72338 - Punishment for Rape in Islam

the question

What is the ruling on the crime of rape in Islam?

Summary of answer

The punishment for rape in Islam is the same as the punishment for zina, which is stoning if the perpetrator is married, and one hundred lashes and banishment for one year if he is not married.

Detailed answer

Praise be to Allah.

What is rape?

The Arabic word ightisab refers to taking something wrongfully by force. It is now used exclusively to refer to transgression against the honour of women by force (rape).

Rape is an abhorrent crime that is forbidden in all religions and in the minds of all wise people and those who are possessed of sound human nature. All earthly systems and laws regard this action as abhorrent and impose the strictest penalties on it, except a few states which waive the punishment if the rapist marries his victim! This is indicative of a distorted mind let alone a lack of religious commitment on the part of those who challenge Allah in making laws. We do not know of any love or compassion that could exist between the aggressor and his victim, especially since the pain of rape cannot be erased with the passage of time – as it is said. Hence many victims of rape have attempted to commit suicide and many of them have succeeded. The failure of these marriages is proven and they are accompanied by nothing but humiliation and suffering for the woman.

Rape in Islam

Islam has a clear stance which states that rape is haram and imposes a deterrent punishment on the one who commits it.

Islam closes the door to the criminal who wants to commit this crime. Western studies have shown that most rapists are already criminals who commit their crimes under the influence of alcohol and drugs, and they take advantage of the fact that their victims are walking alone in isolated places, or staying in the house alone. These studies also show that what the criminals watch in the media and the semi-naked styles of dress in which women go out, also lead to the commission of this reprehensible crime.

The laws of Islam came to protect women's honour and modesty. Islam forbids women to wear clothes that are not modest and to travel without a mahram; it forbids a woman to shake hands with a non-mahram man.

Islam encourages young men and women to marry early, and many other rulings which close the door to rape. Hence it comes as no surprise when we hear or read that most of these crimes occur in permissive societies which are looked up to by some Muslims as examples of civilization and refinement!

In America – for example – International Amnesty stated in a 2004 report entitled “Stop Violence Against Women” that every 90 seconds a woman was raped during that year. What kind of life are these people living? What refinement and civilization do they want the Muslim women to take part in?

Punishment for rape in Islam

The punishment for rape in Islam is same as the punishment for zina , which is stoning if the perpetrator is married, and one hundred lashes and banishment for one year if he is not married.

Some scholars also say that he is required to pay a mahr to the woman.

Imam Malik (may Allah have mercy on him) said:

“In our view the man who rapes a woman, whether she is a virgin or not, if she is a free woman he must pay a “dowry” like that of her peers, and if she is a slave he must pay whatever has been detracted from her value. The punishment is to be carried out on the rapist and there is no punishment for the woman who has been raped, whatever the case.” (Al-Muwatta, 2/734)

Shaykh Salman al-Baji (may Allah have mercy on him) said:

“In the case of a woman who is forced (raped): if she is a free woman, the one who forced her must pay her a “dowry” like that of her peers, and the hadd punishment is to be carried out on him. This is the view of al-Shafi’i, and it is the view of al-Layth, and it was also narrated from ‘Ali ibn Abi Talib (may Allah be pleased with him).

Abu Hanifah and al-Thawri said: the hadd punishment is to be carried out on him but he is not obliged to pay the “dowry”. `

The evidence for what we say is that the hadd punishment and the “dowry” are two rights, one of which is the right of Allah and the other is the right of the other person. So they may be combined, as in the case of a thief whose hand is cut off and he is required to return the stolen goods.” (Al-Muntaha Sharh al-Muwatta’, 5/268, 269)

Ibn ‘Abd al-Barr (may Allah have mercy on him) said:

“The scholars are unanimously agreed that the rapist is to be subjected to the hadd punishment if there is clear evidence against him that he deserves the hadd punishment, or if he admits to that. Otherwise, he is to be punished (i.e., if there is no proof that the hadd punishment for zina may be carried out against him because he does not confess, and there are not four witnesses, then the judge may punish him and stipulate a punishment that will deter him and others like him). There is no punishment for the woman if it is true that he forced her and overpowered her, which may be proven by her screaming and shouting for help.” (Al-Istidhkaar, 7/146)

Secondly: Rape at knife-point or gun-point

The rapist is subject to the hadd punishment for zina, even if the rape was not carried out at knife-point or gun-point. If the use of a weapon was threatened, then he is a muhaarib, and is to be subjected to the hadd punishment described in the verse in which Allah says (interpretation of the meaning):

“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.” [al-Maaidah 5:33]

So the judge has the choice of the four punishments mentioned in this verse, and may choose whichever he thinks is most suitable to attain the objective, which is to spread peace and security in society, and ward off evildoers and aggressors.

See also question no. 41682

And Allah knows best.