

**APPLICATION OF AL- QURṬUBĪ'S LEGAL EXPOSITIONS IN *AL- JĀMI'U LI*
AḤKĀMI'L- QUR'ĀN ON SELECTED SOCIAL VICES IN NIGERIA**

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MATRIC NO: 1427\PIS001

**BEING A PH.D THESIS SUBMITTED TO THE DEPARTMENT OF RELIGIONS,
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DEGREE IN ISLAMIC STUDIES**

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CERTIFICATION

This is to certify that this thesis was carried out by Ismail Muhammad Hadi in the Department of Religions, History and Heritage Studies, Kwara State University, Malete.

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DEDICATION

This work is dedicated to Prophet Muhammad (s.a.w), the gentle souls of my affectionate parents and the entire Muslim *Ummah*

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All praise and admiration are due to Allah, the Supreme Being behind all successes. I beseech His mercy and blessings to be showered upon our noble Prophet Muhammad (s.a.w), his companions, household and all his followers. Amen.

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Whatever errors this work features are mine, the success however belongs to the Almighty Allah, the Only Perfect.

ABSTRACT

Tafsīr is a very important aspect of the Qur'ānic science in the sense that it deals with exposition of the context, contents of the Qur'ān and its intent. The obligation of explaining the Qur'ān in order to bring its understanding to the people was first imposed on the messenger of Allah, Muhammad (saw). Thereafter, following the demise of the Prophet, the *Ṣaḥābah* took up the duty and then their followers who had immeasurably contributed to the dissemination of the subject to the universe via the emergence of various types of *Tafsīr*. One of the books of *Tafsīr* works that emerged during the 7th century of Islam is that of Imam Abu 'Abdullah Muhammad Ibn Ahmad Ibn Abi-Bakr Ibn Farah Al- Anṣārī, al- Khazraji Al- Andalūsi Al- Qurṭubī titled: *Al-Jāmi'u li Ahkāmī'l- Qur'ān*. This research work, therefore, is a study of Al- Qurṭubī's legal expositions as contained in his *Tafsīr* on selected social vices prevalent in Nigeria. The objectives of this study are to: identify some social vices prevalent in Nigeria; show the Qur'ānic legal rulings on these social vices; discuss Al- Qurṭubī's legal expositions on the social vices; and study Al- Qurṭubī's methods in his *Tafsīr* rendition on the social vices. The work adopted exegetical, historical and analytical research methods with comparative approach. This is because the study requires interpreting and analyzing the information collected from the consulted sources. The instruments used in gathering information on the study were consultation of literatures on the subject through the use of libraries and internet. The work discovered that the penalties given in the Nigerian Constitution for these vices only serve the purpose of punishment and not that of deterrence; and that the existing laws in the Nigerian Constitutions are not adequate enough to curb the commission of these social vices. That is the reason the vices are still rampant in the Nigerian society with reports of their commission flooding the pages of Newspapers on daily basis. One other major finding revealed by this study is the comprehensive nature of the Islamic legal (*Shari'ah*) provisions which embrace all spheres of legal adjudications in man's life. Finally, the study has revealed that Al- Qurṭubī's claim that his *Tafsīr* work is legal based as depicted in its title "*Al Jāmi'u li Ahkāmī'l- Qur'ān*" is a genuine claim. The study in its conclusion has brought to limelight the sublime qualities of the Qur'ān via the expositions given by Al- Qurṭubī in his *Tafsīr*, and offered panacea and remedies in curbing the social vices to the barest minimum if not completely eradicated.

Number of Words: 420

ABBREVIATIONS

A.H: After the *Hijrah*

A.S: Transliterated as *Alayhis- Salām* and translated as May Allah's peace be upon him.

This is a benediction or blessing to the Prophets of Allah mentioned in this work.

C.E: Christian Era

Ch: Chapter

R.A *Raḍiyallāhu Anhu* i.e. May Allah be pleased with him. It is a benediction to the *Ṣaḥābah* of the Prophet mentioned in this work.

R.T.A: *Raḍiyallāhu Taʿālah Anha* i.e. May Allah (The Exalted be pleased with her. It is a benediction to the female *Ṣaḥābah* of the Prophet mentioned in this work.

S.A.W: *Ṣallallāhu Alayhi Wasallam*, translated as May the peace and blessing of Allah be upon him. It is used as benediction to Prophet Muhammad (S.A.W) only.

S.W.T: *Subḥānahu wa Taʿālā*, translated as Blessed and Exalted is He (Allah). This is a glorification and adoration to Allah.

GLOSSARY OF TERMS

<i>Diyyah:</i>	i.e. blood money or a prescribed amount of money by <i>Shari'ah</i> to be paid to the family of the deceased person
<i>Gurm:</i>	A kind of fine leveled against someone guilty of an offence
<i>Hirz:</i>	proper safeguard of property
<i>Kaffārah:</i>	Expiation prescribed by the <i>Shari'ah</i> to be paid by one who fell into the limit set by Islam, such as somebody that has sexual intercourse with his wife in the day hours of Ramadan.
<i>Khamr:</i>	Alcohol
<i>Niṣāb :</i>	Fixed rate which when stolen attracts capital punishment
<i>Qadhf:</i>	Defamation
<i>Qatl:</i>	Killing
<i>Shibhu Qatlul 'Amd:</i>	Resemblance of an Intentional Killing
<i>Sarqah:</i>	Theft
<i>Uḍḥiyah:</i>	Sacrificial Animal during festivals
<i>Zinā:</i>	Fornication/Adultery

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CHAPTER ONE

INTRODUCTION

1.0 Preamble

The Glorious Qur'ān, being a compendium of knowledge, law, and wisdom sent to Prophet Muhammad (SAW) for world guidance and illumination, is loaded with meanings has extracted by experts of different disciplines. It is a miraculous book filled with the knowledge of various arts and sciences. There appears to be no limit to mysteries and wonders hidden in its verses. The more an expert in any branch of knowledge explores this book of wisdom, the more he will be impressed by its incredible magnificence and its transcendental horizon.

Effort of Prophet Muhammad (SAW), his *Ṣaḥābah* who were the immediate audience of the Qur'ān and that of *at-Tābi'ūn* (the companions' successors) to tap from the wealth of knowledge embedded in this Glorious Qur'ān and disseminate same to the world at large after the demise of the Prophet (SAW) resulted in the evolution of *Tafsīr* literature. This magnificent work of the prophet, the *Ṣaḥābah* and *At- Tābi'ūn* later became a branch of knowledge through which the intended meanings of the Glorious Book could be logically understood. Thus knowledge of *at-Tafsīr* becomes of paramount importance.

1.1 Definition of *Tafsīr*

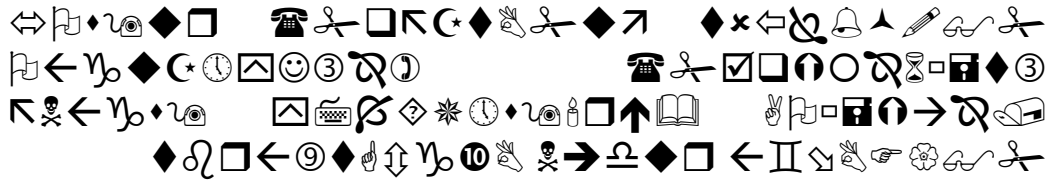
Tafsīr is an Arabic word which literally means exegesis. The word is derived from the root *fassara*; which means to explain, to expound. It also connotes: 'to make clear, to show the objective, to lift the curtain'¹ Technically, *Tafsīr* can be defined as one of the Qur'ānic sciences through which meanings of the divine messages of the Qur'ān could be thoroughly understood, comprehended and digested. The lexicon meanings

and connotations of the word *Tafsīr* are *Ta'wīl*² (Interpretation) *Idōh*³ (clarity), *Al-Bayān*⁴ (explanation), *Ash-Sharḥ*⁵ (commentary). According to Ibn Manẓūr, *Tafsīr* means unveiling the intended meaning so that it becomes clear⁶. Experts in the field of science of *Tafsīr* have given various definitions of the word according to their expositions and perspectives through which it is viewed.

In-depth knowledge of the circumstances surrounding the revelation of the Qur'ān (*Asbābun-Nuzūl*), sound knowledge of *Aḥādīth* gathered from the prophet (SAW) as well as knowledge of the language in which the Qur'ān was revealed had greatly facilitated this difficult task for the *Ṣaḥābah* and *Tābi'ūn*, and thus make it relevant and possible for every epoch of life to make their living from this Divine Book (Al-Qur'ān) through its exegesis (i.e. *Tafsīr*). This thesis is an attempt to contextualize Al-Qurṭubī's expositions in his *Tafsīr: Al-Jāmi' u li-Aḥkāmī 'l- Qur'ān*, on some prevalent social vices in Nigeria.

1.2 Background to the Study

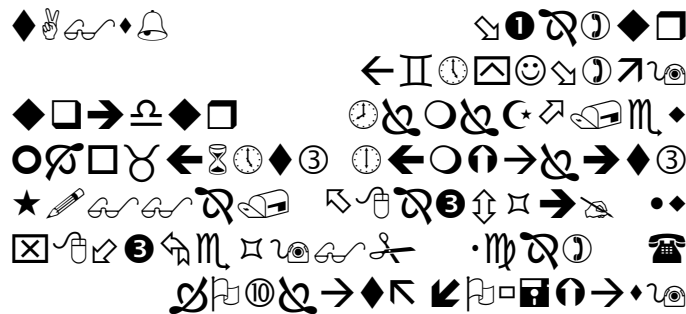
Allah (SWT) Himself is the Author of the Qur'ān and Facilitator of its *Tafsīr* (Qur'ānic exegesis). This is evident in the fact that the Qur'ān contains verses which serve as *Tafsīr* for other verses (as it will be seen in the body of this work). Acting under Allah's instruction, Prophet Muhammad (SAW): the initiator of *Tafsīr* also undertook this divine responsibility during his life-time. He was a great facilitator to the companions on whatever difficulty they encountered in their study of the Qur'ān. The companions used to ask questions from the Prophet on matters that seemed ambiguous to them in the Qur'ān, and the Prophet in turn used to supply necessary answers to such inquiries.⁷ An apt example is the following verse:



Those who believe and mix not their beliefs with the wrong they are (truly) in security, for they are on (right) guidance (Q.6:82).

The Companions asked: "O Messenger of Allah: who amongst us does not do wrong/injustice (to his soul)?" The Prophet replied: "It is not as you comprehend it.

The word *Zulm* used in the quoted verse is tantamount to the statement of Allah in *Sūrat Luqmān* which reads:



O my son associate not partnership with Allah, certainly associating partnership with Allah is indeed the highest wrong-doing (Q.31:13).

After the demise of the Prophet, the task of interpreting the Qur'ān fell on the companions who were very much reluctant to undertake the assignment, believing that nobody besides the Prophet had that legal obligation of saying anything on the Book of Allah. Some among them, however, took up the challenge when Islam started spreading beyond the Arabian Peninsula⁸.

However, the few companions who were enthusiastic about this knowledge (of *Tafsīr*) would not only explain any verse in the Qur'ān, but would also give its historical

background and the cause of its revelation. Many among them became famous in that regard, most notably the four rightly guided caliphs and other eminent companions like Abdullah Ibn Abbās, Abdullah Ibn Mas‘ūd, Ubayy Ibn Ka‘b, Zayd Ibn Thābit, Abu Musa Al-Ash‘ari, Abdullah Ibn Zubayr and A’ishah (R.T.A) widow of the Prophet.⁹

The successors (*Tābi‘ ūn*) of the Companions also studied *Tafsīr* under the tutelage of their predecessors (i.e., the *Ṣaḥābah*), as there emerged three schools in the Islamic cities, these are:

- a. Makkan school of *Tafsīr* headed by Abdullah Ibn Abbās and among its graduates included Mujahid Ibn Jābir, Sa‘ad Ibn Jubayr, Attā’ Ibn Rabbah etc.¹⁰
- b. Madinan school of *Tafsīr* under the leadership of Ubayy Ibn Ka‘b and its students include Zayd Ibn Aslam, Abu-l-Aliya Ar-Riyahi etc.¹¹
- c. Iraqī school of *Tafsīr* which was under the headship of ‘Abdullah Ibn Mas‘ūd. People like Alqamah Ibn Qays, Masrūq Ibn Al-Ajdah, and others were among the graduates of this school.¹² These were the leading centers of *Tafsīrul-Qur’ān* in the Islamic states by then.

Graduates of all these schools later-on passed the acquired knowledge of *Tafsīr* faithfully to the next generation after them. Thus, this knowledge was being passed by trustworthy scholars of the *Ummah* (Muslim community), who protected it from alterations of the heretics, false claims of liars, and incorrect interpretation of the ignorant.¹³

Because during the early stages of Islamic history, oral transmission of knowledge was more in vogue than the written transmission, and besides, for the reason that the general level of education was high, there was no need for extensive writing down of knowledge. As a result, the early scholars did not write on *Ulumu'l- Qur'ān* (Qur'ānic Sciences) in general, but instead wrote separate tracts on each science of the Qur'ān. *Tafsīr*, as a branch of Qur'ānic Sciences, was, however, the first to be written on. Many scholars amongst the successors wrote *Tafsīr* of the Glorious Qur'ān while they also compiled the statements gathered from the prophet (SAW) and from the companions on *Tafsīr*. Those scholars included the followings: Sufyān Al-Thaorī (d.161AH), Sufyān Ibn Uyaynah (d.198AH), Waki^c Ibn Al-Jarāh (197AH) and Shu^cbān Ibn Al-Hajjāj (d. 160 A.H) etc.¹⁴

Beside, other early writers of *Tafsīr* among the followers of the successors, and whose works were based on reports from the prophet, the companions and their successors include: Abubakr Ibn Mundhir An-Naysābūrī (d.318AH), Ibn Abī Hātim (d.328AH) Ibn Hibbān (d.369AH) Al-Ḥākim (d.405AH) and Ibn Mardawayh (d. 410AH). All these later writers included the chains of narration (*Isnād*) of the reports in their various books.¹⁵

Tafsīr literature became more advanced in the later generations after the followers of the successors in which many exegetes emerged, some based their *Tafsīr* on sound transmission from the prophet, the companions (*Ṣaḥābah*), and their followers, while some others were of *Tafsīr* based on opinion. Many works on *Tafsīr* were found saturated in the Muslim worlds by then, such a way that each Islamic sect tried to evolve a book of *Tafsīr* and fashion it towards its teachings and doctrines, just to

promote their faction among others. Among the *Tafsīr* works that emerged was *Tafsīr Al- Qurṭubī* which came on board in the seventh century of Islamic *Hijrah* calendar, tagged as *Al-Jāmiʿi 'li Ahkāmī'l- Qur'ān*. Going by its name, the book is an Islamic legal-based work. The expositional approach of Al- Qurṭubī and his expertise as demonstrated in the book, which portrays the work as *Tafsīru 'l-Ma'thūr* motivated the researcher to embark on this research work, which he believes it will proffer remedies to the selected social vices and if implemented, could restrain the vices to a manageable level.

Nigerian milieu is engulfed with a myriad of social vices of various kinds; both the leaders and the led are observed to have sunk deeply into the ditch of corruption. The Muslims, who suppose to be guided by the Qur'ān in their mundane and spiritual affairs, were also seen involved in the social vices, and that is because they lack vivid understanding about the teachings of their religion. Islam leaves no stone unturned, teachings of Islam encapsulates all human facets on the earth, from the most insignificant to the most significant sectors of life, it encompasses both political, social, economic, educational, national and international areas of life. Detail understanding of these teachings can be exploited, derived at and accomplished only through expositions of Qur'ān verses given by the exegetes and these could be applied to general and individual affairs, this will assist in curbing the social vices to the bearable minimum.

Against these backdrops, therefore, this study intends to bring into the limelight the provisions set forth by Islam for curbing the social vices amid humanity and the

potential ability the religion most especially Islam has, in sanitizing human society and national re-branding.

1.3 Statement of the Problem

It is generally believed that the essence of *Tafsīr* is that its teachings should guide the whole affairs of humanity in consonance with the commandments of Allah, and that man also can find solace in the Qur'ān. It follows; therefore, that man's progress, development as well as solutions to socio-political and economic problems can be obtained in the Qur'ān, when exegetes clearly deliver the messages of the Qur'ān and when such injunctions are applied by all men in all their daily affairs.

Islam enjoins “*Al-Amr bi'l Ma'rūf wa'n- Nahy ani'l- Munkar*” (i.e., enjoining righteous deeds and forbidding the evil ones). A virtuous act or an evil deed could be known through a comprehensive understanding of the meanings of the Holy Qur'ān, which is obtainable through exegesis of the Qur'ān. *Tafsīru'l- Qur'ān*, therefore, serves as a medium through which meanings of Qur'ān verses are comprehended, understood, and digested.

Prophet Muhammad was reported to have said: “He, who sees an evil act should get it changed with his hand, if he cannot afford that, then with his tongue, if he cannot afford that, then with his heart, and that is the weakest faith”.¹⁶ The contemporary secular Nigerian milieu or the world at large is faced with manifold social challenges such as insecurity, homosexuality, economic retrogression, political unrest, youth restiveness, personality defamation, alcoholism, child abandonment, human abduction, interfaith crises, theft, fraud, etc. Unfortunately, Muslims who are

supposed to be guided by the Qur'ān are also involved in many of the social vices. Some of these social challenges are mentioned in the Qur'ān with their legal implications. Of all the existing *Tafsīr* works, the approach of Al- Qurṭubī's work in dealing with legal verses is acclaimed profound. This study, therefore, examines the judicial expositions given by Al- Qurṭubī on verses of the Qur'ān that deal with selected social vices. This is based on the belief that proper understanding of the Qur'ānic expositions on the legal implication of these social vices will help to curb these vices to a bearable minimum.

1.4 Purpose of the Study

The objectives of this study are to:

Identify some social vices prevalent in Nigeria;

Show the Qur'ānic legal rulings on the social vices;

Discuss Al- Qurṭubī's legal expositions on the social vices; and

Study Al- Qurṭubī's methods in his *Tafsīr* rendition on the social vices.

1.5 Scope of the Study

This research work is a study of selected social vices in the light of the numerous expositions made by Al- Qurṭubī on them in his *Tafsīr*: “*Al-Jāmi' li Aḥkāmī'l-Qur'ān*”. Therefore, Al- Qurṭubī's *Tafsīr* is the central point of discussion, due to its legal elucidation status. However, in the course of the analyses, references are made from time to time to other works that have bearing with the topic, especially those on *Adab* (ethics) and *Fiqh* (jurisprudence). Social vices are mostly referred to as those criminal acts that are common to any given society. Nigeria, in particular, is characterized with number of vices which include, among others, fake news, religious

crisis, abduction/kidnapping, illicit sexual act such as rape, gay and lesbianism, killing of various types, defamation of character, hate speech, examination malpractice, alcoholism, internet fraud, theft, robbery political unrest, etc. these vices have been committed on a daily basis, such that they are found saturated on social media almost every day. Due to time constrain and enormously of the work, this study cannot cover all and therefore, it has specially selected six out of the vices, examined them from Islamic point of view, according to Al- Qurṭubī's exposition, and will come up with findings, which if adhered to, could minimize the commission of those vices if not total stoppage.

The selected vices are: all kinds of illegal sexual intercourse, ranging from adultery, fornication, sodomy, gay and lesbianism (*Zinā*), murder and killing (*Qatl*), alcoholism and drug addiction (*Khamr*), defamation of character/ vilification of personality (*Qadhf*), theft (*Sarqah*) and fraud (*Tatfīf*), with emphasis on their legal implications as rendered by Al- Qurṭubī in his *Tafsīr*. Though there are numerous types of social vices in the Nigerian setting, yet, the above mentioned are selected because they are among the most rampant ones while their effects on individuals and the society at large are equally most damaging.

This study is particularly interested in the legal implications of the selected social vices. Al- Qurṭubī's monumental *Tafsīr* (i.e., *Al-Jāmi' u li Ahkāmī'l- Qur'ān*) is therefore chosen for the study because of the general belief that it is a legal *Tafsīr*. Of course, there are other legal *Tafsīr* such as *Tafsīr Ayātul Ahkām* written by Muhammad bin Ali As-Sabūni, *Tafsīru Ahkāmī'li- Qur'ān* written by Ahmad bin Ali Husain bin Ali bin Musa Al- Khusrijiy Al- Kharrāsan, and others. However, the

approach used by Al- Qurṭubī in his work is unique in the sense that he introduces some features that may not be found in other legal *Tafāsīr*. For instance, he uses to exploit grammatical analysis as well as abrogation of any concern verse, narrate causes of revelation, interpret with another Qur’ān verses, prophetic *Ahadith*, statements of the *Ṣaḥābah*, that of their followers and the righteous sages in Islam. He also illustrates with wise poetries and finally dabbles into the legal interpretations, which are the primary focus of the book. It is for these reasons and the general acceptability the work enjoys among scholars and students of *Tafsīr* that I chose the *Tafsīr* to work for study in his work.

1.6 Significance of the Study

Muslims believe that Islam is relevant into all ages and that the Qur’ān has left nothing un-discussed. The fact that the Qur’ān contains verses that not only deal with social vices that this work studies, but equally give legal rulings on them confirms the Muslims' belief. Many moralist scholars- Muslims and non-Muslims- have addressed the menace of social vices in their various works. It is, however, unknown that any of such writers have studied the social vices in the light of the legal expositions given by Al- Qurṭubī in his *Al-Jāmi‘u li Ahkāmī’l- Qur’ān*. This is the justification for embarking on this study. The followings, however, are the worth of the research:

- The study enhances our general understanding of the selected social vices, factors responsible for their prevalence as well as their consequences for individuals and the society at large.

- The study also brings to limelight the contributions made by al-Al- Qurṭubī in particular in enhancing our knowledge of Islamic legal position on the selected social vices.
- The study brings to the fore the Islamic legal rulings on the selected social vices.
- The research also shows the significant role that religion, especially Islam, is capable of playing in curbing the social menace.
- The study does a critique of Al- Qurṭubī's methods in his *Tafsīr* rendition on the social vices with the view to pointing out its areas of strength and weakness.

1.7 Methodology

Exegetical, Historical, and Analytical research methods are utilized in carrying out the study. This is because the study requires a historical approach to trace the biography of the author and the origin of the book, as well as interpreting and analyzing the information collected from the consulted sources. The instruments used in gathering information on the study are consultation of literature on the subject through the use of libraries and the internet. The information collected from both the hard and soft materials were collated and analyzed to arrive at a coherent narrative.

1.8 Literature Review

In writing this thesis, many works related to the topic were consulted. Some of such works which were in both Arabic and English sources are here-under reviewed:

At-Tafsīru wal- Mufasssirūn, authored by Dr. Muhammad Husain Adh-Dhabi¹⁷, represents the classical exposition of the origin, growth, and development of *Tafsīr*, as well as the profiles of the *Mufasssirūn* (Exegetes) together with their works. It is highly comprehensive, comprising three volumes which basically deal with *Tafsīru-l-*

Qur'ān. It is considered one of the best jobs on the subject. The treatise can be viewed as one of the repositories of the necessary information about knowledge of *Tafsīr*. The author adopts a systematic approach to the sequential arrangement of the topics. He starts by giving the literal and technical meanings of *Tafsīr*, followed by the first stage of *Tafsīr* which comprises of the prophetic and the companions' periods, under which he examines the sources of *Tafsīr* at this stage, which include; the Qur'ān, prophetic *Sunnah*, analogical deduction (*Al-ijtihād*) of the companions and Judeo-Christian experience (*Israiliyyāt*). He mentions some famous exegetes from among the companions which include; Abdullah Ibn Abbās, Abdullah Ibn Mas'ūd, Ali ibn Abī Tālib, Ubayy Ibn Ka'b, etc.

The second Stage of *Tafsīr* according to Adh- Dhahabī was the period of companions' successors (*Tābi'ūn*), and the sources of *Tafsīr* at this stage include; The Qur'ān, the *Sunnah*, the statements of the companions, Judeo-Christian experience and the *Ijtihād*. He mentions schools of *Tafsīr* to include Makkan, Madinan and Iraqī schools.

The third stage of *Tafsīr*, however, was the period of documentation (*Asru 't-Tadwīn*). The author discusses *Tafsīr bi 'l-ma'thūr* and its development, and some famous books of *Tafsīr bi'r-Ra'y* at this stage. The book is a compendium of useful information about *Tafsīru-l- Qur'ān* as it is functional to chapter one of this present work.

Al-Itqān fī 'Ulūmi'l- Qur'ān written by Jalālud-Dīn As-Sayūti¹⁸ consists of two volumes. It is also considered as a classic exposition of the knowledge of the Qur'ān, highly comprehensive as it touches all topics relating to the sciences of the Qur'ān,

including *Tafsīr*. The book is one of the best works on the subject; instead, it is an encyclopedia of scientific knowledge of the Qur'ān. The author presents the details of the issue with explicit expressions. It serves as a source from where all knowledge relating to the Qur'ān and its sciences could be drawn. It is a valuable material to this work

Mabāḥithu fī 'Ulūmi'l- Qur'ān of Mannā'ul- Qaṭṭān¹⁹ represents the author's digestion on the knowledge of the Qur'ān, precisely the development of *Tafsīr*. The author presents therein the literal and technical meanings of the Qur'ān, collection, and arrangement of the Qur'ān during the prophetic period, the periods of caliphs Abu-Bakr and Uthmān, respectively. The author examines the origin and the development of *Tafsīru'l- Qur'ān* during the periods of the Prophet (S.A.W), his companions, their followers, and the documentation period. He finally mentions some famous writers on *Tafsīru'l- Ma'Thūr*. The work is a useful piece and very relevant to the present work.

At-Ta'liq Ala Tafsīri'l- Qurṭubī: written by Al-Khadīr.²⁰ This is an Arabic work which consists of some verses selected from five chapters (*Suwar*) of the Qur'ān, these are: *Sūratu'l- Hajj* (Q:22), *Sūratu'n- Nūr* (Q:24), *Sūratu'l- Furqān* (Q:25), *Sūratu'sh-Shu'arā'* (Q:26) and *Sūratu'l- Qaṣaṣ* (Q:28). Part of the author's discussion especially those on *Sūratun-Nūr* (Q:24) have bearing with issues such as fornication (*Zinā*) and defamation (*Qadhf*), yet it did not cover renditions on social vices which are the focus of this present work.

*Rawāi'u Al-Bayān: Tafsīru Ayātul- Ahkām Minal- Qur'ān.*²¹ This is Aṣ-Ṣabūnī's exposition on the verses of the Qur'ān; it is a voluminous work which deals basically with legal verses of the Qur'ān. The author, a time, justifies his stands and supports his arguments with Al- Qurṭubī's views from his monumental work on *Tafsīr*, which is of similar context with the former. He uses to adopt and as well as reject views of Al- Qurṭub. The focus of this work is dissimilar to the present one.

Ahkāmu'l- Qur'ān Li- Shāfi' Al- Baiyhaqī: A monumental work of Shaykh Ahmad bin Al- Husain bin Ali bin Musa Al- Khusraojiradi Al- Khurrāsāni, Abubakr Al-Baiyhaqī on *Tafsīr*.²² The author belonged to Shāfi' School of Thought, thus based all his legal exposition in the book on the school's points of view, though he illustrates with prophetic traditions (*Aḥādīth*), yet, the book is referred to as As- Shāfi' legal based exposition, which comprises of two volumes. The focal point of the book differed from the present one.

Ma'a Al- Maktabah Al- Arabiyyah: Dirāsātun fī Ummahatil-Maṣādir: written by Abdur-Rahman Outra.²³ The content of this book centered round the fundamental basis of various branches of knowledge, as it involves both Qur'ānic sciences and Qur'ānic exegesis. Al- Qurṭubī's work on *Tafsīr* i.e., *Al-Jāmi'u'li Ahkāmī'l Qur'ān*, was considered by the author as one of the sources of Qur'ānic interpretation, and it has been referred to as a *Tafsīr* based on transmission because of its use of *Aḥādīth* and statements of the earlier scholars, as well as on reasoning. Though the book is relevant, yet, it has not focused on social vices which the present work intends.

Fiqh-ul- Wāḍiḥ:²⁴ an Arabic jurisprudential book written by Abdul- Aziz As- Sa°dūn, the book comprises of various religious verdicts conducted by the author, and contextual topics and topical issues that deal with religious fundamentals. The author was a student of Imam Ibn Al- Jaozi; who authored a book called *At- Taḥqiqu fi Aḥādīth'l- khilāf*. The former arranged his book according to the manner the latter organized his own, and a time he supports views of his master. Likewise, he objects it. The book is found relevant to the present work in terms of legal interpretation but not of the same focus

Al- Fiqh Ala'l- Madhāhib'l- Arba°ah Al-Jazīrī; by Abdur- Raḥmān Al- Jazīrī,²⁵ this is another Arabic jurisprudential book, which is highly voluminous, it discusses all aspect of the religion to its minute details according to the four schools of thought, likewise, the author uses *Aḥādīth* during his illustrations, it is a legal based book which is relevant but differs in focus with the present work.

Al- Fiqh Al- Wāḍiḥ Minal- Kitāb Was- Sunnah Ala'l- Madhāhib Al- Arba°ah,²⁶ written by Muhammad Bikri Ismail. This is also a jurisprudential book comprises of teachings of Islam; it covers almost all aspects of religious verdicts. It is useful for legal interpretations and relevant to the present work but with a different focus.

The author of "*An Introduction to the Sciences of the Qur'ān*," Abu Ammaar Yasir Qadhi²⁷ introduces the subject matter of the book through comprehensive definitions that take care of the essential aspects of the science of the Qur'ān. He analyses the subject to have encompassed all those branches of knowledge that deal with the Qur'ān, but the paramount of all according to him is *Tafsīr*, which he regards as the

most crucial subject that facilitates the understanding of meanings of verses of the Qur'ān. Furthermore, the author discusses what *Tafsīr* means in its literal and technical senses, including the differences between *Tafsīr* and *ta'wīl*. He explains the necessity and importance of *Tafsīr*, the history of *Tafsīr* during the prophetic period, the period of the companions, that of the successors, and the compilation of *tafsīr*. The book is comprehensive enough for all English readers, and its explanations are very liberal and concise in nature, it is found relevant to the present work.

The subject matter of Ahmad Von Denver's *'Ulūmu'l- Qur'ān: An Introduction to the Sciences of the Qur'ān*²⁸ and that of Qadhi reviewed above remains the same. The author maintains that "without *Tafsīr*, there can be no proper understanding of the Qur'ān." He discusses the three kinds of *Tafsīr*, namely; *Tafsīr bi'l- Ma'thūr* (*Tafsīr* based on Transmission), *Tafsīr bi'd-Dirāyah* (Rational *Tafsīr*) and *Tafsīr bi'l- Ishārah* (Demonstrative *Tafsīr*). He finally discusses the three schools of *Tafsīr* which were the Makkan, the Madinah, and the Iraqī schools, headed by Abdullah b. Abbās, Ubay b. Ka'b and Abdullah b. Mas'ūd respectively. Other related issues discussed by the author are; the Qur'ān and revelation, Makkan and Madinah revelation, *Asbābu'n-Nuzūl* (causes of revelation), *An-Naskh* (abrogation), variety of modes, the various readings, the Qur'ān as miracle, the Qur'ān and science, Qur'ān and the orientalists, etiquette with the Qur'ān, reciting and memorization of the Qur'ān, the Qur'ān on records, tapes and cassettes and finally how to study the Qur'ān. This is relevant to this thesis understudy but with a different focus.

The author of "*An Approach to the Qur'ānic Science (Uloomul Qur'ān)*," Justice Mufti Muhammad Taqi Usman²⁹ opens his work by introducing the Qur'ān through a

concise definition that reflects precisely what the subject stands for. He discusses facts about revelation (*Wahy*); its meaning, kind, and method. Some of the distinguishing features of Mufti Muhammad's work are as follow:

- a. Discussion on aspects of Qur'ānic revelation as well as the seven forms of recitation of the Qur'ān.
- b. Highlight on abrogation, preservation of the Qur'ān during the Prophetic and *Ṣaḥābah* 's eras, miracles, and inimitability of the Qur'ān.
- c. Analysis of the science of *Tafsīr* (Qur'ān exegesis), its sources and the extended sources as well which may include:

Isra'iliyyāt or Judaica (i.e., information obtained from Jewish or Christian sources) under which he mentions some individual personalities among the companions and their successors, who were known for reporting *Isra'iliyyāt* such as; Abdullah bin Amr (RA) (a companion), Ka'b Al- Aḥbār and Wahb bin Munabbih (followers of the companions).

- *Sufi* exegesis.
- Self-conceived interpretation (*Ra'y*).

He finally discusses biographies and works of some exegetes of early era among the companions and their followers and some others of the later time. The book is highly resourceful.

- *Qur'ānic Commentary between Tradition and Opinion* written by Dr. Hadi Sheikh Tahir Usman Bauchi³⁰ is a summary of the author's Ph. D thesis, submitted to the Faculty of Arts, University of Glasgow. The work represents Usman Bauchi's digestion on the Qur'ānic commentary between tradition and opinion. It is a comprehensive account of *Tafsīru'l- Ilmī* and *Tafsīr bi'r- Riwāyah*, comprising the

details on these two major branches of *Tafsīr*: *At- Tafsīru 'l- Ma'thūr* and *At- Tafsīr bi'r- Ra'y*. The book as a whole focuses on four grades of *Tafsīru bi'l- Ma'thūr* (as mentioned earlier on), as well as the pre-requisites of Qur'ānic commentary by opinion which may include: lexicography (*Al-Lughah*), Syntax, Accidence and Etymology (*An-Naḥwu wa'ṣ- Ṣarf wa'l- Ishtiḳāq*), the Rhetorical knowledge (*'Ulūm'l- Balāghah*), the recitation dialect (*'Ilmu'l- Qirā'ah*), abrogator and abrogated verses (*An-Nāsikh wa'l- Mansūkh*), the causes of revelations (*Asbābu'n- Nuzūl*) etc. The author further discusses methods of Qur'ānic commentary by opinion or analytical methods of commentary (*Al-Minhāju't- Taḥlīlī*). He explains that four methods are being used in expounding the Holy Book by opinion, the other three ways apart from the first-mentioned one, i.e., the analytical method, are the followings:

- The comparative approach of commentary (*Al-Minhāju'l-Muqāran*)
- The compressive method of commentary (*Al-Minhāju'l- Ijmālī*)
- The objective method of commentary (*Al-Minhāju'l- Mawḍū'ī*)

The author explores juristic, mystical, social, scientific, philosophical, and contemporary commentaries in his work, which are found relevant to this present work.

Badmas Lanre Yusuf in his work titled: *Sayyid Quṭb: A Study of his Tafsīr*³¹ highlights the evolution and development of *Tafsīr* throughout the ages. Specifically, he mentions the prophetic period, the periods of the companions and their followers, respectively, as well as the period of collection and documentation of *Tafsīr*. The author remarks on the life and works of Sayyid Quṭb and discusses the history and the characteristics of *Fi Zīlal Al- Qur'ān*; the monumental work of Sayyid Quṭb on *Tafsīr*. He examines some theological issues in *Fi Zīlal Al- Qur'ān*, as he also discusses

schools of *Tafsīr* and products of each school. He looks into the classification of *Tafsīr* and modern approach to the subject. He concludes the work by examining the empirical method of Sayyid Quṭb to *Tafsīru'l- Qur'ān*. This is useful material for this work.

An Examination of Al- Qurṭubī's Exegetical Discourse on Marital Issues in the Qur'ān: This is an unpublished PhD. Thesis of Hassan Muhammad Kannike.³² The focus of the work is on Al- Qurṭubī's expositions on Qur'ānic verses dealing with marital issues. The author asserts that marriage is a common practice of ordinary human beings, religious leaders, and even the prophets. His findings revealed that Islam is the only world religion that accords women right to inheritance. The thesis is found relevant to the present work, but its focus differs from the later.

The Lawful and Prohibited in Islam written by Yusuf Al- Qaradawi.³³ The author is a contemporary scholar of international repute. The book comprises of topical issues of scores of Islamic teachings that deal basically with what is lawful and prohibited in Muslim's mundane and religious affairs. The book is written in Arabic original, and it has been translated into different worldly languages, most notably English language. The author was able to put together and summarise the issues from both ancient and modern Islamic references, thus produced points of view relevant to the present time of Muslims' circumstances. The book is found suitable to the current work, but differed in focus as references will be made to it from time to time.

Corruption and Embezzlement of Public Funds in Nigeria:³⁴ is an article put in by Philip Ighovojah who traces the history of corruption in Nigeria and thus traces it

back to the pre-colonial era when the traditional rulers as well as their chiefs, emissaries and henchmen were the perpetrators of certain institutional forms of corruption particularly in the adjudication of land and related disputes. He defines corruption according to various social scientists and discusses its causes and types. He after that highlights the consequences of corruption and embezzlement on our national development. He suggests ways of controlling the two in the Nigerian society and concludes the work by alluding to the fact that both corruption and embezzlement are enormous obstacles on the idea of Nigeria national development.

*Conduct of Examination, Examination Malpractices, and Role of Examiners:*³⁵ This is an academic paper presented by R. Ola Seweje, at the 2014 Induction Programme of the directorate of Continuing Education Programme, held at the Kwara State College of Education, Ilorin. The author defined examination malpractice as those unethical behaviours usually associated with an examination in an institution. It is an attempt to attain an unmerited rating in an examination. He enumerated causes, dimensions, forms, and consequences of malpractice in an examination. Among the causes is low self-esteem of personal worth and capability. This paper is relevant to the present work for the reason that examination malpractice is in the context of the social vices embattling this nation.

*Man Nabbed for Stealing Phone:*³⁶ This is a caption in a daily newspaper: National Pilot, vol. 29, No 46, Mon. 6th - Wed. 8th May 2019, corresponding to Ramadan 1-3 1440AH. The paper expressed it that a man was arrested for stealing a mobile phone worthy of #30.000, and that was after he had allegedly discovered to have perpetrated the evil act through tracking the phone which was some time ago reportedly stolen by

the owner in Ilorin. During interrogation, the suspect confessed to the crime. This is another illustration of social vices common to Nigerian society.

*How 14-year-old girl raped, strangled to death in Ilorin:*³⁷ This is another heading in one of the Nigerian news bulletin: Kwara Arise; dated to Monday, February 9, 2015. The paper had it that the residents of Olororo compound, off Ita-Kure, Ilorin, woke up on Wednesday morning, February 4, 2015, only for them to see the lifeless body of a 14-year-old simply called Zainab, who was strangled to death after being serially raped by some unknown men.

*APC Senator-elect caught with another man's wife, stripped naked:*³⁸ Also, is another headline in National Pilot daily newspaper, dated to Mon.4th - Wed, 6th March, 2019, equivalent to Jummāda Al- Akhar 27 – 29, 1440AH. The story had it that the deputy speaker, Nasarawa State House of Assembly and Senator-elect for Nasarawa North Senatorial District: Godiya Akwashiki was allegedly reported to have been beaten to a state of coma for having an affair with the wife of a top politician in the state.

*Robbery: 2 to die by hanging in Ilorin:*³⁹ The same print media, i.e. National Pilot daily newspaper has the headline as mentioned above. The two convicts: Yusuf Adisa and Olawepo Bolaji, were charged for the offenses of criminal conspiracy and armed robbery contrary to sections 6(b) and 1(2) of Armed Robbery and Firearms Act LFN 2004. The two were sentenced to death by High Court sitting in Ilorin.

Steve Metiboba in his own contribution entitled: *Corruption and National Development: A Cost-Benefit Analysis*⁴⁰ maintains that corruption cut across perhaps

all known human societies only that its nature and manifestation vary from one nation to another. He defines corruption according to various scholars and discusses theoretical approaches to its study. He examines corruption as a set-back to development effort in Nigeria. His conclusion reflects that corruption is a social phenomenon, probably as old as the society itself as it permeates almost all known fields of human endeavour in Nigeria.

*Giddens Sociology*⁴¹ is a classical work on the study of sociology in universities and tertiary institutions. This monumental work of sociology written by Giddens is embedded with series of topics on social problems which include among others: culture and society, socialization and the life-cycle, social interaction and everyday life, conformity and deviance, gender and sexuality etc. The author further subdivides each of these topics into various classes most especially the topic on gender and sexuality, he sheds light on domestic violence, sexual harassment, rape, healthy sexual behavior, homosexuality, AIDS and prostitution.

IAN Robertson's work titled: *IAN Robertson Sociology*⁴² discusses several social issues. The author examines the act of deviance and its types in society, its social implications, functions, and dysfunctions. He also discusses sexuality, its forms, and its social consequences as well as other social problems in the book. This is a valuable material to this work

O.A. Opaleye in his article: *Corruption and Economic Insecurity in Nigeria*,⁴³ sees corruption as ranging from giving bribe to civil servants, stealing of public money to a wide range of dubious economic and political practice in which political office

holders and bureaucrats enrich themselves. He further submits that corruption has dealt devastating blows to the Nigerian society, which is generally seen as counter-productive to the needed economic reform, accountability, transparency, and good governance. Finally, he recommends among others, that both ethnic and civic studies should be reintroduced into the Nigerian school curriculum and that the judicial system in Nigeria should be reformed. This is a useful material to this present work on the discussion on fraud in chapter three.

*Defamation Hurts: 10 Intriguing Facts and Thoughts on the Psychologically Devastating Effects of Slander and Libel*⁴⁴ written by Nicholas Carroll, is a piece on the darker side of defamation. The author's stance is that slander and libel ruin lives. Nevertheless, maybe that is a bit of an exaggeration, but Carroll does appear to advocate for defamation reform and floats the idea of "same legislation" that better compensates wronged parties. He, therefore, raises some arguments worth considering among which may include; loose lips or poison pens had pushed them over the brink to abnormal behaviour, only 5% of defamation victims can handle the emotional fallout of slander and libel, rationally. The so-called Streisand effect stops people, who have legitimately been defamed, from taking legal action. Suicide is a genuine consequence of defamation. Carroll finally contends that false accusations are more traumatic than actual evil deeds.

Janie Smith in his work: *Defamation in the Work Place: What you need to Know*⁴⁵ defines defamation as something said in written or spoken form that is damaging to a person's reputation that can include posts made on social media sites. The author cites Goldsmith, who said he had acted in a case where a disgruntled employee sent an

email to the whole company, alleging misconduct by her manager. He says, concerning an employee in a company that suspects a co-worker of wrongdoings:

Don't make the allegations to a co-worker because he or she will probably have some personal influences that will affect what's said. The proper course is that if you suspect someone and you're inclined to say something, report it higher up the chain.

He finally enumerates defamation defenses in the workplace to include; qualified privilege: this can be used as a protection against defamation as long as the statements or allegations were made in good faith to the correct person and without malice, and the truth about the suspected issue against the co-worker.

*Islamic Perspective on Kidnapping, Killings*⁴⁶ is an article written by Ishola Balogun. The writer dwells on actions of some people who claim to profess Islam but have continued to typify acts that are at variance with the teaching of Islam and in a bid to concretize their egocentric actions, they illegally pronounce *Jihad* killing and abduct innocent people. He maintains that these deceptive actions of the hypocrites help the ignorant non-Muslims to distort Islamic ideals further and paint Islam in an undeserving colour, rather than the true philosophy of peace in this life and in the hereafter. Islam forbids targeting non-combatants by killing or by kidnapping or taking them as hostages, or inflicting any injury on them. While on the battlefield, there are rules on how to deal with even those who wage war against Islam. This, the author, supported with *Aḥādīth* of the Prophet thus: "Do not kill a woman, a child, an old man, or a monk in his monastery, do not cut down trees." "...Do not kill traders (business-men) or farmers". The author further consolidates his argument on kidnapping and killing with Qur'ānic proof citing verses 8 and 9 of *Sūratul Mā'idah*.

He concludes the individuals behind such actions as kidnapping and killings in the country are motivated by their raw passions and not that of Islam.

*Public Responses to Gay and Lesbianism in Contemporary Nigeria: A Religious Perspective*⁴⁷ is an academic article written by O.T, Toki and B.C, Komolafe. According to the authors, among the negative fast tempo of western civilization and its cultural encroachment on Nigerians are the practices of gay and lesbianism, which are now on the increase. The rate at which the acts are gaining momentum has aroused national consciousness and thus generated hot debates at various levels. The authors define gay as "if someone, especially a man, is gay he is sexually attracted to people of the same sex" Sodomy, homosexuality, and bestiality are relative concepts to gay. They argue that the practice of gay and lesbianism are alien to the Nigerian communities and are capable of eroding the Nigerian national values and ethics. They trace its origin to the city of Prophet Lot (AS) when his people arrogantly rejected his mission of monotheism and reformation on their corrupt and insolent nature. The authors finally come up with the religious rulings on the practice of gay and lesbianism, which is capital punishment of being put to death by both the Qur'ān, prophetic tradition and the biblical point of view. They conclude that both Islam and Christianity recognize legal sexual intercourse between a couple of the opposite sex only, and recommend that Nigeria government needs to resuscitate religious education in schools, by making both Islamic and Christian studies core subjects.

K.A Adegoke, in his article *Drug Abuse in Contemporary Nigerian society: An Islamic Perspective*⁴⁸ examines the hazards embedded in drug abuse and proffers solutions to it from Islamic points of view. He observes various ways through which

Nigerians get themselves involved in drug abuse. The causes of drug abuse in Nigeria society, its implications on Nigerians, and the divine intervention from Islamic perspective are all expatiated. He concludes that the harms contained in drug abuse are more significant than its benefits as the Qur'ān puts it. He also cites the verse: "And make not your own hands contribute to your destruction" (Q2:195). Finally, he recommends that religious leaders need to highlight the effects of drug abuse on an individual, the nation, and the society at large at their various temples and mosques.

1.9 Conclusion

This introductory chapter has given a background to this study by dwelling extensively on the science of *Tafsīr* with discussions on its origin and development. This becomes imperative since the survey is on *Tafsīr* Al- Qurṭubī. The foundation of the education is also laid in this chapter by identifying the research problem the study sets out to address. The methodology adopted in carrying out the study is clearly stated. To establish the worthiness of the study and justify its relevance, we highlight, in this chapter, the purpose and significance of the study. The research being a study of selected social vices in the light of Al- Qurṭubī's *Tafsīr* limits its scope to *Tafsīr* Al- *Qurṭubī* while it also identifies the social vices to be studied. It could, therefore, be concluded that the study falls in the realm of Qur'ān exegesis (*Tafsīr*) and Islamic ethics (*Adab*). Finally, the chapter is rounded off with a review of related literature. Here, published and unpublished materials that are related to the research topic are reviewed. Following this introductory chapter is the second chapter, the focus of which is the evolution and development of the science of *Tafsīr* in Islam.

Endnotes on Chapter One

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CHAPTER TWO

FEATURES OF AL- QURṬUBĪ'S *AL-JĀMI'U LI AḤKĀM'L- QUR'ĀN*

2.0 Preamble

Every *Tafsīr* work has the features that differentiate it from other ones. This chapter dwells on the features of *Al-Jāmi' u li Aḥkām 'l- Qur'ān* of Al- Qurṭubī - a *Tafsīr* work in twenty (20) volumes, consulted widely by many contemporary writers on exegesis and Islamic law. It is, however, equally pertinent to give a brief insight into the life of the author who doubled as a Qur'ānic exegete and a jurist as depicted in this famous *Tafsīr*.

2.1 Brief Biography of Al- Qurṭubī

Imam Abu Abdullah Muhammad Ibn Ahmad Ibn Abi-Bakr Ibn Farah Al- Ansārī, Al- Khazrajī Al- Andalusī al Al- Qurṭubī was an eminent scholar of the Maliki school of law. He was an expert in the field of Qur'ānic exegesis and the *Ḥadīth* literature as well.¹ He was popularly known as Al- Qurṭubī, a derivation from Qurṭabah, his place of birth. His father, Ahmad was a farmer who died during a Spanish attack of Cordova in 1230 C.E when Imam Al- Qurṭubī was 16 years old. His progenitor, Farah, was an indigene of Madinah who lived as a pious Muslim².

Muhammad Al-Qurṭubī was born in 612AH/1214 CE in Cordova in present-day Spain, at the summit of its great period of Islamic civilization. He was a man of great modesty. Right from childhood, he disdained worldly honours and materialism. Throughout his life, he wore a simple gown and cap of the ordinary Muslim. While he was young, he was very much dedicated to the worship of Allah as well as searching

for knowledge. When he grew an adult, he engaged in writing books coupled with his worship (*Ibādah*) towards Allah Almighty.³

Imam Al- Qurṭubī learned and memorized the Qur’ān in Cordova. He also learned the basic principles of Arabic Language (*Qawā’idu’l- Lughati Al-‘Arabiyyah*). He broadens his knowledge by studying jurisprudence (*Fiqh*), Qur’ānic recitation (*Ilmu’l- Qirā’ah*), Rhetoric (*Balāghah*), Qur’ānic sciences (*‘Ulūmu’l- Qur’ān*), Arabic poem (*Shi‘r*) and a host of others. He after that traveled down to Egypt in 1236 C.E in quest of more knowledge.⁴ He acquired knowledge there from a host of scholars as many other students also learned from him. He traversed various fields of expertise such as Arabic Phonetics, Science, and Jurisprudence as he was known to be a jurist and *Ḥadīth* transmitter. He remained in Egypt throughout his life and was recognized as the best Qur’ān exegete (*Mufasssir*). He died and was buried at Muniya Abil-Khusaib in upper Egypt⁵ on Monday night, ninth of Shawwāl 671AH/1273CE. Shaykh Muhammad bin Ahmad Al- Qurṭubī was happily married and blessed with children.⁶

2.1.1 His Teachers

Abu Al- Qasim, Khalaf Ibn An- Nukhās was the Al- Qurṭubī’s first teacher that thought him the recitation of the Qur’ān. Others among his teachers are the followings:

- i. Ash-Shaykh Abu-l- Abbās Ahmad bin Umar Al- Qurṭubī (d. 656 A.H), he was the one that taught Al- Qurṭubī part of the book called “*Al-Mufhim lima Ashkala min Tal-khīs Kitāb Muslim.*”

- ii. He studied *Ḥadīth* from Al-Ḥāfiz Abu Ali al-Ḥasan bin Muhammad bin Muhammad Al-Bikri.
- iii. As he studied *Ḥadīth* also from AL-Ḥāfiz Abu-l-Ḥasan Ali bin Muhammad bin Ali bin Ḥafs al-Yahsibi.⁷
- iv. Ibn Rawāj (popularly known as *Al-Imāmu-l- Muḥdith*) Abu Muhammad, Abdul-Wahāb bin Rawāj, and his full name are Sāfir bin Ali bin Fatūhi al-Azdi Al-Iskandarāni Al-Māliki.
- v. Ibn Al-Jumaizī: An erudite scholar Baḥāu-d- Deen Abū-l- Ḥasan Ali bin Hibatul-Lahi bin Salāmat Al-Misri *Ash-Shāfi'* he was among the eminent scholars of Hadith, Jurisprudence (*Fiqh*) and Qur'ānic recitation (Ilmu-l-Qirā'āt)
- vi. Al-Ḥasan Al-Bikri: His name is Al-Ḥasan bin Muhammad bin Amiru At-Taimī An-Niṣābūrī then Ad-Damashqī Abu Ali Ṣadīru-Dīn Al-Bikrī (d. 656 A.H)⁸

Besides, the contribution of Imam Al- Qurṭubī to *Tafsīr* is an indication that he had studied, examined, and reviewed many other *Tafsīr* books of the previous scholars before him, among who are the followings:

- At-Tabari: The writer of the book *Jārni'u'l- Bayān fī Tafsīri'l- Qur'ān*. Shaykh Al- Qurṭubī had benefited a lot from this *Shaykh* and had particularly had a significant impact on him, especially on *Tafsīr bil Ma'thūr* i.e., *Tafsīr* based on Transmitted sources.
- Al-Mawāridi: indeed, this Shaykh has a permanent effect on Al- Qurṭubī as he transmitted from him.

- Abū Ja'far An- Nuḥās: The author of the books: *Firābu'l- Qur'ān and Ma'āni-l- Qur'ān* (Analysis and Meanings of the Qur'ān) from which Al- Qurṭubī had transmitted many.
- Ibn Utayyah: (The Justice) Abū Muhammad Abdul-Ḥaqq bin Utayyah, writer of the book: *Al-Muḥararu'l- Wajiz fi'l- Qurān*. Al- Qurṭubī benefited a lot from this *Shaykh* in term of *Tafsīr bil Ma'thūr* i.e *Tafsīr* base on transmitted sources, Qur'ānic recitation (*Ilimu'l- Qirā'āt*), Arabic language (*Al-lawgah*), Arabic grammar (*An-Naḥwu*), Rhetoric (*Al-Balāghah*) Jurisprudence (*Fiqh*) and Law (*Al-Aḥkām or Al-Qānūn*)
- Abubakr Al- Arabi, the author of the book: *Aḥkāmu'l- Qur'ān*. Al- Qurṭubī benefited from him, and he had also criticized him and refuted his assault against the jurists and the scholars.⁹

2.1.2 His Students

Many exegetes (*Mufasssirūn*) that came after Al- Qurṭubī had benefited a lot and made judicious use of his work on *Tafsīr*, among who include the followings:

- i. Imād Ad-Dīn Abul- Fidāi Ismail bin Umar bin Kathīr bin Daww' Al-Hāfis Ibn Kathīr
- ii Abu Hayyān Al-Andalusī Al-Garnāṭī in his *Tafsīr* book tagged: *Al-Baḥru'l- Muḥīt*
- iii Ash-Shawkānī: The Justice and the Erudite scholar Muhammad Ibn Ali Ash-Shawkānī, He indeed benefited a lot from Al-Al- Qurṭubī in his *Tafsīr* book tagged *Fathu-l- Qadīr*¹⁰

Besides, among Shaykh Al- Qurṭubī s students was his son Shihabu-d-Din Ahmad¹¹.

2.1.3 His Contemporaries

Some of the contemporary scholars of Shaykh Al- Qurṭubī were the followings:

- i. Muhammad Ibn Tu'marat: (Founder of the First Arab United Nations in Spain) was among the great erudite scholars of his time.
- ii Athiru-d- Dīn Abū Hayyān Muhammad bin Yusuf bin Ali bin Hayyān an-Nīfzī al-Garnāṭī. Al- Andalusī al- Miṣrī, author of the book: *Tafsīr Baḥru-l-Muḥīt*, who was born towards the end of the year 654 AH¹².

2.1.4 His Works

Al- Qurṭubī's works include the followings:

- i. The most famous of his works is the twenty-volume work on *Tafsīr* known as *Al-Jāmi' u li Aḥkāmi'l- Qur'ān Wal- Mubayyinu limah Tadammana Minas-Sunnah W'ayyi'l- Furqān*. The book is one of the classical expositions, among others, in the field of *Tafsīr*.
- ii. *Al-Asnah fi Sharḥ-Asmāi' Allahi-l- Ḥusnā*: This is a book dealing with Names and Attributes of Allah (S.W.T), as the name of the book implies: The uppermost or the peak in the exposition of the Beautiful Names of Allah
- iii. *At-Tadhkār fi Afdali-l- Adhkār*: This book is a reminder about the best forms of worship and the most excellent ways of glorifying Allah's Names
- iv. *At-Tadhkirāh bi Umūri-l- A'khirāh*: This is a book enlightening Muslims in general about affairs relating to the life hereafter
- v. *Shariḥu at-Taqsīr*
- vi. *Qamu'l- Hirs biz-Zuhd Wal- Qanā'ah, Wa- Raddu dhull-s-Suāl bi'l- kutubi Wash- Shafā'ah*: This is another manuscript encouraging Muslims on how to combat greediness through asceticism, simplicity, and contentment, as it is

also a refutation of relegated inquiries about the (revealed) Books and the intercession (of Prophet Muhammad s.a.w in the hereafter)

- vii. *Arjuzah, Jama'at fiah Asmāun-Nabiyy (SAW)*: A manuscript in which the author arranged the names of the Prophet (saw) ¹³
- viii. *Al- Ilhām Bimāh fī Din-n- Naṣārā Minal- Mafāsīd Wal- Awhām Wajiha Hadāth Dini'l- Islam*: As the name of the book implies, it is enlightenment about mischief entail in the religion of the Jews
- xi. *Al-^clamu Al-Lu'lu'yyah fī Sharḥi Al- Ashrināt An-Nabawiyyah*: This is another manuscript which the author refers to as a luminous and perfect light in the description of prophet's life

2.1.5 His Adherence to Sunnism

Imam Al- Qurṭubī was an eminent Māliki scholar who vehemently adhered to *Sunni* order and specialized in *Fiqh*, *Tafsīr*, and *Ḥadīth*. The breadth and depth of his scholarship are evident in his writings. He was known all over for his devotion to worship (*Ibādah*) and piety¹⁴

2.1.6 His Death

Imam Al- Qurṭubī traveled from Spain to the East and settled in *Munyah Ibn Khusaiyb*. He died there on Monday night, Ninth of *Shawwāl* 671AH/1273CE¹⁵

2.1.7 Peoples' Opinion about Him

Among those who commented on Imam Al- Qurṭubī and his works is Dr. Muhammad Husain Adh- Dhahabī (d. 1348AH), the author of the book: *Tafsīr wal- Mufasssirun*. The gap between the former and the latter was almost six hundred and seventy-seven

(677) years, but for the fact that the latter was a historian and a researcher who had read a lot, these have accorded him the ability to say much about the former. He maintains that Al-Qurlubi was an Imam; versed in numerous branches of knowledge, an ocean of learning whose works testify to the wealth of his erudition, the width of his intelligence, and his superior worth. He was a conscientious scholar, pious man who inclined towards asceticism and towards meditation on life after death. He describes Al- Qurṭubī to have been an upright man that used to maintain the middle position in any verdict, he remained un-fanatical in his opinion, though he belongs to Māliki school, yet he bases his arguments on proofs until he arrives at what he sees to be correct from whoever says it. Adh- Dhahabī cited many examples on this point from Al- Qurṭubī's works, for clarity; one of such examples could be referred to for useful illustration in the followings:

The Imam-ship of a minor attracts divergent views of scholars, to Imran Malik and others it is impermissible, regardless of that, Al- Qurṭubī is in opposition to his imam (i.e. Imam Mālik) on the basis of a clear proof from a *Ṣaḥābah's Ḥadīth* which permits leadership (i.e. Imam) of a minor.¹⁶ The extract reads thus: Related by Bukhāri saying, from the authority of Amiru bin Salma, who relates that: He was within his clan along the riverside, whereby people passed by them. They used to ask the passers-by concerning the mission of Prophet Muhammad (saw) in Makkah; in return, they used to narrate whatever they heard from the Prophet in term of the Qur'ān to them. The retentive six years old boy Amiru, quickly commit it into memory whatever chapter or verse heard from the passers-by. Immediately after the conquest of Makkah, various people trooped into Islam, including Amiru's clan, after their Islamization, the Prophet instructed them as follows:

صلوا صلاة كذا في حين كذا، فإذا حضرت الصلاة فليؤذن أحدهم وليؤمكم أكثر قرانا

Meaning:

Pray so and so prayer under so and so conditions,
whenever its time for prayer, let one of you call for
prayer and make the best of you in the knowledge of
Qur'ān lead.¹⁷

Thus Amīru's people appointed him their Imam in the absence of any other that memorizes any portion from the Qur'ān. Besides, Adh- Dhahabī also describes Al- Qurṭubī as a man of peace, a tranquil without trouble, and a defendant of scholars against critics. This was manifested in his peaceful reaction and defensive retaliation to the words of Ibn Arabi against the Muslim scholars of their time. Adh-Dhahabī describes the work of Al- Qurṭubī on *Tafsīr* as a focus on research, free from criticism, argument, opposition, and dispute. It covers all disciplines of religious rites and a *Tafsīr* of all various endeavors.¹⁸

Moreover, Shaykh As- Safdī and Shaykh Ad-Dāwūn have described Imam Al- Qurṭubī and his *Tafsīr* book in their various books; *Al-Wāfi bil- Wafāyāt and Tabaqat-ul-Mufāssirin* respectively, that his fame has spread far and wide for being one of the classical writers on *Tafsīru'l- Qur'ān* and the book was one of the great *Tafsīr* books worldwide. Shaykh Ibn Farihūn however, in his remarkable comment about Al- Qurṭubī work in his book tagged; *Ad-Dibāji-l- Madhhab*, that the book (*Al-Jāmiu' Li-Aḥakāmi-l- Qur'ān*) was among the great exposition of *Tafāsīr* books and the best of them all in term of benefit, in which the author scraps out of it stories,

histories and dates, and at the expense of that, he establishes Qur'ānic legal codifications, jurisprudential proofs and also mentions various forms of recitation, linguistic evidences and issues of abrogation in the Qur'ān¹⁹.

Shaykh Al-Muqṭī also commented on the personality of Shaykh Al- Qurṭubī, in his book titled: *Nafhu'ṭ- Tib fī Qusni'l- Andalūsir-Ratib*, a venerable sage, an eminent scholar who has many beneficial literary works. All these are manifestations of his extensive research and his abundant knowledge. Among his works include the book of *Tafsīru-l-Qur'ān*, which was highly palatable and comprised of twenty volumes²⁰

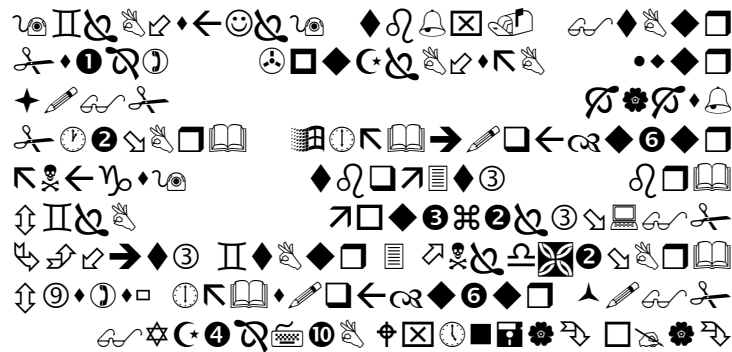
Conclusively, Ibn Khaldūn remarks as well in his *Al-Muqaddimah* on the work of Al- Qurṭubī on *Tafsīru-l-Qur'ān* for being among the best, to the extent that Ibn Utayyah has typically emulated Al- Qurṭubī 's system of writing in his own popular *Tafsīr* work which is particularly famous in the East:²¹

2.2 Features of Al- Qurṭubī's *Al-Jāmi' u li Aḥkāmī'l- Qur'ān*

2.2.1. Background Information- *Al-Jāmi' u li Aḥkāmī'l- Qur'ān* of Al- Qurṭubī is popularly referred to as *Tafsīr Al- Qurṭubī*. It is one of the excellent and prominent classical works of Qur'ānic exegesis written in the Arabic language in twenty (20) volumes. As the name of the book implies (i.e. *Jāmi' u li Aḥkām*) which means a compendium of legal rulings in the Holy Qur'ān, the primary objective of this *Tafsīr* is to deduce juristic injunction and decisions from the Qur'ān. In doing this, Al- Qurṭubī has also provided the explanation of verses, researched into difficult words, discussed diacritical marks, used elegant style and composition, and dabbled into the linguistic analysis as well.

The methodology adopted by the author in his commentary on the verses of the Qur'ān revealed that it is *At-Tafsīr bi'l- Ma'thūr*, i.e., *Tafsīr* based on transmissions from the Qur'ān itself, the *Ḥadīth* of the Prophet (SAW), statements of the companions and their successors respectively.

2.2.2 The use of *Asbābu'n- Nuzūl* in Al- Qurṭubī's work- Al- Qurṭubī discusses *Sababu'n- Nūzūl* (i.e., causes or circumstances surrounding revelation of a verse or verses) to make the injunction there in verse (s) clear to his readers. An apt instance is a verse:



Meaning:

It is not for a believer, man, or woman when Allah and His messenger have decreed a matter that they should have any option in their decision. And whoever disobeys Allah and His messenger, he has indeed strayed into a plain error.²²
Q33: V.36.

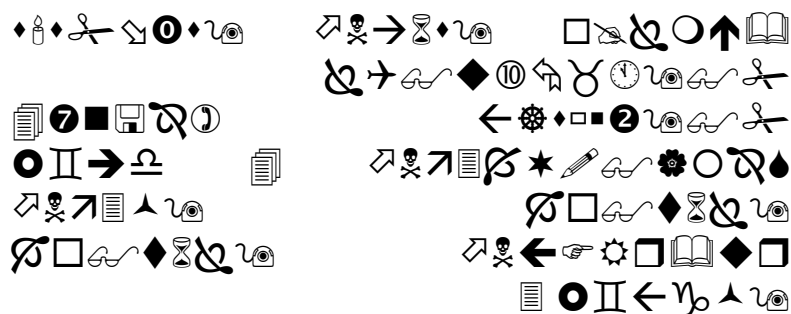
Concerning the cause of revelation of this verse, Al- Qurṭubī remarks from what was narrated from Qattadah, Mujahid, and Ibn Abbās respectively, that the Prophet (SAW) proposed Zaynab bint Jahsh (his uncle's daughter) for marriage, of which Zaynab thought and assumed the proposal was for the Prophet himself, until it became glaring to her that it was for Zayd. She detested it and even rejected it. After that, the verse

under study was revealed, when it was read to the hearing of Zaynab, she complied willingly and was after that married to Zayd.

In another report, Zaynab and her brother: Abdullah abhorred seriously to the prophetic proposal for Zayd, proclaiming the noble Quraiyshite origin of Zaynab, while Zayd was initially a slave, until this verse was revealed, then her brother said to the Prophet: "your command is my wish", and thereafter the Prophet (SAW) married Zaynab to Zayd.

Also, another report contrary to the above two has that the verse under study was revealed in respect to Ummu Kulthūm bint Uqbah bin Abi Mu'bit, who voluntarily submitted herself in marriage to the Prophet (SAW), but the Prophet, in turn, gave her in marriage to Zayd bin Ḥārithah. This prophetic act became detestable to her and her brother, as the two of them said: "Indeed we intended the Prophet, but he had married her to other than himself". Then this was revealed due to this reason²³

Another apt illustration for the application of *Sabab'n- Nuzūl* is in verse:



Meaning: instance

It is made lawful for you to have sexual relations with your wives on the night of the fasts. They are body cover, or screen, or *Sakan* (i.e., you enjoy the pleasure of living with them) for you and you are the same for them. Q.2: V.187

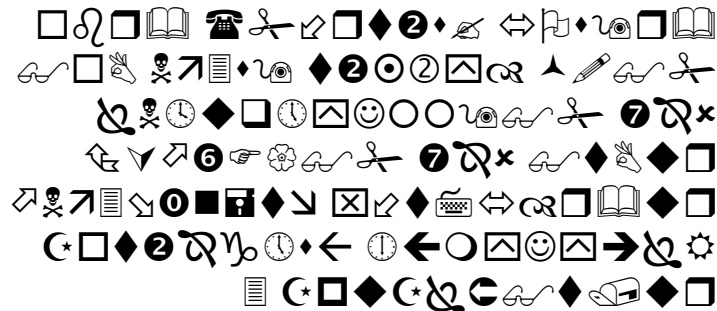
Al- Qurṭubī relates Bukhārī's report as follows: from the authority of Al-Barā'i saying: when Ramadan fast was initially prescribed to the Muslims, they used not to have sexual relation with their wives throughout the month, but some hid themselves to have intercourse with their wives secretly. Then the verse under study was revealed to the Prophet as permission and relief for the Muslims.

Another report reveals thus: When Ramadan fast was first prescribed to the Muslims they used to eat, drink and have sexual intercourse with their wives from the late evening (i.e., after *Iftār*) till after *Ishā'* prayer or till after bed-time. But it happened one day that Umar had sexual intercourse with his wife after *Ishā'* prayer and reported the incident to the Prophet (SAW) and other companions present in the scene confessed the same offense they have been committing and the verse under discussion was revealed as a permission and relief for the Muslims to use nights of Ramadan to satisfy their sexual desires till dawn.²⁴

It will be noted from the above-given examples that Al- Qurṭubī does not limit himself to only one cause of revelation where there are many reports. But he, however, examines the conflicting reports with the view to determining which is the most correct.

2.2.3 The Use of *Tafsīru'l- Qur'ān bi'l- Qur'ān* in Al- Qurṭubī's work- Several verses of the Qur'ān are found illustrated with other verses of the same Glorious Book by the author. As it is the nature of the Qur'ān that some certain issues are concisely discussed in some part, while inclusively elaborated in another part of the same divine Book, Al- Qurṭubī, all in the bid of making further clarification, in order to provide in-

depth understanding about the concerned verse(s), interpret verses of the Qur'ān with other verses. The followings are a few examples cited from his book for this context:



Meaning:

See you not (O men) that Allah has subjected for you whatsoever is in the heavens and whatsoever is in the earth, and has completed and perfected His Graces upon you (both) apparent and hidden.... (Q31: V.20)

In an attempt to expound on the verse, Al- Qurṭubī quotes the following verse:

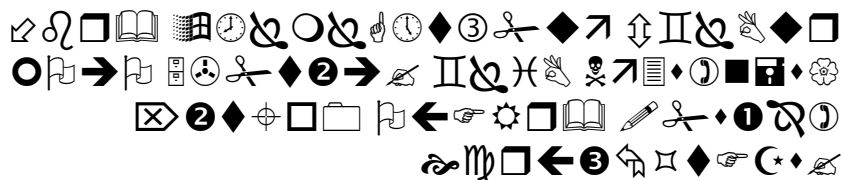


Meaning:

And if you would count the favours of Allah, never could you be able to count them. Indeed Allah is Oft-Forgiving Most Merciful). (Q16: V.18)

This verse, according to the author, explains that graces and mercies of Allah upon His creatures are enormously uncountable, both open and hidden ones. Some are known to them, such as Islam and lawful pleasures of sound health, life sustenance and good looks, etc. while some others are known only to their Creator, Allah, such as knowledge, wisdom, guidance on his deeds and the delights of the paradise.²⁵

Also in *Sūratu'r- Rum* (Q.30: V.20), Almighty Allah showcases His majesty and sovereignty over His creatures, most notably: man, when He says:



Meaning:

And among his signs is this, that He created you (Adam) from dust, and Then [Hawwā' (Eve) from Adam's rib, and Then his offspring from the semen, and], - behold You are Human beings scattered! Q.30: V.20

The verse categorically describes the genesis of man to have been from dust, and this implies that the first man (Adam) was created from dust. These meanings become manifested, according to Al- Qurtubī, only when considering the following verse which reads:



Meaning:

"And among His signs is this that He created for you wives from among yourselves." Q.30: V.20

This means that while Adam was created from dust, his wife, Hawwā' was from his rib, then their offspring are from their semen²⁶

Also, the verse:



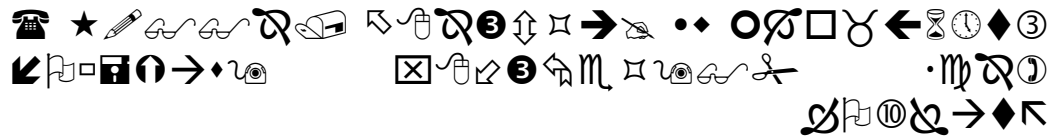


Meaning:

It is those who believe (in the Oneness of Allah and Worship none but Him Alone) and confuses not their belief with *Zulm* (wrong, i.e., by worshipping others besides Allah), for them (only) there is security, and they are the guided.

(Q.6: V.82)

As regards this verse, Al- Qurtūbī expatiates on the intended meaning of the word ‘*Zulm*’ as used in the verse by referring to the interpretation given by the Prophet (SAW) when he corrected and put the misconceptions of his companions about the word *Zulm* aright. According to the report, when the verse was revealed, the companions said: أينا لا يظلم نفسه؟ (i.e., is there any of us that does not wrong himself?). Then the Prophet (SAW) said: "It is not as you comprehend its meaning. Rather, it is as Luqmān said it to his child:



Meaning:

O, my son! Join not in worship others with Allah. Verily joining others in worship with Allah is a great *Zulm* (wrong) indeed²⁷ (Q.31: V.13).

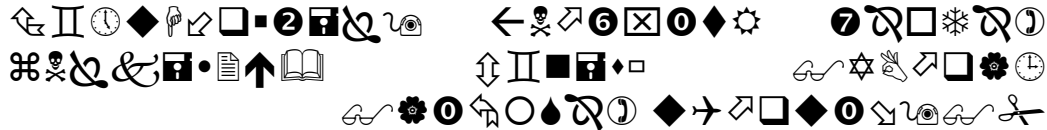
Also, in his bid to ramble on the following words of God from the Glorious Qur’ān.



Meaning:

O you who believe, observing the fasting (*As-Şawm*) is prescribed for as it was prescribed for those before you, that you may become the pious (*Al-Muttaqūn*) (Q2: V.183),

Al- Qurṭubī refers to Q19: V.26, which reads as follows:

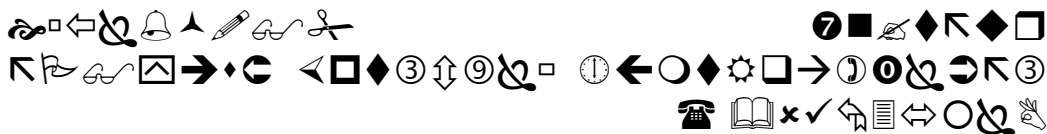


Meaning:

I have vowed a fast to (Allah) Most Gracious, and
this day will enter into no talk with any human
being Q.19: V.26

This verse explains another form of fasting (restraint from talking) known to the people before Prophet Muhammad's (SAW) community.

Also, in his effort to elaborate on the verse that says:

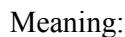


Meaning:

For those who can do it (With hardship), is a
ransom, the feeding of one that is indigent. Q2:
V.184

Al- Qurṭubī maintains here that; every aged person who finds it difficult to fast has an alternative of paying the ransom, which is feeding a poor person every day. He narrates other Qur'ānic verse to explain and justify the difference between installmental payment and the one paid at once. The verse goes as follows:





In this verse, Al- Qurṭubī upholds that; the relevance of this verse to the latter is the use of the phrase (ثمانين جلدة) as it was in verse to connote eighty lashes at once and not separately. Thus the implication in the phrase (فدية طعام مسكين) which means for everyone that cannot fast due to hardship is a ransom of feeding a poor daily, and not that all of them together will feed only one poor, as they were mentioned in plural term in the verse while the word (مسكين) , i.e. "a poor" is used singularly.²⁸

0 1 2 3 4 5 6 7 8 9 A B C D E F G H I J K L M N O P Q R S T U V W X Y Z [\] ^ _ ` a b c d e f g h i j k l m n o p q r s t u v w x y z { | } ~ ¡ ¢ £ ¤ ¥ ¦ § ¨ © ª « ¬ ® ¯ ° ± ² ³ ´ µ ¶ · ¸ ¹ º » ¼ ½ ¾ ¿ À Á Â Ã Ä Å Æ Ç È É Ê Ë Ì Í Î Ï Ñ Ò Ó Ô Õ Ö × Ø Ù Ú Û Ü Ý Þ ß à á â ã

Meaning:

Al- Qurtubī narrates the following *Ahādith*:

"فيها مالا عين رأت ولا أذن سمعت ولا خطر على قلب بشر"

Meaning:

In the garden of delight (Paradise), some things are never seen by any sight, nor heard through the element of understanding or that has ever come to the heart of man).²⁹

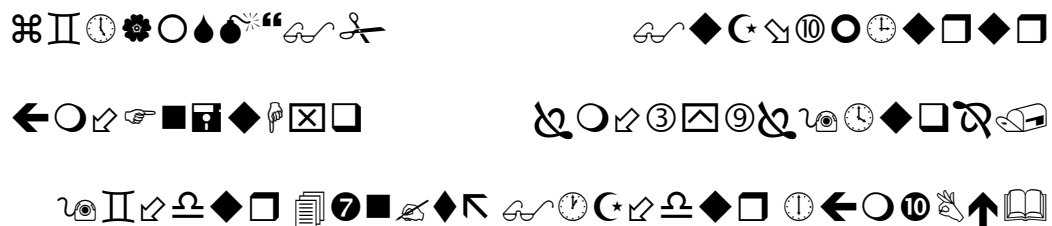
And also another report of Zamakhshari, whose extract goes thus:

إنَّ في الجنة لأشجارا عليها أجراس من فضة، فإذا أراد أهل الجنة السماع بعث الله ريحاً من تحت العرش فتقع في تلك الأشجار فتحرك تلك الأجراس بأصوات لو سمعها أهل الدنيا لما توطرباً.

Meaning:

In the paradise, indeed are trees of silver bells, whenever its dwellers intend to listen (to its silver voice), Allah (SWA) will raise a breeze from underneath the throne, which falls on the trees and shakes the silver bells thus producing sounds of which if people of this world should hear it, they would have died delightfully).³⁰

Also in his bid to explain the gratitude and the degree of preference given to the mother over the father as regards to the kindness of their ward towards them, and as Allah (SWA) has specifically mentioned the role of the mother for her stressful bearing of the enormous burden, in verse:



Meaning:

And We have enjoined on man (to be dutiful and kind) to his parents. His mother bore him in weakness and hardship upon weakness and difficulty) (Q.31:14).

Al- Qurṭubī succinctly quotes a prophetic tradition in which mother was repeatedly mentioned three times, as regards kindness to them, before the father. The extract of the *Ḥadīth* goes thus:

قال رجل للنبي صلى الله عليه وسلم من أبر؟ قال: أمك قال ثم من؟ قال أمك. قال ثم من؟ قال أمك؟ قال ثم من؟ قال أبوك.

Meaning:

A man said to the prophet (SAW); whom (of the two parents) should I will be Kind to? The prophet (SAW) said: "your mother" The man said: Whom next? The prophet said: "your mother" The man said: whom next? The prophet said: "your mother" The man said: whom next? Then the prophet said: "your father"³¹

Additionally, some of the *Aḥādīth* used by Al- Qurṭubī to give an elaborate explanation on verses of *Ṣawm*, may be seen in the following extracts:

قال رسول الله (ص) من لم يدع قول الزور والعمل به فليس لله حاجة في أن يدع طعامه وشرابه

Meaning:

Whosoever desists not from untruthful word and acting with it, his abstinence from eating and drinking attracts no value before Allah).³²

Al- Qurṭubī quotes this *Ḥadīth* to explain the forbidden things while fasting.

He also quotes a *Ḥadīth Qudsi* to explain the position and vast rewards of fasting. The *Ḥadīth* reads thus:

يقول الله تبارك وتعالى: كل عمل ابن آدم له (الحسنة بعشر أمثالها إلى سبع مائة ضعف) إلا الصوم فإنه لي وأنا أجزي به

Meaning:

Allah (SWT) says: All deeds of man belong to him (any good deed attracts ten rewards of its like and maybe multiplied to seven hundred) except fast which is for Me and I alone shall reward it).³³

This is a *Ḥadīth Qudsi* related by Prophet himself directly as received from his Lord, promising direct rewards from Allah to those who fast sincerely.

Al- Qurṭubī, in his commentary on Q.2:284, rambles on the distance of journey in which someone can breakfasts, with the following *Ḥadīth* of the Prophet (SAW)

عن ابن عباس قال: خرج رسول الله (ص) من المدينة الي مكة فصام حتي بلغ عسفان ثم دعا بماء فرفعه الي يديه ليريه الناس فأفطر حتي قدم مكة وذلك في رمضان

Meaning:

Reported by Ibn Abbās, saying: The Prophet of Allah (SAW) left Medinah to Makkah while fasting, until he got to *Usfān* (a village of 48 miles to Makkah), he (SAW) then called for water and raised it with his noble hands for people to see it, then broke the fast and proceeded to Makkah, all in Ramadan.³⁴

To this end, if one's journey amounts to 48 miles, he is permitted to break the fast, but if he decides to keep the fast, his decision, to some opinion, is unrighteous. This is based on the following hadith:

روي كعب بن عاصم قال: سمعت النبي (ص) يقول: ليس من البر الصيام في السفر

Meaning:

Ka'b bin Aṣim relates; I heard the Prophet (SAW) saying:
fasting while on a journey does not amount to goodness.³⁵

While commenting on Q2:285, Al- Qurṭubī relates the *Ḥadīth* of the Prophet (SAW)

which describes the merit and values of Ramadan, the *Ḥadīth* reads as follows:

روي النسائي عن أبي هريرة قال، قال رسول الله (ص) أتاكم رمضان شهر مبارك

فرض الله عزوجل عليكم صيامه تفتح ابواب السماء وتغلق فيه ابواب الجحيم وتغل

فيه مردة الشياطين لله فيه ليلة خير من ألف شهر من حرم خيرها فقد حرم

Meaning:

By An-Nasā'ī from Abi Hurayrah who said: The Prophet of Allah was reported to have said: “*Ramadan*, the blessed month has come to you. Allah prescribed fasts during the month on you. In it, gates to the heaven are opened, and those of the hellfire are closed, and the devils are chained down. Allah has in the month a night better than a thousand months, whoever has been forbidden of its goodness has been banned of all good things.³⁶

Al- Qurṭubī relates the Prophetic tradition on how to start and end fasts in Ramadan.

A study of the entire *Tafsīr* of Al- Qurṭubī reveals that he quotes *Aḥādīth* copiously. It is, however, observed that though many of the *Aḥādīth* used by him are authentic, yet there are many others rated by Al-Albānī as weak which are mostly *Mursal Ḥadīth* (i.e., *Ḥadīth* whose chain of transmission drops at a companion). These are raised to portray the importance of values or need to avoid some abominably unwarranted matters. An example of such could be seen in what was narrated from Muwatta' by Mālik that the Prophet (SAW) forbids the selling of living animal in exchange for the

flesh of an animal; and that he regarded such as among the games of gambling practiced in the early period of Islam.

However, on the rulings of *Mursal Ḥadīth*, Albāni writes:

...وحكم المرسل مقبول واحتج بالمرسل الإمام مالك وأبو حنيفة وأحمد في المشهور

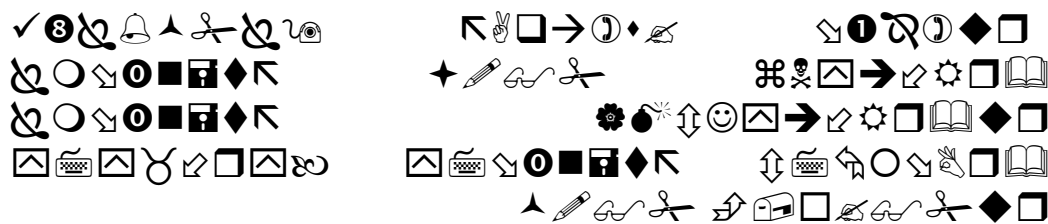
عنه واتبائهم من الفقهاء والأصوليين والمحدثين فالمرسل عندهم مقبول مطلقا في

الأحكام وغيرها

Meaning:

The ruling concerning *Ḥadīth Mursal* (a category of Weak *Hadith*) is that it is acceptable. Imam Mālik, Abu Ḥanīfah, Ahmad, and their followers among jurists and traditionists are popular among those who use it. *Mursal* to them is unconditionally accepted in matters of legal rulings and the likes.³⁷

2.2.5 The Use of *Ṣaḥābahs'* Statements in Al- Qurṭubī's Work- To make meanings of Qur'ān verses clear to his readers, Al- Qurṭubī uses *Ṣaḥābahs'* statements and actions to illustrate and expound on verses he treats. Among these may include the followings:



Meaning:

(And remember) When you said to him (Zaid bin Hārithah RA -the freed-slave of the prophet SAW) on whom Allah has bestowed grace (by guiding him to Islam), and you (O Muhammad SAW too) have done a favour (by manumitting him): keep your wife to yourself, and fear Allah). Q.33: V.37.

While expatiating on the meaning of this verse, Al- Qurṭubī quotes a statement of a companion, i.e., Aishah (RA) thus:

لو كان رسول الله صلى الله عليه وسلم كاتمًا شيئًا من الوحي لكتّم هذه الآية

Meaning:

Had it been the Prophet (SAW) used to conceal any aspect of the revelations to him, he would have concealed this verse).

Al- Qurṭubī cites another report in *Ṣaḥīḥ* of Bukhari from Anas bin Mālīk that Umar, Ibn Masʿūd, Aʿishah, and Ḥasan said regarding the above verse:

ما أنزل الله على رسوله آية أشد عليه من هذه الآية

Meaning:

Allah (SWT) had never revealed on His messenger any verse tougher than this.³⁸

Another example is where Al- Qurṭubī quotes the statement of Ibn Abbās while explaining the numbers and types of fasting Allah (SWT) prescribed on the Jews and the Christians thus:

ثلاثة أيام ويوم عاشوراء ثم نسخ هذا في هذه الأمة بشهر رمضان

Meaning:

Three days in every month and the day of *Ashūrā* (were prescribed on the Jews and the Christians as fasting days) but these were abrogated by the month of Ramadan prescribed on this community).³⁹

Al- Qurṭubī also cited Ibn Umar, Ibn Abbās and Sufyān ath-Thawri on the number of days and distance accounted on the journey for breaking fasts. The three *Ṣaḥābah* were reported to have unanimously said:

الفطر في السفر ثلاثة أيام. حكاه ابن عطية

Meaning:

"Fasting can be broken only for three days on journey".⁴⁰

Related by Ibn Atayyah

Al- Qurṭubī also quotes the statement of Ali (RA) on determining the beginning and the ending of Ramadan fasts:

A man sighted the crescent and reported it to Ali, he (i.e. Ali) therefore started the fasts and ordered people to fast on the man's information, and then he said:

لأن اصوم يوماً من شعبان أحب إلي من أن أفطر يوماً من رمضان

Meaning:

I prefer to fast in a Sha^cbān day than to eat in one day of Ramadan.⁴¹

Al- Qurṭubī cites as well as Ibn Abbās (RA) when he was explaining the efficacy of prayer is contained in the concluding verse of *Ṣawm* in Sūratu l Baqarah.

He says:

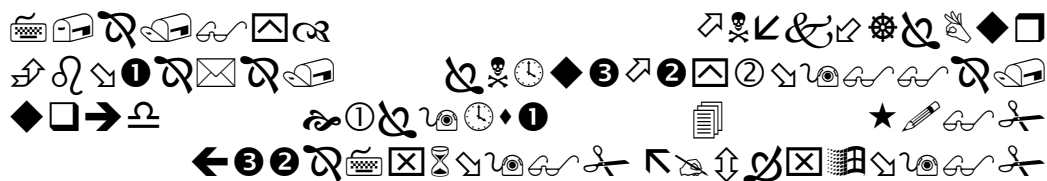
قال ابن عباس: كل عبد دعا أستجيب له، فإن كان الذي يدعوه رزقا له في الدنيا أعطيه، وإن لم يكن رزقا له في الدنيا ذخره

Meaning:

Ibn Abbās said:

Allah always grants the request of every servant that invokes Him. If what he asks for will be of his benefit in this world, He grants. Otherwise, it would be preserved for him (till the Day of Judgment).⁴²

2.2.6 The Use of *Tābi'ūns' Tafsīr* in Al- Qurṭubī's work - Among the features that portray Al- Qurṭubī's work as *at- Tafsīru'l- Ma'thūr* is his use of statements of the followers of the companions (*at-Tābi'ūn*) to explain the meanings of the verses he



Meaning:

Then We gave the Book (the Qur'ān) as an inheritance to such of Our slaves whom We chose (the followers of Muhammad SAW). Then of them are some who wrong their selves, and of them are some who follow a middle course, and of them are some who are, by Allah's leave, foremost in good deeds. That (Inheritance of the Qur'ān)- that is indeed a great grace) (Q.35:32).

Al- Qurṭubī cites Mujahid, a *Tābiʿ* who established a semblance between this verse and verse 7 of Chapter 56, which reads: "And you (all) will be three groups." Mujahid then submitted that the three groups mentioned in Q.7: 56 are those enumerated in Q. 35:32.⁴⁴

Also, Al- Qurṭubī cites the statements of Ibn Sūrīn and that of Imam Mālik respectively to explain the conditions that can warrant a sick person and a traveler to break their fasts. He says:

قال: اين سيرين (أحد التابعين)

متي حصل الإنسان في حال يستحق بها اسم المرض صح الفطر

Meaning:

Ibn Sūrīn (one of the *Tābiʿin*) said: Whenever one falls into a condition right to be called sickness, it is permissible for him to break the fasts).⁴⁵

فقال ما لك: يوم وليلة، ثم رجع فقال ثمانية وأربعين ميلا

Meaning:

Mālik said: A day and a night, he later withdrew his

previous statement and said forty-eight (48) miles).⁴⁶

In addition to these, Al- Qurṭubī also quotes Al-Ḥasan Al-Basri (a prominent *Tābi*^c) saying:

وفال الحسن: إذا لم يقدر من المرض علي الصلاة قائما أفطر

Meaning:

Al- Hasan said:

Whenever a sick person cannot pray while standing,
he is permissible to break his fast.⁴⁷

Al- Qurṭubī also quotes the statements of Imam Mālik and Shāfi^c respectively while explaining sighting of the moon by just people, he says:

لا يقبل فيه شهادة الواحد لأنها شهادة علي هلال فلا يقبل فيها أقل من اثنين

Meaning:

A single man's witness is not acceptable on the matter of the moon
Sighting, but the acceptable witnesses cannot be less than two.⁴⁸

And:

لا يجوز علي رمضان إلا شاهدان

Meaning:

The only acceptable authorities on (sighting)
Ramadan (crescent) are two witnesses.⁴⁹

The purpose of the word : (لباس) was elucidated with Mujāhid's statement, which says:

قال مجاهد لباس: أي سكن لكم، أي يسكن بعضكم إلي بعض

Meaning:

Mujāhid said:

Libās literally means; garments or an abode, and
technically means; your home, i.e., An abode (of peace,

pleasure, and enjoyment) in which one of you dwell in with another).⁵⁰

He also quotes *Ar-Rabīʿ* on the same word (لباس) saying:

وقال الربيع هنّ فراش لكم وأنتم لحاف لهنّ

Meaning: According to Rabīʿ

. They (wives) are bedspread out for you while you are wrappers for them.⁵¹

2.2.7 The Use of Poetry in Al- Qurṭubī's Work

Al- Qurṭubī uses poems as well to illustrate some verses he examined. The followings are few of the poems cited in his *Tafsīr*:

وذا النّصب المنسوب لا تنسكّه ** لعافية والله ربّك فاعبدا

Meaning:

Never slaughter for any shrine whenever you are in a state of adversity or distress, but instead, direct your worship (and request to your Lord; Allah).⁵²

The above stanza of poem was composed by Al-Aʿashiy and is quoted by Al- Qurṭubī to explain the meaning of the phrase: وما ذبح على النّصب (i.e., And that which is sacrificed (slaughtered) on stone –altars (*An-Nuṣub*) while commenting on enumerated foods that are forbidden by the Qurʾān in Q.5:3.

Al- Qurṭubī also quotes An-Nābighah Thibyānī's stanza of the poem to illustrate that fasting is known to various communities before Islam even in the animal kingdom, as he says:

قال النابغة:

خيل صيام وخيل غير صائمة ** تحت العجاج وخيل تعلق اللجما

Meaning:

In a smoky and cloudy atmosphere, some horses were seen keeping fast, some were not, while some were seen chewing their bits out of terrible hunger).⁵³

In his bid to explain the grammatical meaning of the word طوق, Al- Qurṭubī quotes the following poem:

قال أحمد بن يحيى النحوي

فقل تحمل فوق طوقك إنها ** مطبّعة من يأتها لا يضيرها

Meaning: Ahmad bin Yahya An- Nahwi remarked:

It was said: certainly perseverance above one's ability (in the attainment of divine obligation) is natural which devoid of devastating effects on its possessor.⁵⁴

The following poems, however, were quoted by Al- Qurṭubī to explain the conditions of women before they could be exempted from Ramadan fast and how to make up the indebtedness:

جارية في درعها الفضفاض ** أبيض من أخت بني إباح

جارية في رمضان الماضي ** تقطّع الحديث بالإيماض

Meaning:

A lady shielded with divine coverage and exempted

(from Ramadan fast), is divinely exonerated from religious blasphemy.

The let-off (of the menstruating or nursing mother) in the preceding Ramadan, whose fast was unavoidably broken by impurities, should hasten to make up the indebtedness.⁵⁵

Al- Qurṭubī also illustrates with the following poem the significance of Holy Qur'ān:

ضَحَّوْا بِأَشْمَطِ عَنَوَانِ السَّجُودِ بِهِ ** يَقْطَعُ اللَّيْلَ تَسْبِيحًا وَ قَرَأَنَا

Meaning:

The Muslims in the daybreak were long recognized for their submissiveness to Allah in prostration, they break the nights with the celebration of His glory and reading through the Qur'ān.⁵⁶

He also expresses conditions guiding invocation (*Du'a'*) with the following:

يَنَادِي رَبَّهُ بِالْحَنِّ لَيْثٌ ** كَذَلِكَ إِذَا دَعَاهُ لَا يَجِيبُ

Meaning:

He invokes his Sustainer with abominable and egotistical speech. Nay, He (i.e Allah) does not act in response to such an ingratitude).⁵⁷

The word *Ar-Ra'fath* in the verses of *Ṣawm* is illustrated by Al- Qurṭubī to mean sexual relationships with women. This meaning is seen in the following stanza:

وَيَرِينِ مِنْ أُنْسِ الْحَدِيثِ زَوَانِيَا ** وَبَهَنَ عَنْ رَفَثِ الرِّجَالِ نِفَارِ

Meaning:

In the course of their amusing speech, they were recognized to be prostitutes. And they act as if to be shy to have sexual interaction with men).⁵⁸

Al- Qurṭubī illustrates the issue of white and black threads in the verses of *Ṣawm* with the following stanza of the poem:

الخيط الأبيض ضوء الصبح منفلق ** والخيط الأسود جناح الليل مكتوم

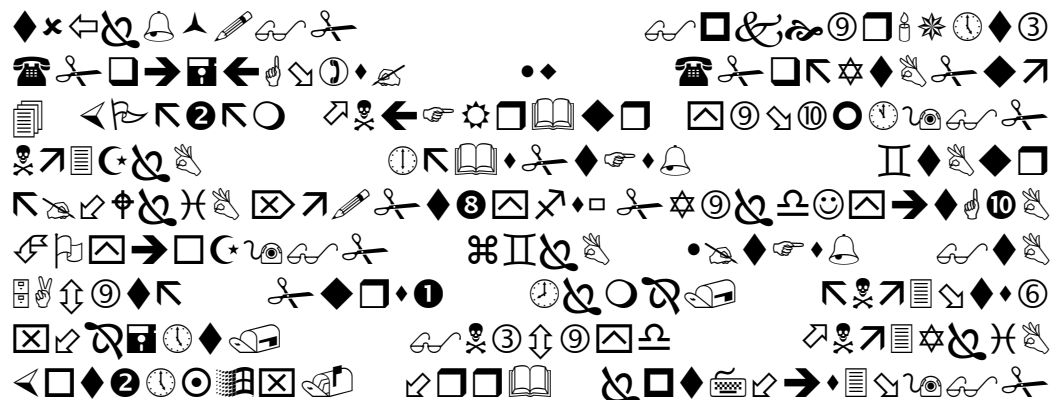
Meaning:

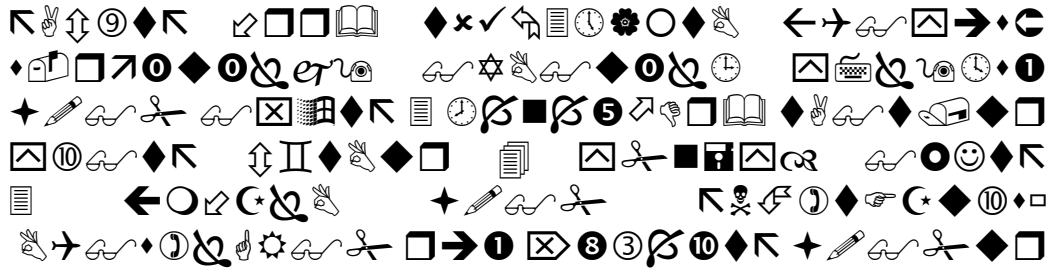
The white thread symbolically means a luminous brightness of daybreak while the black thread represents overwhelming shadows of the night).⁵⁹

It is, however, remarkable to note that virtually all the poems cited by Al- Qurṭubī are not referenced. He, most of the time, opens with *قال الشاعر*, i.e., "The poet said," without mentioning his name. And, in a few instances that the poet is specified, the collections where one can locate the poems are not given. It, therefore, becomes difficult for a reader to crosscheck.

2.2.8 Legal Expositions in Al- Qurṭubī's work

Being the primary focus of the book, Al- Qurṭubī swerves deeply into the legal exposition of almost every legal verses of the Qur'ān he treats. An apt example could be cited from the following verse:





Meaning:

O ye who believe! Kill not game while In the sacred precincts or pilgrim garb. If any of you doth so intentionally, the compensation is an offering, brought to the Ka'ba, of a domestic animal equivalent to the one He killed, As adjudged by two just men among you; or by way of atonement, the feeding of the indigent; or its equivalent In fasts: that He may taste of the penalty of his deed. Allah forgives what is past: for repetition, Allah will exact from Him the punishment. For Allah is Exalted, and Lord of Retribution. Q5: V.95

The verse, according to Al- Qurṭubī, is addressed to the entire Muslims (male and female), as it forbids them not to indulge in the act of hunting as long they are in the state of *Ihram* during pilgrim exercise at the holy city in Makkah. It was reported that Amr bin Mālik Al-Anṣārī, while in a state of *Iḥrām*, in the year when the treaty of Hudaibiyyah was contracted by the Prophet (SAW) killed a big wild camel, thus, the verse under study was revealed.

The word "قتل" used in the verses indicates taking of animal's life by any form, be it killing, slaughtering, butchering, strangling, etc. Allah (SWT) therefore forbids on the pilgrim not to partake in hunting or taking animal's life while in the state of *ihram*. Hunting or killing of an animal without eating out of it, in the state of *Iḥrām* attracts a penalty which is payment of a ransom, according to Shāfiʿ. Nevertheless, Abu Ḥanifah submits that pilgrim is penalized for that which he ate because it is prohibited on him, and whose penalty is equivalent to what he eats. Contrary to that, Mālik and

Hambali maintain that there is nothing on him save seeking for the forgiveness of Allah. On this basis, therefore, the author of this work will like to support the last view, which is the view of Mālik and Hambali, for prophetic tradition that says: "indeed the religion, i.e., Islam is a relief"⁶⁰ and that Allah loves those who are remorseful and repent.

Al- Qurṭubī remarks that killing prey by a pilgrim is forbidden by Allah, and this is endorsed by the jurists most especially Abu Ḥanīfah, based on the verse under study. Jurists, however, opine that when a pilgrim slaughtered a prey, it is prohibited upon him to eat out of it, but others who are not in *Iḥrām* can do so. The word "*Ṣayd*" is an Arabic word that embraces preys or hunting animals from land and sea, only that Allah has forbidden on pilgrims land preys and permitted those from sea.⁶¹

Jurists diverged specifically on hunting of predatory land animals. Malik views that not all animals are such considered as wild or predatory except animals like Cat, fox, hyena and the likes which are all forbidden upon pilgrim to kill, and if he dies it, he pays a ransom on it. There is no blame, according to jurists, to execute such animals that are most combatants to man such as lion, wolf, leopard, tiger, etc. Likewise, animals like snake, scorpion, rat, crow, and kite are killed while in the state of *Iḥrām* (i.e., pilgrim), based on the prophetic tradition that says:

"خمس فواسق يقتلن في الحل والحرم"

Meaning:

Five nasty animals are killed both at home and in the state of *Iḥram*, i.e., by pilgrim and non-pilgrim as well

The voracious dog is often furious at man, equally snake, scorpion, crow, and kite. Because of this, permission to kill these animals is granted, scorpion, for instance, is a toxic insect, and rat always cut and destroy water bin, belt, box and other beneficial materials of man, while crow (*Gurāb*) always stays at camel's back and eat up its flesh. However, Mālik was reported to have said; "crow and kite (*Hidā'u*) are not killed except when they harm"⁶²

Moreover, Al- Qurṭubī further examines the differences of opinion among jurists, as he maintains that: such pests like bed-bug, flea, ant and the likes are killed in the state of *Ihrām* by the pilgrim without ransom, this according to Mālik and the people of opinion (i.e., *Ashābur- Ra'y*). Abu Ḥanīfah and his associates at the other hand opine that a pilgrim shall never kill any predatory animal except the voracious dog and wolf (*Dhi'b*) only (either they attack or not), but if he dies apart from these two, any other prey, he pays the ransom. Likewise, to be killed without payment, according to this school of thought, are snake, scorpion, crow, and kite. This view is supported by scholars like Aoza^ciyyu, Thaori, and Al-Ḥasan, with the proof that the Prophet (SAW) specifically singled out some sets of the animal to be killed by a pilgrim because of the harms they cause. This is the accepted view among others, and it is sustained by this researcher, for the fact that animals, most notably the wild ones, are not-sensible as they can attack anytime in as long they are hungry, so, one should not wait or hang around until they attack or harm, as expressed by Mālik, before they are killed even in the state of ihram.⁶³

Shāfi^c, however, considers all animals that its flesh is uneatable to man to be killed by the pilgrim, be it small or big, without paying the ransom, because it is out of

"*Ṣayd*" mentioned in verse under study. "*Ṣayd*" is bound only on those animals that are permissible to be eaten. Head and beard lice or louse are killed because of its harms without compensation. Its killing is like removing a harmful object from the body.

Bukhāri reports, narrated by many Imams from Ibn Umar (RA) that the messenger of Allah was reported to have said:

خمس من الدواب ليس على المحرم فى قتلهن جناح الغراب والحدأة والعقرب والفأرة
والكلب العقور"

Meaning:

There is no blame on a pilgrim (*Muḥrim*) to kill five sets of animal: crow, kite, scorpion, rat and voracious dog".

Both Ahmad and Ishāq consent to this hadith. However, in the collection of Muslim, narrated from A'ishat (RA), that holy Prophet (SAW) says:

خمس فواسق يقتلن فى الحل والحرم الحية والغراب الأبقع والغارة والكلب العقور
والحديا

Meaning:

Five vicious animals are killed both at home and while in the state of *Iḥrām*: Snake, severe Crow, Rat, voracious dog and kites" ⁶⁴

This is consented to by a group of jurists. Also, in Abu Daud's collection, Abi Saʿīd Al-khudriyy narrates the Prophet (SAW) to have said!

ويرمى الغراب ولا يقتله

Meaning:

"Crow is chased away but not killed"⁶⁵ This is Mujāhid's view.

2.3 Conclusion

Imam Abu Abdullah Muhammad Ibn Ahmad Al- Qurṭubī was a prolific writer of the medieval age. He was very vast in knowledge of different disciplines while he specialized in sciences of Qur'ān, *Hadith*, and jurisprudence. His work on exegesis of Qur'ān, *Al-Jāmi' u li- Aḥkāmi 'l- Qur'ān* portrays these qualities in him.

Al- Qurṭubī uses verses of the Qur'ān to illustrate meanings of the verse(s) he treated. He describes different methods of the Qur'ānic recitation and relates stories of previous people before Islam according to the Qur'ān. In his bid to further clarify meanings of the Book of Allah and make it comprehensible to his readers, Al- Qurṭubī uses *Aḥādīth* of the Prophet to explain the verses of the Qur'ān, though some of the *Aḥādīth* used could be classified as weak (*Da'īf*) under the science of *Ḥadīth* literature, for incomplete chain of narration. He uses as well the statements of both the companions of the Prophet (SAW) and their successors after them. The use of Arabic poems to illustrate the meanings of some difficult words in the Qur'ān is one of the characteristic features of Al- Qurṭubī's *Tafsīr*. The legal exposition, which is the primary focus of Al- Qurṭubī, is well represented and depicted in his monumental work. Thus, it could be proposed that *Tafsīr* literature, therefore, could be incorporated into various academic institutions of learning to promote the moral and spiritual standard of all Muslims.

Endnotes on Chapter Two

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CHAPTER THREE

AN OVERVIEW OF SELECTED SOCIAL VICES PREVALENT IN NIGERIA

3.0 Preamble

This chapter discusses selected social vices that are presently customary to Nigerian society. These are all forms of illegal sexual intercourse, murder or killing of an innocent person without due cause, drug addiction/alcoholism, the vilification of personality, and the act of fraud. People's opinions from various fields of knowledge on these social vices are given.

3.1 Illegal Sexual Intercourse

Unlawful sexual intercourse refers to adultery and or fornication, which technically is any sexual intercourse by a person with someone other than his spouse. It includes extramarital sex and pre-marital sex. Adultery is consensual sexual relations outside marriage while fornication is consensual sexual intercourse between two unmarried persons. Homosexuality is any consensual sexual relationship between same-sex partners. All revealed religions are firmly against these illicit acts as a result of its negative effect, which may include unwanted pregnancy, murder due to abortion, diseases of serious complications, e.g., AIDS, ectopic pregnancy, infertility (in both man and woman), anogenital cancers, recurrent miscarriages, etc. Sexual immorality takes various forms, and each form may be peculiar to a particular community or set of people at one time or the other. Its types include adultery, fornication, incest, rape, homosexuality, lesbianism, prostitution, lust, bestiality, etc.¹

Culturally, most Nigerian societies; such as the Hausas in the Northern part, the Yorubas in the South-West, the Igbos in the South-East and some other cultural

groups, prohibit pre-marital sex experience and thus consider it as an abomination in their traditions, customs, and beliefs. In the good olden days, parents used to monitor the sexual life of their wards until marriage. Bloodstained white clothing was used in those days as evidence of proof of the bride's virginity². Almost all parents were proud of their female children virginity at marriage, and there are increasing pieces of evidence that adolescents do involve in sexual intercourse at an earlier age than ever before as a result of their social mingle at this stage in schools, markets and other places.³

The primary causes for the prevalence of illicit sexual intercourse in the present day Nigeria could be traced principally to Nigeria socio-economic challenges. The most fundamental socio-economic problem in Nigeria is the widespread poverty and inequity in the distribution of resources. As a result, some Nigerian ladies resulted in prostitution for sustenance and also to meet up with their material needs.⁴

Other causes of sexual immorality in our society can be enumerated as follows:

i. Lack of fear of God, which is the ultimate goal in all man's endeavours on earth. Everyone is expected to cultivate piety and fear of God and to impart same to his offsprings. Parents should lead their wards to their Creator in their early lives, such that they remain God-conscious in all their undertakings in life.

ii. High Sexual Urge at Adolescent Age: Naturally, the adolescent stage is a critical stage in man's life in which the urge for heterosexual relationship is strong and high than any other periods of life. Adolescents try by all means to satisfy their urge and boost their ego. It is the period when the teenager wants to be at liberty and in control

of his life desires. The fluctuating hormonal changes at this stage tend to have an overbearing effect on the entire personality of an adolescent, as he wants to be physically fit and psychologically sound to match his contemporaries. He can, therefore, get involved in sexual immorality like becoming fornicator, prostitute and so on.⁵

iii. Parental Misconception: Most parents view the upbringing and training of children to be limited only to academic and social development, forgetting that the paternal and home training supersede all others and serve as the fundamental basis upon which other practices are built. A good child is one who is disciplined from home in all ramifications. Unrestrained children vent through frustration and become involved in thuggery, armed banditry, sexual promiscuity, cultism, etc. An adage says: "spare the rod and spoil the child." i. e. failure to deal with the child whenever he or she errors could make his life rough if not devastating ⁶

iv. Wrong Foundation: A child adopted by any of his parents' family is liable to be morally bankrupt. Under no condition should a parent give out his son on adoption either to his/her family or outside their marital home, such that such adopters could maltreat the child. Some children have been given in adoption as a result of poverty, sickness, death, etc. Therefore, any adoption which involves maltreatment is a wrong foundation for the child. On the other hand, any form of child training devoid of instruction and correction because of love for the child, who will soon become a mature and responsible adult on his own, is equivalent to a wrong foundation.⁷

v. Evil Model and Corrupt Life of Parents: Parents are watchdog and supervisory bodies of their children, and once the parents are cruel in nature, no way, their wards too have to eventually emulate them, if they (parents) are sexually immoral, the children see their evil actions as best to be indulged in, and thus become birds of the same feather to them.

vi. Influence of the Peer Group: A child that falls into wrong company or a group of morally bankrupt people will be influenced with their corrupt and evil practices, and that is because the peer group pressure is a powerful force that hardly could a teenager resists it. In the face of any slight frustration, confusion or emotional stress, an adolescent child is seen following the way of his peer group in perpetuating evils of all kinds, which may include promiscuity, in order to avert his problems.

vii. Corruption through Media, Movies, and Unchecked Browsing: Media, movies, and browsing are various means of information and documentation for man. These, however, could be hazardous to man's life, if they are not adequately coordinated and monitored. Assumingly human memory can retain almost 60% of information absorbed through the eye channel. A good number of programs on media, several cantankerous movies, and wicked browsing from the net are projecting devilish influence on adolescents of present-day generation, which corrupt their habits and manners and may lead them to become sexually immoral.⁸

viii. Additionally, beauty contest and use of ladies as ushers are observed to be among the causes of sexual immorality amid humanity. In a free society such as Nigeria whereby parties of various kinds: such as; Miss Nigerian Day; Independent Day e.t.c.

Which are organized at national, state, and local levels, even at schools, and ladies are used as ushers, then there is a tendency that high sexual immorality becomes the order of the day.

An illegal sexual relationship has some adverse effects, not only on the perpetrators but on the society at large. Among such consequences are the followings:

1. Illicit sexual relationship affects the minds of its perpetrators psychologically while it also influences their physiological makeup; this is because an adulterer; male and female often experience high levels of anxiety and depression.⁹
2. An illegal sexual relationship is a shameful act which accords its perpetrators series of difficulties in making a relationship with others at work, family, and other areas.
3. People involved in an illegal sexual relationship are prone to suffer financial instability/ loss.
4. Illicit sexual relationship is quiet related to disgrace, dishonor, and disrespect in the society for the committers.
5. Illegal sexual relationship results in the procreation of a bastard child, which could bring chaos to the family and turbulence to the community at large. In some religions such as Islam, a child born out of wed-lock (bastard) cannot inherit the father and vice versa.
6. One who engages in an illegal sexual relationship is liable to contract general diseases such as syphilis, gonorrhea, and HIV/AIDS with their short or long term consequences.¹⁰

An apt example of *Zinā* in our contemporary life could be cited here, it was recently reported in one of the Nigerian daily newspapers that: "APC Senator-elect caught

with another man's wife, stripped naked": this is a headline in National Pilot daily newspaper, dated to Mon.4th - Wed, 6th March 2019, equivalent to Jumāda- Al-Ākhar 27 – 29, 1440AH. The story had it that the deputy speaker, Nasarawa State House of Assembly and Senator-elect for Nasarawa North Senatorial District: Godiya Akwashiki was allegedly reported to have been publicly beaten to a state of coma for having an affair with the wife of a top politician in the country. The culprit was met in one of the hotels in the outskirt of Abuja, where he was attempting to sleep with the woman. The politician concern, i.e., the husband of the woman was seen supervising Akwashiki's beating in the hotel, asking the thugs to kill him if they could. The picture of the suspected culprit will be shown in the appendix of this work.¹¹

In Nigeria, illicit sexual intercourse is criminalized as explicitly stated in Chapter 22, section 387 of the Nigerian penal code law accordingly:

Whoever, being a man subject to any native law or custom in which extra-marital sexual intercourse is recognized as a criminal offense, has sexual intercourse with a person who is not and whom he knows or has reason to believe is not his wife, such sexual intercourse not amounting to the offense of rape, is guilty of the offence of adultery and shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

At the other hand, section 388 of the same penal code law states that:

Whoever, being a woman subject to any native law or custom in which extra-marital sexual intercourse is recognized as a criminal offense, has sexual intercourse with a person who is not and whom she knows or has reason to believe is not her husband is guilty of the offence of adultery and shall be punished with imprisonment for a term which may extend to two years or with fine or with both.¹²

It should, however, be noted that the Penal Code is operational only in the Northern part of Nigeria. Though the Criminal Code is in operation in the Southern region as well, yet, cases of sexual immorality do not feature in its content. That, perhaps, explains why there are many known cases of illicit sexual relationship going on in the Nigerian society while one hardly hears of anyone being prosecuted.

3.2 Drug Abuse\Addiction

The word drug can be defined generally as substances other than food which could be injected, ingested, inhaled, or taken orally and which affect the body's physiological functions. They are supposed to be used mainly for the medical purpose either for treatment or prevention of diseases.¹³ The drug may also be defined as any chemical substance, whether natural or with the synthetic origin, which can be used to alter perception, mood or another psychological state of an individual to modify one or more function of the body.¹⁴ However, the basic scientific definition of a drug, according to Dusk and Garden, is a chemical substance that can influence the normal functioning of the body. The above definitions indeed embrace what people ingest, inject, inhale or absorb which may include medicines, over-the-counter drugs, beverage drugs, cigarettes, alcohol, tobacco and kola nut which is not a drug *per se*, but when taken in excess, could harm an individual.

The drug can be divided into two: those that affect some parts of the body and those that affect the brain which is referred to as psychoactive, which include heroin, tranquilizer (Librium) and hallucinogens (L.S.D). A cigarette is also psychoactive only that it has a lesser effect. Though drugs have multiple effects, the psychoactive

ones are usually taken by its users to achieve specific behavioral effect such as to feel elated, to feel anxious and so on.¹⁵

There are drugs that are commonly abused by adolescents in Nigeria some of which are soft drugs like alcoholic beverages such as beer, distill late palm-wine (*Ogogoro*), palm wine (*Oguroo*), *Sapele* water, *Pito*, *Burukutu* etc, while others are hard ones like cocaine, Tobacco which contains Nicotine, Indian hemp (also known with many other names such as Marijuana, ganja, wee-wee, push me I push you, grass, etc.), Hallucinogens drugs (such as phencyclidine, lysergic acid, diethylamide (LSD), and cocaine (upper), morning glory seeds etc.), Stimulant Drugs (which include sleepless pills, amphetamines), Inhalants (which include substances like gasoline, glue, cement, paints, dry-cleaning fluid, nail polish, kerosene etc).

Studies have revealed that some factors are responsible for the prevalence of drug abuse, especially among adolescents, in Nigeria. Some of such elements are Curiosity and peer group influence; parental influence/non-challant attitude and broken home; the influence of Mass Media; eagerness to attain success and quick enrichment; unemployment, job loss, jilt and disappointment, etc.

It is, however, apt to note that drug abuse has some adverse severe consequential effects, some of which are observable among the Nigerian youths who are drug addicts. Drug abuse results in deterioration in both physical and psychological well-being. It leads to mental disorder, delinquent behavior, hallucinations, delusion, etc. which may eventually damage some organs of the body, such as liver, brain, kidney, lungs and may even lead to sudden death¹⁶

There is, however, no law in the Nigeria Constitution criminalizing drug abuse. Only the Penal Code Law of the Northern Nigeria in Chapter 23, section 403 stipulates punishment for drug abuse thus:

Whoever being of the Moslem faith drinks anything containing alcohol other than for a medicinal purpose shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to five pounds or with both.

However, the comment of this section has it that the offence is punishable with *Haddi* lashing under section 68 of this penal code.¹⁷

Nevertheless, NAFDAC - National Agency for Food and Drug Administration and Control, is a Nigerian agency which operates under the supervision of the Federal Ministry of Health. Its activities imply regulation and control of manufacturing, relations of import and export, also purchasing and usage of such goods like food, medicines, and even cosmetics, medical devices, and chemicals. The organisation was created to act as a specific check and control over possible counterfeit goods by Nigerian laws and regulations. The primary and most dangerous threat is illicit medicines. Likewise, NDLEA- National Drug Law Enforcement Agency: This also is another Nigerian agency created for elimination of different processes which encourage the growth, processing, manufacturing, and trafficking of hard drugs. Furthermore, it aims to contain and put an end to drugs and money laundering organizations. Functions of NDLEA may also include avoiding drug abuse and eliminating such a habit in the Nigerian environment. Arresting people and property which act as a way to aid the activities of such illegal organizations¹⁸

3.3 Murder, Manslaughter or Killing of an Innocent Person

Technically, murder is referred to as the deliberate killing of another human being without justification or valid excuse. It can be distinguished from other forms of unlawful homicide, such as manslaughter, which is also an illegal killing of a human being but not willfully as opposed to murder.

Most societies consider murder to be a high crime in which its committer should be severely punished for retribution, deterrence, rehabilitation, or incapacitation. Though the capital punishment of murder defers from one society to another and from one religion to other, in most countries, one who is guilty of murder, is made to face the death penalty, while in some other countries, it is a long-term prison sentence. Some common law jurisdiction prescribes mandatory life sentence for one convicted of murder, while in cases where we have capital punishment, it is life for life.¹⁹

However, the word "unlawful" used in the definition, distinguishes murder from killing which is carried out within the limit of the law, such as capital punishment for murderer or the like, justified self-defense, or the killing of enemy soldiers by lawful combatants as well as causing collateral damage to non-combatants during a war.

There are various forms of Homicide which could be generally categorised into murder, manslaughter, and justifiable homicide. Murder is the unlawful killing of another man without justification or valid excuse. Murder, being an unlawful killing, is of various forms, comprises of execution of self, killing of family, killing of others, killing of superiors, killing of intangibles, etc. It is categorised into two degrees, which are first and second-degree murder. First-degree murder is the most serious of

all homicide charges. It is a situation in which someone is accused of killing others after having planned to kill the victim. It involves malice (evil intent) and forethought (planning). Cases of these types are usually considered heinous crimes among others, and as such, its conviction attracts severe punishments, including life in prison or the death penalty.

Second-degree murder, however, could be referred to as a crime of passion, it is a situation whereby someone may have intended to kill another, but did not have time to plan it. For example, a husband in a state of anger, that kills his wife found in bed with another man, on his arrival at home, is equivalent to second-degree murder. Another example of second-degree murder is the unintentional killing, such as driving at speed into a crowd of people. The jurisdiction to the second-degree murder is also as dangerous as the first one i.e., life in prison, only that death sentence is unprescribed.²⁰

Manslaughter is charged against an individual when he did not plan the crime of killing, nor did he or she intend for the victim to die because of his or her actions. It usually arises out of accidental circumstances where a person died because of the event. For example, a doctor who prescribed deadly drugs for a patient, a mother that lives her baby in a hot car, or a driver who causes a fatal car accident. Sentences for manslaughter vary from one state to another, depending on state laws and circumstances surrounding event in question, but somewhat lesser than second degree murder.²¹

Justifiable homicide in a real sense could not be referred to as a legal charge. That is because it is a situation whereby an individual kills another in self-defense or similar circumstances. It is also known as a defense homicide prosecution in such a way that the police will classify this as an event where an individual died, but no crimes were committed because the killing was justifiable. The committers will not be held criminally liable for the death, though, under certain circumstances, civil sentences may be applied.²²

Another form of homicide is the felony murder charge. It is a crime whereby someone is caused to die while the defendant, in the court of law, was participating in the commission of a crime, but in actual sense, the defendant did not cause the death. For example, if three people storm into a supermarket for armed robbery and one of them shoots the cashier to death, the other two people, however, may be charged with felony murder, even though none of them kill anyone. It is punishable by death or life imprisonment, according to various states' law.²³

Generally speaking, homicide or killing could be broadly classified into further sub-classifications, as it embraces murder of self, killing of family, killing of others, etc. Suicide is an apt example of the killing of self. Suicide is an intentional killing of oneself either by hanging, poisoning, stab or any other forms such as auto-cide, medicide, murder-suicide, self-immolation, suicide by cop (i.e., acting in a threatening manner to provoke a lethal response from law enforcement), etc.

There could be several motives behind an individual killing another person. The most common ones among them may include; greediness in which an individual aspires for

the inheritance of his close relatives. Cheating on the sides of two couples, when one of them has relented in his/her responsibilities towards others, and the relationship becomes unendurable. Humiliation as a result of a specific injury sustained on an individual's self-respect or dignity, such as being impotent or the likes. And finally, the war which has claimed many lives.²⁴

Murder in contemporary Nigeria is pragmatically at an increasing rate, almost in all pages of daily newspapers we have reports of killings of different dimensions regularly. The insurgent issue in the country, which has engulfed both the Northern and Eastern parts of the nation, is quite alarming. One relevant example is the report on page two of National Pilot, vol. 29, No.31, of Thur. 14th – 17th March 2019, which says: "Gunmen raid police station, kill DPO, pregnant officer." The report says that the gunmen attacked the divisional police command at Afuze, headquarters of the Oweri – East Local Government Area of Edo, killing the divisional police officer (DPO) and three other officers on duty.²⁵

The Nigerian legal provisions on the act of murder as contained in the Criminal Code in Chapter 27, section 319 is that:

Any person who commits the offense of murder shall be sentenced to death". But, according to the provision of part 44 of the Criminal Procedure Act, if however the offender found guilty of murder, had not attained the age of seventeen years at the time the offense was committed, such shall not be sentenced to death but is liable to imprisonment for life.²⁶

Section 325-327 of the Criminal Code upholds that: Any person who commits the offense of manslaughter is liable to imprisonment for life". Also, "any person who procures another to kill himself, or counsels and induces him to do so, or aids another in killing himself,

is guilty of a felony, and is liable to imprisonment for life." Likewise, the offender who attempts to kill himself is guilty of a misdemeanor and is liable to imprisonment for one year.²⁷

Any person who receives or has in his possession a human head or skull within six months of the same having been separated from the body or skeleton with the intention that such dead or skull shall be possessed by himself as a trophy, juju or charm or transferred by him to any other person as a trophy, juju or charm, is guilty of a felony, and is liable to imprisonment for five years. This is according to section 329 of the criminal code.²⁸

The Penal Code, on its part, in chapter 18, section 221, maintains that: "any culpable homicide or murder is punishable with death."²⁹

3.4 Defamation of Character

The word "defamation" is an intentionally false statement, either written or spoken, that harms a person's status/reputation. Defamation of character or false accusation against others is an aberration as it amounts to impugning on the honour and dignity of the slandered. Defamation of character which could also be referred to as vilification of personality or character assassination could lead to violent communal civil disturbances.

Defamation of character is a common phenomenon that is highly rampant in present-day Nigeria. As it is found among those holding political offices (i.e., the leaders or the politicians), so it involves the led or the citizens, civil servants, private owners of business ventures, market women/men, teachers and students in schools. Religious clerics are also not exempted. This detestable act brings no benefit to society rather than disunity and developmental retrogression.

Of course, man is created by God and endowed with the ability to express himself in speech, through writings, works of art, gestures, and in many other ways. The Nigerian constitution also permits freedom of speech/expression. However, one man's interpretation can be harmful to others, hence the need for checks on human expression. These checks and balances, therefore, fall within the purview of the law of defamation, an aspect of the torts.

On the legal definition of defamation, David and Korieh write that there have been numerous judicial attempts to define what is defamatory, but the most common description by juries is that a defamatory allegation is one that tends to make reasonable people think the worse of the claimant; this incorporates an element of discredit or moral blame. Other definitions, according to them, refer to "words which cause a person to be shunned or avoided." This would include allegations which carry no moral blame but which might make people avoid the claimant. An example of this was given, when the Court of Appeal held that an allegation that the plaintiff was raped was defamatory because it would prejudice her chances of "receiving respectable consideration from the world." Therefore any slanderous charge that exposes the plaintiff to ridicule, hatred, and contempt has been approved by the court of appeal as defamatory.³⁰

Defamation may be a criminal or civil charge. It encompasses both written statements, known as libel, and spoken statements, called slander. Under common law, to constitute defamation, a claim must generally be false and has been made to someone other than the person defamed. In civil law jurisdictions, defamation is treated as a

crime rather than a civil wrong. A person who defames another may be called a defamer, libeler or slanderer.³¹

The purpose of the law of defamation is to protect the good reputation of a person from being damaged by another person. The torts which preserve the status of a person are libel and slander. Malicious falsehood, otherwise known as injurious falsehood, protects the reputation of property, primarily commercial property. A tort can be defined as an invasion of an interest. In the law of defamation, the interest that is invaded is a man's reputation. Every man is interested in preserving self and by extension, his reputation.

Numerous authorities are available concerning particular allegations whether or not they are capable of being defamatory. However, some issues that constitute defamation, according to some writers, are:

- i. Allegation of conduct to a claimant which is considered by right-thinking persons to be immoral is necessarily defamatory. Imputing somebody to be homosexual, lesbian and a pimp or as a pornographic picture salesman is defamatory. An unmarried woman published as having a child and attributing allegation of unchastely to a woman is all defamatory.³² Words imputing criminal offense to a plaintiff would be defamatory. To describe a man to be a crook, dishonest, queer, intolerant, or that he is not fit as a proper person to be received in society, are defamatory. An allegation that the claimant has been guilty of a criminal offense or words imputing the intention to commit a crime will almost be defamatory.³³

- ii. The accusation of lying, lousy treatment of family and friends, marital infidelity, racism and crude, anti-social, and selfish behavior are capable of being defamatory. Imputation of unpleasant illness, mental instability, and illegitimacy have all been held to be capable of being defamatory under the "shunning and avoiding" principle.³⁴ Imputation of unfitness in the office to a man is equivalent to defamatory, and such unfitness can be any corrupt, dishonest or fraudulent conduct, misconduct or inefficiency. Allegation of immorality or drunkenness to a clergyman or publish that he preaches sedition or false doctrine are defamatory.³⁵
- iii. Defamatory indeed is an act of publication about a barrister that he has no knowledge of law, or to refer to him as having average ability, that a solicitor is involved in "sharp practice" in his profession, or is in breach of professional confidence, is of disrepute, dishonest or incompetent, or has a craving for his own gains without the interest of his clients. It is defamatory also to impute that a solicitor has been struck off the rolls, or suspended from practice when it is not so. It was held that an untrue article published in a newspaper that a lawyer failed in all his claims against a company is libelious.³⁶ All these are various forms of defamation.

In Nigeria, defamation of character is a common practice phenomenon, especially among politicians. Various personalities have, in one way or the other, been vilified under the pretext of playing politics. Defamation of character in Nigeria has alluded to multiple reasons, among which may include economic strangulation and violent political struggles.

An apt instance of defamation of character resulting from inglorious attempt to make ends meet was a report in the PUNCH Newspaper that the Ondo State Police Command arrested a man, Festus Balogun, who happened to be a specialist in defaming and blackmailing famous pastors in the country. The suspect, according to the state commissioner of police, released a video cassette, titled, "ASIRI TU" (Secret Exposed), accusing 12 pastors of involving in rituals killing and other fetish acts. He alleged that some prominent men of God numbering 12 engaged him to die for them to gain spiritual power. The suspect eventually owned up that he resorted to that based on his poor economic status and that he neither killed for any of the pastors nor had contact with them.³⁷

An example of character assassination having politics as its fount is that of the People Democratic Party (PDP) in Rivers state, that alleged on August 6 and August 21, 2015 that former Governor of the State, Rotimi Amaechi stole \$757million or #80billion of the State's public funds and stashed same away in an account in his name in Bancorp Bank in Minnesota, United States of America. This turned out to be an attempt to assassinate his character as the claim was later found to be untrue following a suit instituted by Amaechi at the Abuja High Court.³⁸

The Nigerian constitution or law has been developed to prevent abuse of the right of freedom of expression. An individual, organization, or the press will not be allowed under the law to injure the reputation of others through spoken words, writings, and other forms of human expression.³⁹ The basis of the tort of defamation is that every person has a right to the protection of his good name, and reputation, reasonable

opinion and estimation the public hold of him. The purpose of the law of defamation, therefore, is to vindicate, compensate, and protect the right name and reputation of a person that has been damaged. However, if a statement could cause only mere injured feelings or annoyance but do not reflect on reputation, it is not regarded as defamatory, such as a claimant that became upset while hearing that he has died. Also using one's name without his authority for an advertisement is not itself defamatory, although it may give rise to liability in passing off.⁴⁰

Chapter 33, Section 375 of the Nigerian Criminal Code, reveals that:

Any person who publishes any defamatory matter is guilty of a misdemeanor and is liable to imprisonment for one year, and any person who publishes any defamatory issue knowing it to be false is liable to imprisonment for two years.

The subsequent section 376, however, maintains that:

Any person who publishes, or threatens to publish, or offers to abstain from publishing, or offers to prevent the publication of defamatory matter, with intent to extort money or other property, or with intent to induce any person to give, confer, procure, or attempt to procure, to upon, or for, any person, any property or benefit of any kind, is guilty of a felony, and is liable to imprisonment for seven years.⁴¹

However, section 392 of the penal code law upholds that: "Whoever defames another shall be punished with imprisonment for a term which may extend to two years or with fine or with both."⁴²

3.5 Fraud

Fraud literally, can be defined as an act of deception, dishonesty, wicked behaviour, etc. It is an aspect of corruption in which the perpetrator intends to deceive, dupe,

misinform, and mislead people such that he can gain financial benefit. An apt example is where an official staff of an academic institution dishonestly makes people think that only through him they can obtain admission or gain employment while making financial demands of them. Another typical example is sales fraud, where market men and women use inadequate measures and scales when selling goods and food-stuff to their customers. Another very prominent instance of fraud in Nigeria today is what could be described as spiritual fraud, which involves the so-called "men of God" in the guise of pastors and Muslim *Alfas*. Pages of Nigeria daily newspapers are usually filled with news of spiritual fraud. Vanguard Newspaper once reported how a pastor, all in the name of spiritual healing, duped an unsuspecting female member of the congregation.⁴³

In the contemporary time, internet fraud has taken center stage. The fraudsters are popularly referred to as "yahoo boys and girls." They dupe people financially through deceitful information passed to them. While the above are just a few examples of fraudulent practices standard in Nigeria, the truth remains that as one scam is being exposed, new ones are being introduced such that it is difficult for any writer to enumerate the various ways and manners fraudulent practices are being perpetrated.

This attitude of dishonesty is widely rampant in Nigerian milieu; right from the lawmakers at the national level to the state and down to the local government levels and even among the citizenry at the grass-root level. This is highly detestable to Allah and humanity as a whole. Meanwhile, it was mentioned earlier on that fraud is an aspect of corruption, or the two words can be said to be synonymous and being interchangeably used, only that corruption which is an act of being dishonest, immoral

and unreliable by deliberate alteration of accepted standards for selfish ends is of a broader scope, while fraud is just a part of it.

The fraud being a social problem of any giving society encourages inefficiency at various places of work, promotes indiscipline among people, breeds instability in the nation at large, and through it, people are denied their legitimate rights. On the spiritual scene, the wrath of Allah is inevitable on ill-gotten wealth. This is according to a tradition of Prophet Muhammad (SAW) which says: "Wealth accumulated from forbidden source (*Harām*) will not last long, and if it lasts long, it will not benefit the owner."⁴⁴

The increasing rate of fraud and its effects are inestimable within the Nigeria academic environments. The results are quite devastating, affecting both academic and non-academic staff, as well as the students. Prominent of these effects are promotion of mediocrity or what could be term as "half baked students" as against merit. Also, un-ethical practices such as cheating, killing, un-seriousness on the part of students, etc. are being encouraged. Fraud also brings blame and shame to its perpetrators when such activities become exposed. Indolence becomes rampant among students as some females among them depend more on their "bottom powers" to pass examinations. Equally, students are certificated un-meritoriously such that the holders of such certificate cannot prove they're worth in the labour market.

The Nigerian Legal system has provision for fraud and corruption. Fraud or Corruption is generally considered to be a multifaceted social problem that always rears its ugly head in several dimensions of human life. Therefore, the injunction

concerning administrators, directors, and officers of corporations or companies fraudulently appropriating property or keeping fraudulent accounts, or falsifying books or reports is examined from the Nigerian criminal code, chapter 39, section 435. The extract goes thus: "Any person who:

1- being a director or officer of a corporation or company, receives or possesses himself as such of any of the property of the corporation or company otherwise than in payment of a just debt or demand, and, with intent to defraud, omits either to make a full and true entry thereof in the books and accounts of the corporation or company, or to cause or direct such an entry to be made therein; or

2- being a director officer, or member of a corporation or company, do any of the following acts with intent to defraud-

- a. destroys, alters, mutilates, or falsifies any book, document, valuable security, or account, which belongs to the corporation or company, or any entry in any such book, document, or account, or is privy to any such act, or
- b. makes or is privy to making any false entry in any such book, document or account; or
- c. omits or is privy to omitting any material particular from any such book, document or account; is guilty of a felony, and is liable to imprisonment for seven years"⁴⁵

Moreover, Section 419 of Nigeria Criminal Code law has these to say:

419. Any person who by any false pretense, and with intent to defraud, obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen, is guilty of a felony and is

liable to imprisonment for three years. If the thing is of the value of one thousand naira or upwards, he is liable to imprisonment for seven years, and the section adds that the offender cannot be arrested without a warrant unless found committing the offense .⁴⁶

Based on the above legal provision in the Nigerian Constitution, it will be realized that fraud is a criminal offense which attracts imprisonment. To, therefore, reduce the incidents of fraud in the Nigerian society, drastic measures which include the followings should be put in place: fraudulent people should be exposed for their evil deeds and made to face the wrath of the law. People should be enlightened on their right as at when due and insist on bringing them into reality. Political office holders ought to be men of high professional integrity and loyalty, knowing that they are accountable to God Who will reward and punish both the good and evildoers, respectively. Market men and women should be God-conscious whenever they are transacting business with their clients, knowing faithfully that whatever reduction made in measuring, will be turned to burden on their shoulder in the life beyond. Likewise, the government should devise a measure of apprehending fraudsters and making them face the full wrath of the law. This will serve as a deterrent for future occurrence of the same crime. And finally, religious leaders should not relent in their efforts of enlightening the populace about the dignity of labour, which promotes a sense of belonging in the society.

3.6 Conclusion

The situation in Nigeria as depicted in this chapter portrays it as a society where social vices thrive; where there is no regard for the value of human lives; where illicit

sexual relationship is the vogue; where defamation of character for selfish ends is the order of the day; where drugs are abused with impunity; where lives and properties are lost to theft and highway robbery, and where fraud is accepted as one of the norms of society.

The social vices discussed in the chapter permeate all the fabrics of the Nigerian society. Just as the leaders get involved in them, so also are the led. Political office holders, civil servants, private owners of business ventures, market men/women, teachers and students in schools, police, and military as well even religious clerics are not exempted. Social vices generally are inimical to sustainable growth and development of human societies. It is in the realization of this truth that the Nigerian laws as contained in both the Penal and Criminal Codes criminalize all the social ills discussed in this chapter. The implication of this is that just as they are social ills, they are also criminal acts punishable under the law.

Endnotes on Chapter Three

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CHAPTER FOUR

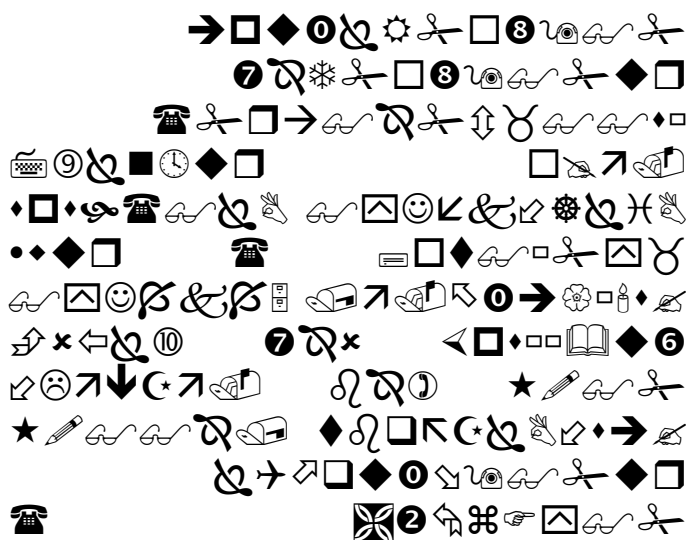
AL- QURṬUBĪ 'S EXPOSITIONS ON SELECTED SOCIAL VICES

4.0 Preamble

This chapter focuses on Al- Qurṭubī's exposition on Qur'ānic verses dealing with selected social vices in his *Al-Jāmi' u li- Aḥkāmī'l- Qur'ān*. It should be noted that most of the social vices discussed in chapter three have legal implications in Islam. Some even carry prescribed capital punishments (*Ḥudūd*), from the *Shari'ah* point of view, and this is what this chapter aimed to examine.

4.1 Al- Qurṭubī's Expositions on Verses of *Zinā*

Zinā is the Arabic and Qur'ānic term used for both fornication and adultery and all other forms of illegal sexual intercourse. In the Qur'ān, the verses that have reference to *Zinā* are numerous and Al- Qurṭubī has commented comprehensively on all of them since *Zinā*, according to Islam, is not just a social vice but also a crime that attracts capital (*Hadd*) punishment. This study, however, concentrates on Al- Qurṭubī's expositions on verse 2 of *Sūratun- Nūr* which happens to be the most comprehensive Qur'ānic reference on *Zinā*.





Meaning:

The woman and the man guilty of adultery\fornication flog each of them with a hundred stripes: Let not compassion move you in their case, in a matter prescribed by Allah, if you believe in Allah and the Last Day: and let a party of the believers witness their punishment¹ Q24: V.2

First and foremost, Al- Qurṭubī is examined to have exhausted nine (9) pages (from page 159 – 167 of volume twelve of his *Tafsīr* book) for his discussion on the above-quoted verse of *Zinā*, with twenty- two (22) different verdicts relating to it, he uses two (2) other Qur’ānic verses to buttress the exegesis pertaining to the verse, nine (9) *Aḥādīth* of the Prophet (saw), twenty – four (24) statements of the companions (*Ṣaḥābah*), and eight (8) statements of their followers (*Tābi‘in*) respectively. All of which are criteria that qualified Al- Qurṭubī's work as *Tafsīrul 'l- Ma'thūr* i.e., *Tafsīr* based on transmitted sources. Others used in the explanation of the verse under study are; his use of poetry, which he has applied only one during his exposition on this verse of *Zinā*, four (4) Arabic linguistic analyses and twenty – three (23) legal interpretations. This is the empirical aspect of this thesis.

According to Al- Qurṭubī, several injunctions are closely related to this verse under discussion, all of which he discussed to the minute details in his *Tafsīr*. For this study, however, only the issues which are considered of great importance are identified for discussion.

Definition of *Zinā* According to Al- Qurṭubī

Al- Qurṭubī at the outset defines fornication (*Zinā*) to be any illegitimate sexual contact between a man and a woman (fornicators) not married to each other. This illicit act, according to the author, was widely prevalent among people in the eras before Islam (*Jahiliyyah*). He furthers that *Zinā* can also be said to be an illegal penetration of male genital into female genital, which is abhorrent by Islamic law (*Shari'ah*) and which attracts prescribed capital punishment.² The man guilty of *Zinā* is referred to as ﴿ٱلذَّكَاءُ﴾ while the guilty woman of *Zinā* is called ﴿ٱلْمَرْءَةُ﴾ in the Qur'ān. The *Alif* and *Lām* (ال) that appear in the two words (الزانية والزانی) are generic terms applicable to all forms of *Zinā*, and all set of people, be it married or unmarried.³

Further Exposition of Al- Qurṭubī on the Verse Understudy

قُدِّمَتْ "الزَّانِيَةُ" فِي الْآيَةِ مِنْ حَيْثُ كَانَ فِي ذَلِكَ الزَّمَانِ زَنِى النِّسَاءِ فَاشٍ، وَكَانَ لَا مَاءَ الْعَرَبِ وَبَغَايَا الْوَقْتِ رَايَاتٍ، وَكُنَّ مُجَاهِرَاتٍ بِذَلِكَ. وَقِيلَ: لَانِ الزَّانِي فِي النِّسَاءِ أَعَزُّ وَهُوَ لِأَجْلِ الْحَبْلِ أَضَرُّ. وَقِيلَ: لِأَنَّ الشَّهْوَةَ فِي الْمَرْءَةِ أَكْثَرُ وَعَلَيْهَا أَغْلَبٌ، فَصَدَّرَهَا تَغْلِيظًا لِتُرَدَّعَ شَهْوَتُهَا، وَإِنْ كَانَ قَدْ رُكِبَ فِيهَا حَيَاءٌ لَكِنَّهَا إِذَا زَنَتْ ذَهَبَ الْحَيَاءُ كُلُّهُ. وَأَيْضًا فَإِنَّ الْعَارَ بِالنِّسَاءِ أَلْحَقُ إِذْ مَوْضُوعُهُنَّ الْحَجَبُ وَالصَّيَانَةُ فَقُدِّمَ ذِكْرُهُنَّ تَغْلِيظًا وَاهْتِمَامًا.

The illustration of the above-quoted extract from Al- Qurṭubī's exposition on the verse under study could be seen as follows: It will be noted that in this verse, female fornicator is mentioned first before male fornicator contrary to the case of theft where the male thief is mentioned before the female thief. Al- Qurṭubī explains the rationale

behind this. He submits that in those days shortly before the advent of Islam, fornication was more rampant among Arab women who then were more or less like living in bondage and seized the slightest opportunity to gratify their sexual urge by fornicating. Another report also cited by Al- Qurṭubī is that women were more prone to committing *Zinā* because the sexual urge is extra-ordinarily high in them as a result of which Arab women in those days sought to satisfy the urge by all means even in a shameless state. He includes that it is certain that the entire woman body is nudity, nakedness and bareness (including her voice), which deserves to be covered up always behind veil and protected against display. Al- Qurṭubī concludes that it is in consideration of these reasons that Allah mentions the female fornicator before her male counterpart.⁴

The grammatical explanation relating to the phrase "الزانية والزاني" in the verse, which according to the majority of scholars in their consensus agreement maintained that; it has to be in a nominative case that is subject that attracts predicate and whose metaphoric illustration is:

الزانية والزاني مجلودان بحكم الله

Meaning:

The female and male fornicators are flogged under the rules of Allah (SWT)

This is in contrast view to the minority scholars championed by *Sībawaih* who upheld that the phrase (الزانية والزاني) has to be a noun in an objective case.

The phrase: "مائة جلدة" (i.e., hundred stripes) is the prescribed punishment for both mature fornicators; male and female, free of bondage and unmarried. Additionally, it

is an established proof in a prophetic tradition that the male is to be banished from his homeland for one year. However, if the female fornicator happens to be a slave, her prescribed punishment should be fifty stripes according to the statement of Allah in Q4:25: “When they are taken in wedlock, if they fall into shame, their punishment is half that of free women”⁴ This is prescribed for slave (female) fornicator. Thus the same prescribed punishment is also applicable to slave (male) fornicator. But as for the free married persons, their punishment according to the *Sunnah* of the prophet (SAW) is stoning to death. It should be noted that Allah (SWT) mentions, in this verse, both male and female as a sign of emphasis and an indication that prescribed punishment is bound on both of them without exception.⁵

الْأَلْفِ وَاللَّامِ فِي قَوْلِهِ: "الزَّانِيَةُ وَالزَّانِي" لِلْجِنْسِ، وَذَلِكَ يُعْطَى أَنَّهَا عَامَّةٌ فِي جَمِيعِ الزَّانِيَةِ. وَمَنْ قَالَ بِالْجُلْدِ مَعَ الرَّجْمِ قَالَ: السُّنَّةُ جَاءَتْ بِزِيَادَةِ حُكْمٍ فَيَقَامُ مَعَ الْجُلْدِ. وَهُوَ قَوْلُ إِسْحَاقَ بْنِ رَاهَوِيَّةٍ وَالْحَسَنِ بْنِ أَبِي الْحَسَنِ، وَفَعَلَهُ عَلِيُّ بْنُ أَبِي طَالِبٍ رَضِيَ اللَّهُ عَنْهُ بِشَرَاخَةَ، وَقَالَ الْجُمْهُورُ: هِيَ خَاصَّةٌ فِي الْبُكَرَيْنِ، وَاسْتَدْلُوا عَلَى أَنَّهَا غَيْرُ عَامَّةٍ بخروج العبيد والإماء منها.

In this regard, according to Al- Qurtubī: it is worth mentioning here that stoning to death (*Rajm*) is the *Sunnah* prescribed capital punishment for married and free individuals guilty of *Zinā*, of which jurists have diverged; to some minority, they maintain that both flogging and stoning (i.e., the combination of both Qur’ānic injunction and that of *Sunnah*) punishments are to be afflicted on the one guilty of *Zinā*, and that is because *Sunnah* provides additional capital punishment of stoning to death, i.e., *Rajm*, which as to be executed alongside with the prescribed punishment of the Qur’ān, i.e., flogging (*Jald*) each fornicator with hundred stripes of cane, this is meant for both married and unmarried fornicators. This was endorsed by Ishaq bin

Raḥawaih and Al-Hasan bin Abi-l-Hasan, with a report that this was forthrightly practiced by Ali bin Abi Ṭālib (The fourth caliph), i.e., he afflicted the two capital punishments on the committers of *Zinā*. The majority, however, uphold flogging (*Jald*) only for the unmarried fornicators, while stoning to death (*Rajm*) excludes unmarried, slave male and female fornicators, but only for the married ones.⁶

Al- Qurṭubī further discusses the two legal views on punishments for suspected committers of *Zinā*. The first is that a man and a woman that are not legally married to one another found together in a room under one garment should be treated as haven committed *Zinā* and punished accordingly. This is the view of Ishaq bin Rahawaih based on reports from Umar and Ali, respectively. The second expressed by Atāu and Sufyān Ath-Thauri and upheld by Mālik and Ahmad is that they should not be given capital punishment (*had*) of *Zinā*; instead they should be punished under *Ta'dhīr* because *Zinā* is not categorically established against them. The command in the verse under study symbolizes flogging only when fornication is established.⁷

Another point to note, according to Al- Qurṭubī's exposition, is the alphabet: *Al-Fāu* in the phrase (فاجلدوا) which connotes command for flogging as long as fornication is established. The author opines that the Imām and his representatives are the ones being addressed to carry out the implementation of the punishment. He equally cites Imām Mālik and Shāfi'i who both share the view that apart from the Imām and his representatives, the directive also incorporates the master of a slave who commits *Zinā*. Another view, however, has it that the entire Muslims are the audience that the command is directed to in the verse. The earlier views are, however, to my mind,

more logical. Leaving the execution of the punishment in the hands of the masses will create chaos in the community.

Jurists consensually agreed that the flogging has to be with a whip that is neither strong nor weak; it has to be in between. Mālik relates from the authority of Zaid bin Aslam that a man, during the prophetic era, confessed *Zinā* against himself. Thereupon the Prophet (s.a.w) called for a whip, and a broken whip was produced. The Prophet (s.a.w) said: “Bring a bigger one”. Then a new fresh and strong whip was brought, and the Prophet (s.a.w) said: "A smaller one." Then a light whip that has been used for other thing was produced, and the Prophet (s.a.w) ordered that the man should be flogged with it. It was also narrated that Umar (r.a) flogged Qidāmah on alcoholic drinks with a whip that was neither strong nor weak but in between.⁸

Jurists have also expressed divergent opinions on whether or not one guilty of fornication should be stripped naked when being flogged. To this end, Al- Qurṭubī remarks that the view of Mālik, Abū Ḥanīfah and others is that the culprits (i.e., the two fornicator) should be naked while being scourged, but a piece of light cloth that will not reduce the pain should be put on a female fornicator to cover her nudity. This researcher, however, does not subscribe to the above submission because it is illogical. The public flogging itself is enough as chastisement while stripping them naked, in any form, not only amounts to licensing *Zinā* but runs contrary to the teachings of Islam as captured by Ibn Mas‘ūd when he said that it is forbidden for this community to expose one’s nudity.⁹

On which part of the body to flog, Al- Qurṭubī cites many views; the one this study, however, aligns with is that backside of the culprit as ordered by the Prophet (s.a.w). On no account should the face and the genitals be flogged. This study is also opposed to the view expressed by Abu-Yusuf narrating from Umar and his son that the head is beaten. It should be noted that prescription of capital punishment in Islam is not only retributive but also of deterrent and reformative value. Beating a culprit on the head, face, genitals, and stomach will portray wickedness. It is the same spirit of reformation that informs maintaining a middle course while flogging. The flogging should not be too severe as to cause wound and not too weak such that the culprit feels no pain. This is based on the directive given by Umar (r.a) to a man flogging a culprit: "Beat without your armpit being exposed and give every aspect of his body its due right".¹⁰

Another issue discussed by Al- Qurṭubī, which is of interest to this study is the directive of Allah: "And let a party of the believers witness their punishment." Al- Qurṭubī says as regards this verse that: "One shall not be permitted to witness the punishment except a man of discipline that has never committed a similar offense." His position on the number of witnesses is that should not be less than four up to one thousand since the word طائفة (a party or a group) which is used starts from one to a thousand. Al- Qurṭubī further expatiates on the wisdom behind allowing a party among the believers to witness the capital punishment which is to disgrace the act of *Zinā* and its committers such that the witnesses become admonished, warned and enlightened, or that the witnesses are made present in order to seek the forgiveness of Allah and His mercy for the committers of *Zinā*.¹¹

Finally, Al- Qurṭubī relates some *Aḥādīth* to buttress the forbiddance and abhorrence of the act of *Zinā*, whose extracts go as follow:

رُويَ عَنْ حُذَيْفَةَ رَضِيَ اللَّهُ عَنْهُ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: (يَا مَعَاشِرَ النَّاسِ اتَّقُوا الزِّنَى فَإِنَّ فِيهِ سِتًّا خَصَالًا ثَلَاثًا فِي الدُّنْيَا وَثَلَاثًا فِي الْآخِرَةِ فَأَمَّا اللَّوَاتِي فِي الدُّنْيَا فَيُذْهِبُ الْبَهَاءَ وَيُورِثُ الْفَقْرَ وَيُنْقِصُ الْعُمَرَ وَأَمَّا اللَّوَاتِي فِي الْآخِرَةِ فَيُوجِبُ السَّخَطَ وَسُوءَ الْحِسَابِ وَالْخُلُودَ فِي النَّارِ)

Meaning:

Narrated from Ḥudhaiyfah (r.a) that the Prophet (s.a.w) was reported to have said:

O you assembly of men, abstain from *Zinā*, because it comprises six detestable issues, three in this life and other three in the life beyond. Those three in this life include: It fades away one's beauty, it causes poverty, and it reduces one's life span, while those in the hereafter are: it consolidates annoyance of Allah, it leads to severe accountability and eternal abode in the hellfire".¹²

Another report of the Prophet (s.a.w.) says:

وَعَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: (إِذَا كَانَ لَيْلَةُ النَّصْفِ مِنْ شَعْبَانَ أَطَّلَعَ اللَّهُ عَلَى أُمَّتِي فَغَفَرَ لِكُلِّ مُؤْمِنٍ لَا يُشْرِكُ بِاللَّهِ شَيْئًا إِلَّا خَمْسَةً سَاحِرًا وَكَاهِنًا وَعَاقًا لَوَالِدِيهِ وَمَدْمَنَ خَمْرٍ وَمَصْرًا عَلَى الزِّنَى).

Meaning:

The Prophet (s.a.w) was reported to have said:
In the middle night of the month of Sha'bān, Almighty Allah (SWT) appears to my community, then forgives sins of all believers that have never associated any partner with Him except five (set of people): a sorcerer, a sooth-sayer, a disobedient child to his parents, a drunkard and perpetual fornicators.¹³

Also, a report from Anas says:

وَعَنْ أَنَسٍ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: (إِنَّ أَعْمَالَ أُمَّتِي تَعْرُضُ عَلَى كُلِّ جُمُعَةٍ مَرَّتَيْنِ فَاسْتَدَّ غَضَبُ اللَّهِ عَلَى الزُّنَاةِ).

From the authority of Anas (r.a), The Prophet (s.a.w) was reported to have said:

Certainly, deeds of my community are being presented
to me every Friday twice of which Allah's anger becomes
severe on fornication/adultery (*Zinā*)

The followings are the un-discoursed sub- headings of *Zinā* in Al- Qurṭubī's exposition which are examined from another *Tafsīr* book i.e. *Tafsīr Ar- Rāzī*. The illustration goes thus:

However, during Al- Qurṭubī's exposition over the verse of *Zinā*, it is observed that some salient interrelated headings concerned he supposes to have discussed but leftover un-catered for, simply because his book: *Al- Jāmiu' li Ahkāmī'l- Qur'ān*, is a *Tafsīr* book and not jurisprudential, may include gay, lesbianism and sexual intercourse with animals, are these vices truly *Zinā* or not? In this regard, another great exegete, and the author of that popular *Tafsīr* book; *Mafātiuh 'l- Gaiyb*: (This book is more voluminous than that of Al- Qurṭubī, it comprises of thirty- two (32) volumes), Fakhru- Deen Muhammad bin Umar Ar-Rāzī is observed to have examined divergent views of scholars over these issues as follow:

A group from among scholars maintained that gay and lesbianism are forms of *Zinā*, this is supported with a proof that Abu Musa Al- Ash'arī reported that Prophet (SAW) said:

(إذا أتى الرجل الرجل فهما زانيان)

Meaning:

“When a man has sexual intercourse with another man, the two of them are Adulterers”¹⁴

This implies that sodomy or gay is like *Zinā*, literally and technically. In the literal term, *Zinā*, according to Ar-Rāzī, is the shameful penetration of male genital into female genital which is totally forbidden, so, penetration through one's anus is almost the same as penetration through one's vulva, because the two are sensitive areas for sex, flexible and contain an opening gate, and that *Zinā* is a satisfaction attained through sexual urge or to release oneself from sexual urge through an illegal means. However, this, to majority scholars, gay could not be regarded as *Zinā* for reasons, which include: it is a general acknowledgment that gay is not *Zinā*, and that someone that swears to commit *Zinā* but unfortunately committed gay, could not be punished for *Zinā*. And that the companions of the Prophet diverged over the judgment of gay, knowing the literal meaning of gay vividly, if the two are synonymous, yes the prescribed punishment of *Zinā* could have barricaded them against their arguments.

The available *Aḥādīth* on this are:

قوله عليه الصلاة والسلام (إذا أتت المرأة المرأة فهما زانيتان) وقال عليه الصلاة
والسلام (اليدين تزنيان والعينان تزنيان)

Meaning:

The Prophet (s.a.w) was reported to have said:

When a woman had sexual intercourse with another
Woman, the two of them are fornicators.
And he said in another report:
Both the two hands and the two eyes are elements of fornication

These are the basis from where sin usually emanates, so, whoever involved in gay or lesbianism such is a sinner.

Moreover, Ar-Rāzī maintains that there are two divergent penalties to be afflicted on two gays or lesbians, the most acceptable one among the two is the prescribed

punishment of *Zinā*; they are to be stoned to death if they are married, but if unmarried, they are beaten with 100 stripes of cane and sent on exile for one good year. The second penalty, however, is that the two gays or lesbians are killed be it married or unmarried based on prophetic tradition narrated by Ibn Abbās as follows:

(من وجدتموه يعمل عمل قوم لوط فاقتلوا الفاعل والمفعول به)

Meaning:

Whoever you apprehend partaking in the act of the people of Prophet Lut, kill both the perpetrator and his subject¹⁵.

There are various ways of killing the gays and lesbians among which include; a cut at his neck like a religious revert or stoning him/her to death, this which is cherished by Mālik, Ahmad, and Ishāq. Other forms of killing gays are; to fall a wall on him/her, as narrated from AbuBakr (RA) or to cast him/her down from the top of a mountain until death, this is related from ‘Ali (RA). All these ways of killing gays and lesbians are the forms and means through which Allah (SWT) punished Lut’s community when He (SWT) says:

فَجَعَلْنَا عَالِيَهَا سَافِلَهَا وَأَمْطَرْنَا عَلَيْهِمْ حِجَارَةً مِّن سِجِّيلٍ

Meaning:

We turned (the towns of Sodom in Palestine) upside down, and rained on them stones of baked clay
.....Q11:82

Next, is the issue of someone having sexual intercourse with animal, jurists consensually agreed that this is totally prohibited in Islam, to Shāfi^c, there are divergent opinions concerning punishment to be afflicted on the culprit, these are compulsory prescribed punishment of *Zinā*, if married, gay is stoned to death while the unmarried is given 100 stripes of cane, plus one year exile. Secondly, gay is

killed, be he married or unmarried based on prophetic *Ḥadīth* narrated by Ibn Abbās saying;
(من أتى بهيمة فاقتلوه واقتلوه معها)

Meaning:

“Whoever has sexual intercourse with an animal; kill him and the animal together.”

It was said to Ibn Abbās “what concerns the animal? He said; I can see nothing to that except that the Prophet (s.a.w) exhibited fear that people should not eat its flesh for the act perpetrated with it. The third view, however, which is the most acceptable one among others, is the opinion of Abi Ḥanīfah, Mālik and others which is a severe warning and not prescribed punishment, they however fragile chain of transmission of Ibn Abbās's report and thus labeled it as weak (*Daʿīf*) *Ḥadīth*, because it is against an already established *Ḥadīth* that forbids slaughtering of an animal except for eating.

The third salient issues related to the verse of *Zinā* understudy which are not discoursed by Al- Qurtūbī are intermingling with women, having sexual intercourse with a dead woman and using one's hands to hold part of woman's body most especially her breast. All these, according to Ar-Rāzi, are unconstitutional under Islamic law and only attract severe warning of which a true believer should desist from it. ¹⁶

Nevertheless, as it was said previously that Al- Qurtūbī's exposition over the verse of *Zinā*, devoid some salient interrelated headings concerned, which he takes for granted, simply because his book: *Al- Jāmiu' li Aḥkāmi'l- Qur'ān*, is a *Tafsīr* book and not jurisprudential, it is germane, therefore, at this juncture to examine some other

relevant headings, which were viewed from books of jurisprudence, and, which may include the followings:

i. Description of Capital Punishment of Stoning to Death (*Rajm*)

The issue of stoning to death as capital punishment for *Zinā* usually generates from the judge for an individual guilty of the act through self-conviction or testimony of the witness. If *Zinā* is established through self-conviction, the judge is to champion the stoning, and then people come after him. But if however it is established through the testimony of witnesses, the stoning is started by the witnesses then followed by people. If the culprit runs away from people while being pelted with stone during execution of capital punishment emanating from testimony of witnesses, he/she should be pursued until apprehended and stoned to death. But if it is through self confession, he/she is set free. This is in line with the case of Mā'iz when the Prophet (SAW) ordered for his stoning. When a self confessing fornicator reverses his confession before the execution, this is acceptable from him and the prescribed punishment is averted and warded off him.¹⁷

A fornicator is stoned with stones of medium size either in standing or sitting position till death, without bury part of his/her body inside a digging grave or ties him down. This has it was reported about the Prophet (SAW) when he ordered for the stoning of Mā'iz bin Mālik. When a self convicting fornicator reverses his confession before the execution, this is acceptable from him, and the capital punishment is ward off.¹⁸

ii. Description of Prescribed Punishment of Flogging (*Jald*)

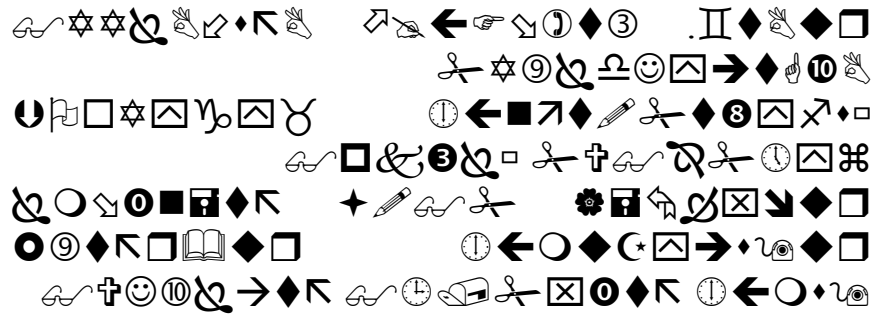
A fornicator is beaten in a standing posture with an intermediate cane that is neither weak nor strong, base on what was narrated from the Prophet (SAW). The flogging

also must be a medium beating of which the whippier should neither raise his hand immensely nor lower it.¹⁹ All other areas of his body are beaten except his genitals, face, and the head. A male fornicator save defamer is flogged nakedly, this according to Mālik and Shāfiʿ. But in case of the female fornicator, her nudity is maintained, while beating in sitting posture with her garment well tight to her body. Sensitive areas of her body are saved during the beating.²⁰

In relation to this, the view of one of the modern scholars; Yusuf al-Qaradawi could also be cited as regards to fornication/ adultery. Qaradawi maintains in his book; *The Lawful and Prohibited in Islam*, that Islām prohibits every sort of sexual contact and sexual relationship outside marriage. This is known as *Zinā* in Arabic. He quotes the Qurʾān verse (Q17:32) which reads thus: "And do not come near *Zinā*; indeed, it is an abomination and an evil way." He upholds that this is an indication that not only *Zinā* is forbidden, but likewise anything which brings one near to it. Such as provocative dances and songs, which constitutes "coming near *Zinā*;" these things are indeed intended to tempt, excite, and lead one toward such sin. And what havoc they wreak in the lives of people! ²¹

4.2 Al- Qurṭubī's Exposition on Verses of Murder (*Qatl*)

Qatl means murder or killing of an innocent person. There are many verses of the Qurʾān that address the menace of *Qatl*. Al- Qurṭubī in his *Tafsīr* has commented extensively on virtually all of them. This study, however, concentrates on his commentary on the following Qurʾānic verse that addresses the punishment of Murder (*Qatl*):



Meaning:

And whoever kills a believer intentionally, his recompense is hell to abide therein, and the wrath and the curse of Allah are upon him, and a great punishment is prepared for him²² (Q.4:93).

The verse understudy is one of the Qur'ānic verses that deal basically with punishment associated with killing or murder in Islam. Al- Qurṭubī has identified and discussed seven different issues concerning the verse. This study however focuses its attention on those considered pivotal to the discussion.

Statistical Analysis of the Verse of Murder

The verse under study revealed that the author; Al- Qurṭubī exhausts eight pages (from page 328 – 335 of volume five of his *Tafsīr* book) for his discussion with seven (7) different verdicts connecting to the verse, one (1) cause of revelation: *Sababn-Nuzūl*, three (3) other Qur'ān verses, thirteen (13) *Ahadith*, eleven (11) statements of the companions (Ṣaḥābah), and six (6) of their followers (*Tābi'un*). He also uses three (3) poetries, with twenty- five (25) legal issues raised, plus one (1) linguistical analysis and one (1) abrogation (*Naskh*) to illustrate the verse.

Al- Qurṭubī's Exposition / Grammatical Analysis of the Verse

The grammatical analysis is in the phrase: (ومن يقتل) i.e. "whoever kills" The word (من) there is a condition (*Shart*) (i.e., logical clause or phrase) whose response (*Jawāb*) is (فجزائه), i.e. "his recompense." Al- Qurṭubī explains that Allah (SWT) mentions in the Qur'ān, both intentional killing and killing by mistake but did not mention killing that resemble or very close to the intentional one as identified by Muslim jurists in their works. Attāu, An-Nakha^ciyyu, and other jurists maintain that deliberate killing is to kill with a sharp iron such as sword, knife, pointed arrow, gun and the like among weapons that kill at once instantly, or any other objects that lead to death like stoning somebody with heavy rock and the like etc.²³

Abū Umar and majority among famous jurists concerning some companions of the prophet and their followers maintain that beating or slapping one to death, or exchanging blows or beating someone with a cane or a lash from sugar-cane, etc. is a resemblance of intentional killing.²⁴

The position of Al- Qurṭubī is that because of the premium that Islam attaches to saving and protecting of life and prohibition of shedding blood without just cause, resemblance to intentional killing should be accorded recognition. In which case, the perpetrator is not treated as one who kills intentionally because there is an ambiguity. For instance, in a situation whereby beating is intended, but killing is out of intention, the capital punishment of execution is dropped, and payment of *Diyyah* (i.e., a prescribed amount of money by *Shari'ah* to be paid to the family of the deceased person) is recommended in replacement of the punishment. This is justified with a prophetic tradition transmitted by Abu-Daud from Abdullah bin Amr; thus:

Behold! Indeed the *Diyyah* for killing by mistake is that resembling the intentional killing that occur through lashing with cane or rope, and that is one hundred camels out of which forty of them have to be pregnant.²⁵

In another report by Dāruqutn from Ibn Abbās (RA), the Prophet (SAW) was reported to have said: "Intentional killing is punishable but killing by mistake is not, so whoever killed unintentionally by stoning or flogging by a cane, an intensive *Diyyah* of the camel is paid." Another report from the Prophet (SAW) says also: "Killing that resembles an intentional one is punished (with *Diyyah*) and it is like a deliberate killing only that its perpetrator is not killed".²⁶ This kind of murder is widely ordinary amidst Nigerians; be it in market areas, commercial carriage stations, fuel stations, schools, even at homes, people are found exchanging blows or combating with one another, without the intention of killing, but all of a sudden, one of them is hit and struck by the head, or been stabbed, or stoned by any object, thus resulted to death. This is an apt example of killing that resembles an intentional murder or homicide by mistake, which is punished with payment of *Diyyah*.

On the penalty of intensive *Diyyah* to be paid on killing that resembles an intentional killing, which is one hundred camels, Al- Qurṭubī referred to five different views expressed by Muslim scholars on the distribution. According to him, Attāu and Shāfi^c maintain that; it is thirty *Hiqqah* (i.e., the female camel of four years old), thirty *Jidhi^cah* (i.e., the female camel of five years old) and forty *Khalfah* (i.e., the female camel of ten years old). This was narrated from Umar, Zaid bin Thābit, Muqirah bin Shu^cbah, and Abi Mūsa Al-Ash^carī. The Māliki School of Thought also expressed the same opinion. The other view is that the penalty has to be distributed in quarters between four different species of camels. These are; Twenty-five young female

camels (*Lubān*), twenty-five female camels of four years old (*Hiqqaq*), twenty-five female camels of five years old (*Jidhāu*) and twenty-five young female camels of one-year-old (*Mukhād*). This view is supported by Nuʿmān and Yaʿqūb, as it was also reported by Abu Dāud from Sufyān, from Abi-Ishāq from Asim bin Domrah and finally from Ali (RA). The third view which is that of Abu Thauri says that the penalty has to be in the twenties in five different species of camel (i.e. Twenty young female camels of one year old (*Mukhād*), twenty young female camels (*Labūn*), twenty young male camels (*Labūn*), twenty female camels of four years old (*Hiqqah*) and twenty female camels of five years old (*Jidhʿah*).

Furthermore, another view narrated from Uthmān bin Affān (RA) and upheld by Hasan Al-Basri, Tāwus and Zuhairi (RA) is that the penalty is Forty female camels of five years old (*Jidhʿah*) and above, thirty female camels of four years old (*Hiqqah*) and thirty young female camels (*Labūn*). The last of the views cited by Al- Qurṭubī is that upheld by Shaʿbi and An-Nakha'yyu which was reported by Abu Dāud from Abi-l- Ahwas from Abi-Ishāq from Asim bin Domrah and finally from Ali (R.A) that the penalty has to be thirty-four female camels of ten years old (*Khalfah*) and above, thirty-three female camels of four years old (*Hiqqah*) and thirty-three female camels of five years old (*Jidhʿah*). It should be noted, however, that even if scholars differ on the method of distribution as could be seen from the above discussion, the fact remains that they are unanimous that the total number is 100 and that the animal for the penalty is a camel.²⁷

On the issue of who should pay the *Diyyah* for killing that resembles intentional killing, an insane person is generally exempted. This is with respect to a *Ḥadīth*

reported by Abu Hurayrah that the Prophet (SAW) made criminal *Diyyah* compulsory on the perpetrator that is sane, scholars like Al-Hārith Al- Ukliyy, Ibn Abi-Layli, Ibn Shubrumah, Qattādah, and Abū Thauri maintain that with regards to the sane perpetrator, the *Diyyah* must be compulsorily taken from his wealth.

The above discussions are on the issue of *Diyyah* for killing that resembles intentional killing. In the case of killing by mistake, the perpetrator, based on consensus, has to atone for the murder, which is (*Kaffārah*). As for intentional killing, the penalty is a death sentence. On whether the perpetrator of intentional killing will atone or not in addition to the death penalty, Al- Qurṭubī states that both Mālik and Shāfiʿ agreed that expiation (*Kaffārah*) is bound on both intentional and killing by mistake. Shāfiʿ argues that if redemption is made compulsory for killing by mistake, then it is of a higher degree in respect of intentional killing. He justifies his stand by referring to prostration made to correct an error in prayer that if such prostration could be instituted compulsorily on discount in prayer, then that of intentional one is of higher degree. He, therefore, concluded that if Allah could make *Kaffārah* compulsory for killing by mistake, then it is even more compulsory for deliberate killing.

Some other group of scholars, according to Al- Qurṭubī, however, maintain that expiation is bound on the perpetrator of intentional killing only when he is forgiven and not killed back in retaliation, but if he is to be killed again in vengeance, then there is no expiation to be taken again from his wealth. Still, on redemption, Al- Qurṭubī explains further that expiation will be compulsorily taken out of the wealth left behind by one who commits suicide by killing himself.²⁸

Another fundamental legal issue about *Qatl* discussed by Al- Qurṭubī is expiation (*Kaffārah*) of a group of people that killed by mistake. Al- Qurṭubī cites the divergent opinions of Muslim jurists. According to him, a group from among scholars maintains that *Kaffārah* becomes bound on every one of them. This view is upheld by Mālik, Shāfiʿ, Ahmad, Ishāq, Abu Thauri, people of opinion, and others among scholars. But on the contrary, another group of scholars says that; only a single expiation (*kaffārah*) becomes bound on them altogether. This is related from Al-Auzaʿiyyu. Concerning the *Kaffārah*, Az-Zuhair sets two options, which are freeing a slave or consecutive fasting of 60 days. Therefore, if a group of people collectively kill a man by mistake, freeing one slave is bound on them altogether, but if they cannot afford it, then sixty consecutive fasting are bound on each of them.²⁹

Next to this is Al- Qurṭubī's exposition on jurists' views on whether or not there is repentance for an assassin that kills intentionally. He maintains that while some jurists opine that there is repentance for him, some others argue that Allah will not accept his repentance. Al- Qurṭubī mentions Ibn Abbās, Zayd and the Mutazilites as examples of scholars who decided that there is no repentance for one who kills intentionally. Ibn Abbās, for instance, supported his stance with Q.4:93 and argued that the verse was the last verse revealed to the Prophet (SAW) on *Qatl* and another verse has never abrogated it. A *Ḥadīth* of An-Nasāi has it that he asked Ibn Abbās: is there repentance or forgiveness for one who kills a believer intentionally? He answered "No" then he (i.e., An-Nasāi) recited the verse in *Sūratu'l- Furqān*:

والذين لا يدعون مع الله إلهاً آخر , i.e., "And those who invoke no other god beside Allah" Ibn Abbās said: this is Makkan verse, and it has been abrogated by a Madinan verse which is the verse under study.³⁰

Additionally, An- Nasāi also narrated similar event from Zayd bin Thabit, and it was established that the verse from *Sūratu 'n- Nisā*, ' i.e. ... **ومن يقتل مؤمنا متعمدا** was revealed six months or eight months later, after the revelation of the verse in *Sūratu 'l-Furqān*, i.e. **والذين لا يدعون مع الله إلها آخر**,

Al- Qurṭubī also observes the *Muṭazilites* view while considering the two reports (from Ibn Abbās and Zayd) and the verses together. They (i.e., *Muṭazilites*) therefore come up with what they describe as "the specific verse out of the general implication of all Qur'ānic verses." Reference is thus made to the verse: **ويغفر ما دون ذلك لمن يشاء** (i.e., And He (Allah (SWT) forgives anything saves associating partnership with Him for whomever He pleases). Though the *Muṭazilite* were quite optimistic that the threat in the verses of killing will undoubtedly be accomplished on all murderers, but they combined the implications of the two verses and said:

التقدير ويغفر ما دون ذلك لمن يشاء إلا من قتل عمدا

Meaning:

The implication is that: Allah (SWT) forgives anything saves associating partnership with Him for whomever He pleases except one who kills intentionally.³¹

On the other divide, according to Al- Qurṭubī, are scholars like Abdullah bin ʿUmar (RA) who had also reported from both Zaid and Ibn Abbās that there is forgiveness for one who kills intentionally. Al- Qurṭubī relates another report from Yazīd bin Hārūn who said that Abu Mālīk Al-Ashjaīyyu informed them that Saʿd bin Ubaydah said; a man came to Ibn Abbās and said: Is there forgiveness for one who kills a

believer intentionally? Ibn Abbās said: "No except Hell." After the man had left, his students in the gathering said to him: "This verdict you gave to the man's inquiry is contrary to what you have been telling us before that there is acceptable forgiveness for one who kills intentionally." Ibn Abbās said: "I can perceive the man to have been emotionally enraged and wished to assassinate a believer." After that, they sent delegates to look after the man, and he was found to have murdered a believer intentionally. This implies that Ibn Abbās was of the view that there is acceptable repentance for one who kills deliberately but gave a negative answer to the man who came to enquire to dissuade him for the heinous act.³²

Even though, Al- Qurṭubī related the two opposing view; the view that there is acceptable repentance for one who kills intentionally seems more satisfactory to him, and perhaps that informed the reason why he cited many reports which influence his opinion. In his bid to make the meaning of the legal implication implicit, he referred some *Aḥādīth* to support the view. Ubādah bin Sāmī reported one of such *Aḥādīth* of the Prophet. Thus:

"تبايعونى على ألا تشركوا بالله شيئا ولا تزنوا ولا
تسرقوا ولا تقتلوا النفس التى حرم الله إلا بالحق فمن
وفى منكم فأجره على الله ومن أصاب شيئا من ذلك
فعوقب به فهو كفارة له ومن أصاب من ذلك شيئا
فستره الله عنه فأمره إلى الله إن شاء عفا عنه وإن شاء
عذبه"

Meaning:

Come into the pledge of allegiance with me, never associate partners with Allah, eschew fornication and theft, and do not take a life forbidden by Allah except with due legal process. Whoever among you sustains the promise, indeed his re-compensation lies with Allah, but whoever falls into the pitch of any of the promises and is punished, that serves as an expiation (*Kaffārah*) for him, and on the other hand, whoever falls into the pitch of any of the promises, and Allah conceals him (from being seen by people), his affair lies with Allah, if He wishes, He forgives or punishes him.³³

In this same vein is the report contained in almost all *Ḥadīth* collection about a man that killed one hundred souls and was yet forgiven by Allah and admitted into the paradise. All the above-quoted reports are a clear indication that Allah (SWT) is Oft-Forgiving, Most Merciful and that Allah (SWT) can forgive and even bestow His mercy on a sinner that has committed one or more grievous sins, as long he repents sincerely.

To however show the grievousness of killing to dissuade people from its perpetration, Al- Qurṭubī in his *Tafsīr* cites some prophetic traditions, one of which is that the Prophet said:

The grief of taking a believer's life is greater before Allah (SWT) than bringing the whole world to an end".³⁴

In another report, the Prophet (SAW) said:

The first thing to be accounted for among the deeds of a servant (of Allah) is prayer (*Aṣ- Ṣalāt*), and the first to be settled or judged among people is shedding of blood.³⁵

It was narrated from Ibn Abbās that a man asked him saying: "Is there repentance/forgiveness for a murderer?" Ibn Abbās amazingly told him: "what are

you asking of?" twice and thrice respectively, repentance! Forgiveness! He then said; "I heard the Prophet (SAW) saying: "on the day of judgment, the murdered one will come with his head hanging to one of his hands while his second hand holding stick to his murderer, and blood running through all his wounds until the two of them were brought before Allah (SWT), the murdered one will say: O my Lord! Here is my assassin. Thereupon Allah (SWT) will say to the murderer. You killed him, and then he will be admitted to the hellfire"³⁶

Qaradawi remarks in his book: *The lawful and prohibited in Islam*, as regards killing, that parent should avoid intercourse that could lead to the pregnancy of the suckling mother which could subsequently lead to abortion; this is term as an aspect of killing. Likewise, the child has a right to life. Neither the father nor the mother has the right to take the life of the child, whether a boy or a girl, by killing it or burying it alive, as was done by some Arabs of *Jahiliyyah*. Qur'ān reads: "And do not kill your children out of fear of poverty; We shall provide for them and you. Indeed, the killing of them is a great sin." (Q17:31)³⁷

In conclusion, *Qatl*, i.e., Murder or killing of an innocent soul is one of such vices that are detestable to Allah; the recompense of its perpetrator without religious justification is an eternity in the hell. The most common killing is that which is intentionally or by mistake. Murder by mistake attracts the blood money known as "*Diyyah*" which, according to the prophetic statement, is one hundred camels to be paid to the deceased's family. The intentional killing, however, is punishable which according to the Qur'ān, is life for life with extra capital punishments in the life hereafter, which include; eternal life in hell, the wrath, the curse of Allah and a great

punishment known only to Allah. But a resemblance to intentional killing is that according to jurists, which falls in between the deliberate and killing by mistake, such as a case whereby beating is intended without killing, in such situation, the capital punishment of intentional killing is dropped, while blood money (*Diyyah*) is paid.

Moreover, one who commits suicide is also bound to the punishment and chastisement of Allah, as he would be scolded with such object he used in taking his life by himself in the hell, and a kind of expiation (*Kaffārah*) money is compulsorily taken from his wealth to the public treasury (i.e., *Baytu 'l- māl*) after his demise and before sharing his inheritance. These, in a nutshell, are indications that taking one's life known as killing/murder is abhorrent in Islam, be it intentional or otherwise, a real Muslim needs to cease and shun all devilish means that could lead to killing.

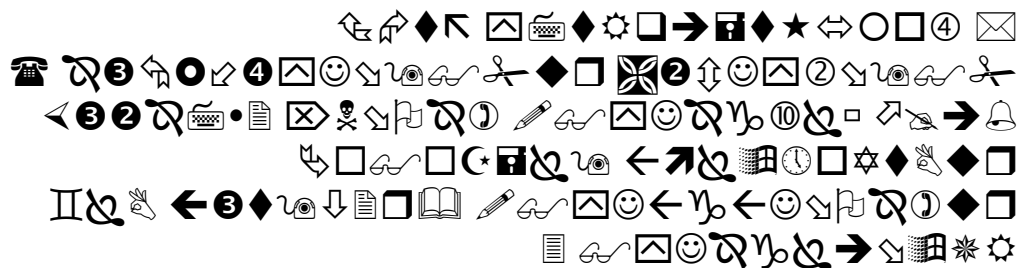
4.3 Al- Qurṭubī's Exposition on Verses of Alcoholism

This discussion focuses on extracts of Qur'ān verses that address drug addiction from *Sūratul- Baqarah*, *An-Nisā'* and *Al- Māi'dah*, respectively. The study of the statistical analysis of each of the three verses of alcoholic drinks as discussed by Al- Qurṭubī revealed that, the author has exhausted ten (10) pages (from page 51 – 60 of volume three of the book), with nine (9) different verdicts while discussing the first verse (i.e., Q2:219), in conjunction with these, he has also used other three (3) Qur'ān verses, five (5) statements of the companions (*Ṣaḥābah*), two (2) of their followers (*Tābi'ūn*), and eighteen (18) poems, and he has only raised three (3) different legal judgments. It was observed that he uses not any prophetic tradition, no linguistic analysis, and no *Sababun- Nuzūl* in the course of his explanation. The second verse (i.e., Q4:43) however, revealed that the author exhausts only five (5) pages (from page 199 -204 of volume five of the book understudy) for its discussion. He raises forty- four (44)

different verdicts on the verse, but only the germinated ones are examined. He comes up with one abrogation (*Naskh*), seven (7) other Qur’ān verses, four (4) *Ahādith*, ten (10) statements of the companions (*Ṣaḥābah*), three (3) of their followers (*Tābi‘ūn*), and one poem. He has also raised five (5) legal issues, two (2) linguistic analyses, and three (3) *Sababn- Nuzūl* in its exposition.

Furthermore, the last verse of *Khamr* (i.e., Q5:90-91) discussed by Al- Qurṭubī, exhausted eight (8) pages (from page 285- 293 of volume six of the same book) with seventeen (17) various religious verdicts. The author uses three (3) Qur’ān verses, three (3) *Aḥādīth*, eight statements of the companions (*Ṣaḥābah*), two of their followers (*Tābi‘ūn*), and six (6) legal interpretations, plus three *Sababn- Nuzūl* to illustrate the verses. The use of poem and linguistic analysis are absent in his exposition of these verses

In *Sūratul- Baqarah*, Allah says



Meaning:

They ask you (O Muhammad SAW) concerning alcoholic drink and gambling. Say: "In them is a great sin and (some) benefits for men, but the sin of them is greater than their benefit."³⁸
Sūratul- Baqarah Q2:219

The prohibition of alcoholism in Islam was a gradual process which entails three stages, each of these stages is discussed fully in the Qur’ān, and the first of them

nevertheless is the verse under study, quoted above. According to Al- Qurṭubī, there are nine related issues to the verse. This study, however, discusses the few relevant ones.

Literally, the word **الخمر** refers to anything that is used to cover or hide something else, explaining the rationale behind the Qur’ānic usage of **الخمر**, Al- Qurṭubī though not oblivious of other views submits that it is because alcoholic drinks and other intoxicants are substances that cover the brain or conceal it from normal functioning (**تَحْمُرُ الْعَقْلَ**). *Khamr* is forbidden (*Harām*) in Islam according to the consensus of scholars, and anything be it liquid (i.e., all alcoholic drinks), or gas (cigarette, *Igbo*, India helm, etc.) that perform the same function of this type is also forbidden.³⁹

Majority among scholars maintain that any substance that is non-grape alcohol when taken in large quantity could lead to intoxication is forbidden. Likewise, consumption of a small or large amount of such material is punishable under the *Shari’ah*. However, in contrary, Abū Ḥanīfah, Thaori, Ibn Abi-Laylah, Ibn Shubrumah and a group of Kūfah jurists maintain that a small quantity of such substance is allowed, permissible (*Ḥalāl*) and unpunished. In Al- Qurṭubī’s view, this is a weak opinion that needs to be re-examined.⁴⁰

Another issue discussed by Al- Qurṭubī in this regards is the generosity of Allah as evident in the gradualism introduced in legislating on *Khamr*. Al- Qurṭubī like most other Qur’ānic exegetes observes that Allah did not declare the prohibition of *Khamr*

suddenly and at once but gradually. This verse understudy was the first to be revealed on this subject matter, followed by the verse:

لا تقربوا الصلاة وأنتم سكارى

Meaning:

Approach not prayer when you are in a drunken state (Q.4: 43). Then the verse:

إنما يريد الشيطان أن يوقع بينكم العداوة والبغضاء في
الخمير والميسر ويصدكم عن ذكر الله وعن الصلاة فهل
أنتم منتهون

Meaning:

Shaytān (Satan) wants only to excite enmity and hatred between you, with intoxicants (alcoholic drinks) and gambling, and hinder you from the remembrance of Allah and *Aṣ- Ṣalāt* (the prayer). So, will you not then abstain? (Q. 5: 91).

And finally, the verse:

"إنما الخمر والميسر والانصاب والازلام رجس من عمل الشيطان
فاجتنبوه "

Meaning:

Intoxicants (all kinds of alcoholic drinks), and gambling, and *Al- Anṣāb*, and *Al-Azlām* (arrows for seeking luck or decision are an abomination of Shaytān's (Satan) handiwork. So avoid (strictly all) that (abomination) (Q.5:90).⁴¹

The next issue considered by Al- Qurṭubī is the sins inherent in alcohol as declared by Allah in the verse under study. Some of the crimes inherent in alcoholic drinks are

those that emanate from the drunkard himself such as being in a state of notoriety, obliviousness, furious argument, obnoxious idea, dysfunction of the brain, failure to observe prayer (*Ṣalāt*), deviance from the remembrance of Allah and host of others. On this basis, An-Nasā'i reports from what was narrated from Uthmān (RA) who said: "Abstain from alcoholic drinks, certainly it is the basis of all crimes/sins".⁴²

Al- Qurṭubī relates the story of a pious man before Islam, who was tempted by a prostitute, who sent her maid to invite the man for a religious witness. The man in turn followed the maid to the premises of the woman, as he moved through one gate to another; the doors were shut against him, until he finally got to a room where the woman had already set herself, carrying a baby and a jug full of alcoholic drink. The woman said: indeed I have not invited you for any religious witness; instead, you are only invited either to have sexual intercourse with me, or drink a cup of wine or take the life of this baby. The man considered the three and decided to take a container of alcohol, thinking that it is the less harmful sin among the three. Having taken the first cup, he requested for more, until he entirely became intoxicated and after that had sex with the woman and subsequently killed the baby. This is an indication that *Khamr* is the basis of all crimes, which a true believer ought to eschew totally in his life, and that is because faith and alcoholism never come together in one's mind except one of them defeat and desert the other one.⁴³

To show the evils in alcohol, Al- Qurṭubī corroborates the above given account with other reports, such as that of a man called Al- A'ashā who intended to embrace Islam but later changed his mind because he was not ready to give up alcohol³⁷ and the

report of Qays bin Aẓim Al- Minqariyyu who in his case was drunkard, but more than in life forbade for himself the drinking of alcohol.⁴⁴

Al- Qurṭubī also dwells on the import of the phrase “ومنافع للناس” i.e., "and some benefits for men." He explained that the benefit of alcoholic drinks is the material gain in its business transaction and that Arabs purchased it from *Shām* at a lesser price and sold it in *Hijāz*, making some gains. They never experienced any loss in its sale. According to him also, benefits in *Khamr* may include the followings: it regulates food taken, it strengthens the weak, fade away inferiority complex, and turns stingy to become generous, braves the coward, smoothes one's colour, etc. for someone who indulges in its drinking.⁴⁵

Al- Qurṭubī also commented on the clause: وإثمهما أكبر من نفعهما i.e., "But the sin of the two (*Khamr* and *Maysir*) is great than the benefit." According to him, this statement which emanates from Almighty Allah (SWT), the Most High, is an indication that the sins in the two are more significant than their benefits. The sin becomes great after its prohibition while the benefit was before the ban. The proof to these could be seen in the context of a *Ḥadīth* where the Prophet (SAW) invoked curse of Allah on alcoholic drinks (*Khamr*) itself and other ten group of people that indulge in it, which, according to the *Ḥadīth*, include: the seller, the staff (employed to work in the factory where *Khamr* is produced), the buyer, the producer, the assistant producer, the cupbearer, the drunkard, the supplier, the receiver and the price consumer of *Khamr*. *Khamr* is regarded as among the great (*Kabā'ir*) and grievous sins in Islam.⁴⁶

Al- Qurṭubī further submits that some scholars opine that verse 33 of *Sūratu 'l- A'rāf* is actually the Quran verse with which Allah has earlier prohibited *Khamr*:

(فَلْ إِنَّمَا حَرَّمَ رَبِّيَ الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَنَ وَالْإِثْمَ)

Meaning:

Say (O Muhammad: (But) the things that my Lord has indeed forbidden are all acts of indecency whether committed openly or secretly, and sins of all kinds.³⁶

The argument of these scholars is that since the verse under study (i.e., Q.2: 219) indicates that there are sins involved in *Khamr*, then it is part of the sins of all kinds declared prohibited in verse 33 of *Sūratu 'l- A'rāf*.

But in contrast, Al- Qurṭubī also remarks that Ibn Utayyah upholds that a thorough examination of this verse reveals that it is the sin in alcohol that is forbidden and not the *Khamr* itself and that a group of scholars maintains that the verse understudy does not prohibit *Khamr* but only refers to it as sin, and indeed sins of all kinds had been forbidden. The view of some other scholars, however, is that though it is called sin, the intended meaning is *Khamr*; this is desirable when considering a poetic stanza that says:

شربت الإثم حتى ضلّ عقلي

كذاك الإثم يذهب بالعقول

Meaning:

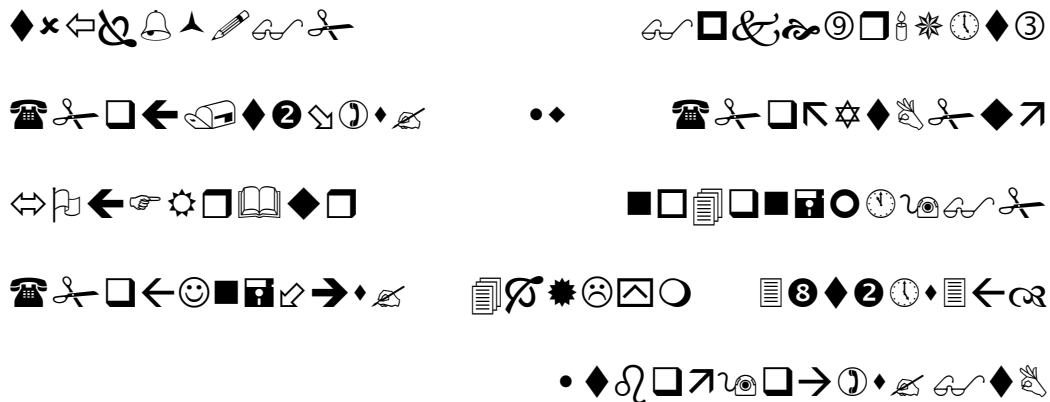
- I drank sin (i.e., alcohol) until my sense vanished away, thus sin dispatches sensation.

The above stanza, according to Ibn Al- Jaozī in his book; *Nidāu' Al- Imān*, quoting Ibn Al- Anbāri to have said that a man known as Abu Ubaydah composed a stanza of

the poem in a gathering, referring to *Khamr* as sin. In this same assembly, another unknown poet also wrote the above poem, submitting that sin could be referred to as *Khamr*.⁴⁷

Al- Qurṭubī , however, refutes the poem and remarks that it is irrational and unsound because Allah (SWT) did not call alcohol (*Khamr*) sin in the verse under study but rather, He says: "In them (i.e., alcohol and gambling) is a great sin." Also, it is out of context to view the verse as (قل هما إثم كبير), i.e. "say: the two (alcohol and gambling) are great sins." Al- Qurṭubī supports this stand with Qattadah's view, which says: It is the verse under study that only contains the blameworthiness of *Khamr* and not its prohibition which is well pronounced in another verse (i.e., Q.5:90).⁴⁸

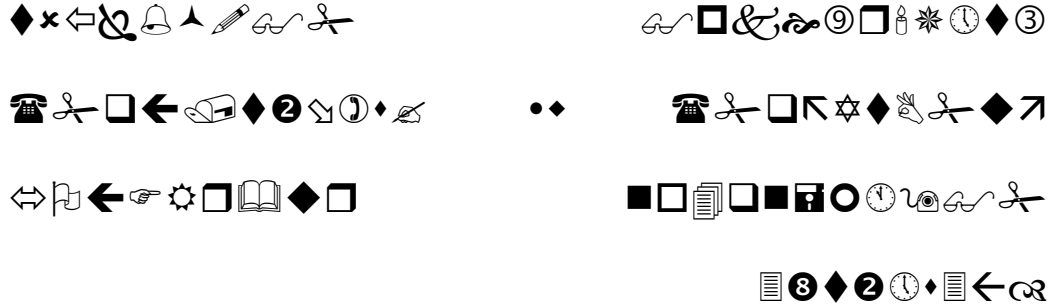
The next Qur'ānic verse(s) in the gradual prohibition of alcoholic drinks is verse 43 of *Sūratu'n- Nisā'* which reads thus:



Meaning:

O you who believe! Approach not *Aṣ- Ṣalāt* (the prayer) when you are in a drunken state until you have known (the meaning) of that you utter...⁴⁹

Al- Qurṭubī, in his exegeses on this verse, comes up with forty-four related issues, but this study focuses on those that are strictly related to alcoholic drinks (*Khamr*). The first discussion centers on the verse:



Meaning:

O you who believe! Approach not *Aṣ- Ṣalāt* (the prayer)
when you are in a drunken state.

Al- Qurṭubī submits that the primary addressees in the verse are the believers and the reason was that they were the observers of prayer (*Ṣalāt*). It should be noted that at the time the verse was revealed to the Prophet (SAW), there was no direct prohibition yet, therefore, some of the believers used to consume alcohol which made them lose concentration and cognition in *Ṣalāt*.⁵⁰

Al- Qurṭubī cites a report by Abu Daud that when the prohibition of *Khamr* was yet to be revealed, Umar (RA) prayed: "O Allah! Give us a clear explanation of alcoholic drinks". Then the verse Q.2:219 (i.e., the first and above-treated verse on *Khamr*) was revealed to the Prophet (SAW) and recited upon Umar, who said for the second time: "O Allah, Give us a clear-cut fact about *Khamr*." Then the verse under study (i.e., Q.4:43) was revealed. Then it happened that whenever it was time for prayer, the Prophet's (SAW) caller to prayer (*Al- Mu'āddhin*) used to say: "Let not drunkards

come near prayer." Thereupon Umar supplicated again saying: "O Allah, Give us a clear-cut verdict concerning intoxicating drinks (*Khamr*).⁵¹" Then the verse: (فهل أنتم منتهون, i.e., "So, will you not then abstain?" Q5:91, was revealed. Then Umar said: "We desist and abstain totally"

In corroboration to this, Al- Qurṭubī further quotes the report of Saʿid bin Jubaiyr who said: People (i.e., the converts of Islam) remained on their ignorant (*Jahiliyyah*) attitude until they were commanded or forbidden. They used to drink *Khamr* in the early days of Islam until Q.2:219, which say: "Say in them is a great sin, and some benefits for men" was revealed. Then they said: We are drinking it for the sake of benefits and not because of sin. The situation continued till when a man who was fully drunk led the prayer and misread *Sūratu 'l- Kāfirūn* saying:

(قل يا أيها الكافرون أعبد ما تعبدون).

Meaning:

"Say: "O you unbelievers! I worship that which you worship"

Then the verse under study which says: "Approach not *Aṣ- Ṣalāt* (the prayer) when you are in a drunken state" was revealed. The people then said: We will be drinking it when prayer times are not yet approaching. Thereupon, Umar supplicated to God saying: "O Allah, give us a clear verdict/injunction concerning *Khamr*," then the verse: (إنما يريد الشيطان.) meaning: "*Shaytan* (Satan) wants only to excite enmity and hatred between you with intoxicants..." Q5:91 was revealed. Then Umar said: "We have desisted, we have abstained." After that, the prophet's caller to prayer went around saying: "Indeed, *Khamr* had been made forbidden." Al- Qurṭubī also cites a similar report in Trimidhi's *Ḥadīth* related from Ali bin Abi-Tālib.⁵²

Al- Qurṭubī equally dwells on the connotation of the word ③♦②⌚♦📖←∞ in the verse. He explains that the majority of scholars and a group from among the jurists maintain that the intended meaning of the word: (السكر) , i.e., "Intoxication" is the intoxication from alcoholic drink or in another word; the drunken state of alcohol, except Ad-Dihāk who upholds that the intended meaning of the word is: (سكر النوم) i.e., sleeping intoxication. He substantiates his stance with the prophetic statement that says:

(إذا نعس أحدكم في الصلاة فليرقد حتى يذهب عنه
النوم ، فإنه لا يدري لعله يستغفر فيسب نفسه)

Meaning:

When one of you yearns in prayer, let him sleep until the sleepiness dispatched away from him thus becomes fully conscious, lest he invokes Allah's curse upon himself rather than seeking for His forgiveness.⁵³

It is germane to note that Al- Qurṭubī, after much expatiation, concludes that since complete devotion of mind and sincerity of intention are demanded of every worshipper or devotee in *Ṣalāt*, anything that could militate against the realization of these demands falls under (السكر) . This is corroborated with the Prophetic saying:

(إذا حضر العشاء وأقيمت الصلاة فأبداوا بالعشاء)

Meaning:

“When dinner is served at the time of prayer (*Ṣalāt*), begin with the dinner”.⁵⁴

According to the *Ḥadith*, someone has to take away anything that could bring distraction of mind while on prayer, so much that his/her mind is vividly connected with the divine act of worship.

Ibn Abbās remarks that the verse under study, i.e., "O you who believe approach not the prayer when you are in a drunken state ..." had been abrogated by the verse in *Sūratu'l- Mā'idah*, i.e. "O you who believe, when you intend to offer *Aṣ- Ṣalāt* (the prayer) wash ..." Q5:6. In the first verse, Muslims are forbidden not to observe prayer when they are in a drunken state, while the second verse, however, permits them to pray at all conditions, and that was before the prohibition of alcoholism. Mujāhid, Ikrimah, and Qattadah, all maintain that the verse under study was abrogated with the prohibition of alcoholism in Islam.

The Qur'ānic phrase: (لا تقربوا) i.e., "Approach not" The grammatical analysis of the phrase, according to Al- Qurṭubī is that the word (لا تقربوا) with 'Fatiah' on the alphabet: "*Rāh*" means "Undertake not (as an assignment)." But, when the 'Fatiah' is changed to 'Domma' on the same alphabet, the meaning becomes: "Approach not." Therefore, the phrase: (لا تقربوا) i.e. "Approach not" as explained by Al- Qurṭubī, is addressed to the entire Muslim community that are righteous, except the drunkards in the drunken state who has lost his memory and consciousness; it is, however, a warning to him too after he might have regained his sanity not to approach it again.

The connotation of the word: (الصلاة), i.e., "The prayer" also caught the attention of Al- Qurṭubī who cites the divergent views of jurists. Abu Ḥanīfah and some others maintain that *Ṣalāt* in the verse refers to only the five daily prayers. This, according to them, is evident in the phrase that follows it, which says: "Until you know (the meaning) of what you utter." Shāfi' and some other scholars, however, opined that *Ṣalat* in the verse refers to all places of *Ṣalāt* (مواضع الصلاة) including mosques and the likes. The third view, according to Al- Qurṭubī, combines the two interpretations. To this view, the word *Ṣalāt* could mean prayer itself or places of worship. Their argument was based on the fact that the then Muslims come not to the mosque except for prayer, and they did not establish the prayer, but only in the congregation, therefore the two become unavoidably necessities to one another.⁵⁵

Al- Qurṭubī highlights the grammatical analysis relating to the phrase: (وأنتم سُكَّارٌ) i.e. "When you are in a drunken state" He refers to the statement to be subject and predicate (مبتدأ وخبر) that fall in a condition (حال) of drunken derived from the verb: (لا تقربوا), i.e., "Approach not". He further explains different recitations of scholars concerning the word: (سُكَّارٌ) which is the plural form of (سُكَّارٌ), is just like (كَسَّالان وكُسَّالِي). Some scholar recites it as (سُكَّارِي) with *Fatihah* on the alphabet: "Sinn" while some others recite it as (سُكَّارِي) with *Dommah* on the same alphabet: *Sinn*. The word (السُّكَّر) is just the opposite of the word (الصُّحُو), i.e., to recover from intoxication or to regain consciousness, or to sober up.

It is said: سَكَرْتُ عَيْنُهُ أَي تَحَيَّرْتُ, i.e. "he becomes confused." In this context, we have the Qur'ān verse that says: (إِنَّمَا سَكَّرْتُ أَبْصَارُنَا), i.e., "We were confused."

Al- Qurṭubī remarks that a critical examination of the verse under study reveals that alcoholic drink was permissible in the early days of Islam until the then Muslim drunkards sank into the ditch of intoxication and became unconscious of what they utter in prayer. Al- Qurṭubī subsequently notes that because of the caution in this verse, the then Muslims used to shun alcoholic drinks during the periods of *Ṣalāt* till after *Ishā'i* prayer when they indulged in drinking. Thus they continued in this situation until the total prohibition was revealed in *Sūratu 'l- Mā'idah* ⁵⁶

On the statement: (حتى تعلموا ما تقولون), i.e., "Until you know (the meaning) of what you utter," Al- Qurṭubī says it means until you are conscious of your speech because a drunkard is often unaware of what he says and unconscious of his actions. In this context, Uthmān bin Affān was reported to have said: (إن السكران لا يلزمه طلاقه), i.e., "Divorce from a drunkard could not be strictly adhered to." Also, from what was related from Ibn Abbās (alongside with other scholars) and supported by At-Tahāwī, who opines that majority scholars unanimously agreed that: "Divorce of an insane is not permissible; meanwhile, a drunkard is insane when he is in his drunken state. His case is like an imbecile whose statement is attributed to idiocy, so whoever drinks till he loses his sense or becomes intoxicated; divorce from him is impermissible".⁵⁷

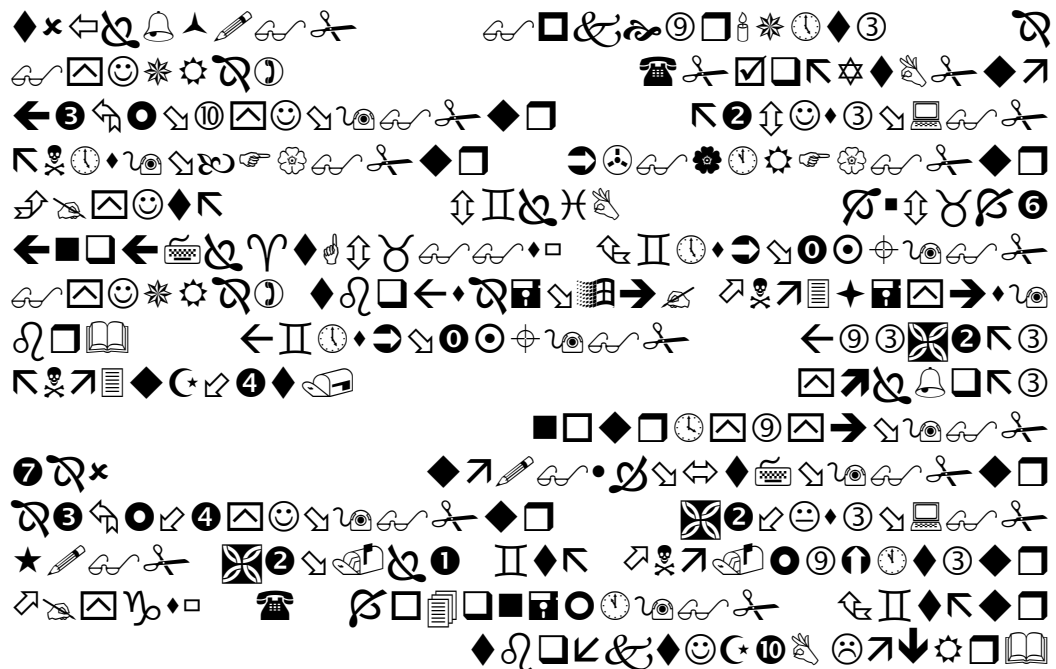
However, another minority group of scholar permits divorce from a drunkard. This, according to Al- Qurṭubī, is a derivative of what was reported from Umar bin Khattāb, Mu‘āwiyah and a group among the followers (*Tābi‘ūn*) of the companions of the prophet, including Abu- Hanīfah, Thaori, and Aozāi^c, with the exemption of Shāfi^c. Mālik also permits a divorce from a drunkard and his appointment as a war commandant, except that while in the state of drunkenness, he cannot enter into marriage (*Nikāh*) and business (*Bay‘*) transactions. However, in the school of Abu Hanīfah, all actions and transactions are permissible for a drunkard just like an average person, except in the case of renouncing his faith. If he denies his faith, this would not be strictly adhered to. But, Abu Yusuf of the Ḥanafite School is of the view that he will be regarded as an apostate in his drunken state. This view is shared by Imam Shāfi^c, only that he will not, according to him, be eliminated in the drunken state.⁵⁸

The supported view to Al- Qurṭubī is that of Mālik, and this is the sustainable opinion as well to this researcher. Numerous cases of similar feat have been severally reported on Nigerian social media. One of such was the report of a man that habitually used to beat his wife after he has become drunkard, this issue subsequently resulted in a court case, and finally, the marriage was dissolved.⁵⁹

Al- Qurṭubī stresses the opinion of Sufyān Thaori, that an epileptic drunkard (i.e., one that loses his memory totally after drinking) that engages in an irrational recitation of the Qur’ān should be beaten, even if he was coerced to drink. Indeed, he should be prevented from entering the mosque for fear of obscurity. He is not expected to pray while in the state of drunkenness; and if he prays in that state, he has to make-up after

regaining consciousness. But, if however, a drunkard is conscious of what he is saying in prayer, then he is treated like an average person whose prayer is appropriate.⁶⁰

The final Qur’ānic verses that completely abolished alcoholics in Islam are verses 90 and 91 of *Sūratu ’l- Mā’idah* which read thus:



Meaning:

O ye who believe! Intoxicants and gambling, sacrificing to stones, and (divination by) arrows, are an abomination, of Satan's handwork: Eschew such (evil), that ye may prosper. Satan's plan is (but) to excite enmity and hatred between you, with intoxicants and gambling, and hinder you from the remembrance of Allah, and from prayer: will ye not then abstain? ⁶¹
Q5:90- 91

Commenting on these verses, Al- Qurṭubī identifies sixteen related issues, the most pertinent of which are discussed in this study:

Al- Qurṭubī remarks that intoxicant/ alcoholism was not initially forbidden in the early days of Islam. Instead, its prohibition came on board in the third year after the battle of *Uhud* (which was in the month of *Shawwal*, 3AH), which implies six years after prophetic migration (*Hijrah*) to Madinah⁶²

Al- Qurṭubī asserts that prohibition of intoxicants was a gradual process which entailed several revelations of Qur’ānic verses, and that was because the early Muslims were alcoholic addicts. He then referred to the above discussed two verses. When the first verse was revealed, some of them ceased from taking alcohol saying: "We have no deal with what contains a great sin" while some others did not, maintaining that: "we will only take its benefits and drop its sin." With the second revelation, some of them totally renounced their comradeship with intoxicants saying we have no business with what prevents us from prayer while some others drunk at other periods safe the times of prayers, until the verse under study was revealed which brought total prohibition to alcoholism and which had led some of them to utter the statement:

ما حرم الله شيئاً أشدّ من الخمر

Meaning: “Allah (SWT) had never forbidden anything greater than an intoxicant.”⁶³

Al- Qurṭubī cites a report contained in Abu Daud’s collection that Ibn Abbās said: the two previous verses (i.e., Q.2:219 and Q.4:43) on intoxicants (*Khamr*) had been respectively abrogated by this verse (i.e., Q.5:90) understudy.⁶⁴ He equally made reference to a report in *Saḥīḥ Muslim* that Sa’d bin Abi- Waqās said: “Series of Qur’ānic verses were revealed to the prophet as regard me”. He then said: I had a courtesy visit to a group among the helpers (*Ansār*) of Madinah and that was before

the prohibition of intoxicants. They said to me: "Come with us, and we will give you a palatable food and drinks of alcohol." I after that followed them into a garden where we had a full roasted cow-head and a gallon of alcohol. We ate and drank together, and in the course of that, I dearly made mention of the *Ansār* and the *Muhājirūn* and remarked that the *Muhājirūn* (i.e., the emigrants of Mecca) are far better than the *Ansār*. Thereupon, a man from among them took up a rope, pounced on me and beat me off till I sustained a severe injury on my nose. I later reported this incident to the Prophet (SAW) and the verses under study were revealed as regard to this.⁶⁵

Al- Qurṭubī also cites the position of the *Usuliyyīn* (i.e. Muslim theologians) on intoxicants thus:

إِنَّ السُّكْرَ حَرَامٌ فِي كُلِّ شَرِيعَةٍ، لِأَنَّ الشَّرَائِعَ مَصَالِحُ
الْعِبَادِ لَا مَفَاسِدُهُمْ، وَأَصْلُ الْمَصَالِحِ الْعَقْلُ، كَمَا أَنَّ أَصْلَ
الْمَفَاسِدِ ذَهَابُهُ، فَيجِبُ الْمَنْعُ مِنْ كُلِّ مَا يَذْهَبُهُ أَوْ يُشَوِّشُهُ

Meaning:

Indeed, alcohol is prohibited in all revealed laws. For the rationale that revealed rules are for the good of man and not for their corruption. Man's intellect is the basis from which righteousness emanates, just as the basis for corrupt practices is loss of intelligence. To prevent (man's) brain from all that could lead to its failure or disruption is therefore imperative.⁶⁶

The point in the above citation is that the human faculty of reasoning is highly prestigious and honored by Allah (SWT). Its sanity, therefore, ought to be preserved and protected by all means such that this prestige will not vanish away. The religion of Islam respects this intellectualism in man, and that is why Allah, in the Qur'ān, sometimes declares: "O men of understanding, O men of intelligence, etc. Indeed, it is

with respect to man's intellect that he is distinct and regarded as superior to all other creatures while the loss of understanding debases man to the level of lower animals. A drunkard is undoubtedly equal, if not worse than an insane in terms of integrity.

Al- Qurṭubī also discusses the connotation of the word (رَجْسٌ), i.e. "an abomination," which, according to him, is interpreted by Ibn Abbās as discontentment, annoyance or displeasure (سَخَطٌ). According to Al- Qurṭubī, the Arabs used to refer to statements like; العذرة (offensive smell or stench, العذرة (excrement), and الأَفْذَار (filth or nasty dirt) all to be *Rijs*. The same also applies to words like الرجز (punishment) and الرّكس (setback). All the above words fall under the meaning of *Rijz*. There is the argument on whether the impure nature of intoxicant is the reason for its prohibition. The point is that it is not necessary to forbid something simply because it is contaminated. After all, numerous pure things are yet prohibited by the *Shari'ah*. It could, therefore, be affirmed that the word *Rijzun* in the verse is only an indication that it is impure. That is because referring to something as *Rijs* symbolizes its impurity. And it is not a condition to rely on Qur'ān or *Ḥadīth* texts before something is referred to as impure. After all, there is no Qur'ān or *Ḥadīth* text relied upon to declare urine, excreta, blood, un- slaughtered animal, etc. as impure.⁶⁷

The phrase: من عمل الشيطان (of Satan's handiwork) means, according to Al- Qurṭubī, a design and beautification from Satan, or in another statement; Satan is the pioneer perpetrator of all these devilish acts, and others follow his footstep.

The phrases: **فاجتنبوه** (Eschew or avoid such abomination strictly) is interpreted by Al- Qurṭubī to mean: **أبعدوه واجعلوه ناحية** (i.e., keep away from it and set it aside). He explains that Allah (SWT) commands Muslims to keep off from these vices. The word used in the verse: **(الإجتنب)** which means "avoidance" connotes forbiddance or prohibition **(التحريم)**. Therefore, with this word (i.e., avoidance), intoxicant was made forbidden and should be avoided such that someone will not in one way or the other indulge in any of its benefits; be it drinking, selling and buying, seeking healing and treatment with it, etc. In this content, Al- Qurṭubī cited a *Ḥadīth* in *Saḥīḥi'l-Muslim* related from Ibn Abbās that a man presented before the Prophet a container of *Khamr* as a gift. The Prophet (SAW) remarked: "Are you aware that Allah forbids it?" The man replied: No, then the man after that became delightful. Then the Prophet said; "why are you happy?" the man responded saying; I will order for its selling. Then the Prophet (SAW) said: "Indeed, Allah that forbids its drinking also forbids its sale." After that, the man opened the container and poured away the content (i.e., the *Khamr*).⁶⁸

It is pertinent therefore to remark here that if there is any permissible benefit in alcohol, the Prophet (SAW) would have explained it as he rambled on un-slaughtered goat/sheep found dead when he said:

هَلَّا أَخَذْتُمْ إِهَابَهَا فِدْبِغْتُمُوهُ فَانْتَفَعْتُمْ بِهِ

Meaning:

Why not you people take its hide and skin (of an un-slaughtered sheep/goat) and then tan it and make use of It.⁶⁹

The entire Muslims unanimously agree on the forbiddance of alcohol and its sale as well as other benefits that may be derived from it. On the preservation of *Khamr* (i.e., by adding salt or musk to elongate its duration) majority of jurists consider it impermissible. That is because the Prophet, rather than allowing its conservation, granted that it be poured away; while he did not see such action as amounting to wastage. Indeed, Uthmān bin Abil- Ās discarded alcoholic drink that belongs to an orphan when he asked the Prophet that can he preserve it for him. The Prophet (SAW) replied "No," and forbade that.

Al- Qurṭubī highlights Mālik's view in the report of Ibn Qāsim and Ibn Wahab that it is not permissible for a Muslim to cure with *Khamr* or prescribe alcohol as medicine or sell it until it is turned to *Khalla* (i.e., mixed with salt and other chemicals). Mālik and his associates unanimously agreed over the price of an intoxicant which has been set to *Khalla* to be permissible (*Ḥalāl*). This view is in perfect concordance with the view of Umar bin Khaṭṭāb, Qabisah, Ibn Shihāb, Rabīah, and Shāfi' correspondingly. Al- Qurṭubī, however, disagreed with this view, arguing that if ownership of alcohol is permissible in Islam, the Prophet (SAW) would not have consented to its pouring away. Besides, the purchase of alcohol amounts to a benefit, which had been abolished by the Prophet's silent approval for its pouring away and wastage.⁷⁰

Muslim Scholars consensually agreed that *Sūratu'l- Mā'idah* was revealed to put an end to intoxicants in Islam, and its revelation was towards the end tail of prophet's stay in Madinah, as prohibition was also sanctioned on eating of dead animal, blood or flesh of swine and other social vices in various verses of the Qur'ān.

To show how the *Ṣaḥābah* welcome the prohibition of intoxicant, Al- Qurṭubī cites a narration from Ibn Abbās that when prohibition of intoxicants was revealed, the companions of the Prophet (SAW) paid courtesy visit to one another, proclaiming this forbiddance of *Khamr* and saying that it has been made as a similitude to prohibition of paganism, or in another word it has been forbidden alongside with sacrificing for idols which are purely paganism (i.e., *Shirk*). As for the concluding phrase: **لعلكم تفلحون** (i.e., That you may prosper), a critical observation of the implication of concluding the verse with this phrase reveals that in following the command lies prosperity; and this is an emphasis on the compulsory nature of the command.⁷¹

Finally, Al- Qurṭubī declares that the verses under study explain the reason Allah (SWT) forbids intoxicants. Allah says: "Satan wants only to excite enmity and hatred between you and prevent you against the remembrance of Allah and prayer (*Aṣ-Ṣalāt*).\" He maintains that Allah (SWT) knows that Shaitān always patronizes human being and wishes to kindle the fire of enmity and hatred among them through alcoholic drinks, He, therefore, warns them against Satan and his evil deeds and to keep off from all these devilish acts. On the *Sababu'n- Nuzūl* of this verse, Al- Qurṭubī narrated that two clans from among the Ansār of Madinah drank alcohol till they became intoxicated. Thereupon, they started fighting and inflicted one another with serious injuries, whereas, before the incident, they bore no grudge against one another. When they later regained consciousness and saw the injuries, they regretted saying: "Had it been my brother is merciful to me, he would not have afflicted such injury on me.\" Thus, the grudge and misunderstanding continued henceforth between them. Allah (SWT) therefore revealed the verse: "Satan plans to excite enmity and hatred between you\".⁷²

On the statement: *ويصدكم من ذكر الله وعن الصلاة* (i.e., and hinders you from the remembrance of Allah and prayer), Al- Qurṭubī comments that whenever people are intoxicated, never shall they remember Allah nor observe their prayer (*Aṣ- Ṣalāt*) and even when they pray in this drunken state, they are unconscious of what they say and do in prayer. To comment on the concluding phrase: *فهل أنتم منتهون* (i.e., Will you not then abstain?), Al- Qurṭubī relates that when Umar (RA) ascertained that this is a threatening statement that can lead to a severe punishment from Allah, he remarked saying: *انتھينا* (i.e., we desist and abstain totally from intoxicants). Thus the Prophet (SAW) commanded the Media to publicly announce throughout Madinah that alcoholic drinks had been forbidden in Islam. Consequently, all the beer factories and parlors were demolished and all alcoholic beverages were poured away, to the extent that the whole streets in the city of Madinah were flowing of wine.⁷³

Qaradawi is observed additionally to have assumed in his book: *The Lawful and Prohibited in Islam*, that the Arabic word *Khamr* signifies any alcoholic drink which causes intoxication. He upholds that it is evident that intoxicant has harmful effects on the individual's mind, his health, his religion, and his work; or disasters which he brings upon his family by neglecting their needs and by not fulfilling his obligations, as the head of the family, toward his wife and children. By elaboration, he says there are spiritual, material, and moral evils which proliferate in societies and nations due to the widespread consumption of alcohol. Qaradawi says that: Mankind has not suffered any greater calamity than that brought about by the use of alcohol. He is pessimistic that If statistics were collected worldwide of all the patients in hospitals who, due to

alcohol, are suffering from mental disorders, delirium tremens, nervous breakdowns, and ailments of the digestive tract, to which are added the statistics of suicides, homicides, bankruptcies, sales of properties, and broken homes, all are related to the consumption of alcohol.⁷⁴

In conclusion, going by Al- Qurṭubī's definition of *Khamr* as any substance that conceals normal functioning of the brain once it is taken; all intoxicants are drugs which are referred to as *Khamr* that are prohibited in Islam. Consumption of *Khamr* is seen in Islam as a social vice, and its prohibition is, of course, a splendid benefit to man. That is because Allah (SWT) loves the man and wants him to live a prosperous life in both worlds. He guides him through religion (i.e., Islam) which instills all acts of decencies and virtues in him and dispels out of him all viciousness. Allah places man above other creatures. He made them subservient to him; even the angels are prepared to serve him (i.e., man). Allah addresses him through the divine inspiration and the revealed Books, and man, in turn, comprehends these messages through his faculty of reasoning. Therefore, it is incumbent on man to preserve the sanity of his intellect so much that his status before Allah will be quietly maintained as a prestigious being.

Anything that intoxicates is referred to as drug or alcohol, which is considered faithfully as disvalue or unacceptable ethical behaviour, which has adverse effects on its addicts; it is made forbidden (*Harām*) due to its cruelty. Islam makes consumption of any intoxicant forbidden, no matter the quantity. When the Prophet (SAW) was asked about this, he replied saying: "Forbidden indeed is anything that intoxicates in large quantity, even its small quantity is equally prohibited," as examined previously.

This indicates that a Muslim should desist from anything destructive to himself or others. That is why Allah declares: “And do not throw yourselves into destruction” (Q.2:195). Also, preparation of medicine for curing any disease using intoxicant substances, which is a common practice of nowadays is illegal in Islam. This is based on Prophetic tradition that says: “Allah will not make that He has forbidden for the *Ummah* (Islam) as a source of the cure.”

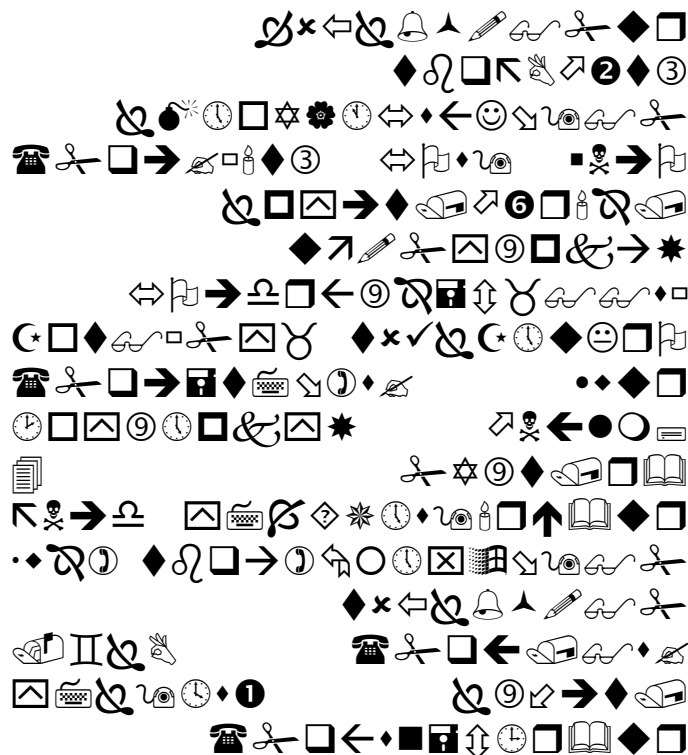
Finally, Q.5:90-91 serve as the explicit prohibition of drug addiction and alcoholism in Islam, as Muslims were enjoined to desist totally from alcoholic drinks and its likes such as *Ogogoro*, *Burukutu*, etc. which are Nigerian local made of alcohol. Allah declares that Satan, through alcohols, wishes to create enmity and hatred among people and to keep them away from the remembrance of Allah and of course from *As-Salāt*. Total relegation, loss of sense of honour, and dignity are inevitable for an individual who fails to comply with Allah's directive. Additionally, it has been noted that alcoholism damages one's health and social functioning. It leads to mental disorder, high rate of divorce, and criminal acts in any giving society.

By and large, whenever a man is privileged to attain any level of the political post or is being endowed with capital or knowledge, he becomes pompously in-grate to his Lord, thus transgresses the divine limit set down for him. Qur'ān says:



"And if Allah were to enlarge the provision for His slaves, they would surely rebel in the earth" Q42:27. This has been the case of most Nigerian citizens, especially the leaders/ rulers, who are seen involving in celebrating parties day and night, drinking alcohol and perpetrating host of mischief, the ruled as well found scandal of the limited funds being endowed with. This is detrimental to an individual and a setback for any developing nation such as Nigeria. If Islamic provision on alcoholic drinks, as depicted in Al- Qurṭubī's exposition, could be adopted, indeed, people will be scared and keep off from such evil spirit. Thus our society will become sanitized against such contamination.

4.4 Al- Qurṭubī's Exposition on Verses of Defamation (*Al-Qadhf*)





slandering, but the Divine Book addresses the defamation that deserve prescribed punishment as this is the consensus of the scholars.⁷⁶

On the phrase: **والذين يرمون** (i.e. and those who accuse), Al- Qurṭubī is of the view that it means those who scold and slander. He submits that the word: "**الرمى**" which literally means 'stoning' has been metaphorically used to connote the meaning 'accuse or slander', because it is the act of harming or hurting with tongue or word. To further buttress his submission, he cites the statement of Nābigah: **وجرح اللسان كجرح اليد** (i.e. Harm caused by the tongue is like the one caused by the hand)⁷⁷

In his bid to make clear the interpretation of the verses under study, Al- Qurṭubī discloses reasons why women is being mentioned in the verses concerning slandering, as he relates it to the fact that women are the most concerned personalities with the thrusting or fornication and which is most harmful to the heart. That notwithstanding, there is consensus among scholars that defamation of men with fornication is included also in the verse, but could only be made manifest when tracing its legal interpretation. Al- Qurṭubī justifies this with the verse that forbids flesh of the pig and says that not only the flesh but the whole pig is forbidden. He further mentions the phrase: **والمحصنات من النساء** (i.e. chaste women already married) (Q.4:24) and **والتي أحصنت فرجها** (i.e. And she who guarded her chastity) (Q.21:91) respectively.

He says that scholars refer to the **(المحصنات)** in the first quoted phrase to mean human genital **(فروج)** and thus justifies this with the second quoted verse which

involves (فرج) i.e. genitals. He says this does not refer to only women genitals but men genitals as well.⁷⁸

Another very important issue discussed by Al- Qurṭubī has to do with the conditions laid down by Muslim Jurists to establish slander. Here, Al- Qurṭubī dwells deeply into juristic discussions justifying the claim that his *Tafsīr* is really on *Aḥkāmi'l- Qur'ān*. The conditions which must be found in the slanderer, according to Al- Qurṭubī, are two namely: reason\sanity and maturity. The two are the source and origin of the entrustment (i.e. *At-Taklīf*) and there is no entrustment without these two. Also, there are two conditions to be found in slander itself or what is being slandering with. They are; to slander with copulation (i.e. fornication and sodomy) that deserves lashing as punishment; or to nullify someone's paternity. There are also five conditions laid down with regards to the one slandered. They are, according to Al- Qurṭubī, reason\sanity, maturity, Islam, chastity and freedom from the debauchery with which he/she is defamed. Indeed, Muslim scholars have consensually established the sanity and the maturity for both the slandered and the slanderer. Though the two do not portray the meaning of chastity but because prescribed punishment is legalized only to cease someone from the harm and hurt that will befall the slandered, and there is no awareness of harm on that who lost his reason or not yet matured, therefore, illegal sexual act of or with the two is not regarded as fornication.⁷⁹

Al- Qurṭubī highlights the jurists' views on direct and indirect statement of defamation. He explains that Muslim scholars have unanimously agreed that if slandering is pronounced in the clear text of fornication, it is defamation and thrusting which deserve punishment limit, but if it is ironically expressed and not in a clear text,

then in the opinion of Imam Mālik, it is defamation whereas both Shāfi' and Abu Ḥanīfah maintained that it is not defamation unless the alleged slanderer confirms that he wished to defame the slandered with the statement. Mālik's proof is that the prescribed punishment is legalized only to avert the damages caused by the slanderer on the slandered. And, if damage could be sustained from ironic statement of defamation, it is paramount therefore to term it as slandering or defamation and it is like in a clear text statement.

This is justified with the verse of the Qur'ān on Prophet Shuayb (A.S) when his people sarcastically said to him: **إِنَّكَ لَأَنْتَ الْحَلِيمُ الرَّشِيدُ** (i.e. verily, you are the forbearer, right-minded) which paradoxically means an imbecile (stupid) and misguided. This statement though, on the surface level portrays praise whereas; it is a scold and thrusting in its actual meaning. Another apt example could be found in the story of Maryam in the Qur'ān when it was said to her: "O you sister of Haroon, Your father was not a man who used to commit adultery, nor your mother was an unchaste woman" (Q.19:28). Her father was praised and the act of prostitution was averted away from her mother, which was an irony for Maryam to have indulged in such devilish act.⁸⁰

Al- Qurṭubī equally expatiates on the views of Muslim jurists on whether or not the prescribed punishment of defamation stipulated by Islam is binding on the people of the Books (i.e. the Jew and the Christian). According to him, there are three divergent opinions on this.

- i. There is no prescribed punishment for someone that slandered a man or a woman from among the people of the Book. This is the general opinion upheld by the majority of scholars.

- ii. Scholars like Zubair, Saīd Ibn Musayyab and Ibn Abi Laylah maintained that such slanderer is to be punished if the defamed woman has a son from a Muslim.
- iii. Defamation of Jewish/Christian woman under or married to the Muslim deserves prescribed punishment. Ibn Mundhir said: the consensus agreement of scholars is on the first statement. But when a Christian man slandered a free Muslim, what is binding on the Muslim is also binding on him which is eighty stripes of cane without contrary view.⁸¹

Al- Qurṭubī further sheds lights on the two divergent views of scholars on the penalty of the slave when he slanders a free man. The most popular view of scholars is that the slave is to be flogged with forty lashes (Half count of the entire prescribed punishment for a free man). This is because his punishment on defamation will be treated as that of punishment of fornication (*Zinā*) for which Allah says: “If they (the captive and slave-girls) commit illegal sexual intercourse, their punishment is half that for free (unmarried) women” (Q.4:25). The second view is that the prescribed punishment for a slave who defames is eighty lashes. This is based on a report from Ibn Mashood, Umar Ibn Abdul- Azīz and Kubaysat Ibn Dhu’aib that the prescribed punishment for a slave on defamation is eighty (80) lashes. Abubakr Ibn Muhammad was reported to have flogged a slave that slandered a free-born with eighty stripes. This is the view upheld by Al- Awzā’i. Their proof, however, is that the prescribed punishment of *Zinā* belongs only to Allah (SWT) as He alone can determine who fornicates but that of defamation is a human being’s right to punish its perpetrator for the harm caused on the slandered. To them, the crime has no distinction between the slave and the free-born and that is the reason it is not mentioned in the Qur’ān unlike

the punishment for a slave that commits *Zinā* which is clearly mentioned. However, the first view is the preferred one among scholars.⁸²

Al- Qurṭubī also extended his expatiation to discuss a situation where a free man slandered a slave. He remarked that there is unanimous agreement among scholars that a free-man who slanders a slave should not be punished because of his status as a free born. This is corroborated with a *Ḥadīth* in *Bukhārī* and *Muslim* that the Prophet (SAW) said: "Whoever slanders his slave with fornication, the prescribed punishment is established on him on the judgment day, except if it were as he said".⁸³

The situation is however different with regards to a free-born that slanders another free-born on the assumption that he is a slave. Citing Mālik and Ash-Shāfiʿ, Al- Qurṭubī submits that the prescribed punishment is applied on him. Al- Ḥasan Al- Bisri and Ibn Munthir too both share this view.

In a situation where one slanders a Christian woman having a son for a Muslim (*Ummul- Walad*), Imam Mālik, according to Al- Qurṭubī, maintains that the slanderer should be given the prescribed punishment. This view is also upheld by As-Shāfiʿ but Al-Hasan Al-Bisir maintains a contrary opinion which is that he should not be punished.⁸⁴

In the case of a young female girl who has not attained maturity but could be copulated with is slandered with fornication, according to Al- Qurṭubī, the position of the Malikites who seek to protect the honor of the slandered is that it is defamation. In order to safeguard the honor of the defamed, the slanderer deserves the punishment.

On the contrary, Abu Ḥanīfah, Ash-Shāfiʿ and Abu Thaori maintain it is not, because it is not fornication and there is no prescribed punishment on it only that the slanderer should be reproached mildly. The third opinion, however, is that of Ibn Al-Arabi who maintains that this is a dubious case. In this regard, Al- Qurṭubī quotes Ibn Mundhir who related from Ahmad that the slanderer of a slave girl of nine years should be flogged even if he is a lad. If he attains the age of ten, his slanderer is beaten also. Al- Qurṭubī also cited Ishāq who said that if a slave slanders any mature one copulating like him, then he should be punished. And the slave girl if she exceeds the age of nine is also flogged. In the view of Ibn Mundhir, one who slanders anyone who is below the age of maturity should not be punished because such accusation is false. The slanderer should, however, be reproached for the harm done.⁸⁵

Al- Qurṭubī, in his *Tafsīr*, also elaborates on defamation of any of the prophet's wives. He made reference to the two views expressed by Muslim scholars on the issue which are that the defamer should be given double prescribed punishment or only one prescribed punishment as stipulated in the Qur'ān. Ibn Al-Arabi is one of those that uphold the second view. To him and others, it is not an honour for the Prophet's household to double punishment for one who slanders any of his wives.⁸⁶

The phrase "... And produce not four witnesses...." equally caught the attention of Al- Qurṭubī who remarked in his *Tafsīr* that the only case that requires four witnesses is fornication (*Zinā*). Defamation does not require presentation of four witnesses. Though Al- Qurṭubī discusses the various views of Muslim scholars on the requirement of four witnesses to establish *Zinā*, this study does not, however, dwell on that since the law of Islam dealing with defamation of character which is the

subject matter here does not make presentation of witnesses a condition to establish *Qadhf*. The only situation where *Qadhf* is related to witness is where the witnesses or one or some of them are found to have given false witness. In that case, the false witness will be treated as amounting to defamation (*Qadhf*) and they will be punished as such. Al- Qurṭubī has discussed this in his *Tafsīr*. He cited Al-Hasan Al-Bisri and As-Shaʿbiyyu who both opine that if the witnesses are complete but they are not just, they will not be punished for defamation. This opinion is also upheld by Ahmad, An-Nuʿmān and Muhammad Ibn Al-Ḥasan.

Contrary to that, Al- Qurṭubī stresses that Mālik however maintains that if four witnesses confirm fornication on someone, but one of them happens to be among those who earned the anger (of Allah) or a slave, all of them will be flogged together for defamation (*Qadhf*). Sufiyan Al-Thaori, Ahmad and Ishāq mentioned the case of four blind witnesses testifying fornication against a woman that were all flogged for defamation (*Qadhf*) because they could not have seen the woman in the act since they were blind.⁸⁷

If one of the witnesses is forced or coerced to give a false testimony, then the remaining three should be flogged, as did Umar in the case of Al-Mughīrah Ibn Shuʿbah and that was because Abu- Bikral Nufaiʿ Ibn Al-Ḥārith and his brother testified against him for fornication. Also, if one of the witnesses withdraws his statement of witness after the slandered had been executed for been guilty of fornication (*Zinā*), Al- Qurṭubī on this case, mentions that a group among jurists said that he is to be made to pay a quarter of the blood money (i.e. *Rubʿu Diyāh*) and there is no punishment on the others. This opinion is sustained by Qatādah, Hammād,

Akramah, Abu-Ḥashim, Mālik, Ahmad and the rationalists (*Ahlu'r- Ra'y*). Imam Shāfi' viewed a situation whereby a witness later confesses that he deliberately gave false testimony so that the defamed should be killed. Imam Shāfi' is of the view that the judge is to decide whether to kill or forgive him, but a quarter of the blood money (*Rub'u Diyyah*) is collected from him and punished for *Qadhf*. Al-Ḥasan Al-Bisir in his own verdict said he is to be killed while others are to pay three quarters of the blood money. Ibn Sīrīn said: If he says: I made a mistake and I wish other than him, then he is to pay the whole blood money in full. But if he says I intentionally gave the false testimony, then he should be killed. This view is supported by Ibn Shubrumah.⁸⁸

According to Al- Qurtūbī, there are divergent opinions of jurists on whether the prescribed punishment for defamation is among the rights of Allah or that of man. While Abu Ḥanīfah held the first view that it is Allah's right, Mālik and Shāfi' hold the second that it is man's right while a third view attributed to some modern scholars that it is both Allah and man's right. The benefit derived from these diversities is that if this prescribed punishment is Allah's right, then the Imam/Judge needs not to hesitate in establishing its injunction even without the interest of the defamed and the slanderer has the benefit of repenting to his Lord. However, if it is a right that belongs to man, then the Imam/judge should not exercise this right except the slandered demands for it, and with his (the slandered) forgiveness, the prescribed punishment becomes averted and scrapped, then the defamer benefits no repentance until the slandered liberates him.⁸⁹

As other vices that have been examined from Qaradawi's point of view, it is observed in this regard that Qaradawi have not in any way dabbled into vilification of personality in his discussion in his book; *The lawful and prohibited in Islam*.

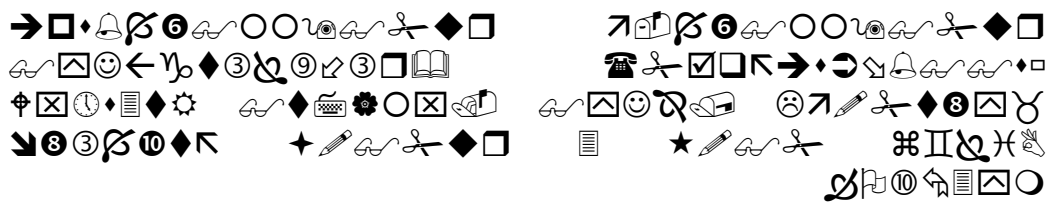
In conclusion, just as *Qadhf* or *Ta'nāt* is a common phenomenon in the contemporary Nigeria, so it was in Madinah during the days of Prophet Muhammad (s.a.w) as a result of which the verses under study were revealed. Madinah by then was encapsulated by various set of people which include the *Muhājirūn/ Ansar* (i.e. Muslims), the *Ahalul- Kitāb* (i.e the Jews and Christians) and the *Munāfiqūn* i.e the hypocrites; who disguised to be Muslims whereas their minds concealed what was contrary to what they professed. This set of people especially were the most obstinate whose hatred against Muslims was extremely high, spreading rumours that caused diversity and disintegration among Muslims while they equally defamed innocent Muslims. A typical example of this was the incident of A'ishah (R.A) as aforementioned.

Qadhf is one of the detestable acts in the sight of Allah, as its alleged guilty perpetrator deserves a prescribed punishment of 80 lashes of cane publicly and his testimony becomes unacceptable, while a severe punishment of Allah awaits such unrepentant defamer in the hereafter. Usually, individuals of high integrity are target of defamation in order to tarnish their reputation before their admirers. In Nigeria, defamation is mostly common among politicians, such that the defamer could gain popularity by damaging the character of the defamed. If the divine stipulated prescribed punishment of *Qadhf* being illustrated in Al- Qurṭubī's rendition, could be

strictly adhered to and implemented, most especially on Nigerian Muslims, this could considerably reduce the menace of defamation in our nation to bearable minimum.

4.5 Al- Qurṭubī's Exposition on Verse of Theft (*Sarqah*)

Theft is one of the social vices identified in human society from time immemorial. It is the crime of stealing something (be it cash or kind) from somebody or where it is kept. It is rampant in human societies, even during the prophetic era. Unfortunately, in dealing with thieves, people often resorted to jungle judgment which in most cases is more severe than what was stolen by the thief or vice-versa. It is in order to curb theft on the one hand and to stop jungle justice on the other, that the *Shari'ah* stipulates its own prescribed punishment for theft. The Qur'ānic injunction reads thus:



Meaning:

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-Wise⁹⁰ Q5:38

It is revealed through the statistical study of this verse, that Al- Qurṭubī exhausts seventeen pages (from page 159 – 175 of volume six of his *Tafsīr* book) to converse over this verse. He comes up with twenty- seven (27) various verdicts, eighteen (18) *Aḥādith*, three statements of the companions of the Prophet (saw), two (2) of their followers and one poem. He raises almost twenty- seven (27) legal interpretations

with three linguistic analyses during his exposition to the verse. There is no *Sabab'n-Nuzūl* and no abrogation (*Naskh*) observed

When Allah (SWT) mentions in this chapter means or ways through which peoples' wealth is been exploited by perpetrating evils and mischief of various kinds on earth, He thereafter mentions the capital punishment prescribed for the act of theft. Contrary to *Zinā*, a male thief is mentioned first before his female counterpart. According to Al- Qurṭubī, in the pre-Islamic period, Al-Wahid bin Muqīrah was the first to command cutting-off of a thief's hand. Islam later adopted it and Allah (SWT) made it an injunction on Muslims. The first male and female thieves whose hands were amputated by the Prophet (SAW) were Al-Khiyar bin Adiyy bin Naofal bin Abdul-Manāf and Murrat bint Sufyān bin Abdul- Asad from *Bani Makhzum* respectively.⁹¹

Al- Qurṭubī makes reference to a *Ḥadīth* of the noble Prophet (SAW) that says:

لا تقطع يد السارق إلا في ربع دينار فصاعدا

Meaning:

The thief's hand should not be cut except if what is stolen worth one quarter of a *dinar* and beyond.

On the basis of this *hadith*, any stolen item the cost of which is not up to a quarter of *dinar* does not require that the thief's hand be cut off, but if it is up to a quarter of *dinar* and beyond, then the hand is cut. Giving the views of Muslim jurists, Al- Qurṭubī remarked that Imam Mālik opined that the thief's hand is cut if what he stolen is up to one quarter of *dinar* or three *dirhams*. Scholars, however, express divergent opinions on Imam Mālik's submission on three *dirhams*. While some maintain that the stolen good must be up to ten *dirhams*, some others stand on five. Yet, others say

two *dirhams*. But the most acceptable opinion is what is narrated in the prophetic *Ḥadīth* and that is one quarter of *dinar*.⁹²

Apart from the fixed rate (*Niṣāb*) just discussed above, Al- Qurṭubī also mentions in his *Tafsīr* that scholars unanimously agreed that the prescribed punishment of theft (i.e. cutting of hand) becomes necessary only when the thief steals from where the good is kept. This means that *Hirz* (i.e. proper safeguard of property) is another condition. *Hirz* which varies from one community to another, depending on the nature of such good, attracts divergent views of scholars. To some, it is not a condition for cutting ones hand while some others consider it a condition.

In the *Muwatta'* of Mālik, it is narrated that the Prophet (SAW) said: "There is no amputation of hand on fruits ploughed neither on trees nor on items kept and picked on mountain, but cutting of hand becomes mandatory if the price of what is picked is up to one quarter of *dinar*". This indicates that a passer-by who ploughs some fruits from the tree for consumption or pick some valuable items on the mountain not with intention of theft, and what he picked is not up to one quarter of *dinar* is not considered a thief and will not have the hand cut off. To further buttress this, another *Ḥadīth* of the Prophet reported by Abdullah bin Amr is cited in which the Prophet (SAW) when asked about fruits on tree said: "Whoever takes a little quantity of his need without hiding any of the fruits somewhere should not have his hand cut off. But whoever goes away with what is up to one quarter of *dinar*, his hand should be cut. And whoever steals what is lesser than that has committed a sin and has to be punished".⁹³

Al- Qurṭubī also discusses in his *Tafsīr*, the various views of Muslim jurists on theft perpetrated collectively by large number of people. While some jurists are of the view that their hands are cut all together, some others disagree arguing that their hands will be cut off only if each of them stole what is up to *Niṣāb* (i.e. one quarter of *dinar*) if the stolen goods were to be divided among them. This is the view of Abu Ḥanīfah and Shāfiʿ. Amputation of hand in the two views implies that partnership in crime does not abrogate the emotionally involved punishment, such as collaboration in taking a life.

When two people conspire to steal and one of them climbs the ladder into where the good is kept while the other one receives it from him, their hands altogether are cut. But if the stealing is perpetrated by one of them and not in concordance with the other who only assists him to escape, then it is only the perpetrator's hand that will be cut. Also, when they set up to climb together to where the good is kept, only that one of them succeeded in bringing out the good, the hand of the one who succeeded is to be cut while the second one will not be punished because he only climbed but did not steal. All these are according to Imam Shāfiʿ. Contrary to this, Abu Ḥanīfah holds that the second will also have his hand cut because he had climbed and entered already only that he did not succeed in his plan to steal. In a situation where one of them entered and brought the good to the gate of where it was kept, and the second one took it out through the gate and subsequently went away with it, the verdict is that the latter's hand will be cut while the former is reprimanded. Ash- Shihab however insists that the hands of the two should be cut. To him, they are both guilty.⁹⁴

Graveyards and mosques are two different places of protection where goods are kept. Majority view is that the hand of whoever steals from these two places should be amputated. But, Abu Ḥanīfah and few others have objection to this. Their contention is that he steals out of safeguard goods exposed to insecurity and owned by nobody, since a corpse is owned by nobody. They argue that since there is no individual living inside the two, items taken from there cannot be regarded as theft necessitating hand cutting since theft is the act perpetrated out of peoples' sight. Although majority holds that the perpetrator is a thief because he hides from people's sight under the cover of the night to carry out the evil. They debunked the views of the minority that graveyard is not a guarded place and that dead bodies are not owned by anybody. To the majority, a safeguard place is where good is kept and can be accessed any time, and that deceased body is wrapped, all of which attest to the fact that graveyard is a protected place. Therefore, whosoever enters into the deceased's abode and steals, his hand should be cut. Also, whoever steals what is up to *Niṣāb* from the mosque should have his or her hand cut off.⁹⁵

Another issue that caught the attention of Al- Qurṭubī in his *Tafsīr* on this verse is whether or not both fine (*Gurm*) and cutting of hand should be imposed on a thief. Various views of Muslim jurists are cited by Al- Qurṭubī on this. To Abu Ḥanīfah, both punishments are not jointly imposed on a thief at once. Rather, only cutting of hand as specified by the Qur'ān should be imposed. On the contrary, Shāfiʿ, Ahmad and Ishāq maintain that the thief is fined if capable (of paying it) based on the quantity of the stolen good. In Imam Mālik's school of thought, if the stolen good can be retrieved, it has to be returned back to the owner, but if it has been consumed, and then fine is imposed. The most acceptable view according to the author however, is

that of Shāfi^c because if the stolen good is up to *Niṣāb*, both fine and cutting of hand are imposed. But, if it is not up to *Niṣāb*, then fine alone will be imposed. This is based on the fact that cutting of hand is a divine responsibility while the fine belongs to man.⁹⁶

Also, where a thief steals from an original thief, Imam Mālik submitted that the hand of the secondary thief should be cut while Imam Shāfi^c raised objection. His argument is that the secondary thief steals from one who is not the original owner of the property while the property can also not be said to be under *Hirz*. But Mālik maintains that the right of possession remains intact with the original thief. Majority of scholars uphold that a thief who steals a particular good repeatedly deserves that his hand be cut repeatedly. But Abu-Ḥanīfah holds a different view. This is because to him, when a thief acquires stolen goods through buying or gift before the execution of the original thief, the secondary thief is not cut again.

Al- Qurṭubī comments on the connotation of the Qur'ānic phrase: **فاقطعوا** (i.e cut off) which according to him indicates removal, most especially of a part of the body from an individual that commits theft, which is executed only when the following conditions are found in the thief, the item stolen and the place where theft took place concurrently. Conditions to be found in the thief are five: Maturity, sanity, he should not be an heir to the owner of the good, nor should he be his next of kin; and there should be no servant-master relation. A servant who steals his master's property will not have his/her hand cut off and vice versa. This is because a servant and his property both belong to his master.

The conditions attached to the stolen goods are four: *An- Niṣāb* (i.e a quarter of *dinar*); the item should be what is permissible by the *Shari'ah* to make money from, own and trade with it, if otherwise such as intoxicants and pig, there is no hand cutting. However, if its ownership is permissible but its sale is not, such as trained dog and flesh meat of sacrificial animal (*Uḍḥiyyah*) during festival, scholars express divergent opinions on this. Ibn Al-Qasim opines that the hand of someone who steals a dog should not be cut. But, Ash-Shihab submits that his hand should be cut if the dog is a trained one. Whoever steals fresh meat of sacrificial animal or its leather, his/her hand should be cut provided it is up to *Niṣāb*. Ibn Habib says if the *Uḍḥiyah* is stolen before slaughter, the hand of the thief should be cut, but if it is after slaughter, there should be no hand cut. The third condition is that the thief should not be one of the owners of the stolen goods, such as items kept with the thief or borrowed by the thief; nor resemblance of ownership such as stealing from public booties or treasure of which himself indirectly a share holder. To some scholars, his hand should be cut off going by the general interpretation of the Qur'ānic verse on theft. And finally, the stolen good should be legitimately legal in Islam.

In the case of place of theft, the only condition attached is that the place must be a conducive place for safe keeping which is well secured even in the absence of the owner. For instance, the followings are considered as secured places for rearing or selling of animals:

- Market place under the custody of a guard tied or untied.
- Animal fastened into a tie.
- A premises set aside at one's abode for keeping animals.

However, an animal left by the gate of a Mosque or at the market place untied is regarded as unsecured.⁹⁷

In the case of dwellers of the same abode which comprises many rooms such as hotel, there is no controversy on the amputation of the hand of an inhabitant who steals another occupant's property from his room which is up to *Niṣāb*, even if the property has not been taken out of the premises.

Another issue discussed by Al- Qurtubī is where a parent steals what is up to *Niṣāb* from his son's property. Scholars are unanimous that nothing should be done to him based on the prophetic tradition that says: "You and whatever you possess belong to your father". But when the case is the other way, then scholars have expressed two divergent views. A view has it that the son's hand should be cut while the second view is that his hand should not be cut because he has legitimate right to his parent's property. But if it were to be property of grandfather, while Mālik and Ibn Qāsim maintain that his hand should not be cut, Ashiḥab opines that his hand should be cut. However, if another relative other than father and the grandfather steals, and not due to hunger, his hand should be cut off according to Mālik, Shāfi', Ahmad and others like Ibn Qāsim and Ashiḥab. Abu Ḥanīfah however holds a contrary view that no relatives' hand should be cut on account of stealing from his relations.⁹⁸

Al- Qurtubī also expatiates on scholars' views concerning a thief that steals a copy of Qur'ān the worth of which is up to *Niṣāb*. According to him, Imam Shāfi' and others opine that his/her hand should be cut while An-Nu'mān holds a contrary view. Scholars also differ with regards to stealing while on journey and implementation of

capital punishment at the battle field. Mālik and Al-Lithu bin Sa'd submit that capital punishment is executed both on the battle field and at home respectively. A view has it that when a soldier from the midst of a group of army that has a commander in the battle field commits theft, no capital punishment should be executed on him in the presence of other men. This is based on the prophetic statement that says:

لا تقطع الايدي في الغزو

Meaning:

Amputating thief's hand is not permitted while in the battle field.⁹⁹

Al- Qurṭubī also dilates upon scholars' views concerning the portion of the thief's hand that should be amputated. He submits that some scholars are of the view that the hand should be cut at the wrist and the leg at the lower joint while some others maintain that the hand should be cut at the elbow; yet some other opine that it should be cut at the shoulder, because all entail the name "hand". 'Ali (RA) was reported to have said; "Thief's leg is amputated at the middle of his foot leaving the remaining half for him". Also, the right hand of a thief is cut in the first instance of his stealing, according to jurists' consensus. But they differ on what part should be cut if he steals the second time. Imam Mālik, Shāfi' and others are of the view that the left leg should be cut next. If he steals the third time, his left hand should be amputated; and if steals the fourth time, his right leg should be cut. And if he still steals after that for the fifth time, he should be reprimanded and jailed. Abu Mus'ab however submits that a thief who steals the fifth time should be killed. This is supported with Jabir's (a *Ṣaḥābah*) report that the Prophet (SAW) ordered that a thief should be killed for stealing the fifth time when he said: "kill him". Jabir said: We went away with him and eliminated him by stoning. Al- Qurṭubī however remarked that this is a weak ḥadīth. Zuhuriyyah

also remarked thus: We only heard from prophetic tradition about cutting of hand then a leg thereafter in case of reoccurring theft.¹⁰⁰

Al- Qurṭubī also views a situation when the one amputating mistakenly cut the thief's left hand instead of the right hand as ordained by the judge. He states that scholars also differ on what should be done. Imam Mālik, Qatādah and others observe that indeed the prescribed punishment had become executed on him and it should not be exceeded. To Abu Thauri, blood money (*Diyyah*) is bound on the amputator for the mistake, whereas this view is objectionable to the consensus opinion. Ibn Mundhir opines that if the mistake is intentional, retaliation is bound on the amputator, but if it is unintentional, then he will be made to pay blood money. Also discussed by Al- Qurṭubī are the views of scholars on the prescribed capital punishment to be given to a thief who steals and subsequently kills a person. The verdict of Imam Mālik is that he should be killed in retaliation and cut concurrent ly. But Shāfi' opines that his hand should first be cut after which he should be killed, because the two are different crimes committed against two different people. Therefore, everyone ought to be given his due right.¹⁰¹

Notably, the verse under study mentions male before female as regard to theft, this is conversely opposite to *Zinā* where female is mentioned before male. Reason for this, according to Al- Qurṭubī , is that male loves making money more than the female counterpart while the female, at the other hand, is sexually more inclined than the male. Moreover, Allah (SWT) prescribes cutting of hand which is the major tool used for stealing as a prescribed punishment for theft. This is to barricade illegal acquisition of wealth but He has not stipulated amputation of male genital which is used for committing *Zinā* to serve as a blockage for it. It could be argued that the reason is because a thief possesses alternative hand apart from the amputated one,

while the fornicator has only one genital. Since capital punishment serves as forcible prevention to drive back the sinner from his illicit acts and serves as deterrent for others, therefore, amputation of hand is an open punishment for people to see its traces thus scare them away from such similar acts, but amputated penis is always concealed beneath cloth. Finally, family tie becomes discontinuous as a result of genital amputation; this is not the case in hand cutting.¹⁰²

Specifically, Muhammad Ali As-Sābūni is an exegete (*Mufasssir*), asserts in his *Tafsīr* book: *Rawāiuh Al-Bayān fī Tafsīr Ayāt'l- Ahkām* that the verse having bearing with theft firstly mentions male thief before the female bandit, which is direct opposite to the verse of *Zinā* in which female adulterous is mentioned before the male counterpart. The secret behind this, according to As-Sābūni, is that male is stronger and faster in theft than female, while lady at the other hand is sexually more inclined and flexible to fornication than male counterpart. So each of the two crimes is therefore attributed to both male and female respectively according to their flavour¹⁰³

Qaradawi opines in his book: *The Lawful and Prohibited in Islam that Shari'ah* of Islam sanctions the right to personal property and protects it legislatively against robbery, theft, and fraud. The Prophet (saw) mentioned the sanctity of property alongside with the sanctity of life and honour, thus regarding stealing as paradoxical to faith, when he says, “A thief is not a Believer while he is engaged in stealing.” (Al-Bukhārī and Muslim). In another report quoted by Qaradawi says that the Prophet (saw) said, “It is prohibited (i.e. *Harām*) for the Muslim to take (so much as) a stick without the consent of its owner” (narrated by Ibn Ḥibbān in his *Saḥīḥ*.), thus

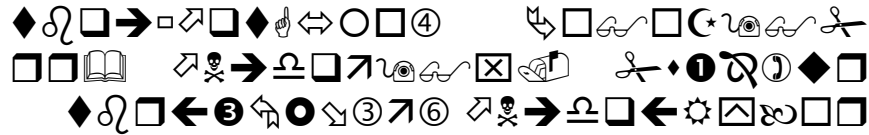
emphasizing what Allah has prohibited to the Muslim in respect of other people's property.¹⁰⁴

Conclusively, theft is an abominable vice in the sight of Allah and mankind. The divine punishment bound on its guilty perpetrator is amputation of hand, and that is when the stolen item worth *Niṣāb* and is taken from where it is kept, couple with other conditions to be found in the culprit as enumerated above. The act of theft has being in vogue from time immemorial, as a result Islam frowns against it and therefore prescribed a heavy chastisement on its criminal. Nigeria is engulf with countless international thieves that have being embezzling the public funds in billions and turn it into their own personal purse, they scot free unpunished, while others that steal trivial items were being given jungle judgments of various kinds. Islamic law (*Shari'ah*) on theft as described by Al- Qurṭubī in his book can be adopted in Nigeria at national, state and local levels and implemented on Muslims in order to control the hazard of theft in our society.

4.6 Al- Qurṭubī's Exposition on Verses Dealing with Fraud (*Tatfīf*)

Fraud is one of the social vices customary to the Nigerian milieu. It is the crime of deceiving people in order to acquire financial advantage, which may be in form of duping in business transaction, buying and selling, fraudster on the internet, looting public fund, etc. There are numerous Qur'ānic verses that deal with the issue of fraud, but this research work will only concentrate on Al- Qurṭubī 's expositions on the first three verses of *Sūratu'l- Mutaḥfiḥīn* (Q.83:1-3) which read thus:





Meaning:

Woe to *Al-Mutaffifin* [those who give less in measure and weight (decrease the rights of others)]. Those Who, when they have to receive by measure from men, demand full measure. And when they have to give by measure or weight to men, give less than due.¹⁰⁵

Al- Qurṭubī in his *Tafsīr* book devotes five pages to discuss the verses of fraud (from page 250 – 254 of volume nineteen of his *Tafsīr* book) with three divergent opinions on its place of revelation (i.e. *Makkan* or *Madinan Sūrah*). No reference is made to another verse of the Qur’ān while interpreting the three verses under study. However three *Ahadith*, six statements of the *Ṣaḥābah* and three statements of their followers are used in the exposition. There are only two legal interpretations with other three linguistic analyses contained in the rendition of the verses of fraud according to Al- Qurṭubī . This statistical analysis stands in for the empirical aspect of this thesis.

Al- Qurṭubī's exposition on this chapter starts from the place of revelation, which according to him, there are divergent opinions of scholars on this, Ibn Masʿūd maintained that it is *Makkiyyah* while Al-Hasan and Akramah uphold it to be *Madaniyyah*. The third view, however, is that of Ibn Abbās that says it is *Madaniyyah* except the last eight verses that were revealed between Makkah and Madinah. The author is of the view that it was the first revealed chapter to the Prophet (saw) when he got to Madinah.¹⁰⁶

There are four related issues to these verses under discussion according to Al-Qurṭubī. The first one concerns the cause of revelation (*Sababu'n- Nuzūl*), of which three different reports are attributed to, these are: Report of Nasāi yyu from Ibn Abbās that says: When the Prophet (saw) arrived Madinah, her people were found to be the worst in term of measure and weight, concerning buying and selling in the city. Consequently, Allah (SWT), revealed the verses under study, then they henceforth changed to better in their measures and became the best people as far as measure and weight are concerned up to date.

The next report is from Ibn Abbās, who said that this was the first revealed chapter to the Prophet (saw) when he got to Madinah and that her citizens by then used to demand for full measure whenever they purchased goods while they gave less than due when they have to sell by reducing the measurement and the weight. But as soon as the chapter was revealed, they desisted and restrained from such evil act, thus they became the best people in terms of measure and weigh up to date.

The last report however says that the chapter was revealed to the Prophet (S.A.W), concerning a man called Abu Juhaynah, whose name was Amr. He had two varieties of measurements; the bigger one was used to purchase goods in full, while the smaller one however was used for selling in less measure. (Narrated Abu Hurairah).¹⁰⁷

The second related issue is the meaning of the word: **وَيْلٌ** i.e. woe, which means severe punishment in the life beyond. Ibn Abbās remarked that this is a valley in hell fire in which water from the wounds of its dwellers will be flowing.

The implication of the *Ḥadīth* is that human being generally are relatives and family members, because they all come from the same source (i.e. Adam), and none of them is preferable above others, except by piety.

The last issue also has to do with *Al-Mutaffif*, which is someone that shortens measure and weight. Ibn Qāzīm narrated that Mālik recited while admonishing him; "*Waylun lil-Mutaffifin*" and then said: "Do not reduce measure and weight and do not cheat, rather you make it full with the support of your hand without holding back anything". Abdul-Mālik bin Majishūn also, reported that the Prophet (saw) prohibited packing measure and weight with something underneath, as he said: "The blessing (of everything) is on its head" ¹⁰⁹

The second verse i.e. (الَّذِينَ إِذَا اكْتَالُوا عَلَى النَّاسِ يَسْتَوْفُونَ)

Meaning: "Those who, when they have to receive by measure from men, demand full measure"

Al- Qurṭubī cites Al- Farrā'i to have said that the word: الَّذِينَ means among people.

When an Arab man says: اِكْتَلْتُ مِنْكَ: أَيِ اسْتَوْفَيْتُ مِنْكَ:

Meaning: "I received measure from you in full". But when he says;

اِكْتَلْتُ مَا عَلَيْكَ: أَيِ أَخَذْتُ مَا عَلَيْكَ.

Means "I have taken your right by reduction" Therefore, the phrase:

إِذَا اكْتَالُوا عَلَى النَّاسِ يَسْتَوْفُونَ

i.e. "when they have to receive by measure from men, demand full measure" can be illustrated as:

الَّذِينَ إِذَا اسْتَوْفَوْا أَخَذُوا الزَّيَادَةَ، وَإِذَا أَوْفَوْا أَوْ زَرَنُوا لِغَيْرِهِمْ نَقَصُوا، فَلَا يَرْضَوْنَ

لِلنَّاسِ مَا يَرْضَوْنَ لَأَنْفُسِهِمْ.

Meaning:

Those when they have to receive by measure, they take it in essence, but when they have to give by measure or weight for other men, they reduce less than due, so, they do not please others with what they were pleased, or in another word, they do not love for other men what they love for themselves.¹¹⁰

Al- Qurṭubī thereafter comes up with the grammatical analysis relating to the phrase:

وَإِذَا كَالُوهُمْ أَوْ وَزَنُوهُمْ:

Meaning: And when they have to give by measure or weight to men,

And he says that this can be illustrated as:

أَيَّ كَالُوا لَهُمْ أَوْ وَزَنُوا لَهُمْ فَحُذِفَتِ اللَّامُ

Meaning:

And when they have to give by measure or weight to men, in which the alphabet: *Lam* has been abrogated

This is an indication that the words: *كيل* and *وزن* are verbs known as *فعل متعدي*

i.e. verb that entails object, so, *هم* there is the object. Therefore, making a pause at the

verb is improper until one gets to *هم*. However, this is contrary to view of other

scholars that permit pause making at the verb, thus complete the phrase with *هُم*

يُخْسِرُونَ which means أَيُّ يَنْقُصُونَ i.e. They give less than due. Al- Qurṭubī

thereafter quotes the followings:

Ibn Abbās was reported to have said:

عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُ:

إِنَّكُمْ مَعَاشِرَ الْأَعَاجِمِ وَلَيْتُمْ أَمْرَيْنِ بِهِمَا هَلَكَ مَنْ كَانَ قَبْلَكُمْ: الْمِكْيَالُ وَالْمِيزَانُ.

Meaning:

O you assembly of non- Arabs! You are custodians of two things, of which people before you were destroyed: these are measure and weight

The above statement specifies non- Arabs simply because they usually combine both the two scales together, on like Saudi Arabian Arabs, whereby the Makkans addict themselves and stick only to weight, while the Madanites are measure's addicts.

Also, Ibn Abbās narrated the following *Hadīth* of the Prophet (saw)

قَالَ ابْنُ عَبَّاسٍ قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: (خَمْسٌ بِخَمْسٍ: مَا نَقَضَ قَوْمٌ الْعَهْدَ إِلَّا

سَلَّطَ اللَّهُ عَلَيْهِمْ عَدُوَّهُمْ، وَلَا حَكَمُوا بِغَيْرِ مَا أَنْزَلَ اللَّهُ إِلَّا فَتَسَا فِيهِمُ الْفَقْرُ، وَمَا ظَهَرَتْ

الْفَاحِشَةُ فِيهِمْ إِلَّا ظَهَرَ فِيهِمُ الطَّاعُونُ، وَمَا طَفَفُوا الْكِيلَ إِلَّا مُنِعُوا النَّبَاتَ، وَأُخِذُوا

بِالسِّنِينَ، وَلَا مَنَعُوا الزَّكَاةَ إِلَّا حَبَسَ اللَّهُ عَنْهُمْ الْمَطَرَ) خَرَجَهُ أَبُو بَكْرِ الْبَزَّارُ

Meaning:

The holy Prophet (saw) was reported to have said:

Five obsessions negate another five: Whenever any community frustrate its entrustment then Allah enthrones their enemy to govern their affairs, and never should they judge without the revealed Book of Allah, except poverty becomes wide spread among them, nor should adultery/fornication

spring up in their midst except that plague becomes appeared amidst them, and never should they give less than due measure, except they are forbidden from crops and reduction in their life span, and in as long they abstain from giving *Zakah*, then Allah seizes rain against them.
Narrated by Abubakr Al- Bazzar ¹¹¹

Finally, Qaradawi however remarks, in his book tagged: *The Lawful and Prohibited in Islam*, as regards fraud, that in order to prevent the manipulation of the market, the Prophet (saw) prohibited what is termed *Najash*. According to him, Ibn Umar explained that *Najash* signifies someone's bidding for an item in excess of its price without having any intention of actually buying it, but merely in order to induce others to bid still higher. Many times this is pre-arranged for the purpose of deceiving others.

Concerning the general rule in respect to earning a living, Qaradawi maintains that Islam does not permit its adherents to make riches in whatever means they like, rather it distinguishes between legitimate and illegitimate methods based on the principle of the general well-being of the society. He cites that any business transaction in which one party's gain results to the loss of the other party is unlawful, while any transaction which is fair and favorable to the two parties concerned and which is transacted by mutual consent is lawful. He thereafter quotes (Q4:29-30), whose extract goes thus: "O you who believe, do not consume your property among yourselves wrongfully, but let there be trade by mutual consent, and do not kill yourselves; indeed, Allah is ever Merciful to you. And whoever does so in enmity and injustice, We shall cast him into the Fire; and that is easy for Allah". According to him, there are two laid down conditions in the above quoted verses for any fair transaction: first, that the transaction should be

based on mutual consent of both parties; second, that the profit to one party should not be a loss to the other.

Qaradawi furthers his explanation on the meaning of the phrase: “Do not kill yourselves,” he comes up with two divergent views of scholars, both of which are generally applicable in business transaction and in earning a living. The first is, “Do not kill each other,” and the second is, “do not kill yourselves by your own hands.” In either case, an individual that makes another one else suffer for his own gain is, in effect, shedding his blood and opening the door for others to do the same to him, thus leading to the latter final wreck-ness and devastation. He finally remarks that vices such as theft, bribery, gambling, cheating, fraud, misrepresentation, and interest fall within the context of the phrase: “And do not kill yourselves.”¹¹²

4.7 Conclusion

What has been discussed so far encapsulates the expression of Al- Qurṭubī's expositions on the selected social vices which include; Aadultery/ Fornication (*Zinā*), Killing (*Qatl*), Alcoholism (*Khamr*), Defamation (*Al-Qadhf*), Theft (*Sarqah*), and Fraud (*Tatfīf*) among others. According to the Qur'ānic verses that have bearing with each of them, Al- Qurṭubī has been able to demonstrate his expertise in stating the cause of revelation (*Sabab'n- Nuzūl*) to any verse of the Qur'ān, interpreting any verse understudy with another Qur'ān verse, been a traditionist of Ḥadith, he was able to construe verses of the Qur'ān he treats with *Aḥādīth* of the Prophet (saw), statements of his companions (*Ṣaḥābah*), and that of their followers (*Tābi'īn*) after them. He

equally swerves through the use of poetry and legal interpretation, which is the major focus of his *Tafsīr* work, in his rendition

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CHAPTER FIVE

A STUDY OF AL- QURṬUBĪ'S EXPOSITION ON THE SELECTED SOCIAL VICES

5.0 Preamble

This chapter examines Al- Qurṭubī's expositions on the verses of the Qur'ān dealing with the selected social vices discussed in this work. The examination covers Al- Qurṭubī's use of verses of the Qur'ān, *Ḥadīth* of the Prophet (saw), statements of the companions and their followers respectively in interpreting the Quran. It also extends to his legal interpretations and the use of poems to exhibit Qur'ānic verses related to the selected social vices. The study also shows the areas of strength and weaknesses of the work.

5.1 Use of Qur'ān Verses in Al- Qurṭubī's Expositions

In chapter four where Al- Qurṭubī's exposition on *Zinā* was discussed, the focus was on verse 2 of *Sūratu 'n- Nūr* which reads thus:

The woman and the man guilty of adultery\fornication flog each of them with a hundred stripes: Let not compassion move you in their case, in a matter prescribed by Allah, if you believe in Allah and the last Day: and let a party of the believers witness their punishment.¹ Q24:2

While commenting on this verse, Al- Qurṭubī felt the need to explain each and every word in the verse such as *مائة جلدة, الزانية والزانی* etc. It is however observed that while explaining such phrases in the verse, references are made to other areas in the Qur'ān that are considered related to the term or phrase being analyzed. On the phrase: "*مائة جلدة*" (i.e. hundred stripes) which is the prescribed capital punishment for *Zinā*, Al- Qurṭubī had to make reference to verse 25 of *Sūratu 'n Nisā'* to show that the *Zinā* punishment for a free born is not the same with that of a slave. Also

while commenting on the phrase: الزانية والزانی (i.e. the female fornicator and the male fornicator), Al- Qurṭubī made reference to where Allah, in the Qur'ān, used similar expression in the case of theft thus: السارق والسارقة (i.e. the male thief and the female thief), except that the male is mentioned first in the case of theft while the female is mentioned first in the case of *Zinā*).²

A similar feat is also displayed by Al- Qurṭubī in his exposition on *Qatl*. The verse focused on in Chapter four regarding Al- Qurṭubī's exposition on *Qatl* is verse 93 of *Sūratu 'n-Nisā'* which reads:

And whoever kills a believer intentionally, his recompense is hell to abide therein, and the wrath and the curse of Allah are upon him and a great punishment is prepared for him.³ Q4:93

It is observed that in expatiating on this verse, Al- Qurṭubī made references to some other verse in the Qur'ān such as the preceding verse containing discussions on killing by mistake and the expiation. He equally made reference to verses 68-71 of *Sūratu'l Furqān* while discussing whether or not there is repentance for an assassin that kills intentionally.⁴

In the case of his expositions on verse of *Khamr*, Al- Qurṭubī not only made references to other related verses, he as well displayed his knowledge of sequence of revelation. In this regard, he asserts, while expatiating on verse 219 of *Sūratu'l Baqarah* that the verse was the first to be revealed concerning alcohol, followed by verse 43 of *Sūratul Nisā'* and finally verses 90- 91 of *Sūratu'l- Mā'idah* which contains the final prohibition. Also, to show that *Khamr* is regarded as among the

grievous sins (*Kabā'ir*) in Islam, Al- Qurṭubī made reference to verse 33 of *Sūratu'l-A'raf* that reads:

فَلْ إِنَّمَا حَرَّمَ رَبِّيَ الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَنَ وَالْإِثْمَ . . .

Meaning:

Say (O Muhammad: (But) the things that my Lord indeed forbidden are all acts of indecency whether committed openly or secretly, and sins of all kinds).⁵
Q7:33

Al- Qurṭubī also displays his in-depth knowledge of the Qur'ān in his expositions on verses dealing with Defamation (*Qadhf*). The verse focused on in Chapter four is where Allah says:

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 *fāsiqūn* (liars, rebellious, disobedient to Allah). Except those who repent thereafter and do righteous deeds; (for such) verily, Allah is oft-Forgiving, most Merciful⁶
(Q. 24:4).

In explaining the connotation of the phrase *المحصنات* in the verse, Al- Qurṭubī endeavours to cite two other verses in the Qur'ān to interpret it. These are verse 24 of *Sūratu'n-Nisā'* which talks about *والمحصنات من النساء* (i.e. chaste women already married) and verse 91 of *Sūratu'l-Anbiyā'* which reads: *والتى أحصنت فرجها* (i.e. And she who guarded her chastity) respectively. Also, talking about ironic statement of defamation, Al- Qurṭubī made reference to Prophet Shuayb (AS) when his people sarcastically said to him: *إِنَّكَ لَأَنْتَ الْحَلِيمُ الرَّشِيدُ* (i.e. verily, you are the forbearer, right-minded) in verse 87 of *Sūrat Hūd*. He equally referred to verse 28 of *Sūrat Maryam* when Maryam people said to her: “O you sister of Haroon, Your father was

not a man who used to commit adultery, nor your mother was an unchaste woman”. Reference is also made to verse 25 of *Sūratu'n- Nisā'* to prove that a slave who slanders should be given half of the punishment of a freeborn which is 40 lashes.⁷

In his exposition on theft, Al- Qurṭubī also uses Qur'ān verses to interpret the verse dealing with theft. The verse focused on in Chapter four is verse 38 of *Sūratu'l-Mā'idah* which reads thus: "As to the thief, male or female, cut off his or her hands: a punishment by way of example, from Allah, for their crime: and Allah is exalted in power". A study of Al- Qurṭubī's exposition on the verse dealing with theft reveals that like the earlier discussed issues, reference are made to other verses of the Qur'ān. For instance, he cited: *فمن اعتدى عليكم فاعتدوا عليه بمثل ما اعتدى عليكم* i.e. “Then whoever transgresses the prohibition against you, you transgress likewise against him” (Q.2:194) to illustrate what scholars agreed upon on punishment for one who steals what is not up to *Niṣāb* (i.e. A prescribed amount by the *Shari'ah* that could lead to the cutting of the thief's hand). He equally cited: *ألم نجعل الارض كفاتا* (i.e. Have We not made the earth a receptacle for the living and dead) in a bid to expatiate that graveyard could be regarded as *Hirz* i.e. a safety place where items are kept against theft. The above notwithstanding, in his explanation of the Qur'ānic phrase: *فاقطعوا* (i.e cut off), one would have expected him to make reference to other verses in the Qur'ān on amputation of hands such as verse 36 of *Sūratu'l-Mā'idah* and draw comparison between amputation of hands in the case of theft and amputation of hand in the case of *Hirābah* (waging war against Allah).⁸

Knowledge of *Sababu'n- Nuzūl* also features prominently in Al- Qurṭubī's expositions, as already examined in chapter two of this work, accordingly on the verses dealing with the social vices under study. Realizing the significance of *Sababu 'n- Nuzūl* in the overall comprehension of the Quran, Al- Qurṭubī , in his discussion on the six selected social vices namely *Zinā, Qatl, Khamr, Qadhf, Sarqah* and Fraud, gives the *Sababu 'n- Nuzūl* of the verses discussed for each of the vices.

Al- Qurṭubī equally dwelt upon the verses of fraud like other treated verses. The verses focused on in this regard, among other verses of fraud in the Qur'ān, are the first three verses of *Sūratu'l- Mutaḥḥifīn* i.e. Q.83:1-3. In his exposition, Al- Qurṭubī uses no any other verse to interpret these verses, but only gives detail explanation on its legal rulings. He made references to its place of revelation, thus came up with three divergent opinions of scholars, that the chapter is Makkan, others say it is Madinan while the last view says it is Madinan chapter except the last eight verses that were revealed between Makkah and Madinah. He also explored causes of revelation as regard the three verses under discussion, and attributed that to three reasons.⁹ .

With the above endeavours, Al- Qurṭubī has been able to display his mastery of *Tafsīru'l- Qur'ān bi'l- Qur'ān* (i.e. interpreting the Qur'ān with the Qur'ān) which is a feat that can be accomplished only by those who have committed the whole Qur'ān into memory

5.2 Use of *Aḥādīth* in Al- Qurṭubī's Expositions

In Chapter two, while writing on the Biography of Al- Qurṭubī, it was mentioned that he was known as *Ḥadīth* transmitter. Being an exponent in the field of *Ḥadīth*, Al-

Qurṭubī brings his expertise to bear on his *Tafsīr*. He uses series of prophetic traditions to illustrate his exegetical venture to his readers. For instance, while treating the issue of flogging of anyone guilty of *Zinā*, to show that the whip should not be too heavy or too light, Al- Qurṭubī relies on some *Aḥādīth* some of which are cited in Chapter Four.

Al- Qurṭubī also cites some other *Aḥādīth* to prove that prescribed punishment is bound on anyone guilty of illegal sexual intercourse, and that the illicit act of *Zinā* is seriously abhorred by Allah and His Apostle.

Concerning *Qatl* (Murder), Al- Qurṭubī asserts the significance Islam attaches to protection of life and the embargo it places on shedding blood (*Qatl*) without just cause. In his discussions on *Qatl*, many related *Aḥādīth* are cited such as the ones specifying the *Diyyah* (blood money). He tries to show on the basis of the cited *Aḥādīth* that the capital punishment for intentional killing is based on the divine precept while that of the latter is *Diyyah* (i.e. a prescribed compensational fine to be given to the family of the deceased). This is supported with a report of Dāruquṭn from Ibn Abbās that the Prophet said: “Intentional killing is punishable but killing by mistake is not, so whoever killed unintentionally by stoning or flogging by cane, an intensive *Diyyah* of camel is paid”; and another report which says: “Killing that resembles an intentional one is punished (with *Diyyah*) and it is like an intentional killing only that its perpetrator is not killed”. Al- Qurṭubī equally cited many prophetic traditions to convince his reader that taking a believer's life is a grievous sin in the sight of Allah as it is considered as killing all mankind.¹⁰

In the course of his exposition on alcoholism (*Khamr*), Al- Qurṭubī quotes a *Ḥadīth* of the Prophet (saw) where he invoked the curse of Allah on *Khamr* itself and a group of ten people that are directly or indirectly connected with it. He also made reference to a *Ḥadīth* relating to states of unconsciousness or mind distraction in prayer or before it, such as states of asleep or readiness of food.¹¹

Regarding defamation (*Qadhf*), Al- Qurṭubī also displays his deep knowledge of *Ḥadīth*. He cited *Aḥādīth* to establish the fact that a free born person is not punished for defaming his slave in this life, but will have his punishment in the life beyond.¹²

The same resourcefulness is equally displayed with regards to theft (i.e. *Sarqah*). In explaining the quantity\gravity or the worth of the stolen item before its perpetrator's hand ought to be cut, Al- Qurṭubī quotes a very relevant *Ḥadīth*. It should, however, be mentioned that the said *Ḥadīth* is quoted by the author without mentioning its chain of transmission. He only mentioned that it is among the *Aḥādīth* reported by A'ishah (RA). Various *Aḥādīth* that prohibit theft (*Sarqah*) were also cited by the author to even include that amputation of thief's hand is accomplished only when his stolen item worth a quarter of dinar and beyond, and that any small quantity or large of a stolen item that is up to *Niṣāb* attracts cutting. This is conversely illustrated with another *Ḥadīth* reporting the rewards of a righteous deed of a Muslim, no matter how small or big it is. Similarly, reference is made to prophetic traditions on items that attract no cutting such as fruits on tree or what is being conserved on mountain, of which a passerby or an hungry man picked, but the cut is only on what is stolen from where it is kept and worth the cost of "*Majn*" i.e. "*Niṣāb*". *Aḥādīth* on theft from the graveyards are also cited in his discussions on *Sarqah*.¹³

From the authority of Ibn Mājjah, Jabbārah Ibn Al-Muglis informed us, Hajjāj bin Tamīm also informed us, from the authority of Mainūn bin Mahrān, from Ibn Abbās: A slave from among the five series of booties set aside by the Prophet (s.a.w) steal from the booties (what worth *Niṣāb*) and it was raised to the Prophet who decided not to execute the capital punishment of theft on him, saying: “Allah’s properties of which one part steals another”¹⁴.

Al- Qurṭubī, as well, displays his in-depth knowledge of *Ḥadīth* by citing *Aḥādīth* to buttress his renditions; this has been the case while treating the verses of fraud. He narrated a *Ḥadīth* against stealing through measure and weight. In another *Ḥadīth* quoted by Al- Qurṭubī on the same subject matter as depicted in chapter four of this work, the Prophet (S.A.W) prohibited packing measure and weight with something underneath and that the blessing (of everything) is on its head.¹⁵

In conclusion, based on the above enunciations, it could be observed that Al- Qurṭubī has been able to showcase his in-depth knowledge of *Tafsīru’l- Qur’ān bi’l Ḥadīth* (i.e. interpreting the Qur’ān with the *Ḥadīth*) as he is able to swerve through and quote from the six authentic books of *Ḥadīth* including Malik and Ahmad bin Hanbali. While, as observed earlier that many of the *Aḥādīth* are cited without complete chain of transmission, there are some others that have complete chain of transmission. An apt example of *Ḥadīth* citation with complete *Isnād* is the *Ḥadīth* prohibiting cutting the hand of an emancipated slave or non- Muslim living in a Muslim land where he said: “From the authority of Ibn Mājjah, Jabbārah Ibn Al-Muglis informed us, Hajjāj bin Tamīm also informed us, from the authority of

Mainūn bin Mahrān, from Ibn Abbās”. Al- Quṭrubi has clearly demonstrated that he masters and possesses vast knowledge in the field of *Ḥadīth* and *Sunnah* of the Prophet (saw).

A study of the *Aḥādīth* used by Al- Qurṭubī in his various expositions on the subject matters shows that while some of the *Aḥādīth* are sound (*Ṣaḥīḥ*) or fair (*Ḥasan*), there are some others that could be categorized weak (*Ḍaʿīf*) *Aḥādīth* in the work. A typical example of weak *Ḥadīth* quoted by Al-Qurṭubī is the *Ḥadīth* where he only mentioned its narrator then leaped to a companion of the Prophet (s.a.w). The extract goes thus:

وروى مالك عن زيد بن أسلم أن رجلا اعترف على نفسه بالزنى على عهد رسول الله صلى الله عليه

وسلم

Meaning:

Narrated by Mālik on the authority of Zaid bin Aslam that a man confessed *Zinā* against himself during the prophetic era¹⁶

This kind of *Ḥadīth* is known as *Munqatīʿ* under the science of *hadith*, which is therefore made it to be categorized as weak (*ḍaʿīf*) *Ḥadīth* for the fact that its chain of transmitter is not complete.¹⁷ Most of the *Aḥādīth* used in Al- Qurṭubī's work are of this nature; only few are narrated with true chain of transmission

5.3 Use of *Ṣaḥābahs'* Statements in Al- Qurṭubī's Expositions

Some statements of the companions (*Ṣaḥābah*) of the Prophet (saw) are used by Al- Al- Qurṭubī in his *Tafsīr*. For instance, in his expositions on *Zinā* in Chapter four

where he discusses the position on which the culprit is to be beaten, Al- Qurṭubī makes reference to statement credited to Ibn Masʿūd thus:

قال ابن مسعود: لا يحل في هذه الامة

تجريد ولا مد

Meaning:

"It is improper for this community to expose one's nudity or lay him down on ground".

In reference to the state and areas to be beaten on the culprit of *Zinā*, Al- Qurṭubī quoted Umar and his son respectively to have said: يضرب الرأس (i.e. the head is beaten). In addition to the above, many other references on flogging of drunkard were made to Umar in Al- Qurṭubī's *Tafsīr* as vividly showcased in Chapter Four. Also, it becomes glaring from the adjudication made by Al- Qurṭubī that the prescribed punishment of drinking alcohol was arrived at 80 stripes of cane through Umar's personal reasoning (*Ijtihād*) and by no means should any of the prescribed capital punishments be exceeded.¹⁸

Another companion that Al- Qurṭubī cited his statement is Abu Hurairah (RA) who was reported to have said: "Exhibition of a prescribed punishment in the midst of a community is better for the people of such community than a continuous rainfall of 40 days". This statement is cited by Al- Qurṭubī while illustrating the phrase: "Let not pity withhold you in their case, in a punishment prescribed by Allah" Q24:2.

A similar feat is also demonstrated by Al- Qurṭubī in his exposition on *Qatl*. It is observed that while explaining on repentance and forgiveness for a murder, Al- Qurṭubī makes reference to many statements of Ibn Abbās showing that there is no repentance and forgiveness for a murderer.¹⁹

As regard his expositions on verses of *Khamr*, Al- Qurṭubī brightly quotes Uthmān bin Affān to have said: اجتنبوا الخمر فإنها أم الخبائث i.e. “Eschew alcoholic drinks verily it is the basis of all evils” and his statement that divorce is not permitted from a drunkard. Al- Qurṭubī also cites the statement of Umar before the final prohibition in which he requested Allah to give a definite directive on *Khamr*. He equally cited Ali bin Abi Tālib’s report about how he was invited to a dinner by Abdul Raḥman bin Awf and was served with *Khamr*; and how he led the prayer and recited the Qur’ān wrongly due to the influence of the *Khamr*. Ali said this event led to the revelation of the verse: Q4: 43

Concerning the final verse that prohibited alcoholics in Islam which is Q.5:90, Al- Qurṭubī cited the statement of Ibn Abbās that the first two verses relating to *Khamr* i.e. Q2:219 and Q4:43 had become abrogated by the verse in *Sūratu’l- Mā’idah* which is Q5:90.²⁰

Al- Qurṭubī also cited statements of the *Ṣaḥābah* regarding Defamation (*Qadhf*). He made reference to Ali’s statement as given in Chapter Four of this work. In his discussion on theft (i.e. *Sarqah*), Al- Qurṭubī quotes statements of Umar bin Khattāb, Uthmān bin Affān and Ali (RA) that the thief’s hand should not be amputated except where the stolen item is up to a quarter of *Dinār*”. This is quoted in Al- Qurṭubī’s bid

to explain the amount or quantity of a stolen item before one's hand is cut. He also cites the divergent opinions of the *Ṣaḥābah* on the quantity/amount of the stolen item before one's hand is cut; he mentions Ibn Umar to have said three *Dirhams*, while Ibn Abbās said 10 *Dirhams* and Anas said five *Dirhams*.²¹

Al- Qurṭubī had also made reference to the caliphate of Umar bin Khattāb, when he was reported to have said: غلامكم سرق متاعكم i.e. “Your child steals from your wealth” when a companion of the Prophet known as Abdullah bin Amr Al-Khudriy reported his child that stole his wife's property which valued 60 *Dirhams* to caliph Umar bin Khattāb, then the caliph uttered the above statement as an indication that a child that steals from his parents' money will not be punished.

On amputation of a thief's leg, Al- Qurṭubī cites the statement of Ali that the thief's leg should be amputated at the middle of his foot leaving the remaining half for him. He equally makes reference to the statement of Jabir concerning the order given by the Prophet that the *Ṣaḥābah* should kill a thief stealing for the fifth time. It should be noted here that Al- Qurṭubī remarks on this very *Ḥadīth* that he could not ascertain its authenticity. He further explains that his remark is informed by the remark of an-Nasā'i who rated the *Ḥadīth* as *Munkār*, because it is the only available report in this regard that was narrated only by Jabir.²² The above portray Al- Qurṭubī as a *Mufasssir* who is well conversant with *Aqwālu's- Ṣaḥābah* which he copiously and appropriately cites to buttress his commentary on given issues.

Al- Qurṭubī as well cited statements of companions like Ibn Abbās regarding the cause of revelation of *Sūratu'l- Mutaḥḥifīn*, reference is moreover made to another

Ṣaḥābah i.e. Amr, popularly known as Abu Juḥainah who had two varieties of measurements. In interpreting the word "*Wayl*", Al- Qurṭubī made reference to Ibn Abbās while he made reference to Ibn Umar concerning the interpretation of *Mutaffif*.²³

5.4 Use of *Tābīʿiūns*' Statements in Al- Qurṭubī's Expositions

The *Tābīʿiūn* are the students of the companions who learnt directly from them. They form one of the best three generations of Muslims mentioned by the Prophet (saw) in one of his *Aḥādith*. For this reason, their statements are also considered to have weight. As vividly demonstrated in Chapter Four of this study, Al- Qurṭubī uses statements of the *Tābīʿiūn* in his expositions to the verses of the Qurʾān he treats. In his bid to make meanings of the verse of *Zinā* clear to his readers, he quotes Ishāq bin Rāhawayhi to have said: *يضرب كل واحد منهما مائة جلدة* (i.e. Each of the two should be flogged with 100 strokes of cane". This statement was made by Ishāq in respect of a man and a woman who are not legally married to one another found beneath one garment, though copulation could not be established. In contrast, Al- Qurṭubī quotes two other *Tābīʿiūn* namely: Attāu and Sufyan Athaori who held that the two should only be reprimanded.²⁴

Al- Qurṭubī also cites the statement of Ibn Al-Arabi, a *Tābīʿ* that when evil practices become widely spread in any giving society and people are inclined to such vices to the extent that it becomes their tradition such that the sins are no longer forbidden among people, in such situation, capital punishment could be increased and made more severe as a result of their increase in sins.

However, it is observed that throughout Al- Qurṭubī's exposition on the verses of *Qatl* and *Khamr* treated in Chapter Four, he did not make reference to any statement of the *Tābi'ūn*. However, in his exposition on verses of *Qadhf*, he makes one reference to Ibn Mundhir who happened to be among the scholars of the later generations after the companions of the Prophet. Also, in elaborating on the verse on theft, Al- Qurṭubī quotes Umar bin Abdul- Aziz, Lithu, Shafī^c, and Abu Thaori to have maintained that the stolen item shall be up to one quarter of dinar, as opined by Umar and other *Ṣaḥābah* of the Prophet, before a thief's hand is amputated.²⁵

Furthermore, Al- Qurṭubī uses statements of the *Tābi'ūn* to illustrate his exposition on verses of fraud, as he quotes Salim Ibn Abī'l- Ja'd who gave broader meaning to the phrase; *lil-Mutaḥḥifīn* while he equally made reference to the advice given by Mālik to Ibn Qazīm on how to measure and admonition not to ever defraud people.²⁶

5.5 Use of Poetry in Al- Qurṭubī's Expositions

Al- Qurṭubī uses poems to buttress issues raised in his exposition in order to make its meanings clear to his readers. Among the poems used in the verse of *Zinā* is the Stanza of poem said by Zuhair while gratifying *Sūratu 'n- Nūr* as follows

قال زهير: ألم تر أن الله أعطاك سورة * ترى كل ملك دونها يتذبذب:

Haven't you seen O Prophet, that Allah (SWT) granted you a chapter (in the Qur'ān full of legal rulings), of which every king in this world becomes confused (in their decisions) save yours (i.e. Qur'ān)²⁷.

Another Stanza of poem said by someone, whose name was not mentioned by the author, goes thus:

والذئب أخشاه إن مررت به * وحدي وأخشى الرياح والمطرا

“Whenever I cut across a wolf, I become terrified and thus is my case as regard wind and rain”

The poem is quoted by the author in his bid to explain the grammatical analysis relating to the beginning words of the verse i.e. الزانية والزانى .

Some of the poems he used to illustrate his legal exposition on Qur’ān verses on *Khamr* include:

شربت الاثم حتى ضل عقلي * كذاك الاثم يذهب بالعقول

i.e. “I drank sin (i.e. alcohol) until my sense vanished away, thus sin dispatches sensation”.²⁸

The above poetic stanza is quoted by Al- Qurṭubī to explain the meaning of *Khamr* which often referred to as sin by some scholars, but this to Al- Qurṭubī is seriously refuted. Another cited stanza of poem by the author in his bid to examine the meaning of the word *Khamr* to mean a cover that conceals something underneath from being seen is:

ألا يا زيد والضحاك سيرا * فقد جاوزتما خمر الطريق

O you Zaid and Diḥāk proceed, indeed you’ve cut across the concealed route (where wild animals are kept)

قال حسان بن ثابت رضى الله عنه:

ونشر بها فتركنا ملوكا * وأسدا ما ينهنا اللقاء

We drank *Khamr* and we therefore abandon kingdom,
just because of the threat from the assembly day

The above stanza of poem, according to Al- Qurṭubī was said by Ḥassān bin Thābit, a companion of the Prophet to indicate their condition before Islam concerning *Khamr*, and how meticulous was its prohibition on the Muslims.²⁹

Concerning *Qadhf*, Al- Qurṭubī quotes a statement of Nābighah who was a poet, to have said while examining the definition of *Qadhf* i.e defamation;

قال النابغة: وجرح اللسان كجرح اليد

i.e. “A wound from tongue is like a wound that emanated from one’s hand”³⁰

Al- Qurtubi cites another poet as saying:

رمانى بأمر كنت منه ووالدى * برينا ومن أجل الطوى رمان

Meaning:

Because of worldly gain, he scolded me and my father
from what we are fully vindicated and exonerated from

With the above, Al- Qurṭubī illustrates the meaning of the word “*Romā*” which is allegorically used in the Qur’ān to connote “Slander or accuse” and in actual sense, it is the act of hurting with tongue.³¹

According to Al- Qurṭubī, caliph Umar jailed a poet called Ḥatī’ah for a line of poem he composed to defame the caliphate:

دع المكارم لا ترحل لبغيتها * واقعد فإنك أنت الطاعم الكاسى

Meaning:

Go away from the honorable post (i.e. the caliphate) and never strive for its devastation, relax, verily you are but a consumer of food and cloth³².

The poem is a statement of defamation on the personality of the caliph for resembling him with women who are habitually known only for domestic services and for their consumption of food, drinks and cloths without being productive.

However, a critical study of Al- Qurṭubī's use of poems in his *Tafsīr* shows that he does not use any relevant stanza of poem while expatiating on verses of *Qatl*, *Sarqah* and fraud. It is also observed that most of the poems he uses are quoted without mentioning the poets except in rare cases.

5.6 Treatment of Divergent Legal Opinions in Al- Qurṭubī's Expositions

Al- Qurṭubī, most often, expresses divergent views of jurists on any legal matters contained in the verses being discussed. This goes to confirm the claim that his work on *Tafsīr* is legal based exposition. Concerning the verse of *Zinā* focused on in Chapter Four, Al- Qurṭubī examines the shades of opinions expressed by jurists, most especially on a captive or slave girl/boy on whom the Qur'ān places half punishment when found guilty of any criminal offence. In this regard, Al- Qurṭubī quotes Shāfi' to have said: **في كل جلد وقطع** "On each (free and un-free persons) there is punishment of flogging and cutting of hand". On the contrary, he quotes Mālik to have said: **في الجلد دون القطع** "(The half count punishment of captive) is only in flogging and not in cutting". Al- Qurṭubī opines that scholars unanimously agree that the flogging has to do with an intermediary whip which is neither strong nor weak thus:

أجمع العلماء على أن
الجلد بالسوط يجب والسوط الذى يجب أن يجلد به يكون سوطا بين سوطين.

لا شديدا ولا لينا

Meaning:

The consensus opinion of scholars is that the flogging
has to be with whip that is neither strong nor weak.

Furthermore, Al- Qurṭubī examines the divergent views of scholars over flogging the culprit in a naked state. To this end, he quotes Mālik, Abu Ḥanīfah and others who maintain that the culprit should be beaten naked only that some clothing material that cannot reduce pain from beating will be left on female culprit's body to cover up her nudity. But to Awzā'iyyu; it is the Imam that will decide either to beat him nakedly or not. While the third group, comprising of As-Sha'biyy and An-Nakhā'iyyu maintain that the culprit is not naked while flogging.³³

Al- Qurṭubī further examines the divergent views of scholars on the manner of flogging. According to him, the submission of Imam Mālik is that the two fornicators should be scourged on equal basis, and it has to be at their backs, without any of them standing. But Shāfi' and *Ahlu'r- Ra'y* (the rationalists) hold that the male culprit should be beaten in a standing posture based on a narration from Ali bin Abi Tālib (RA). However, Abu Ḥanīfah and Shāfi' maintain that flogging for *Zinā* should be executed while the culprits are naked and on standing, while in the case of flogging for defamation, the culprit should be allowed to have cloth on.

Al- Qurṭubī equally made reference to the varying opinions expressed by jurists on areas to be beaten on the body of the culprit. He mentioned that while Imam Mālik

opines that all flogging should only be on the back, Shāfi' maintains that it should be on the whole of his body except the face and the genital. Except for Abu Yusuf, there is a unanimous agreement among Muslim Jurists that the head should be spared.

Al- Qurṭubī remarks as well that Muslim scholars differ on the degree of severity of the prescribed punishment. While the Mālik and Shāfi' schools of thought opine that all floggings of prescribed punishment are equal in the degree of severity (i.e. intermediate), Abu Ḥanīfah observed that disciplinary punishment should be very severe and that the punishment of *Zinā* should be more severe than that of drinking. Also that of drinking has to be more severe than that of defamation. In explaining the issue of severity according to the various *Madhāhib*, Al- Qurṭubī also endeavours to give the bases and proofs for each position maintained by the schools of thought.³⁴

One other legal issue for which Al- Qurṭubī made reference to the divergent opinions of Muslim jurists is the position of Islamic law on a man and a woman who are not legally married to one another, found together under one garment. While some jurists such as Ishāq bin Rahiawaih maintain that the two of them should be punished for *Zinā*, others like Attāu and Sufyān Thauri are of the view that they should only be reprimanded.

Al- Qurṭubī further refers to the divergent views of scholars over the phrase: “let a party from among the believers witness their punishment” In his exposition, the various views expressed by Muslim jurists such as Mujahid, Ibn Zaid, Malik, Al- Lithus and Shāfi', Akramah, Attāu', Ḥasan and Ibn Abbās which range from one (1) to one thousand (1000) are cited.³⁵

However, an intensive study of Al- Qurṭubī's legal exposition generally on Qur'ānic verses reveals him as an exegete and a jurist per excellent, who is able to cross-vitalize ideas of various scholars, such that his *Tafsīr* work could be equally considered as a jurisprudential book. It is, nevertheless, discovered that his discussion on legal matters of the Qur'ān is concise and not elaborate enough when compared with what are obtainable in *Fiqh* books. While it is understandable that his work is a *Tafsīr* book and not a *Fiqh* book *per se*, it is yet expected that further details should have been given on such legal issues. An apt example is *Zinā*. There are many other issues discussed under it by the like of Ibn Rushd and Muhammad Bīr Ismail in their books: *Bidāyatul-Mujtahid wa Nihāyatul-Muqtasid* and *Al-Fiqh Al-Wādiḥ* respectively. Apart from defining *Zinā* which they see as any illicit sexual intercourse which occur outside marriage, they equally give comprehensive details of issues relating to it. One of such issues is the legal ruling on any individual that practices *Zinā* with a pagan slave girl, even if she conceives a baby. Both Mālik and Abu Ḥanūfah maintain that the punishment will be averted for the perpetrator, while other scholars say he should be reprimanded. Abu Thawri however, upholds full prescribed punishment on him if he is aware of its forbiddance. The majority that upholds warding off of the punishment for the one guilty of *Zinā* base their argument on the prophetic tradition that says: "Ambiguity wards off prescribed punishment".

Another one is the case of a martyr that perpetuates *Zinā* with a slave girl. According to some scholars, he should be punished while some others opine that he should not. Other issues discussed include a man that legalizes sexual intercourse with his maid for his friend; a man that commits *Zinā* with his son's/daughter's slave girl. On this,

majority of scholars say that there is no punishment on him based on the prophetic statement that says: "You and your property belong to your father"³⁶.

An additional issue connecting with *Zinā* not discussed by Al- Qurṭubī is that of a man that has sexual intercourse with his wife's maid. This has attracted four divergent views of scholars. The first is the view expressed by Imam Mālik that the crime attracts complete capital punishment of stoning because he has no full or has no share authority on the slave girl, and because he has not married the girl. The second expressed by some scholars is that there is no punishment on him based on a similar case which occurred during the Prophetic era. The third view is that the culprit should be flogged with 100 lashes while the fourth view says that the guilty party should only be reprimanded.³⁷

One more issue discussed by the jurists not covered by Al- Qurṭubī is *Zinā* committed in exchange for money. This is very common case in Nigeria. According to Abu Ḥanīfah, this is a category of *Zinā* for which the capital punishment is averted from the perpetrator. Majority of scholars, however, hold contrary view to this.

All the aforementioned categories of *Zinā* attract prescribed punishment, in as long it is established that a mature sane individual penetrates, with at least the head of his penis, into the vulva of a lady, who is mature as well and capable of consuming sexual intercourse, even if ejaculation does not occur. However, such categories of *Zinā*, like the one carried out by a minor male, or with an animal, or through other channels apart from the vulva, attract no prescribed punishment, rather the perpetrators are disciplined either with flogging, imprisonment or expulsion.³⁸

The jurists also discuss and unanimously agree that the punishment for any sexual intercourse that occur through the anus or from the rear of a lady is the same as that of the one that take place through her vulva which is *Zinā* that deserves prescribed punishment. Additionally, they maintain that the prescribed *Shari'ah* capital punishments for *Zinā* are three namely: stoning to death, flogging and banishment. They explain and collectively agree that free married man and woman, guilty of *Zinā* are to be stoned to death based on prophetic traditions, except that some minority sees only flogging as the prescribed punishment for *Zinā*³⁹.

Other areas of concern on *Zinā* not discussed by Al- Qurṭubī but discussed in books of *Fiqh* include, among others, the followings:

- i. Should a married individual guilty of *Zinā* be flogged before stoning or not?

Jurists in their various *Fiqh* books have expressed divergent views on this. Majority opine that there should be no flogging, on the basis of the established evidence that all executed capital punishments of stoning by the prophet (SAW) were carried out without flogging. However, scholars like Hasan Al-Basriyyu, Ishāq, Ahmad and Dāwud are of the view that a married one guilty of *Zinā* is punished with both flogging and stoning. This group maintains that the Qur'ānic verse on *Zinā* did not specify married from unmarried one, and because Ali (RA) carried out both flogging and stoning on a married man guilty of *Zinā* saying: "I flogged him according to the Qur'ān and stoned him according to the prophetic tradition."⁴⁰ However, scholars unanimously agree that marriage is a fundamental clause for stoning, but they differed on conditions attached to it. To Mālik, maturity, Islamic faith, freedom, copulation or *Zinā* under a perfect marriage and a situation that permits the act of *Zinā* are the necessary conditions attached to it.

Shāfiʿ however discards Islam as one of the conditions in this regard; saying that the Prophet (saw) stoned to death two Jews (male and female) guilty of *Zinā*, when their affairs were raised to him.

Concerning the unmarried ones, scholars consensually agree on 100 lashes of cane as stipulated by the Qurʾān. But they differ on their banishment coupled with flogging. The Ḥanabilah School is totally against banishment while the Shafiʿites are in full support of it, being the culprit a male or female, free or slave. Mālik opines that male fornicator only is to be exiled in exclusion of the female. Lastly, Al- Aozaiʿyy is of the view that there is no banishment for slave fornicators; male or female.

ii How *Zinā* can be established? This, according to M.B. Ismail, can be evaluated through two different modes; it could be either based on self conviction (*Al- 'Iqrār*) which is the best evidence or eye-witness (*Al- Bayyinah*), each of which is attached with conditions. The first one is when an individual persistently confesses of having *Zinā* with one he/she is not legally married to as was the case of Māʿiz and Al- Gāmediyyah in the prophetic era. The only area of difference among jurists in this regard is the number of confession. While Malikites and the Shafiʿites hold that one confession is enough, the Hanafites and the Hanabilites maintain that it should be four confessions at different occasions. The conditions attached to self confession are sanity, maturity, non-coercion and full awareness about the true meaning of *Zinā* and its forbiddance. Deficiency in any of these invalidates the prescribed punishment.

Al- Bayyinah in its own case refers to eye-witness account. The eye witnesses testify to the scene as it occurred before the judge, whenever they are invited or feel conscientiously concerned. There are eleven conditions attached to this, which include: the eye-witnesses are to be four in number, in-case they are less than four, then their testimony is dropped consensually by the scholars. They must all be sane, matured, Muslims, just, males (female's testimony is unacceptable), they must ascertain the real penetration of the two opposite genitals perfectly into one another. The witnesses have to be frank and open in their testimonies by making a clear statement that portrays *Zinā* between the two culprits. Also, they must all have sighted the scene at one occasion, but if at different instances, their testimony is considered undesirable. The time of which the testimony is made should not contradict time of the occurrence of the scene of *Zinā*, such as being given 2 or 3 months later after the scene; such testimony is null and void. Lastly, all the testimonies must be in perfect concordance with the personality of the culprits, place and time of the scene. If there should be any contradiction in any of these, then the testimony is dropped.⁴¹

iii. What period/time should the prescribed punishment be afflicted? Capital punishment of *Zinā* and other crimes is afflicted on the culprits immediately after the self confession or after the testimony of the witnesses, unless if the weather is unfavorable as a result of the following conditions: An extremely cold or hot weather, sickness of the culprits, period of post natal bleeding until the blood seizes, pregnancy period until delivery and after weaning of the baby.

iv. Should the culprit's corpse be prepared for funeral (i.e. *Janāzah*) by Muslims after the capital punishment of stoning\flogging? It is mandatory on the generality of

Muslims to, after the capital punishment of stoning or flogging, wash, shroud, pray and bury the corpse of the culprit in the Muslims' burial ground.⁴² This is the consensus view of scholars based on a *Ḥadīth* collected by Muslim, Abu Dāwud, Tirmidhi and others from Umrān bin Ḥāsim (ra) that a woman from Juḥainah reported that her pregnancy was a product of Zinā saying: 'O Messenger of Allah! I deserve capital punishment of *Zinā*, so, implement this on me. Subsequently, the Prophet invited her guardian and said: "Be just to her, whenever she delivers her baby, bring her to me". The man did so. Then the Prophet (saw) ordered for her garment to be tied to her and stoned to death. Thereafter her death the Prophet (saw) prayed and buried her. Umar said; O Messenger of Allah! You observed funeral prayer on her and she had fornicated? The Prophet (saw) said: "She had indeed repented a repentance of which when divided among seventy dwellers of Madinah, would surely be sufficient, she is the best of those that sacrificed their lives for Allah"⁴³

The whole above mentioned are very crucial issues relating to *Zinā* discussed in the *Fiqh* books of Muslim jurists other than not covered by Al- Qurṭubī in his *Tafsīr*. As remarked earlier on, the non inclusion of the issues in the *Tafsīr* of Al-Al- Qurṭubī is understandable considering the fact that the work is a *Tafsīr* and not purely a *Fiqh* work.

First to be considered on legal matters relating to *Qatl* is the divergent views of jurists on the definition of intentional killing. Al- Qurṭubī quotes Attāu, An- Nakhā'iyyu and others to have maintained that intentional killing is to kill someone straight away with the aid of a sharp iron such as sword, knife, pointed arrow, gun and the likes. While at

the other hand, he quotes Firqāh and the majority scholars to have said that deliberate murder is to kill with iron weapons or stone or any other form of taking one's life.⁴⁴

Another divergent issue on *Qatl* according to Al- Qurṭubī is what is tagged as resembling intentional killing (*Shibḥu Qatlul- 'Amd*), which is not mentioned in the Qur'ān; nevertheless the mentioned ones are intentional and killing by mistake. To Mālik and Ibn Mundhir, those killings that are referred to as resembling intentional killing are often regarded as intentional; such as biting, slapping one to death, exchanging blows, beating with cane etc, and all attract capital punishment. However, to majority jurists with reference to some companions of the Prophet and their followers, they maintained that those aforementioned bear a resemblance to intention killing that attract intensive *Diyyah*. Al- Qurṭubī therefore adjudicates with the second view.⁴⁵

Al- Qurṭubī also makes reference to the divergent opinions expressed by scholars on the distribution of compensation paid to the deceased family i.e. *Diyyah*, on the killing that resembles an intentional killing which was stated in the prophetic tradition to be 100 camels. There are five different views on this as given in chapter four of this work. There is however a consensus among jurists that killing by mistake necessitates expiation (*Kaffārah*) on the doer but they differ in the case of intentional killing. To Mālik and Shāfi', *Kaffārah* is obligated on the perpetrator, because if *Kaffārah* could be made compulsory for someone that killed by mistake, then, it is more pertinent in the case of intentional killing. Other scholars maintain that a deliberate murderer becomes obligated to pay *Kaffārah* only when he is forgiven from retaliation of being killed, but when he is killed in retaliation, no expiation should be taken from his

property. Al- Qurṭubī, however, noted that there are other views that say that it is compulsory on him to do *Kaffārah*. The argument of Ath-Thaori and the rationalists that *Kaffārah* is not mandatory except in areas where Allah (SWT) mandates it is also cited by Al- Qurṭubī who himself along with Ibn Mundhir are of the view that *Kaffārah* in Islam is an aspect of worship devoid of assumption. Therefore, it does not augur well for an individual jurist to subscribe to what the Qur'ān, *Hadīth* and consensus of *Ṣaḥābah* had not consented to. To them, those who mandated *Kaffārah* on deliberate killing have no proof or basis.⁴⁶

Another area of divergence among jurists made reference to by Al- Qurṭubī is the *Kaffārah* of a group of people that killed by mistake. While a set of scholars maintain that *Kaffārah* is due on each and every one of them, some others are of the view that a single *Kaffārah* is bound on them altogether. On this basis therefore, Az-Zuhari laid down two options for them: They can either free one slave altogether or each one of them fasts for sixty consecutive days.⁴⁷

Al- Qurṭubī also imports the various opinions expressed by scholars on whether or not there is forgiveness for a Murderer that killed intentionally. The view of the Mutazilites in this regard that there is no forgiveness is cited. A contrary view expressed by the like of Abdullah bin Umar, from what he narrated from Zaid bin Thābit and Ibn Abbās respectively that there is forgiveness; this is equally cited by Al- Qurṭubī.⁴⁸

The first area where Al- Qurṭubī cites divergent opinions of scholars on the verses on *Khamr* is whether or not any non-grape alcoholic substance which when taken in

large quantity intoxicates is forbidden, likewise the consumption of small quantity of such same substance. While Abu Ḥanīfah and a group among Kūfa jurists and others are of the view that a small quantity of such substance is allowed and not punishable, Al- Qurṭubī submits that this opinion is weak and therefore disapproved it.⁴⁹

Another area of divergence cited has to do with the import of verse 219 of *Sūratu'l-Baqarah* on whether it is the sins inherent in *Khamr* that are forbidden or *Khamr* itself. Al- Qurṭubī also observes the divergent views of scholars on the second verse on *Khamr* which is; “O you who believe: Approach not *Aṣ-Ṣalāt* when you are dunked.” The majority of scholars and a group from among the jurists were of the view that the intended meaning of the word: *Sukkāra* is the intoxication from alcoholic drinks. Contrary to this is the Aḍ- Ḍihāk’s view that says the intended meaning of the word is “*Sukranu’n- Naom*” i.e sleeping intoxication. In the same vein, Al- Qurṭubī, in his *Tafsīr*, reports the divergent views expressed by jurists on divorce from a drunkard who had lost his memory. While many scholars maintain that divorce from a drunkard is unacceptable, some few others permit it. Closely related is view of scholars on renouncement of faith by a drunkard. While Abu Ḥanīfah states that his renouncement will not be taken seriously and admitted, Shāfi‘ and Abu Yusuf both opine that his reversion will be admitted only that he will not be killed while still in his drunken state. The view of Ibn Shas on the issue is equally given by Al- Qurṭubī.⁵⁰

On the word *Ṣalat* mentioned in the verse, Al- Qurṭubī remarked that while some scholars are of the opinion that it refers to the five daily prayers, some other maintain

that it is a reference to places of *Ṣalat* yet another group goes with the two interpretations.

On the Qur'ānic verses dealing with defamation of character treated by Al- Qurṭubī in his *Tafsīr*, many divergent views expressed by scholars are cited starting with the cause of revelation. While there is a submission that the verse was revealed as a result of slander directed against A'ishah (RA), another submission is that it was revealed as a result of general defamation and libel that was becoming the order of the day in the then Arabian society.⁵¹

Among the divergent views of scholars discussed by Al- Qurṭubī is the area of direct and indirect statement of defamation. The entire scholars consensually agreed that if the statement is a direct thrusting, it is defamation that must be punished but they expressed different views if it comes in an indirect way such that it afflicts injury on the slandered. While some like Imam Mālik take it as defamation and prescribe the capital punishment, some others like Shāfi' and Abu Ḥanīfah maintained that such indirect statement should not be taken as defamation unless the slanderer confirms that he aimed to injure the slandered with his statement.

Al- Qurṭubī as well imports the divergent views expressed by Muslim jurists concerning defamation of a Christian or Jew. According to Al- Qurṭubī, three different views are expressed by scholars on this. He, however, goes with the majority views that there should be no capital punishment for a Muslim who defames any among the *Ahlul kitab* (people of the book). He also added that when an *Ahlul kitāb* defames a Muslim, he/she should be punished with 80 strokes of cane.

Other issues of defamation where scholars expressed divergent views according to Al-Qurṭubī include slandering of a free man by a slave; slandering of minor girl capable of admitting copulation and of minor people generally; and slandering one of the Prophet's wives. There are also divergent views on whose right is the capital punishment of *Qadhf*. Is it Allah's right or that of man or is it the element of being for the two?

It should be mentioned that just as Al-Qurṭubī makes references to where scholars expressed divergent opinions on issues relating to defamation of character, he equally states areas of unanimity as could be seen in Chapter Four of this work.⁵²

Apparently, Al-Qurṭubī in his legal exposition on verses of *Qadhf* has, to a commendable extent, addressed many important issues, that notwithstanding, there are still some legal issues relating to defamation of character not covered or covered but not adequately treated by Al-Qurṭubī. For instance, Al-Qurṭubī adjudges that there are only two stipulated conditions attached to the slanderer which are: sanity and maturity. However, there are two other conditions mentioned by *Fiqh* scholars in their works not mentioned by Al-Qurṭubī. These are Islam of the slandered and freedom of his selection or not acting under coercion.

Another issue is dropping of prescribed punishment of *Qadhf*. *Fiqh* scholars have discussed in their works certain conditions that could necessitate dropping of prescribed punishment of defamation. Al-Qurṭubī's *Tafsīr*, however, does not cover this. The followings are the conditions under which the punishment could be dropped:

- a. when the alleged defamer produces four witnesses in his support who meet the stipulated conditions of a witness, and
- b. self confession of the slandered one.⁵³

Another issue not discussed by Al- Qurṭubī is defamation of son by his parent. On this, Muslim jurists have expressed divergent opinions. Both Imam Mālik and Ḥanbali agree that the parent should be punished as prescribed by the Qur’ān (Q.24:4), which makes no distinction between this form of defamation and others.

On the contrary, Imam Shāfi‘ and Abu Ḥanīfah object to this opinion because in their own schools, among the conditions they set forth for the slanderer is that he should not be a parent for the slandered. In their submission, the parent will only be reprimanded for the damage caused to the integrity of his son.⁵⁴

Another issue is repetition of *Qadhf* punishment for the same personality. The view of scholars is that when an individual repeatedly defames a particular individual, the habitual defamer should be given only one prescribed punishment of defamation. Also not covered in Al- Qurṭubī’s *Tafsīr* is defamation of a group of people by an individual. Regarding this, Abu Ḥanīfah and Mālik maintain that only one punishment is bound on him. Imam Shāfi‘ and others, however, argue that that defamer deserves the prescribed punishment of *Qadhf* for each of those he had defamed. Some other group of scholars has submitted that the punishment to be given to him will depend on the manner of his defamatory comment. When he says to them altogether: “O you adulterers” he will receive only one capital punishment but if, for instance, he says to

each of them: “O you fornicator” or “you are an adulterer”, he will be given capital punishment for each member of the group he accuses of *Zinā*.⁵⁵

As discernible in chapter four, Al- Qurṭubī, while treating Qur’ānic verses on theft (*Sarqah*) in his *Tafsīr* points out areas of divergence among scholars in their legal rulings. On the amount/ quantity of any stolen item before its perpetrator’s hand could be cut, Al- Qurṭubī cites the opinion of Imam Malik which is quite different from that Abu Ḥanīfah and Ath-Thawri and that of Anas bin Mālīk. He equally cites the report used as basis by the jurists in arriving at their conclusion, the amount given ranges from one to ten *Dirhams*. He also cites a view that hands are cut in any stolen good that worth any amount, as there is no any stipulated amount in the verse.⁵⁶

Al- Qurṭubī also makes reference to the divergent views expressed by jurists on theft perpetrated by many people. While a group maintains that the hands of all the thieves should be cut, another group raises objection and submits that all their hands are not cut except if the share of each one of them of the stolen item is up to *Niṣāb*. The discussion also extends to a situation where two people collaborate to break into where the stolen good is kept, but only one of them succeeded in bringing out the good. On this, Imam Shāfi‘ differs with Abu Ḥanīfah. The divergent opinions expressed on similar other related theft are cited by Al- Qurṭubī such as a case of one of them breaking into where the stolen good is kept, brought it to the gate while the second one took it out through the gate and subsequently went away with it.⁵⁷

The differences in the legal ruling given on a thief who steals items kept in graveyards and mosques also caught the attention of Al- Qurṭubī. While some opine that the

prescribed punishment for theft should be carried out on the thief, few others rule to the contrary. The difference of opinion arises from the issue of the security of the two places.

The issue of imposing both fine (*Gurm*) and cutting of hand (*Qat'*) on a thief whose stolen item worth *Niṣāb* is another one over which scholars have expressed divergent opinions. While some argue that the Qur'ān only speaks of hand cutting and does not mention anything like imposing fine, some others see speak in its favour in addition to hand cutting. Al- Qurtūbī is inclined to the second view arguing that cutting of hand is a divine responsibility while fine belongs to man.

In a case whereby a secondary thief steals from the original thief, jurists (i.e. *Fuqahā'*) have expressed divergent opinions. While a group submits that the hand of the first thief should be cut, other group submits that it is the second thief's hand that should be amputated. There are also divergent opinions on stolen good that its ownership is permissible by Islamic law (*Shari'ah*) but its transaction is impermissible such as trained dog and flesh meat of sacrificial animal (*Uḍḥiyyah*) whose cost is up to *Niṣāb* .

Some other related theft issues about which scholars expressed diverse opinions as contained in Al- Qurtūbī's *Tafsīr* include legal ruling on a thief who steals a copy of the Qur'ān; stealing perpetrated on journey or on the battle field; portion of the hand to be amputated; legal ruling on a thief who steals the fifth time; mistake made by the amputator, when he mistakenly cut the left hand instead of the right; a thief who committed murder before stealing etc. The various opinions expressed by Muslim

jurists on all these issues are given by Al- Qurṭubī in his *Tafsīr* and in some instances, he expresses his preference.⁵⁸

It should, however, be mentioned that where there is unanimous agreement among scholars on the legal ruling on an issue, Al- Qurṭubī will successfully mention that there is unanimous agreement of scholars. A clear example is the case of a parent stealing a *Niṣāb* from his son's property. Scholars agree collectively that the parent's hand will not be cut and this is clearly stated by Al- Qurṭubī in his *Tafsīr*.

Legal interpretations observed by Al- Qurṭubī in his exposition on verses of fraud include the issue of *Al-Mutaffif* which is someone that deliberately reduces measure and such an individual will subsequently be made to bear its burden in the hereafter. He made reference to reduction (*Tatfīf*) that it could be in measure and weight, as it could also be in ablution, prayer (*Ṣalah*), and even in transmission of *Ḥadīth*. In addition to that, he has also examined *Al-Mutaffif* to mean someone who belittles or reduces the rights of others in measure and weight; as this is tantamount to stealing through measure and weight.⁵⁹

5.7 Conclusion

Conclusively, the previous discussions are analyses of Al- Qurṭubī's expositions on the Qur'ānic verses dealing with the selected social vices that are widespread and out of control in Nigeria. It becomes obviously clear that Al- Qurṭubī's *Tafsīr* could be rightly described as a legal *Tafsīr*. Legal issues and rulings on these vices, based on the various opinions of Muslim jurists, are supplied. It is also observed that, in order to explain the verses of the Qur'ān to the understanding of the readers, Al- Qurṭubī

shows his expertise in the use of *Tafsīru'l- Qur'ān bi'l- Qur'ān* (i.e. interpreting the Qur'ān with the Qur'ān), *Tafsīru'l- Qur'ān bi'l- Ḥadīth* (i.e. interpreting the Qur'ān with the use of *Ḥadīth*), as well as *Tafsīru'l- Qur'ān bi Aqwāl Ṣaḥābah wa- Tāb'īn* (i.e. interpreting the Qur'ān using statements of the companions of the Prophet and their followers respectively), and also using poetry and legal interpretations of Muslim jurists.

Endnotes on Chapter Five

- 1 The Noble Qur'ān *English Translation of the Meanings and Commentary*, (Al-Madinah Al-Munawarah: King Fahd Holy Qur'ān printing complex, 1411 A.H).
- 2 *Supra*: ch.4, P. 115- 117
- 3 The Noble Qur'ān *English Translation of the Meanings and Commentary*
- 4 *Supra*: ch.4, 132 - 133
- 5 The Noble Qur'ān *English Translation of the Meanings and Commentary*
- 6 *Ibid*
- 7 *Supra*: ch.4, 165 – 167.
- 8 *Supra*: ch.4, 176 – 177.
- 9 *Supra*: ch.4, 184 – 185.
- 10 *Supra*: ch.4, 128 – 131.
- 11 *Supra*: ch.4, 146 – 148.
- 12 *Supra*: ch.4, 165- 166.
- 13 *Supra*: ch.4, 173- 175.
- 14 *Supra*: ch.4, 177.
- 15 *Supra*: ch.4, 185- 186.
- 16 *Supra*: ch.4, 186- 190.
- 17 *Pivotal Teacher Training Programme [PTTP]*, Course Book on Islamic Studies, Module 10: Introduction to and Textual Study of Hadith, (Kaduna: National Teachers' Institute, 2000).
- 18 *Supra*: ch.4, 118- 119.
- 19 *Supra*: ch.4, 132- 134.
- 20 *Supra*: ch.4, 159- 160.

- 21 *Supra*: ch.4, 173- 174.
- 22 *Supra*: ch.4, 180- 181.
- 23 *Supra*: ch.4, 184- 186.
- 24 *Supra*: ch.4, 115- 118.
- 25 *Supra*: ch.4, 173- 175.
- 26 *Supra*: ch.4, 187- 188.
- 27 *Supra*: ch.4, 112.
- 28 *Supra*: ch.4, 143.
- 29 *Supra*: ch.4, 143.
- 30 *Supra*: ch.4, 163.
- 31 *Supra*: ch.4, 165.
- 32 *Supra*: ch.4, 160- 162.
- 33 *Supra*: ch.4, 117- 118.
- 34 *Supra*: ch.4, 119- 120.
- 35 *Supra*: ch.4, 119.
- 36 M.B.Ismail, *Al- Fiqh Al- Wadih*, (Qahirah, Egypt: Dārul- Mannar, 1997/
1418), 192.
- 37 *Ibid*
- 38 *Ibid*
- 39 *Ibid*, 193.
- 40 *Ibid*, 206- 211.
- 41 *Ibid* 212.
- 42 *Ibid*, 332.
- 43 *Ibid*, 203.
- 44 *Supra*: ch.4, 127- 128.

- 45 *Supra*: ch.4, 128- 130.
- 46 *Supra*: ch.4, 129- 132.
- 47 *Supra*: ch.4, 131- 132.
- 48 *Supra*: ch.4, 132- 133.
- 49 *Supra*: ch.4, 139.
- 50 *Supra*: ch.4, 140- 141.
- 51 *Supra*: ch.4, 163.
- 52 *Supra*: ch.4.
- 53 M.B. Ismail, *Al-Fiqh Al-Wāḍiḥ*, 161.
- 54 *Ibid*
- 55 *Ibid*
- 56 *Supra*: ch.4, 173- 174.
- 57 *Supra*: ch.4, 175- 176.
- 58 *Supra*: ch.4, 180- 181.
- 59 *Supra*: ch.4, 185- 186.

CHAPTER SIX

CONCLUSION

6.0 Preamble

This is the concluding chapter of this study. It summarizes the whole discourse, states the findings of the study, gives recommendations, suggests areas for further research and finally provides a conclusion to the entire work. At the end of the chapter, there is a comprehensive bibliography of the works consulted in the study.

6.1 Summary of the Study

This work is a study of Al- Qurṭubī's exposition and remedies to the selected social vices that are prevalent in Nigeria. Al- Qurṭubī's work titled *Al-Jāmi' u li- Aḥkāmi'l- Qur'ān* is generally considered a legal *Tafsīr*. Shaykh Abu- Abdullah Muhammad Al- Qurṭubī is regarded to be a doyen, a religious scholar and a Qur'ānic expositor per-excellence, whose major aim in his work on *Tafsīr* is to project Allah's message (i.e. Qur'ān) in the manner that will be clear in meaning and well understood to the entire Muslim populace at all ages. His *Tafsīr* work is considered as *Tafsīr bil- Ma'thūr* i.e. *Tafsīr* based on authentic transmitted sources or in another word; *Tafsīrul- Qur'ān* by the Qur'ān itself, *Ḥadīth* of the prophet (SAW), statements of the companions and that of their followers after them respectively. Additionally, he adopts clear expression, fascinating approach to issues and concise explanations devoid of exaggeration and prolixity. More so, he espouses opinions of the four Imams and other Jurists while he also uses Arabic poems for better comprehension of the Divine messages.

We reiterated in this work that *Tafsīr* is one of the sciences of the Glorious Qur’ān which entails the explanation and clear interpretations of the divine messages revealed to Prophet Muhammad (SAW). And that the divine legal role bound on the Prophet, according to the Qur’ān itself was to preserve, convey and deliver it to people, explain its injunctions and illustrate its legal rulings to the entire mankind and *jinn* (Q.16:44). We also stated that the first recipients of these divine messages i.e. the *Ṣaḥābah* in this regard, were very much devoted, steadfast and committed to the company of the prophet at the expense of their worldly affairs, just to see and hear the first hand information directly from him. They used to pose questions to the Prophet, relating to the meanings, interpretations, as well as the legal injunctions (*Aḥkām*) contained in verses that seem unclear to them. The prophet in turn, provided clarity and shed light on such verses, which were individually documented by some of the companions.¹

It is stated in this work that after the demise of the Prophet (SAW), some of the companions migrated to various Islamic territories as teachers and scholars, aiming at propagating the new religion and disseminating its messages to the whole world at large, subsequent to these relentless efforts of the companions, three substantive schools of *Tafsīr* emerged, which included Makkan, Madinan and Iraqī schools, founded by Abdullah bin Abbās, Ubayy bin Kaʿb and Abdullah bin Masʿūd respectively.²

Factually, quite a number of literature exist on these subjects, but to gain some insight into what scholars – both classical and modern – have written on them, literature review is carried out in the first chapter of this study. Published materials in the form of books and articles, written in Arabic and English, by Muslim and non-Muslim

authors are appraised. This, with the clearly stated objectives, significance, scope and methodology, all serving as introduction constitute the content of the first chapter of this work.

The characteristic features of Al- Qurṭubī's *Al- Jāmi' u li Ahkām 'l- Qur'ān* are well depicted in the second chapter of this work with a brief biography of the author in the company of emphasis on his modesty right from childhood, his enthusiasm and passion for knowledge, his teachers and students as well, his adherence to sunnism along with peoples' remarks about him, and finally his devotion to the worship of Allah. Imam Al- Qurṭubī was very vast in Arabic language. He was a jurist, versatile in methods of Qur'ānic recitation (*Ilmu 'l- Qirā'ah*), Rhetorics (*Balāghah*), Qur'ānic sciences (*'Ulūmu 'l- Qur'ān*), Arabic poetry (*Shi'r*) and host of others. His work on *Tafsīr: Al- Jāmi' u li Ahkām 'l- Qur'ān* often referred to as *Tafsīr Al- Qurṭubī*, is one of the excellent, well known classical works of Qur'ān exegesis, written in Arabic language in twenty (20) volumes. The book is considered as a compendium of legal rulings in the Qur'ān, with a unique traditional expositional method known as *At- Tafsīr bi' l- Ma' thūr*.³ On this basis therefore, the author's concept of using *Asbābu 'n- Nuzūl* (i.e causes or circumstances surrounding revelation of a verse or verses), *Tafsīru 'l- Qur'ān bi' l- Qur'ān*, the use of *Aḥadith*, statements of the *Ṣaḥābah* and their followers after them, use of poetry and his legal expositions are espoused in this chapter.

We noted that Nigeria as a nation and one of those states in the world that had social vices of various types flourishing at alarming rate in all her nooks and crannies. The situation, as depicted in chapter three of this study, indicated that vices such as illegal

sexual relationship, defamation of character for selfish ends, drug abuse, destruction of lives and properties, theft and fraud were rampant. These devilish acts were found saturated among Nigerians; both the leaders and the leads, political office holders, civil servants, private owners of business ventures, market men and women, teacher-student relationship in school, police and military officers, even religious clerics are all involved. Social vices generally are detrimental to any society's growth and development. For this reason, chapter three of this work therefore examined the provision of both the penal and criminal codes of Nigerian laws as applicable to these social vices, which are found to be punishable.

Having examined some of the social vices prevalent in Nigerian society according to views of various scholars, we looked at the Qur'ān verses dealing with them from Al-Qurṭubī's exposition, and this formed the focus of chapter four of this work. There are numerous Qur'ān verses having bearing with *Zinā*, but the fact that *Zinā* is among the social vices that attract capital punishment according to Islamic law, Q.24:2 was observed with particular exposition in which Al- Qurṭubī discussed in minute details a number of rulings that are closely related to this verse. Furthermore, Q.4:93 was examined as Qur'ān verse that has bearing with killing of innocent person (i.e. *Qatl*) from Al- Qurṭubī's exposition. Murder in Islam is a heinous crime that attracts capital punishment. Killing, according to Qur'ān, is of two types: intentional and killing by mistake. Jurists have added the third group which is killing that resemble or close to intentional killing, and that is when someone thrashes, whips or slaps one to death or exchange of blows that suddenly results to death, this is accorded recognition in Islam, though, the capital punishment of intentional killing is averted, yet a prescribed

amount of money known as *Diyyah* is to be paid to the deceased's family.⁴ All these and the divergent views of scholars are discussed in the chapter.

Among the verses of Qur'ān observed to have addressed drug addiction or alcoholism are Q.2:219, Q.4:43 and Q.5:90-91 respectively, these were revealed to the Prophet (saw) in sequential orders. It was noted that the abolishment of alcoholism in Islam was a gradual process. That was because, the Arabs before Islam or the early Muslims in particular were addicted to drinking which they found difficult to abandon at once. The above verses were revealed chronologically to the prophet. On the issue of defamation of character, Q.24:4-5 was examined from Al- Qurṭubī's exposition. Among the salient issues raised by Al- Qurṭubī, as examined, include; the cause of revelation of the verse, juristic views on direct and indirect statements of defamation, the concerned personality of thrusting and slandering, conditions set forth by jurists to establish defamation, is the prescribed punishment of defamation bound on the people of the books (i.e. Jews and Christians) or not, the prescribed penalty on the slave when he slanders a free-born and vice versa plus others. According to the Qur'ān, the prescribed punishment for slander is 80 lashes of cane while the religious testimony of a slanderer becomes deplorable coupled with Allah's chastisement in the life beyond.

The study also revealed that theft is identified in human society as a criminal act that Islam frowns against. It is the crime of stealing something in cash or kind from somebody or where it is kept. The Qur'ān: Chapter 5 verse 38 imposes a capital punishment on anyone guilty of theft purposely to stop the jungle justices being embarked upon by people in those days and even at the present time as could be seen

in the Nigerian society. It was noted that among the issues raised by Al- Qurṭubī in his exposition on the verse of theft include: conditions attached to stolen item and the thief himself before his hand could be amputated, proper preservation of the stolen item, collective stealing, divergent views of scholars on imposition of fine (*gurm*) in addition to hand cutting etc.

Notably among the social vices habitual to the Nigerian milieu is fraud. This is the crime of misleading and being dishonest with people in order to attain financial benefit, it takes different forms, which range from duping in business transaction, buying and selling, fraudster on the internet, looting public fund, public deceit on the social media for medicinal, etc. Al- Qurṭubī's expositions on the first three verses of *Sūratu'l- Mutaḥḥifīn* (Q.83:1-3) were examined, where he observes three divergent opinions on its place of revelation (i.e. *Makkan* or *Madinan Sūrah*). He made no reference to another verse of the Qur'ān while interpreting the verses, but rather narrates *Aḥadith*, statements of the *Ṣaḥābah* and their followers in his exposition to the verses. He also brings forth legal interpretations with linguistic analyses contained in the rendition of the verses of fraud. The above form the content of Chapter Four of this study.

Chapter five is analyses of Al- Qurṭubī's exposition on the selected social vices discussed in Chapter four, covering his use of Qur'ān verses, *Ḥadīth* of the Prophet (saw), statements of the *Ṣaḥābah* and their followers, his legal interpretations and the use of poems in interpreting Qur'ān verses related to the selected social vices. This chapter at the same time shows areas of strength and weaknesses of Al- Qurṭubī's work.

Finally, chapter six consists of the conclusion. The summary of the work and analyses of its findings are given in this Chapter. Suggestions, recommendations and areas for further research are also part of the content of this concluding chapter.

6.2 Findings of the Study

This study has revealed that illegal sexual intercourse, drug addiction, murder, vilification of personality, theft and fraud are among the social vices that are prevalent in Nigeria. The various expositions given in chapter three of this work, however, revealed that the six social vices are, in the eyes of the Nigerian Constitution, seen as not just social vices but as criminal acts. That is why certain penalties are awarded for the commission of any of them to serve as punishment for whoever is found guilty and as deterrent for others not to commit them.

The study has also revealed that just as the Nigerian Constitution sees the social vices treated in this work as criminal acts, the Qur'ān equally sees them as such. Also, just as the Nigerian Constitution lays down certain punishments for whoever is found guilty, the Qur'ān as well lays down certain punishments for culprits. The difference however in both is in the type of punishment and the motive. While in the case of the Nigerian constitution, the punishments are retributive, they are in the *Shari'ah* not only retributive but also of deterrent and reformative value. They are also meant to restore the confidence of the victim in the ability of the state to defend and protect his rights.⁵

The study has, however, equally revealed that the penalties given in the Nigerian Constitution for these vices only serve the purpose of punishment and not that of deterrence; and that the existing laws in the Nigeria Constitutions may not be adequate enough to curb or alleviate curtail these social vices. That is the reason the vices are still rampant in the Nigerian society with reports of their commission flooding the pages of Newspapers on daily basis.

One other major finding revealed by this study is the comprehensive nature of the Islamic legal provisions. The discussions in Chapter Four where the various expositions given by Al- Qurṭubī on the Qur'ānic verses dealing with social vices are treated shows that there is hardly any legal issue not adequately and comprehensively dealt with in the (*Shari'ah*). The discussion in Chapter Four has further shown the painstaking manner with which Muslim jurists treat all issues to their minute details.

Finally, the study has revealed that Al- Qurṭubī's claim that his *Tafsīr* work is indeed a piece of legal based as depicted in its title *Al Jāmi' u li Ahkāmī 'l- Qurān* is a genuine claim. This is evident in the way and manner he treated the social vices as legal matters, quoting copiously from the famous Schools of Islamic Jurisprudence and other notable Muslim jurists.

6.3 Recommendations and Suggestions

Based on the findings of this study that the identified social vices are still very rampant in the Nigerian society despite their being designated as criminal acts punishable under the constitution. This study wishes to recommend that the Nigerian Government should put in place various mechanisms that will help in reducing the

social vices to the barest minimum. The laws should be amended to award stiffer punishments for whoever is found guilty of committing the crimes. Also, there should be no selective judgment where the less privileged found guilty are punished while powerful and politically exposed persons found guilty are spared. It should be noted that part of the reasons crimes do not thrive in countries where the *Shari'ah* is operative is because of the stiff nature of the *Shari'ah* punishments on the one hand, and because the *Shari'ah* does not give room for selective judgment on the other.

It is equally recommended that the law enforcement agents to whom cases are first reported should be professional in the discharge of their duties. Likewise, the judiciary which is considered the last hope of the common people should ensure fairness in their dispensation of justice when cases involving any of the treated social vices are brought to the law courts for adjudication. It should be noted that the reason Nigerians often times result to adoption of jungle justice is because they have lost total confidence in the judiciary and law enforcement agents.

As most original works on *Tafsīr* that contain wide expositions of the Qur'ānic messages are written in the Arabic language with few being translated into English such as *Fi zilāli 'l- Qur'ān* of Sayyid Qutb and *Tafsīr* of Ibn Kathīr, it is recommended that Al- Qurṭubī's *Tafsīr* and other major ones should also be rendered into English and other major world languages in order to gratify the intellectual curiosity of Muslims and non- Muslims alike who are not versed in Arabic language. A ground understanding of such Qur'ānic verses with knowledge of *Tafsīr* will actually rescue them from intellectual darkness, vacuum and backwardness.

In the Nigerian Universities, a post graduate course in Islamic Studies is titled “Legal Bearing Verses and *Ḥadith*”. It is recommended that Al- Qurṭubī’s *Tafsīr* should be adopted as a major reference work for this course.

6.4 Areas for Further Research

Ash-Shaykh Muhammad Ibn Ahmad Al- Qurṭubī's contribution to Qur’ānic exegesis tagged: *Al-Jāmi’ li- Aḥakāmi’l-* Qur’ān is no doubt one of the early classical works on *Tafsīr*, whose contents are basically on transmitted sources. It is highly voluminous, rich and loaded with various branches of knowledge that are unavoidably beneficial to mankind in general and Muslims in particular at all ages. Its scope encapsulates Arabic grammar, phonology\recitation modes, jurisprudential\legal justification, literal and technical commentaries, interpretation through the use of Qur’ānic verses, prophetic tradition, statements of the companions, their followers, wise reports of pious sages and the use of poems.

Since this study cannot in anyway claim to be exhaustive, further research could be carried out on the *Tafsīr* with emphasis on its legal\jurisprudential theme. Such endeavour will examine how Al- Qurṭubī in his *Tafsīr* deals with Qur’ānic verses that have legal implication. It is an established fact that Al- Qurṭubī demonstrates his profound knowledge of jurisprudence, to the extent that he persuades ideas and manipulates opinions of the four orthodox Sunni schools of thought, and that is why his *Tafsīr* work is saturated with legal materials. If further research could be carry out on this subject matter, apart from contributing to knowledge, it will certainly go a long way in enlightening Muslims generally on their religious legal affairs.

In the same vein, further research could be done on the Moral theme in Al- Qurṭubī's *Tafsīr*. Research efforts could be directed at studying how Al- Qurṭubī explores verses of the Qur'ān that deal with moral values. This will showcase the ethical value of the Qur'ān to the entire world and equally help to a large extent in rebranding the society. Being an Arab man, Al- Qurṭubī displays his vast knowledge of Arabic grammar, as he gives various meanings (both literal and technical) to Qur'ānic words and phrases. The linguistic theme in Al- Qurṭubī's *Tafsīr* is another area that researchers could explore for further study.

Further researches could also be carried out on the submissions of Al- Qurṭubī on the verses of the Qur'ān that have both scientific and philosophical connotations. These are new brand advanced areas of dynamic studies in the world. These will showcase the everlasting durability and consistency of the Glorious Qur'ān to all times and every age.

Furthermore, any of the above suggested areas could be researched into using any other *Tafsīr* work. Equally, a comparative research study could be carried out between Al- Qurṭubī's work and any other *Tafsīr* work on any of the identified themes.

6.5 Relevance of the Study to the Nigerian Milieu

It is note worthy that the relevance of this study fixes in the Nigerian context. The Qur'ān expositions of social vices and their control as analysed in the Al- Qurṭubī 's exegesis are vital to sustainable social and moral developments in the contemporary Nigeria. The spectrums of the subject matters discussed by Al- Qurṭubī are fundamental to Nigeria's political and moral challenges. Thus, this is the confluence

between the findings of the study and Al- Qurṭubī's exegetical approach. Islam lays much emphasis on equality before the law. However, this is practically lacking in the Nigerian socio- political phenomenon. For instance, constitutional immunity is granted to incumbent president, governor, law maker, minister, or an ambassador by the Nigerian constitution. They are given right of non appearance in the court of law for litigation. The unbridled constitutional rights have promoted many vices in the society. Equilibrium distribution of the rule of law in terms of reward and punishment in the Al- Qurṭubī's context is relevant to the resuscitation of ideal Nigeria.

Al- Qurṭubī's submission is not oblivious of the relevance of the Qur'ān curative measures to the present nature of the Nigerian economy. The country operates capitalist economy, where bourgeoisie and proletariats feature at contrast level. The bourgeoisies are the law makers, well- fed, robust, and protected whether right or wrong. On the other hand, the proletariats which constitute the highest population of the citizenry are the subjects of law to be punished, dominated and policed.

Therefore, in a multi-religious state like Nigeria, the divine Islamic law (*Shari'ah*), stipulated in both the Qur'ān and *Ḥadīth* of the Prophet (SAW), could be adopted by the government and made bound upon all Muslims as their national constitution, the same thing could be done to other religionists, this will along way, facilitate in curbing the menace of social misbehaviours in our society.

6.6 Conclusion

There is no doubt that Nigeria is plagued with myriads of social and moral challenges most of which are also criminal acts as they are social and moral vices. The Qur'ān is

a book of guidance and a manual of codes of conduct. This study has been able to bring to limelight these sublime qualities of the Qur'ān via the expositions given by Al- Qurṭubī in his *Tafsīr*. This work has selected for study six of the rampant social vices in Nigeria looking at the legal expositions of Al- Qurṭubī on them.

The book *Al-Jāmi' u li- Aḥkāmī'l- Qur'ān* of Shaykh Al- Qurṭubī is globally acknowledged by the contemporary scholars as a legal *Tafsīr*. The work, in almost refreshing manner, gives in-depth expositions on the whole Qur'ān including verses dealing with the six social vices treated in this study. The study has, in a way, offered panacea and remedies in curbing the social vices to the barest minimum if not completely eradicated.

Endnotes on Chapter Six

- 1 M.H Adh-Dhahabi: *At-Taḥṣīn Walimufassirūn* (Egypt: Dāru kutubī'l- Ḥadīth, 1961 reprinted in 2003CE/ 1424AH), Vol. I, 35.
- 2 *Ibid*, 77.
- 3 Muhammad.A. Al- Qurṭubī, *Al-Jami' u li Aḥakami'l- Qur'ān*, (Egypt: Dāru'l- Kitabi'l- Arabi, 1387AH/ 1967AD), Introductory page.
- 4 *Ibid*, 329-330.
- 5 S.L jimoh: "Shari'ah and the Rights of a *Mujrim* to Reformation and Rehabilitation: A case study of Zamfara State of Nigeria," *Journal of Muslim Minority Affairs* 31, no.1, (2011), 153- 166.

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