

Enforcing the *Hadd* Punishment of *Al-Hirabah* under Katsina State *Shari'ah* Penal Code Law 2001: A Panacea to Curtailing The Menace of Banditry in Katsina

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Abstract

Banditry is a menace bedeviling Nigeria as a nation most particularly in the North-West States. The menace started with the farmers – Herders conflict which later deteriorated to cattle rustling and lastly to kidnaping for ransom, sporadic killings and maiming, sacking of villages, destruction of farm produce, highway robbery and anarchy in the most affected areas. This paper seeks to discuss on how Islamic law addresses the menace of banditry through its hudud punishments which is aimed at partly protecting the daruriyat, as advance by Umri, I. where he states: —the hudud punishments which are aimed at protecting the necessary values known as al-daruriyat.

It aims at studying the nefarious activities of banditry in relation to the offence of al-hirabah as well as its punishment under Islamic law. The discussion will be done with a recourse the provisions of the Katsina State Shari'ah Penal Code Law, 2001. The writer adopted both doctrinal and empirical methods for this work. Under the doctrinal method, the researcher reviewed several literatures on the concept of banditry and its activities in Katsina State and North-West Nigeria as a whole. The study based on the literatures reviewed on the concept of al-hirabah and banditry shown a clear synergy between them in terms of the nefarious activities they both share, which involves killings, looting, kidnapping, raping etc. The hadd punishments for the offence al-hirabah are therefore applicable to banditry. The punishments are either crucifixion, amputation of left hand from the wrist and right foot from the ankle or banishment as provided by the sources of the Shari'ah and provisions of the Katsina State Shari'ah Penal Code Law 2001. The repentance of muharib and therefore a bandit before his arrest will absolve him from the hadd punishments. However, he will remain responsible for all private right(s) he violated during his nefarious activities. The empirical aspect of the research also shows that the Katsina State Shari'ah Courts, in practice, are denied the jurisdiction to try the offence of al-hirabah and therefore banditry despite the clear provisions of the Katsina State Shari'ah Adoption Law 2000. The researcher concludes that the enforcement of the hudud punishments in

Katsina State by the Shari'ah Courts as provided by the Katsina State Shari'ah Penal Code Law 2001, is key to remedying the menace of banditry in the area.

1.0 Introduction

Among the distinctive features of Islamic law is its ideal nature. It stands to be suitable irrespective of time location or persons. Thus, Islamic law has always provided remedy to human problems in the past, the present and even the future. Among other areas where the Islamic law excels is in its criminal justice system which provides very robust system that is capable of reforming and reintegrating the offender into the society on one hand and severe punishments capable of deterring people from committing these offences.

Despite the existence of a *Shari'ah* penal Code Law in Katsina State since 2001, Katsina state has been deviled by the menace of the nefarious activities of bandits to the extent that one will contest the existence of any constituted authority in the state or at least in some parts of the state, despite measures taken to curtail the menace, it still persists or its even in the increase. Brennaire C. explains the situation and he say:

Armed banditry has become a central security challenge to Nigeria's northwest, that has terrorized communities, killed and displace thousands, hindered socio-economic development, threatened democratic governance.

Therefore, this paper seeks to discuss on how Islamic law addresses the menace of banditry through its *hudud* punishments which is aimed at partly protecting the *daruriyat* (essentials of life), which are religion, life, dignity, property and intellect.

In view of the foregoing, the paper is divided into the following headings and subheadings thus: The concept of *hudud* punishments and its objectives; The Concept of Banditry Under Islamic Law and the Katsina Sate *Shari'ah* Penal Code Law; Application of *Hadd* Punishment of *alHirabah* in Under the Katsina State *Shari'ah* Penal Code Law 2001; Ruling on Banditry under Islamic law; Punishment of the Banditry and Repentance the Bandits Under Islamic Law and Katsina State *Shari'ah* Penal Code Law, 2001, Conclusion, findings and recommendations.

1.1.0 The Concept of the *Hudud* Punishments and its Objective

1.1.1 Concept of Hudud Punishments

Literally, *hadd* is the singular form of *hudud*. In the Arabic language it means restriction or prohibition, or the barrier between two things. However, in the terminology of jurisprudence, it means a fixed penalty prescribed by *Allah* the Almighty. The term *hudud* is used to refer to the fixed punishments prescribed in the text of the *Shari'ah* as well as the offences for which the offender is liable to such fixed punishments. *Allah* made these *hudud* as restrictions and obstruction which deter the ignorant and transgressors by its severity so that all that has been forbidden will remain unapproachable and what has been commanded be done. This makes the *maslaha* (interest) of the punishment general and the burden of *takif* (obligation) complete.

1.1.2 Objective of *Hudud* Punishments

Under Islam, *Allah* is the Sovereign. He is all wise (Al Hakeem) and His laws are perfect. The principal objective of punishment under Islamic law, is to stop the criminal from repeating his crime and deter others from it, thus, cleansing the society of crimes and sins.

The *hudud* punishments are aimed at protecting the necessary values known as *al-daruriyat*. These interests are; Religion, life, Chastity of lineage, intellect and wealth. These are also known as the imperative objective (*Maqasid*) of *Shari'ah*.

Allah (SWT) has not only provided for material punishment in the world here but has also extended it to the hereafter. He also provided the type and quantity of these punishments out of His mercy. According to Ibn al-Qayyim, if the Law Giver had left mankind to prescribe punishments to be given as *hudud* they would have differed extensively, but the merciful provided them with punishments.

The Religion is the first and most important of these *maqasid*, without which the *ummah* will fall apart and differ. The Religion is the mechanism through which man relates with the creator. It is his source of joy in this world and the hereafter. In light of this the *Shari'ah* is geared towards protecting it. In this way Islam considers any crime against the religion as serious. It considers *alridda* (apostasy) a capital offence which attracts the death penalty. Ikrimah narrated that Aliyu (*RA*) burnt some people and the news reached ibn Abbas who said: —Had I been in his place I would not have burnt them, as the Prophet (*SAW*) said: —If somebody (a Muslim) discards his religion, kill him.¶

Apostasy is a crime against the Muslim society. Denouncing or doubt the faith of Islam or any of its established principles constitutes the crime. According to Audah, A., the affairs of a nation

cannot be upright when its fundamental principles are put to doubt and criticism because that will lead to the fall of the system and principles.

The life of man is the most precious thing he has, thus *Shari'ah* is keen in protecting it. It forbids and condemns any form of trespass against it without justification. *Allah (SWT)* says in the *Qur'an*:

...and kill not anyone whom *Allah* has forbidden except for a just cause (according to Islamic law). (6:101)

The law makes intentional trespass to life and limb punishable by *qisas*, *Allah (SWT)* says in the *Qur'an*:

And we ordained therein for them, life for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds for wound equal for equal. But if anyone remits the retaliation by way of charity, it shall be for him expiation and whosoever does not judge by that which Allah has revealed, such are the zalimun. (5:45)

The dignity and chastity of man is the crown of his honor without which he be expected to live a reasonable life. The law also protects it in two ways;

- (a) Protecting lineage and avoiding any mix up in lineage by prohibiting adultery and fornication among others, making them punishable by way of *hadd*, caning and one year's exile for the non *muhsin* (a person who not consummated a valid marriage) and stoning to death for the *muhsin* (a person who has consummated a valid marriage).
- (b) Protecting the dignity of man by prohibiting anything that will lower his honor in the eye of the society. The law forbids people from committing all immoral acts as well as falsely ascribing it to innocent persons and made it punishable by discretionary punishment.

The law is more cogent on false accusation for adultery and it prescribes a more deterring punishment of *hadd* for *al-qadhif* which is 80 lashes of cane rejection of testimony of any person guilty of such offence. *Allah (SWT)* says in the *Qur'an*:

And those who accuse chaste women and produce not four witnesses flog them with eighty stripes and reject their testimony forever. They indeed are the

fasiqun. Except those repent thereafter and do righteous deeds; (for such) verily, by Allah is oft-Forgiving, Most Merciful. (24:4 – 5)

The protection of wealth is also considered by the lawgiver as one of the principal objectives of the law. Wealth is an adornment for he who earns and possesses it. Islam forbids taking of any wealth without due justification. The law has made clear justified means of earning it which is considered *halal* and has also specified unlawful means and made all that is earned through it as *haram*. The law prescribes punishments for acquiring the wealth through a *haram* means punishable by a discretionary punishment and prescribed a *hadd* punishment for theft of a given minimum amount.

Allah (SWT) says in the Qur'an:

And as for the male thief and the female thief, cut off (from the wrist joint) their (right) hands as a recompense for that which they committed, a punishment by way of example from Allah. And Allah is All-powerful, All-wise. (5:38).

The law further states that in case where force is used for unjustifiable acquisition of wealth is termed as *al-hirabah* punishable by a severe punishment, ranging from death sentence to banishment. The law is also heedful of the human intellect. The intellect is the scale which *Allah* has given to man to measure and appreciate right from wrong and to understand the *Shari'ah*. In other words, Man loses his legal capacity without intellect. Thus, all intoxicants are forbidden. The Prophet (*SAW*) said:

All intoxicants are haram

The law did not only make it forbidden but made taking any intoxicant punishable by *hadd*. The quantity which 80 lashes are decided and reached at through *ijma'* of the companions.

From the above it can be seen that these *hudud* punishments are aimed at achieving the higher objectives of the law by deterring people from acts that are harmful to them, thus realizing the public welfare as well as reform and to cleanse the wrongdoers of their sins which is a secondary objective of the law. They are revealed to protect the religion, morality, wealth and life, from any form of trespass. Thus *hudud* are not mere punishments rather they are mercies to mankind.

According to Ibn Qayyim: From the mercy of *Allah*, he made these punishments expiation for those who commits crimes punishable by *hadd* especially when they repent after the punishment...

1.2.0 The Concept of Banditry Under Islamic Law and the Katsina Sate *Shari'ah* Penal Code Law

1.2.1 The Concept of Banditry

Banditry is derived from the word bandit which is an Italian word borrowed into English. Probably by association with the Italian diminutive. The term bandit is defined as a robber, especially on who robs travelers on the road; brigand; highway man. He is one who steals, cheats or exploits. Several studies have explained that bandits are an assortment of criminal gangs involved in large-scale cattle rustling, sexual violence, kidnapping armed robbery, pillage and attacks on gold miners, travelers, traders etc., particularly, as what happen in North western Nigeria.

1.2.2 The Islamic Concept of Banditry

The description of banditry above gives a very clear image of it as group of individuals involved in number of offences, which involves causing mischief in the land and breakdown of law and order. Going by this, the most appropriate term for banditry in its literal and technical sense is *al-hirabah*. The term *al-hirabah* has been defined differently by the various school jurisprudence. The Hanafi school defines *hirabah* as a criminal act which involves the use of force and causes considerable insecurity along the highways. The Maliki school, defines *hirabah* as a criminal act by a person or persons who obstructs the highway or any other place by causing disorder among the community or attack people with the intention of appropriating their property by the use of force, in a situation where the victim(s) is/are unable to defend himself/themselves or get immediate help. It makes no difference whether such a person has killed people or not and whether he is known or famous for that or not. The Shafi'i school defines *hirabah* as a criminal act in which the offender(s) unlawfully appropriate other peoples' property by the use of force and instill fear or terror in the minds of the community.

The crime is regarded as a war against *Allah* and His Messenger and an attempt to spread mischief, horror grave mischief or widespread of breach of public peace, mutiny, sedition, riotous tumult, etc. in the world.

From the above definitions a common factor in the definitions is causing of fear and insecurity in the public. Wajis N. R. quoted another definition of *al-hirabah* from Mudawwanah as —the act of terrorizing people for the purpose of robbery or other purposes.¶ Thus, he submits that the act of terrorizing people is considered to be the main element in this definition. It means that all acts that involve terrorizing people, the use of force or not are considered as *hirabah*. *Alah*

(instrument) is also not included in this definition, therefore *hirabah* can be carried out without the use of a weapon according to this view. This definition also excludes the site of commission of *hirabah* which is included in some of the definitions of the jurists. By excluding the site of the commission of *hirabah* it is understood that the crime of *hirabah* can take place anywhere as long as the act of terrorizing people take place. Some jurists incorporate robbery as one of the elements of *hirabah*. The Maliki school however, asserts that robbery can be one of the purposes but the act can be considered as *hirabah* even no robbery is involved.

Bambale concludes on the definition of *hirabah* quoting a contemporary jurist, thus: *Hirabah* is defined as an act of robbery by a group of armed men within the territory of the Islamic state so as to create anarchy under which the property, privacy, safety, dignity and religious values of the people will be violated. Is this definition not a clear portrait of banditry as it is currently happening in the

North-west states of Nigeria? Hence, banditry in north-west Nigeria is synonymous to the offence of *al-hirabah* under Islamic law. *Al-hirabah* constitutes any act of mischief on earth, this include bloodshed, unlawful confiscation of people's wealth, trespassing on people's dignity... etc. In other words, anything that will cause unnecessary fear and tension to the public may constitute this crime.

Bambale in his definition of *al-hirabah* painted a very good portrait of the offence thus:

Examples of crimes that may constitute *al-hirabah* include:

- a) Armed robbery
- b) Planting explosive devices in town and cities
- c) Kidnapping
- d) Rape
- e) Spread and distribution of dangerous drugs

It will be observed that reports have shown that the above stated offences constituting *alhirabah* in Islamic law as defined above by Bambale Y., are same with the nefarious activities of the bandits in the north west of Nigeria. Premium times reported that banditry in the north-west states is the code name in the region for organized crimes like kidnapping, cattle rustling, mass abduction, arson and even armed robbery.

The Katsina State *Shari'ah* Penal Code Law, though did not mention banditry as an offence by name, but its description of the offence of *al-hirabah* coincides with the activities of the bandits as defined under paragraph 139. It states thus:

Whoever act alone or in conjunction with others in order to seize property or to commit an offence, or for any other reason voluntarily causes or attempts to cause to any person death or hurt or wrongful restrain or fear of instant death or any instant hurt, or of instant wrongful restrain in circumstances that renders such person helpless or incapable of defending himself is said to commit the offence of robbery (*hirabah*).

This definition under the law is reflection of the definition of the Maliki and Hanbali schools and the preferred opinion as advanced by al-Jamily. It has shown that *hirabah* could be for monetary gains or otherwise. The offence can be committed by a single person or a group. The definition did not make the use of weapon as necessary for the offence. Coming together of a person or group attempting or committing an offence which include killing or hurting a person or even restraining him in a manner than renders him helpless whether in town or outside is sufficient to establish the offence.

The activities of banditry witnessed today in the North-West States of Nigeria to include: Katsina, Sokoto, Zamfara and some parts of Niger State, are a clear case of *hirabah* taking into consideration the kinds of atrocities they commit against their victims and the society at large as well as the motive behind it which merely is for monetary gains, causing fear and public disorder and killings.

1.3.0 Ruling on Banditry under Islamic law

Since it has been established that the nefarious activities of banditry qualify it to be *alhirabah* then, the ruling of *al-hirabah* is the ruling of banditry. Therefore, banditry is a very serious offence condemned in the primary sources of the *Shari'ah*. The authority for the prohibition mischief making in the land is found in the *Qur'an*. The *Qur'an* states:

And when turns away (from you O Muhammad) his effort 8in the land is to make mischief therein and to destroy the crops and the cattle and Allah like not mischief. (2:205) And also:

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.
(5:33).

And from the *Sunnah*, on the authority of ibn Umar, the Messenger (*SAW*) is reported to have said:

—That he who levels weapon against my community is not of us.¶ Under these two verses and the *hadith*, the prohibition of *hirabah* is clearly established.

1.4 Essentials of the Offence of *Hirabah*

The offence has three essentials which are the offender (*muharib*), the victim and the intention to harm the victim or seize his property or his dignity. A person is said to have committed the crime of *hirabah*, when the following conditions are met:

- a) With regard to the offender: The jurist made it a condition that the offender must be an adult and sane, and some jurist added that he must be a male, since it is not ordinarily found with females because of their nature. But others are of the opinion that both males and female can be accused of the offence. The majority of the jurists are of the opinion that the offenders must have weapons even if it were sticks and stones. al-Jamily added that the Maliki Shafi'i and Hanbali Schools agree that the offender(s) is/are liable to punishment whether he/they used weapon in carrying out the offence or not. This is the view preferred by al-Jamily for which he argued strongly with convincing proof.
- b) With regard to the victim: They made it a condition that the victim must be a Muslim or a *dhimmi*, and that he must have lawfully acquired the property he was robbed for so that he is the owner or the representative of the rightful owner or his trustee and there shouldn't be any blood relation with the suspect just as it is in the case of *sariqah*
- c) With regard to the act: All the essentials for the offence of *sariqah* must be satisfied for the act of *hirabah* to be punishable by hadd, except the element of *khifyah* (the property to be taken in a hidden manner without the knowledge of the owner). It is not necessary that he attacked just to seize property, it also includes attack to kill or rape only. The jurists differ on whether the property taken must reach *nisab* and taken from *hirz*. Al-Imam Malik did not consider the *nisab* and *hirz* as a condition and this view is preferred by al-Jamily.

1.4.0 Punishment of the Banditry and Repentance the Bandits Under Islamic Law and Katsina State *Shari'ah* Penal Code Law, 2001

As pointed out earlier, the offence of banditry is same as *al-hirabah* under Islamic Law, thus considered a very serious offence punishable under Islamic law. However, there is always a chance for the offender to mend his ways before he is arrested for his offence. Below is a brief on the hadd punishment for *al-hirabah* and the rulings on the repentance of the offender before his arrest.

1.4.1 Punishment of the Banditry under Islamic law

Since It has been established earlier that banditry is synonymous the offence of *al-hirabah* which is an offence that involves the violation of all the *daruriya* protected under Islamic Law, thus punishable with a clearly textual punishment of *hadd* as enshrined in the *Qur'an* and the *Sunnah*.

The basis for the punishment of *al-hirabah* which is same as banditry is readily found in the *Qur'an*, and corroborated in the *Sunnah*. From the *Qur'an*, the *Qur'an* states:

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. (5:33) According to ibn Abbas and majority of the scholars of *tafseer* (exegesis), the verse is revealed on armed robbery. Ibn Kathir explains that the verse is revealed in general on the *mushrikun* (polytheist) and others who commit such act described by the verse as reported by alBukhari and Muslim from the *hadith* of Abi Qilabah on the authority of Anas bn Malik: that a group of people from (the tribe of) Ukal (or Uraina in another version) who were eight in number came to the Prophet (*SAW*) and accepted Islam, the later fell sick. They complained to the Messenger *SAW* and he said: Why don't you go out with Shepard (with his camels), so that you can drink from its milk and urine? They said ok. They went out, they drank form its urine and milk and got well. They killed the Shepard and

drove away with the camels. The news reached the Messenger (*SAW*) and he send people to look for them. They were found and brought to him. He ordered and their hand and legs were amputated, and their eyes were punctured and were hanged in the sun to death. The afore mentioned verse has mentioned alternative punishments due for a person who has committed the offence of banditry, i.e. execution, crucifixion, amputation of hand and foot and banishment.

The authority is guided by the explanation of how to determine the appropriate punishment by Ibn Abbas where he said: If they kill and take property, they should be killed and crucified, and if they kill and did not take any property, they are executed without crucifixion and if they take property without killing anyone then their hand and foot are amputated from the opposite sides and if the threaten people and did not take any property, then they are banished from the land.

Therefore, the *Shari'ah* court is at liberty to determine the ratio *decidendi* to suit the crime. If the bandit threatens and takes money without killing and assault, the punishment is amputation of his hand and leg. If he kills the victim without taking money, he will be executed. If he threatens innocent people without murder, the sentence may be exile. The banishment/exile is viewed as imprisonment by the majority, which include; Hanafi, Maliki and Shafi'i Schools.

Therefore, *Allah* in this verse has given options with regard to the punishment due for a bandit. The authority will exert an *ijtihad* to inflict on the criminal the most appropriate punishment within the options in the verse, taking into consideration the nature and circumstances of the criminal's operation before his arrest.

The punishment for the offence of *al-hirabah* has been provided for under paragraph 140 and 141 of the Katsina State *Shari'ah* Penal Code Law 2001, thus:

140. whoever commits robbery (*hirabah*) shall be punished:

- a) With imprisonment for life where the offence was committed without seizure of property or causing death; or
- b) With amputation of the right hand from the wrist and the left foot from the ankle where property was seized but death was not caused; or
- c) With death sentence where death was caused.

141. whoever, belongs to a gang of persons associated for the purpose of committing robbery (*hirabah*), shall be punished as in paragraph 140 a, b, or c as the case may be. These provisions under the law are a replica of the Maliki school which are not only to Maliki School but view of the majority.

1.5.0 Repentance of a Bandit before His Arrest and His Obligations

The repentance of a bandit before his arrest absolves him the *hadd* punishment of *al-hirabah* If the *muharib* repents and desist from his crime before he was arrested the punishment of *hadd* which is due in the right of *Allah* will not be executed on him, but he will be liable for all private rights of individuals. All properties he forcefully collected from people must be returned including rights vested under crimes of punishable with *qisas* and *diyah*. This is the view of the majority, including Hanafi, Maliki and Shafi'i Schools. In this vain Audah state:

It is agreed upon by all the jurists that the repentance of the muharib before his arrest relegates the hadd punishment against him and the basis for this opinion is (except those who (having fled away and then) came back (as Muslims) with repentance before they fall into your power; in that case, know that Allah is Oft-Forgiving, Most Merciful. (5:34). Therefore, if a muharib repents he will be absolved the death punishment, the crucifixion, the amputation and banishment. But the repentance will not absolve him private rights he violated during his nefarious activities; thus, he remains responsible. If he has taken any property, then he must return it, if he kills anybody or injured him, then he is liable to qisas if qisas is applicable otherwise then he pays the diyah.

Therefore, repentant bandits are not absolved of the obligations on them whether at the instance of repentance or in reconciliation with the government. They will be held responsible for the killing's lootings and maiming.

1.6.0 Application of *Hadd* Punishment of *al-Hirabah* in Under the Katsina State *Shari'ah* Penal Code Law 2001

It is 20 years now since the adoption of Islamic Penal Law in Katsina, when in August 2001 the Katsina State *Shari'ah* Penal Code law came into operation carrying the hudud and hudud related offences. Among the *hudud* offences contained in the code is the *hadd* offence of *al-hirabah*

which is a provision dealing with the dangerous menace of banditry bedeviling the northwest Nigeria and Katsina specifically.

After investigation and data obtained through a research instrument administered to the *Shari'ah* Courts to furnish the researcher with data on the *hudud* cases filed and tried before the *Shari'ah* Courts in the State from 2015- 2020, the data obtained shows that no case of banditry has been filed before the *Shari'ah* Courts in the State. Most of the *Shari'ah* Court judges responded that such cases of banditry are only filed before the High Court of Justice in the state by the Police Force. The judges further claim that they have no jurisdiction to try the offence.

In an interview with a senior staff of the Katsina State High court of justice told the researcher that the problem is not of jurisdiction as the law has empowered the *Shari'ah* Courts in the State to handle all the try all *hudud* offences committed within the state by an offender who is a Muslim or a non-Muslim who consented to the jurisdiction of the *Shari'ah* Court in the State rather it is a problem lack of political will to enforce the *Shari'ah* in the State. A research instrument administered in 2021 to the Shariah Courts has shown that offences tried by the *Shari'ah* Courts are offences of *al-zina* (adultery and fornication), *al-sariqah* (theft), *al-qadhif* (false accusation for adultery and fornication) and shrub *al-khamr* (drinking of intoxicant) and very few of the filed cases ends with judgments that are the real punishments as provided by the law. Therefore, law of hirabah are not enforced totally in the state as provided by the Katsina State *Shari'ah* Penal Code Law 2001 is provided for under paragraph 140 and 141 of the Katsina State *Shari'ah* Penal Code Law 2001.

1.7.0 Conclusion

After this brief sojourn on the topic of this paper through review of relevant literature and analysis of data obtained through questionnaires, it is concluded that the menace of banditry can be checked to the minimum if not totally wiped out in Katsina State and possibly the North-West Nigeria if only the cases of banditry are filed before the *Shari'ah* Courts of which after conviction of the said offence, the bandits will be sentenced to the severe and deterring *hadd* punishment of *alhirabah* as provided for paragraph 140 -141.

1.8.0 Findings:

On the course of writing this paper, the following were observed and highlighted here under as findings of this paper:

1. Certainly, the *Shari'ah* is ideal in its dealings and provisions aimed at securing the *maslaha* of mankind. It has made the *daruriyat* of the humans a no-go area and provided cogent and very deterring punishments for transgression over them by prescribing the *hudud* punishments. The interests considered as the *daruriyat* are religion, life, intellect, chastity and wealth, thereby prescribing punishments for offences of that touches any of these.
2. Banditry is synonymous the offence of *al-hirabah* as it constitutes nefarious activities that threatens and endangers life wealth, and dignity which involves killing of innocent people, raping, looting of people's property and farm produce, kidnapping, and collection of ransom.
3. Banditry is punishable under paragraph 140 -140 of the Katsina State *Shari'ah* Penal Code Law 2001 of which the bandit after conviction by the *Shari'ah* Court will be liable *hadd* punishment of either death sentence, amputation of the left hand from the wrist and the right foot from the ankle.
4. The *Shari'ah* Courts are denied the jurisdiction (in practice) to try the offence of *alhirabah*. Such a case is presumed to be triable by the State High Court only despite the provisions of the Katsina State Adoption Law which gives the *Shari'ah* Courts the jurisdiction to try all criminal offences Committed in the State as well as the provision of paragraph 140 -141 of the Katsina State *Shari'ah* Penal Code Law 2001

1.8.0 Recommendation:

It is strongly recommended that:

1. The people of Katsina should be steadfast in their faith and trust in *Allah* in dealing with the menace of banditry in the State and the Government should do the needful to promote the enforcement of the *Shari'ah* laws in the state as it is the most potential system that safe guards the *daruriyat* (essentials) by its deterring punishments.
2. The nefarious activities of bandits are same as that which is explained by the jurists *alhirabah*; thus, banditry is synonymous to *al-hirabah*. Therefore, the bandits should be treated as *muharibun* (a person committing the offence of *hirabah*).
3. Bandits should be punished for the offence of *al-hirabah* with the *hadd* punishment of either death sentence, amputation of the left hand from the wrist and the right foot from

the ankle, as provided under paragraph 140 – 141 of the Katsina State Shari'ah Penal Code Law 2001 which is in consonance with the provision of the Qur'an and Sunnah for the said offence.

4. *Shari'ah* Courts should be allowed to try arrested bandits based on the Islamic law of *alhirabah* since the law of the land has given the courts the jurisdiction under the Katsina State Shari'ah Adoption Law 2000 and the Katsina State *Shari'ah* Penal Code Law 2001, so that all offences of banditry should be filed before the *Shari'ah* Courts in the State for speedy trial and public execution of the bandits if found guilty of the offence, since the trial of the offence before the Hight Courts of Justice in the State has yielded no result, as banditry is on the rise and to this moment and to the best of the knowledge of the researchers, no conviction has been achieved let alone execution of punishment for the cases of banditry filed before the Hight Court in the State.

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