2936 - Questions about the punishment for hiraabah (aggression)

the question

Assalmu Alikum,

I have a question regarding the punishments described in

Surah 5, in particular verse 33.

It states that the punishment for anti-Islamic war mongers

is that they are to be a) killed OR b) crucified OR c) have their hands and feet on alternate sides cut-off OR d) exile from the land

Are these punishments that apply today, or is the Quran

refering to a particular people from history?

If this is Islamic law, under what circumstances do each apply?

There are several alternatives, of lessening sevarity...

does this imply levels of punishments depending on the sevarity of the crimes being inflicted by the criminal?

Also, is this "crucifiction" mentioned the same kind of crucifiction the Romans did to their criminals, i.e. nailing people to a cross, or is this different?

I've tried finding historical accounts of Muslims practicing this, but the prefered method of execution of criminals seems to have always been beheading by a sword.

I think it's law, as in the next verse, 5:34, Allah states to have mercy on those who repent after they fall into the power of the Believers. But I ceartainly am in no position to give this opinion any wieght, which is why I'm sending this letter.

Anyhow, I would like clarification on this in particular with respect to

a) Using crucifiction as a means to punish - is this the same as nailing or tying people to a cross and having them die over a period of time?

c) to whom exactly do they apply

d) does the punishment hold today, or were there revelations which canceled this punishment system

e) any other background information you think is relevant May Allah guide me to the Truth.

May Allah bless you for this wonderful service you are offering.

Detailed answer

Praise be to Allah.

The whole issue of hiraabah, which is also known as banditry, can be summed up in the following points:

1. Definition of hiraabah

2. Ruling on hiraabah

3. Punishment for hiraabah

4. The reasons for the different types of these punishments

5. Repentance of the muhaarib (person who commits hiraabah)

1. Definition of hiraabah

Hiraabah means ambushing people and threatening them with weapons and so on, in the deserts or in the cities, killing them, terrorizing them and seizing their property by force and openly.

Wealth is mentioned specifically because this is what usually happens, but the ruling applies also to people who terrorize others for the purposes of rape or sodomy.

Ruling on hiraabah

Hiraabah is one of the most serious of major sins, and it is forbidden according to the Quraan, the

Sunnah and ijmaa (scholarly consensus).

1. Quraan: The Quraan says (interpretation of the meaning): The recompense of those who wage war against Allaah and His Messenger and do mischief in the land is only that they shall be killed or crucified or their hands and feet be cut off on the opposite sides, or be exiled from the land. That is their disgrace in this world, and a great torment is theirs in the Hereafter. Except for those who (having fled away and then) come back (as Muslims) with repentance before they fall into your power; in that case, know that Allaah is Oft-Forgiving, Most Merciful. [al-Maaidah 5:33]

2. Sunnah: the hadeeth of al-Arniyeen. Anas (may Allaah be pleased with him) reported that some people came from Akl or Areenah and avoided Madeenah (i.e., they did not want to stay in Madeenah because they were suffering from a fever). The Prophet (peace and blessings of Allaah be upon him) ordered them to drink the urine and milk of milch-camels (for treatment of their fever). They did that, and when they got better, they killed the shepherd of the Prophet (peace and blessings of Allaah be upon him) and stole the sheep. This news reached (the Prophet (peace and blessings of Allaah be upon him) at the beginning of the day, and he sent people in pursuit of them. At mid-day, they were brought to him and he commanded that their hands and feet should be cut off and their eyes put out, then they were left in al-Harrah begging for water, but no one gave them water. (Agreed upon).

3. Ijmaa: the ummah is agreed that hiraabah is haraam.

1. Punishments for hiraabah

The punishment for hiraabah is one of the hudood or punishments prescribed by shareeah, and the punishment varies according to the severity of the crime. This is explained as follows:

1. Whoever kills someone and steals their property, should definitely be killed and crucified, so that everyone will know about him. It is not permitted to forgive him, by the consensus of the scholars, as was reported by Ibn al-Mundhir.

2. Whoever kills but does not steal, should definitely be killed, but not crucified.

3. Whoever steals property but does not kill, his right hand and left foot should be cut off at the same time, then the bleeding should be stopped and he should be released.

4. Whoever merely terrorizes people, but does not kill or steal, should be banished from the land to another country, where he should be detained until he has repented sincerely and is reformed.

The evidence for the above is as follows:

1. The words of Allaah (interpretation of the meaning): The recompense of those who wage war against Allaah and His Messenger and do mischief in the land [al-Maaidah 5:33].

2. The report narrated from Ibn Abbaas (may Allaah be pleased with them both), who said: The Messenger of Allaah (peace and blessings of Allaah be upon him) made a peace treaty with Abu Barzah Hilaal ibn Awaymir al-Aslami. Some people came, wanting to embrace Islam, and they were ambushed by the companions of Abu Barzah. Then Jibreel (peace be upon him) brought to the Messenger of Allaah (peace and blessings of Allaah be upon him) the revelation of the punishment for killing and stealing property, which is to be killed and crucified, and the punishment for killing without stealing, which is to be killed Whoever steals property but does not kill should have his hand and foot from opposite sides cut off. Whoever becomes Muslim, Islam cancels out whatever deeds came before it at the time of shirk.

(Tafseer al-Tabari, 10/260-261).

1. The reason for different levels of punishment

Different punishments for different degrees of hiraabah have been prescribed for a very important reason. Hiraabah may take different forms, as is well known, it might not involve only killing, or only stealing. It might involve both stealing and killing, or it may involve neither, only terrorizing people. These different forms of crime dictate different forms of punishment.

The basic principle in shareeah is that the punishment should fit the crime, as Allaah says (interpretation of the meaning): The recompense for an evil is an evil like thereof [al-Shoora 42:40]. If these punishments did not vary according to the crime, and there was room for choice, this might result in the most severe punishment for one whose crime was the least serious, or the lightest punishment for one whose crime was most heinous, which is a travesty of justice. The fact that punishments vary according to the seriousness of the crime makes perfect common sense.

Repentance of the muhaarib

If the muhaarib repents, it can only be either of the following two scenarios:

1. Either he repents before he is caught

In this case, the punishment for hiraabah no longer applies, and he should be treated like one who is not a muhaarib. The punishment of banishment, amputation, or execution etc., no longer applies, except in cases where the victim or his family have the right to demand retribution. The evidence for this is the words of Allaah (interpretation of the meaning): The recompense of those who wage war against Allaah and His Messenger and do mischief in the land is only that they shall be killed or crucified or their hands and feet be cut off on the opposite sides, or be exiled from the land. That is their disgrace in this world, and a great torment is theirs in the Hereafter. Except for those who (having fled away and then) come back (as Muslims) with repentance before they fall

into your power; in that case, know that Allaah is Oft-Forgiving, Most Merciful. [al-Maaidah 5:33]

1. Or he repents after he is caught

In this case the punishment for hiraabah still applies, and indeed the ruler is obliged to carry it out, because the exception mentioned in the aayah clearly applies only to one who repents before he is caught. It is not too difficult for a person who wants to escape the prescribed punishment to feign repentance.

This punishment is part of the Islamic shareeah which Allaah has prescribed for every time and place, not just for one particular country or period. The Muslims applied this punishment for hiraabah at the time of the Prophet (peace and blessings of Allaah be upon him) and until the present time. The fact that some of the Roman and Pharaonic punishments were similar to those prescribed by Islamic law is of no particular significance, good or bad. These Islamic punishments cannot be regarded as backward or savage or barbaric at all. Any intelligent person who thinks about the severity of the crime of hiraabah and the resulting lack of security in the cities and on the road, terrorizing of the populace, robbing and killing, will know for sure that this ruling is exactly what these criminals deserve. The one who looks at the way the punishments for hiraabah fit the crime exactly will see that this is the essence of justice. How can it be otherwise when the One Who has prescribed this law is the Almighty, the All-Wise, the All-Knowing, the All-Seeing, the Judge, the Just, the All-Aware? He is the Best Disposer of Affairs and the Best of Supporters.