisprudence.*

**Keywords:** kidnapping, rape, murder, abduction of children, criminal punishment

### Introduction

Abduction issues are issues that are beginning to spread in Muslim societies, and these issues were alien to these societies before this period. They were individual events that we rarely heard of, and even if they did, they met with people's boos, and today we see that this crime is growing and expanding in many areas (Yonchai et al., 2023). It took on the uncommon character that kidnapping was accompanied by other more brutal crimes than its predecessor. It has become a threat to society as a whole, where there is no living in a safe environment and fear is spread by members of society. As a result of their feeling that they would be victims of this crime at any moment.

### Search Problem

The widespread issue of abduction is an issue that threatens the security of society, encourages violations of rights and inviolability and undermines trust among members of one society. Especially as they have taken a dangerous and frightening direction to all segments of society, The abduction case is accompanied by serious cases of violence and moral delinquency (Dule, 2021; Arham et al., 2022). Such as rape and murder, especially if the victim is a child, and what we observe in this period is the prevalence of this serious situation in our Muslim communities, which called for the researcher to choose a case (Abduction accompanying rape and murder) is the title of this research, to ascertain the meaning and meaning of these items and to indicate their gravity and the reasons for their spread in society, especially to children, and to state the opinion of the Islamic sharia and its position on these crimes and denials (Qureshi et al., 2022; Musthofa, 2022).

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## **The Importance of The Study**

1-This study highlights a serious issue that has begun to spread in society and is considered a contemporary social issue, namely the abduction of children and associated cases of delinquency and violence such as rape and murder.

2-This research aims to publicize the seriousness of this issue to society and its direct impact on destabilizing security and stability.

3-Publicize the role of Islamic law in addressing such issues by applying the legitimate penalty to perpetrators to eliminate such crimes in society.

## **Research Objectives**

1-Describe the meaning of kidnapping and rape, the types of abduction and the methods, methods and targets of the perpetrators.

2-Describe the reasons and reasons that led to the spread of such issues in society.

3-Describe the Islamic sharia's position on these offences and what the offender is punished in them.

4-Demonstrate the seriousness of cases of abduction associated with rape and murder to the breakdown of society, insecurity and safety, especially cases of abduction of children.

## **Research Structure**

- First, the concept, methods and types of abduction and rape.
- First requirement: the concept, methods and types of kidnapping.
- Second requirement: the concept, methods and types of rape and murder.
- Research 2: Abduction of children accompanying rape, murder, mandatory sentencing and criminal punishment for these offences.
- First requirement: abduction of children accompanying rape, murder, reasons and reasons.
- Second claim: Mandatory sentence and criminal punishment.

**First research: - Concept, methods and types of abduction and rape:**

**First requirement: - Concept, methods and types of abduction**

## **Meaning of Abduction**

The word of the abduction was contained in the Holy Quran in several resources, including the words of Almighty {Except for him who snatches a fragment—he gets pursued by a piercing projectile.} <sup>(3)</sup> that is, embezzling the word from the angels' stolen saying. <sup>(4)</sup>(Carrasco & Duran-Bustamante, 2022)

And also the Almighty say {The lightning almost snatches their sight away. Whenever it illuminates for them, they walk in it; but when it grows dark over them, they stand still. Had Allah willed, He could have taken away their hearing and their sight. Allah is capable of everything} <sup>(5)</sup>(McFadden et al., 2023)

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<sup>(3)</sup>Surah As-Safat, Verse 10.

<sup>(4)</sup>The mediator in the interpretation of the Glorious Qur'an, Al-Shafi'i Al-Nisaburi, Abu Al-Hassan Ali bin Ahmed bin Muhammad bin Ali Al-Wahidi (T - 468 AH), investigation, Abd Al-Mawgoud, Sheikh Adel Ahmed, Sheikh Ali Muhammad Moawad, and others, 1st edition, Dar Al-Kutub Al-Ilmiya - Beirut, 1415 AH - 1994 AD, 3/522.

<sup>(5)</sup>Surah Al-Baqarah, Verse 20.

In an explanation he said, "Lightning almost snatch their sights" that lightning misappropriates their sights. It also quickly brings about the intensity and power of sudden light. <sup>(6)</sup>

The Kidnapping is "taking the thing quickly and negatively, <sup>(7)</sup> and some scholars say embezzlement and it takes the thing openly quickly, and scholars have separated the provisions of abduction in the door of the thieving limit of the boundary book. <sup>(8)</sup>(Zhu & Cheng, 2022)

Others have defined him as "the deprivation of liberty of an individual or victim using one or more methods of violence and keeping him somewhere under the control of the abductees for a particular purpose or forcing a person to leave his shelter by fraud and detention <sup>(9)</sup>(Kong & Rahman, 2023)

In another definition, "rapid adoption using physical or moral force or by deception, removing it from its place or completely transforming its itinerary <sup>(10)</sup>(Purwadi et al., 2022)

The researcher did not find a definition of kidnapping in the term jurists of the concept referred to, which is a modern concept, and it's expressed only with the speed of robbery and embezzlement of something, other definitions of kidnapping were expressed by robbing the victim through methods of violence with more than one male abductor. Perhaps the method of kidnapping is by trick, and from only one kidnapper not a number of kidnappers, it travels in certain places that may not be subject to the kidnapper's control except at a certain time and time. He has to move from one place to another in order not to expose himself until he achieves his goal. In the other definition, the kidnapper used only the method of fraud and left the mention of the style of force, The third definition is the closest to the concept where I use the formula of taking once by force and once by trick and attraction. And to get him out of place, but the conversion didn't mention the identifier of the victim and whether this thing is human or material, Also, what does the hijacking relate to the diversion of the itinerary, and does it mean people's itinerary or vehicles? He did not mention the ends of the crime of kidnapping.

In the researcher's view, the crime of abduction (the forbidden act leading to the robbery or taking of a person by one or more persons using methods of force and violence, or deception and solicitation, moving them from one place to another, restricting the victim's freedom and taking away her will, To achieve legally prohibited purposes in the same offender, the offence may be regulated in advance or organized at the time of the event, which is an offence punishable by Islamic law).

## Types of Abduction

Kidnapping has taken more sophisticated forms of kidnapping, including what has been classified as organized crime. We will mention some of its types that were not familiar in the Muslim community: -

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<sup>(6)</sup>Tafsir Al-Maraghi, Al-Maraghi, Ahmed bin Mustafa Al-Maraghi (d. 1371 AH), 1st edition, Mustafa Al-Babi Al-Halabi Library and Printing Press - Egypt, 1365 AH - 1946 AD, 1/61.

<sup>(7)</sup>Kuwaiti Encyclopedia of Fiqh, Ministry of Awqaf and Islamic Affairs - Kuwait, 2nd Edition, Dar Al Salasil for Printing and Publishing, 1404 AH - 1983 AD, 2/286.

<sup>(8)</sup> Ibid 2/ 286.

<sup>(9)</sup>Kidnapping crimes - general and special provisions and related crimes, Al-Maamari, d. Abdel Wahab Abdullah Ahmed, 2nd Edition, House of Legal Books - Cairo, 2010 AD, p. 16.

<sup>(10)</sup>The ibid, p. 17.

- 1) Abduction offences for economic reasons, under which people are abducted for money and demanded ransom for liberation. <sup>(11)</sup>
- 2) The crimes of political kidnapping include the abduction of influential figures and competencies in the political arena, as well as the abduction of scientists and scientific competencies that have an impact on the economic, industrial, religious and cultural recovery of the Muslim community.
- 3) The offences of abduction for reasons of intimidation of the victim are usually to put pressure on the victim or one concerned to achieve certain demands such as displacement from housing for exploitation by the perpetrators, or to achieve certain concessions, as well as the result of hostility and hatred between the offender and the victim or those associated with him. <sup>(12)</sup>
- 4) The crimes of abduction for rape and the most victims of this type are children and girls. These are crimes that have increased in the contemporary period and even topped the statistics of other types of abduction, which will be studied in this research.

## Methods of abduction

There are two popular methods used by kidnappers to commit a crime.

1. Deception and circumvention of the victim is done by using methods to deceive and kidnap the victim such as methods of solicitation especially for children, juveniles and girls, or accompanying the offender of the victim for a period of time to gain his confidence and then kidnapping and other methods. The offender often uses anesthesia after luring the victim to control the victim. <sup>(13)</sup>
2. Coercion and force are the use of threats and physical violence against the victim in order to frighten and kidnap her, in this way often using firearms and sharp instruments.

It should be noted that the criminal may use both methods of soliciting and deceiving the victim, and hence the use of force against her in order to complete the kidnapping.

## Second requirement: The concept of rape

Its methods and types, and the concept of murder

1. Meaning of rape in the Qur'an, a mention is made by his Almighty {As for the boat, it belonged to paupers working at sea. I wanted to damage it because there was a king coming after them seizing every boat by force.} <sup>(14)</sup> And in the interpretation of ayah "The vessel that deliberately vandalized it was for the people of poor people working at sea, and I wanted to sabotage it, since there was a king of the vessel taking every good ship. <sup>(15)</sup>

Scholars have defined the term "usurping" as "taking something unfairly unfairly. <sup>(16)</sup> " It was commonly used in the seizure of other people's property and was expressed "by the forcible seizure of the right of others". The crime of rape in the sense that we want to reach is expressed

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<sup>(11)</sup>Studies in Criminology, Al-Maamari, Ali Ahmed Khader, and Ahmed Abdel-Aziz, 1st Edition, Ghaida Publishing House - Amman, p. 57.

<sup>(12)</sup>ibid, p. 57.

<sup>(13)</sup>Crimes of economic exploitation of children: a comparative study, Yunus, d. Salah Rizk Abdel-Ghaffar, 1st edition, Dar Al-Fikr and Al-Qanoon, Mansoura, 2015, p. 137.

<sup>(14)</sup>Surat Al-Kahf, Verse 79.

<sup>(15)</sup>Interpretation of Nur al-Thaqalayn, al-Huwaizi, the great scholar and scholar Sheikh Abd Ali bin Juma al-Arousi (d. 1112 AH), correction and commentary, al-Mahalati, al-Sayyid Hashem al-Rasooli, 4th Edition, Ismailian Foundation for Printing, Publishing and Distribution - Holy Qom, 1412 AH, 3/283.

<sup>(16)</sup>Rulings of usurpation in Islamic jurisprudence, a balanced research between the seven Islamic schools of thought, compared to positive law, Sharara, Abdul-Jabbar Hamad Hussein, 1st edition, Al-Alamy Publications Institute - Beirut, 1395 AH - 1975 AD, p. 33.

by jurists under duress <sup>(17)</sup>where the concept of rape is not different from the concept of adultery on girls or child sodomy, except that the rape of the victim of both sexes is coerced and oppressed and forced to engage in this act without her consent. Coercion is one of the most prominent means of perpetrating the crime of rape on the victim's body. <sup>(18)</sup>

It is worth mentioning, through the research, that the researcher did not find an explicit definition referring to this concept by what the researcher wanted, so he knew it by this modest definition based on the words of scholars the media in the case of forced adultery or sodomy, rape (It is a taboo punishable under Islamic law.)

## Types of Rape

It is the rape of females by men and usually the criminal is one or more persons, the rape of one or more young children by one or more men, the rape of one or more men by another man, and the rape of one or more men by a young child. This kind of rare case is the rape of women or girls by men or children who are accepted in the boys' stages. <sup>(19)</sup>

## Methods of Rape

The methods used by criminals against the victim to engage in rape are not so different from those used in kidnapping, except that this crime may occur in the same place as the victim's residence, business or abduction elsewhere. The most famous of these methods is used: -

1. Exploitation of the victim's circumstances such as being alone in the home, workplace or public place without people, exploiting the living conditions of the victim, defrauding the victim in good relationship with her, or luring her especially if the victim is a child or child. <sup>(20)</sup>
2. The threat and use of excessive violence to force the victim into submission and this method is used when the victim resists or attempts to escape, or solicits anyone.
3. Rape may also begin to deceive the victim and the criminal then coerces her into obscenity.

The researcher considers, through the concept of kidnapping and rape described together with the concept of murder in the first research, that the concept of kidnapping accompanying rape and murder can be described as (Forbidden acts involving several composite offences from the rapid taking of force or deception to the victim, the spreading of panic and fear in the victim and the people who witness or hear about her occurrence, and the transfer of her to another difficult place to be distressed, and thus the practice of adultery or sodomy against her, and thus the loss of her soul by one means of murder).

## The Third Requirement

### The concept of premeditated murder and its methods

Since the subject of our research is related to the issue of premeditated murder, we limited ourselves to explaining this term in the perspective of Islamic law.

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<sup>(17)</sup>ibid.p.34

<sup>(18)</sup>The crime of female rape and its implications, a comparative study between Islamic jurisprudence and positive law, Al-Awary, Abdel-Fattah Bahij Abdel-Dayem Ali, 1st edition, The National Center for Legal Publications - Cairo, 2010 AD, pp. 33-34.

<sup>(19)</sup>The hymen between sex, rape and purity, Dr. Hani Ismail, 1st Edition, Dar Al-Ta'leef for Printing and Publishing - Egypt, 1999, p. 22.

<sup>(20)</sup>The hymen between sex, rape and purity, Dr. Hani Ismail, p. 22.

## **Premeditated Murder**

"The intentional taking of the infallible and rewarding soul, as an act of aggression (21)

The premeditated murder is achieved, with the intention of the adult sane to the felony of murder, including killing often, and if the intention to kill in his felony including kills rarely has agreed killing, the likeness of retribution, and achieved with the intention to the act leading to death. (22)

And in order to protect the soul and guarantee its right to life, Islam forbids killing without right, and the words of the Almighty {And do not kill the soul which Allah has made sacred, except in the course of justice. If someone is killed unjustly, we have given his next of kin certain authority. But he should not be excessive in killing, for he will be supported.} (23) and This provision is general for every person who unlawfully kills her, whether it be murder of a male, female, minor, large, free or slave. The perpetrator must retaliate to preserve life, safeguard the security of society and human dignity, pay harm and danger, and eliminate crime.; (24)

## **Methods of Murder**

It has two ways of directly causing, but the direct method, it may be to beat with the sword, knife, strangulation or deadly poison, slaughter, and wound that causes death even by stitching the needle.

The cause: It is divided into several ranks, including the solitude of the perpetrator by causing damage, and one of the forms of causing murder is to throw him with an arrow and kill him, because that is what is meant to kill, and also to lock him up and prevent him from food and drink, for a period that is not likely to survive. What causes him to die, is deliberate murder, even if he throws him in the fire, and from the forms of causing death if he digs a borehole a certain distance away and calls it to another while he is unaware of the well, he has to pay blood money, which is often meant to kill. And from the pictures, if I inflated him alive and she was a murderer, he killed him, it is also his rank if another man joins him directly and if he throws someone from a high place, he is intercepted by another person who lost two halves and killed him before arriving on Earth, the interceptor is the killer. (25)

## **Second Discussion**

### **Abduction of children accompanying rape, murder, mandatory sentence and criminal punishment for these offences**

One of the crimes that has spread in the Muslim community and become a frightening phenomenon for the Muslim family and parents is the issue of the abduction, rape and then murder of children and teenagers. And so, we will mention the concept and legitimate judgment of this case and the reasons for such crimes. The subject of our study will include children of distinguished age and below mandated age, provided that the offence of abduction takes place on the public road.

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(21)The Laws of Islam in Issues of the Permissible and the Prohibited, by Muhaqqiq al-Hilli, Abu al-Qasim Najm al-Din Jaafar bin Hassan (d. 676 AH), investigation, Shirazi, Syed Sadiq, 2nd Edition, Istiqlal Publications - Tehran, 1409 AH, 4/971.

(22) Ibid. 4/971.

(23) Surat Al-Isra, verse 33.

(24)The right to life in Islam, a study of jurisprudential rights and comparative legal rulings, Al-Janabi, Prof. Dr. Adel Abdel-Sattar Abdel-Hassan, Al-Ustad Journal, College of Education, Ibn Rushd - University of Baghdad - Iraq, Volume One / 212/280.

(25)The Laws of Islam in matters of what is permissible and forbidden, by Muhaqqiq al-Hilli, 4/972- 975.

## **First requirement: - Abduction of children accompanying rape, murder, reasons and reasons**

The offence of abduction, especially of children who are subjected to rape, threatens the family and society, even if it is not accompanied by murder. Most of those who were subjected to this crime, especially in adolescence, were sexually exploited, resulting in prostitution, especially of women who were unable to return to them for fear of being killed. <sup>(26)</sup>

### **I. Children's concept and status in Islamic law**

The Islamic sharia has been concerned with the preservation of children (male or female) Through its heavenly laws, which safeguard his rights and his worse standing in the family or society, he has the right to life in care and to raise, eat and drink and the right to defend him from risks. The Shari 'a has given special attention to orphaned children by maintaining the maintenance of their finances and taking care of them and making them priorities <sup>(27)</sup>The child was mentioned in the Holy Quran in many places, including the words of the Almighty. {When the children among you reach puberty, they must ask permission, as those before them asked permission. Allah thus clarifies His revelations for you. Allah is Knowledgeable and Wise} <sup>(28)</sup> and the explanation of this aitch that boys who had reached the age of majority at all times should be allowed to enter as adults, and they would reach the age of fifteen <sup>(29)</sup> but the female had a difference in determining the age of majority, saying nine of them. We find that the boy's age goes from childhood, which is the stage of non-commissioning to the stage of commissioning, which is post-childhood, which is the stage of youth.

It should be noted that after the research, the researcher could not find a definition of this concept. (Abduction of children accompanying rape and murder), know him by this simple definition during the information he gathered about the meaning of the vehicle he defined as (A composite crime involving several forbidden acts begins with the rapid taking of children, worse than male or female, who have not reached the age of commissioning but are able to discriminate, under threat, force or solicitation and deception, and move them from their place to another place where they cannot be distressed, and then practice adultery or sodomy with them under duress and violence, thereby taking their lives in a method of murder.)

### **Reasons and reasons**

1. The main reason for all kinds of violence is the absence of morality, which is based on the absence of religious conscience, which in turn leads to deviation and encourages these crimes <sup>(30)</sup> as well as the majority of people have become cooperative and ignorant of jurisprudence. This does not differentiate them from those who do not learn the legal provisions, and they have to do these crimes as a result of being ignorant of religion and exposing them to its teaching. <sup>(31)</sup>

<sup>(26)</sup>The nature of prostitution crimes and their dangers to society, A.M. Ahmed Abdel Aziz Abdel Aziz, researcher, Hussein Ali Saeed Hussein, Journal of Arts, College of Arts, University of Baghdad - Iraq, 1443 AH-2022 AD, Volume / 3/141/418.

<sup>(27)</sup>Childhood in Islam, its status and the foundations of raising a child, Mulla Amman, Hassan, Dar Al-Marikh Publishing House, edition 1402 AH - 1982 AD, pp. 29-30.

<sup>(28)</sup>Surah, Verse 59.

<sup>(29)</sup>Tafsir Al-Kashef, Mughniyeh, Allama Muhammad Jawad, 3rd Edition, Dar Al-Kitab Al-Islami, Star Press - Holy Qom, 1426 AH - 2005 AD, 5/440.

<sup>(30)</sup>The crimes of kidnapping women and their impact on contemporary societies, Al-Mandalawi, d. Muhammad Mahmoud, 1st Edition, Dar Al-Ma'rifah for Printing, Publishing and Distribution - Beirut, 2017, p. 153.

<sup>(31)</sup>Arabization and its Contemporary Applications - A jurisprudential study of the provisions and evidence of Arabization and migration, Al-Janabi, Prof. Dr. Adel Abdel Sattar Abdel Hassan, Journal of the College of Islamic Sciences - University of Baghdad - Iraq, 1442 AH - 2020 AD, Issue 491/63.



2. Another reason is unemployment and deteriorating living conditions that cause some to become preoccupied with behaviors and help spread these crimes.
3. The deteriorating economic and political situation in societies has led to an increase in such crimes, as a result of the many social problems and the deterioration of the country's security and educational situation.
4. One of the biggest reasons for these crimes is family disintegration, frequent marital problems, lack of control, which leads to the perversion of the family, and also the choice of bad friends and a perverse environment, which encourages abnormal and criminal behaviors, so that even some women play a role in such crimes.
5. One of the causes of these crimes is sexual desire and the motivation of lust that is not controlled by homosexuality, and because of the negative role played by some media in the presentation of scandalous and pornographic scenes, and the ease of addressing them from all thanks to the development of the means of display and communication with sites that broadcast such shows Information <sup>(32)</sup> and communication technology (ICT) offers a lot of risky behaviours, especially for adolescents of both sexes, as some means of communication, such as the Internet, smartphones and computers, have become a particular concern, making them easy prey to being subjected to perverse and dangerous behaviours. This segment and others amount to addiction to such means and to dangerous behaviours <sup>(33)</sup> throughout such time as forbidden and suspicious relationships, pornography and other behaviours that encourage such crimes. <sup>(34)</sup>
6. Easy to target children for being vulnerable to resisting perpetrators or offenders when they are criminalized.
7. An attempt to retaliate against hostility or envy or hatred, which is the moral and cardiac illness of the victim, including such crimes as revenge against the victim's family. <sup>(35)</sup>

### **Second claim: - Mandatory sentence and criminal punishment for these offences in the Islamic sharia:**

Islamic legislation with its diverse sources, especially those taken from the spirit of heaven and the source of the Lord of the two worlds and the Creator of the universe, has met all the needs of man throughout the ages to ensure the realization of his happiness, the safeguarding of his rights and the preservation of his dignity. The roots of the legislation derive from the Holy Quran, which is the basic root. <sup>(36)</sup> and then comes into the position for the second modern Prophet Al-Sharif, on which the scholars rely to elicit Shariah judgments after determining the extent of his health by tracking his own sciences such as the science of men in which the faqih traces the conditions of the men of Sindh and how much to trust them and take it from them <sup>(37)</sup> The weighting of narratives that are compatible with the Holy Qur'an and the adoption of the individual news in the legislation, if his accounts are confident with external evidence supporting the news, while following the conditions of acceptance of the narrative in the

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<sup>(32)</sup>The crime of child rape and the role of the press in combating it, Al-Khatib, d. Amani Muhammad Othman, 1st Edition, Dar Al-Jinan-Amman, 2016, pp. 48-49.

<sup>(33)</sup>High-risk behaviors on the Internet among adolescents, Prof. Dr. Ahmed Latif Jasim, Rana Nihad Muhammad, Al-Ustad Journal for Humanities and Social Sciences - College of Education Ibn Rushd - University of Baghdad - Iraq, 1444 AH - 2023 AD, Volume 1/62/160.

<sup>(34)</sup>Internet addiction and its relationship to emotional balance among middle school students, M. M. Safaa Qassem Abdullah, Al-Ustad Journal for Human and Social Sciences - College of Education Ibn Rushd - University of Baghdad - Iraq, 1443 AH - 2021 AD, Vol. 3/60/341.

<sup>(35)</sup>The Impact of Underestimation on Societal Peace, Donia Alwan Badr, Sahar Ibrahim Khalaf, Al-Ustad Journal for Human and Social Sciences, University of Baghdad - College of Education, Ibn Rushd for Human Sciences - Iraq, 1444 AH-2023 AD, Volume 1/62/1473.

<sup>(36)</sup>jurisprudential rules related to marital rights for the Imamiyah, Prof. Dr. Aqeel Razzaq Numan, Amal Kazem Abboud, Al-Ustad Journal for Humanities and Social Sciences - University of Baghdad - College of Education, Ibn Rushd, 1444 AH - 2023 AD, Volume 1/62/1181.

<sup>(37)</sup>Introducing the science of men and its place among the sciences, Prof. Dr. Ali Nihad Khalil, MD Ali Saleh Abdullah Kazem, Journal of Arts - College of Arts - University of Baghdad - Iraq, 1441 AH - 2020 AD, Appendix to Issue / 132/449.



development of the legitimate judgment such as justice <sup>(38)</sup> control of the narrator and communication of the bond Scholars and fundamentalists follow the issue of copied conversations, as it is as it is in the Holy Qur'an. <sup>(39)</sup>

These two main sources of legislation follow with other sources of legislation relying on them, such as unanimity, authority of reason and others.

Since the child involved in the rape may be a boy or a boy, it means that the offence involves adultery or homosexuality, its verdict and sentence must be set forth and the opinion of jurists in the case of abduction, rape, murder and its relationship to the crime of Al-Heraba.

Adultery: "The penetration of a human being by his male organ into the vulva of a woman who is forbidden from a contract and who is neither legitimate nor suspicious <sup>(40)</sup> or is "the act of adultery in the women's private area from in front or from behind <sup>(41)</sup> The verses criminalizing this ugly act have been received. Where God said blessing and almighty {And do not come near adultery. It is immoral, and an evil way} <sup>(42)</sup> and as a punishment for who do that is mentioned in the quran. God the Almighty said {The adulteress and the adulterer—whip each one of them a hundred lashes, and let no pity towards them overcome you regarding Allah's Law, if you believe in Allah and the Last Day. And let a group of believers witness their punishment} <sup>(43)</sup>

The author of the book "Adultery is stoned against the immune and the flogging of the unvaccinated". <sup>(44)</sup>

I would like to point out that what we are interested in here is to show the limit of adultery to the good people, to show the horrendous and great crime that involved kidnapping, rape and murder, and how the Holy Law strictly punishes adultery only to preserve the human component of loss, so how in a more serious and intense crime of adultery.

In the case of adultery, the rape of females was known by a modern scholar as "the perpetration of the crime of adultery in the legitimate sense, in addition to forcing a woman to intercede without her consent, that is, forcing her <sup>(45)</sup> The concept of this crime was described by a specialist as "the practice of the perpetrator of an obscene criminal act without the victim's consent and against the consent of the victim". <sup>(46)</sup> as for the punishment of the rapist of the woman, Breed al-Ajali said, "Abu Jafar was asked (Peace be upon him) about a man who raped a woman with her vulva, who killed a barricade who was or was not immune. <sup>(47)</sup>

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<sup>(38)</sup>The authoritativeness of the news of the unity between Al-Shafi'i and Al-Sharif Al-Murtada - a parallel study, Mahmoud, Prof. Dr. Ali Nihad Khalil, Al-Ustad Journal - College of Education Ibn Rushd - University of Baghdad, 2016 AD, Volume Three, Special Issue of the Fourth Scientific Conference, pg. 607.

<sup>(39)</sup>The Unstable Conflict Among the Fundamentals, Al-Moussawi, Dr. Aqil Razzaq Numan, Journal of the College of Education Ibn Rushd - University of Baghdad - Iraq, 2012 AD, Issue 2/316.

<sup>(40)</sup>Complementing the Manhaj al-Salih in Judicial Rulings, Testimonies, Borders, Retribution, and Blood Money, Al-Khoei, Al-Sayyid Abu Al-Qasim Al-Musawi (T-1413 AH), 28th Edition, Dar Madinah Al-Ilm - Holy Qom, 1410 AH, p. 32.

<sup>(41)</sup>Adultery is forbidden - its causes and motives - results and effects, Dandal Jabr, 1st edition, Al-Manar Library - Jordan, 1405 AH - 1985 AD, p. 14.

<sup>(42)</sup>Surat Al-Isra, verse 32.

<sup>(43)</sup>Surat Al-Nur, Verse 2.

<sup>(44)</sup>Al-Mabsout, Al-Sarkhasi, Shams Al-Din Muhammad Bin Ahmed Bin Sahel (T - 483 AH), 3rd Edition, Dar Al-Ma'rifah - Beirut, 1406 AH - 1986 AD, 9/36.

<sup>(45)</sup>The crime of female rape and its implications, a comparative study between Islamic jurisprudence and positive law, Al-Awari, p. 57.

<sup>(46)</sup>Crimes against honor and morals, a comparative study, Egyptian, Abdel-Sabour Abdel-Qawi, 1st Edition, Library of Law and Economics - Riyadh, 1437 AH - 2016 AD, p. 22.

<sup>(47)</sup>Was'ail al-Shia, al-Hurr al-Amili, 20/321.

Homosexuality: its defined as Sex between males <sup>(48)</sup>, or any other sexual behaviour happened between two males <sup>(49)</sup>, god Almighty said. {Do you approach the males of the world and forsake the wives your Lord created for you? Indeed, you are intrusive people} <sup>(50)</sup> and also said {And Lot, when he said to his people, "Do you commit lewdness no people anywhere have ever committed before you, you lust after men rather than women. You are an excessive people} <sup>(51)</sup>

Ikrima reported on the authority of Ibn 'Abbas that God's Messenger said, "If you find anyone doing as Lot's people did, kill the one who does it and the one to whom it is done) <sup>(52)</sup> and To the point of sodomy, we mention as a statement the limit of sodomy even if it is by choice, it is my father Abdullah (Peace be upon him) said, "About sodomy, the prince of the faithful said The Messenger of Allah (peace and blessings be upon him) {Three sentences were handed down, either a sword blow to his neck, a wastage of a mountain with tight hands and legs, or a burning fire} <sup>(53)</sup>

The researcher would like to point out that this is a matter of optional sodomy. The boy's forced sodomy is understandably no different from the forced adultery of boys in relation to rape. It is specialized in identifying rape as a general concept. "It is a coercion of women or men to have sex <sup>(54)</sup>

These crimes always occur, especially abduction by cutting off the road, robbing and killing the victim and carrying out other crimes against her after being transferred to a place where it is not possible to be distressed, so scholars have classified her as a crime. (Al-Harabeh) The fact that the crime is within the roadblock with the intention of attacking passers-by, and scaring the passers-by in the road with the intent to kill after robbery, rape and then murder, where these images of kidnapping are applicable to a crime Al-Harba, especially those who see from scholars that this crime can take place in or out of Egypt. <sup>(55)</sup>

Al-Harba: "A backed up group or individual takes to the public road in order to prevent travel, scare passers-by, steal or attack their lives <sup>(56)</sup>or is any individual or group who have carried a weapon in a land or sea, night or day, to frighten, steal or kill people. <sup>(57)</sup> The warrior is anyone who carries his weapon or to frighten people and the will to corrupt the land, and the Governor first notices the crime and chooses the appropriate three days of murder or steel. <sup>(58)</sup>

Ibn Hizam defined it her in Al Muhalla, where he said: It's the warrior who scares the people of the road and spoils the earth with a weapon or no weapon. Night or day, in a city or desert, or in a Khalifa palace, mosque or villagers in their home or city people, whether it's one person or more, and whoever fought the Marines on the way or scared him, to kill oneself, take money,

<sup>(48)</sup>Insulting sodomy, Al-Ajri, Abu Bakr Muhammad bin Hussein (d. 360 AH), investigation, Majdi Al-Sayyid Ibrahim, 1st Edition, The Qur'an Library - Cairo, 1990 AD,

<sup>(49)</sup>Tahrir al-Wasila, Khomeini, Sayyid Imam Ruhollah al-Musawi (d. 1408 AH), 1st edition, Al-Adab Press - Najaf Al-Ashraf, 1390 AH, 2/469.

<sup>(50)</sup>Surah Al-Shu'ara, verse 165-166.

<sup>(51)</sup>Surah Al-A'raf, Verse 80-81.

<sup>(52)</sup>The Treasure of the Workers in the Sunnahs of Sayings and Actions, by Muttaqi al-Hindi, Alaa al-Din Ali bin Hossam al-Din Ibn Qadi Khan al-Qadri al-Shazli (d-975 AH), investigation, Bakri Hayani, and Safwa al-Saqa, 5th edition, Al-Risala Foundation - Beirut, 1401 AH-1981AD, 5/338.

<sup>(53)</sup>Clairvoyance, Sheikh al-Tusi, 4/ 220.

<sup>(54)</sup>Homosexuality, its reality, its forms, and the role of Islam in preventing and treating it, Attia, Muhyiddin Muhammad, 1st edition, Amwaj Printing for Publishing and Distribution - Amman, 2015, p. 39.

<sup>(55)</sup>Kidnapping crimes - general and special provisions and related crimes, Al-Maamari, p. 25.

<sup>(56)</sup>In the origins of the Islamic criminal system (a comparative study), Al-Awa, Dr. Mohamed Selim, 1st Edition, General Administration of Publication - Greater Industrial Zone Press - Egypt, 2006 AD, p. 231.

<sup>(57)</sup>Al-Mukhtasar al-Nafi' fi Fiqh al-Imamiyyah, Muhaqiqaq al-Hilli, Abu al-Qasim, Najm al-Din Jaafar ibn al-Hasan (d. 676 AH), 2nd Edition, Al-Ahlia Publishing Library - Baghdad, Al-Nu'man Press - An-Najaf, 1383 AH - 1964 AD, p. 307.

<sup>(58)</sup>Zubdat al-Ahkam, A Practical Message, al-Subhani, Sheikh Jaafar, 1st edition, Imam al-Sadiq Foundation (peace be upon him), 1429 AH, 1/277.

or cause injuries. <sup>(59)</sup> and The punishment of Hiraba in sharia law in general is murder, or steel, or cutting the right hand with left nomads or vice versa or exile, in which many details among jurists <sup>(60)</sup> God Almighty said {The punishment for those who fight Allah and His Messenger, and strive to spread corruption on earth, is that they be killed, or crucified, or have their hands and feet cut off on opposite sides, or be banished from the land. That is to disgrace them in this life; and in the Hereafter they will have a terrible punishment} <sup>(61)</sup>

AL Emam al sadiq has been asked about this verse and said, "It is up to the imam to do whatever he wants. He was told he had a mandate to do anything he wanted. He said no, but punished them for their crimes by cutting off the road, killing and taking money, cutting off his hand, leg, steel, cutting off the road, killing, not taking money, killing, cutting off the road, taking money, not killing cutting his hand, leg, cutting off the road, not taking money, and not killing exile from the ground. <sup>(62)</sup>

It is worth mentioning that the provisions and penalties in accordance with the Islamic penal system and the evidence adopted by the scholars vary from one crime to another depending on the gravity of these crimes to the individual and society. Therefore, we believe that the perpetrator of the crime of abduction accompanying rape and murder amounts to a term of warfare, as it threatens the security of society and its peaceful coexistence.

## Conclusion

The issue of child abduction accompanying rape and murder from complex crimes that began threatening security communities as a result of their transformation from a rare situation into a pervasive crime as compared to their occurrence in a society where such crimes were not accustomed to, but non-occurrence. This is all the result of negative changes brought about by intellectual, political, economic and technological issues in society. The results are as follows:

1. The crimes of abduction were previously affecting a certain category of society and limited, wealthy classes of society. The aim of the criminals was ransom. The poor are safe from such crimes. Now, the targets have varied and become more dangerous than before. All groups of society are at risk, with even children and all groups of society.
2. Kidnapping is accompanied by numerous crimes, including rape and murder.
3. This crime was confined and limited, especially in our societies, but today it has become a real threat to the security of society and the family.
4. The absence of religious and moral awareness from the family to society is a cause of this crime.
5. The weak application of the law in some societies and the widespread manifestations of moral deviation have caused this crime to spread.
6. Social media and websites have a significant impact on the prevalence of these phenomena as a result of the dangerous cultures broadcast by some websites that make addicts tools for the spread of these crimes after committing them.
7. Children are the most victimized victims of the abduction case accompanying rape and murder.
8. The Islamic penal system of Islamic criminal jurisprudence is keen to eradicate such serious social distress through the penalties enacted by the Islamic religion.

<sup>(59)</sup>Al-Muhalla, Ibn Hazm Al-Andalusi, Abi Muhammad Ali Ibn Ahmed Ibn Saeed (d. 456 AH), 1st Edition, Al-Muniriyyah Edition Department - Egypt, investigation, Al-Dimashqi, Muhammad Mounir, 1352 AH, 11/ 308.

<sup>(60)</sup>Al-Muqtasar Al-Nafi' in the jurisprudence of the Imamiyyah, Al-Hilli investigator, p. 307.

<sup>(61)</sup>Surah Al-Maida, Verse 33.

<sup>(62)</sup>Interpretation of Al-Safi, Al-Faydh Al-Kashani, Philosopher of Jurisprudence, Mawla Mohsen (died - 1091 AH), 2nd edition, Al-Sadr Library - Tehran, 1416 AH, 2/32.

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