

# **The Crime of Non Muslims Kidnapping in Lands of Muslims and it's juristic and Lawful position**

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## **Abstract**

This Study aims to define and clarify one of the current and crucial issues that preoccupied many of the religious scholars state men, politicians and sociologists, each of which in his/her domain and specialization. That is the phenomenon of "kidnapping" and particularly, "Kidnapping of non-Muslims in Muslim countries", which needs to be clarified and analysed properly to understand its nature. The study reached to define "Kidnapping" as "assaulting the others by force in a quick manner while the victim is under the condition of weakness, associated with tricks and persuasiveness, and astonishment by taking him/her away from his/her place, or changing the direction of his journey for the purpose of capturing him/her to have control upon him/her".

The study further had an attempt to define the "country/home of Islam". "The study further had an attempt to define the "country /home of Islam". "The home/country of Islam, according to the researcher's knowledge, is to remain characterized by the feature of Islam including religious rites, marriage laws and some other social intercourses of Muslim society, and that this feature is not missed by and country as soon as it is occupied by countries of infidelity, and as far as the Muslims in it are resisting and practicing "Jihad" to move out the occupier from it, and they have clear occurrence". In addition to that, the home of contract and protection/assurance includes the non-Muslim countries with which Muslim countries entered under the United Nations Organization, in accordance with the International Law and its international conventions as such do not contradict with the laws of Islam.

The study also considered the reasons beyond the spread of "Kidnapping of non-Muslims in the Muslims' countries, and which are represented by injustice, absence of consultation or"

Shura", absolutism/ despotism of the ruling regimes, slip away of security system in some countries, absence of deterring legal authority,, greediness of some kidnapers and finally remains of revenge existing within the others.

The study made it clear that the Islamic Law or Sharia has never permitted with out exceptions the Kidnapping of a non-belligerent person. Kidnapping, however, was permitted only as necessity regarding the actually belligerent fighter. The study made it clear that kidnapping during the lifetime of the Prophet (Peace be upon him) did not happen except in very few cases, none of which was confirmed by him. The only exception of that was the case regarding "Thumamah Ibn Athal" considering the fact that he was a belligerent fighter announcing enmity to the Prophet and his companions, or as regarding " Alaqli" who was interallied with belligerents and aggressors against Muslims.

Islamic Law/ Sharia consider Kidnapping as a big and significant crime. All Laws agreed on that including the Yemeni Criminal Law, which was taken from the Islamic Law/ Sharia. However, religions scholar and law specialists differ in the way of adapting and adjusting of this big crime and in the way of attaching it to any of the crimes whose punishment has been agreed up on.

Throughout the study, it becomes clear that this crime has relation and compatibility with many of the crimes of assault such as theft, war action or "alhirabah". In some of its cases it might be on outrage and in some others, it might be a theft.

The study concluded that it becomes a must for both the ruler and the nation to protect the nation and safeguard its right and merits, and to maintain people's blood, money, honor, and dignity which are all considered sacred, and this is the responsibility of everyone; " as everyone is a shepherd( guardian), and responsible for his/her subjects"