

Appraisal of the Implementation of the Penal Injunctions in *SŪRATU-N-NŪR* among the Muslims in Ilorin, Nigeria: *QADHF* AND *LIĀN*-As Study Cases

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Abstract: The Qur'ān is a compendium of divine laws and instructions desired to provide guidance to man, leading him to prosperity and salvation, in all his undertakings. It touches on all aspects of the human endeavours. Among several legal prescriptions contained in the Qur'ān, the present study is focused on the penal injunctions on *Qadhf* and *Li'ān* as reflected in *Sūratu-n-Nūr* with a view to assessing implementation of the injunctions among the Muslims in Ilorin, Nigeria. The paper seeks to determine the level of compliance with the Qur'anic provisions on the issues by the Muslim populace. Both *Qadhf* and *Li'ān* are two criminal acts, the menace of which the research found to be prevalent in Ilorin due to transgression, ignorance or vain desires in spite of the fact that it is a Muslim dominated city which is expected to hold tenaciously to the Islamic law provisions. The research method included interview, questionnaire, observation and literary appraisal. The paper recommends the need for acquisition of adequate knowledge of Islam by the Muslims, uncompromising attitude to the Islamic tenets, and concerted efforts by the Muslim populace for the full implementation of the *sharī'ah* in Ilorin to preserve its age-long religious sanctity.

Keywords: *Qadhf*; *Li'ān*; Appraisal; Implementation; Ilorin.

INTRODUCTION

The Qur'ān, being the primary source of Islamic law, is generally believed to be a compendium that provides guidance to a Muslim in all facets of life. Hence, the Qur'ān itself asserts thus: "verily, this Qur'ān guides to that which is most just and right ..." (Q. 17:9) and that "We have neglected nothing in the book" (Q.6:38).

These verses presume the Qur'ān to be all-inclusive guidance on all spiritual and mundane matters. Among other things, it contains laws and reward or punishments thereto. Of the number of chapters or verses of the Qur'ān that spell out the legal prescriptions, *Sūratu-n-Nūr* attracts attention in this research. The *sūrah* (i.e. chapter) on its own contains several legal injunctions covering penal, civil and religious matters. However, the discourse of this paper is on the legislations in respect of *Qadhf* and *Li'ān* as contained in the *sūrah* with particular focus on appraisal of the implementation of the injunctions among the Muslims in Ilorin.

Apparently, both *Qadhf* and *Li'ān* are two criminal acts that stemmed from the same source; that is, allegation of illicit sexual affairs. The two, advertently or inadvertently, are manifest social ills in the society. Therefore, the paper reflects on the Qur'anic injunctions on the menace of *Qadhf* and *Li'ān* as well as appraise the extent of their implementation in the society with a view to curbing them. The research methodology employs interview, observations and literary appraisal as instruments of data collection. The major findings indicate that the Islamic law contains effective injunctions to guarantee a peaceful co-existence in the human society, but there is preponderance of nonchalant attitude, ignorance and willful violation of the provisions of the divine law among many Muslims. The paper concludes with some recommendations bordering on the need for the Muslims to be well informed of Islam and embrace its teachings uncompromisingly; acquire adequate knowledge of Islam; and all the stakeholders should strive for the full implementation of the *Sharī'ah* in order to preserve the sanctity of Ilorin as a renowned Islamic city in Nigeria.

Conceptual Framework

Given the fact that both *Qadhf* and *Li'ān* are criminal acts in Islamic law that originate, one way or the other, from allegations of illicit sexual affairs, the paper considers them as two sides of the same coin and are therefore found related for study cases jointly. In the *Sharī'ah*, *Qadhf* is conceived as an act of unfounded sexual allegation by someone

against another [i]. It also means accusing someone of *Zinā* or testifying against him or her on the allegation of *Zinā* without establishing concrete proof on one hand or disowning someone's lineage on the other [ii]. Hence, the Māliki Jurists defined *Qadhf* as “an act of accusation of a free born, modest, matured, sane, able and energetic Muslim for *Zinā* by another matured Muslim or denying lineage of someone” [iii]. It is therefore deduced that *Qadhf* is a false allegation of *Zinā* against someone else. It also relates to denial or repudiation of somebody's paternity typified in alleging that: “A is not the son or daughter of B”. By implication, *Qadhf* further applies to defamation, blackmail and character assassination. On the other hand, *Li'ān*, in the Islamic law terminology, means testimonies affirmed with faith, in respect of unsubstantiated accusation of a wife by the husband coupled with curse on the side of the latter and wrath on the side of the former in order to avert *Qadhf* penalty on the husband or *Zinā* penalty on the wife respectively [iv]. Moreover, *Li'ān* is conceived by Al-Jazā'iriy as allegation of *Zinā* by a man against his wife or denial of her pregnancy and thereupon the case is filed before a judge. The judge then requests the husband to clarify himself by providing four witnesses who will witness against her. Failure to comply with this, the judge engages both of them to embark on testimonies [v]. Furthermore, Sābiq defines *Li'ān* as “allegation of illicit sexual affairs by a man against his wife, whereas the wife does not concede the allegation while the husband does not reverse it either” [vi] leading to self-curse. Thus, *Li'ān* is simply referred to as mutual imprecation.

Islam, being a universal religion, is strongly concerned with protection of man's image; hence, it condemns all forms of suspicion and defamation. Thus, *Qadhf* is objected by the Qur'ān and the *Sunnah* (the Prophetic practices). Similarly, *Li'ān* is instituted by Islam in order to protect the dignity of man, avoid mixture of clan, preserve the honour of Muslim community and avert penalty of *Qadhf* from the husband or penalty of *Zinā* from the wife. Notwithstanding the strong aversion of Islam to suspicion and defamation, these social ills are found to have permeated the human society regardless the religious inclination of its people as manifest among many Ilorin Muslims for example. It is worthy of note that Ilorin, the capital of Kwara State, Nigeria is a predominant Muslim city. Yet, findings in this study indicate transgression of the provisions of the Islamic injunctions in some ways by many Muslims as applicable, for instance, to acts of suspicion and defamation which are susceptible to charges of *Qadhf* and *Li'ān*.

Islamic Legal Injunctions on *Qadhf* and *Li'ān*

Principally, the Qur'ān addressed the issues related to *Qadhf* and *Li'ān* sparsely in various verses of *Sūratu-n-Nūr* (Q. 24). Islam is unequivocal on its aversion to unfounded allegations of illicit sexual affairs. Thus, Muslims are enjoined to abstain from embracing un-confirmed sexual related misconducts against one another because this could incite frivolous suspicion and consequent disorder in the Muslim community. The Qur'ān states thus:

ولولا إذ سمعتموه قلتم ما يكون لنا أن نتكلم بهذا سبحانك هذا بهتان عظيم

meaning “and why did you not, when you heard it (sexual accusation), say: ‘it is not right for us to speak of this’. Glory is to You (O Allah)! This is a great lie” (Q.24: 16). Moreover, Muslims are exhorted to debunk such illicit sexual allegations in the first instance and consider it as a rumor and great lie in order to protect human integrity till the truth is affirmed. The Qur'ān states thus:

ولولا إذ سمعتموه ظن المؤمنون والمؤمنات بأنفسهم خيرا وقالوا هذا إفك مبين.

meaning “Why then, did not the believers, men and women, when you heard it (the slander), think good of their own people and say: This (charge) is an obvious lie” (Q.24: 12).

In order to exercise restraint on wrong allegations, *Qadhf* perpetrators are cursed in both the present world and the hereafter as contained in the Qur'ān thus:

إن الذين يرمون المحصنات الغافلات المؤمنات لعنوا في الدنيا والآخرة ولهم عذاب عظيم.

meaning “Verily, those who accuse chaste women, who never even think of anything touching their chastity and are good believers - are cursed in this life and in the hereafter, and for them will be a great torment” (Q.24:23). Further still, *Qadhf* as an act of slander, backbiting, blackmailing and defamation is scowled at by Islam. This is depicted thus:

إن الذين جاءوا بالإفك عصبة منكم لا تحسبوه شرا لكم بل هو خير لكم لكل امرئ منهم ما اكتسب من الإثم والذي تولى كبره منهم له عذاب عظيم.

Verily, those who brought forth the slander are a group among you. Consider it not a bad thing for you. Nay, it is good for you. Unto every man among them will be paid that which he had earned of the sin, and as for him among them who had the greater share therein, his will be a great torment (Q.24:11).

In this verse, the word *ifk* connotes all forms of image tarnishing, and it is punishable under Islamic law. Invariably, perpetrators of false sexual allegations are considered liable before man and Allah (Q. 24:4).

Aside the fore-going, it is also narrated by Abū Hurayrah that the Prophet of Allah (peace be upon him) said:

Do away from seven destructive things. They (companions) said, O Messenger of Allah! What are they? The Prophet said: ascribing an associate with Allah, performing magic, assassination of innocent person, taking and eating interest, spending an orphan's property unjustly, fleeing from battle field while on *jihād* (struggle in cause of Allah) and accusing chaste believing women of involving in *Zinā* [vii].

It is worthy of observation that the injunctions against *Qadhif* uphold protection of the chaste women because the women folk are considered more vulnerable in this circumstance, it does not intend discrimination of same for men either.

Li'ān is made as an alternative way to affirm chastity of the wife in case of sexual allegation against her by the husband and his failure to buttress the claim with four witnesses. *Li'ān* is performed by both the allexer (i.e. the husband) and the alleged (i.e. the wife) as established in the Qur'^{ān} thus:

وَالَّذِينَ يَرْمُونَ أَزْوَاجَهُمْ وَلَمْ يَكُن لَّهُمْ شُهَدَاءُ إِلَّا أَنفُسُهُمْ فَشَهَادَةُ أَحَدِهِمْ أَرْبَعُ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الصَّادِقِينَ. وَالخامسة أن لعنت الله عليه إن كان من الكاذبين. ويدرو عنها العذاب أن تشهد أربع شهادات بالله إنه لمن الكاذبين. والخامسة أن غضب الله عليها إن كان من الصادقين.

And for those who accuse their wives, but have no witnesses except themselves, let the testimony of one of them be four testimonies (i.e. testifies four times) by Allah that he is one of those who speak the truth. And the fifth (testimony should be) the invoking of the curse of Allah on him if he be of those who tell a lie (against her). But it shall avert the punishment (of stoning to death) from her, if she bears witness four times by Allah, that he (her husband) is telling a lie. And the fifth (testimony) should be that the wrath of Allah be upon her if he (her husband) speaks the truth (Q.24:6-9).

Moreover, the authority for *Li'ān* is corroborated in the *sunnah*. For instance, Sahl bn Sa'd reported that a man from *Anṣār* (people of Madīnah; the helpers) came to the Messenger of Allah (SAW) and said:

O the Messenger of Allah, what do you see of a man that saw his wife with another man, should he kill him or not? No response was made by the Prophet till the verses of *Li'ān* were revealed to him. Then the Prophet said: "indeed, Allah had judged you and your wife" then Sahl said: both of them swore against each other [viii].

Thus, in Islam, *Li'ān* is permitted. It is done if there is a sexual allegation by a man against his wife and he failed to ascertain the accusation with four witnesses as well as denial of the wife against the allegation.

Judicial Administration of the Legal Injunctions on *Qadhif* and *Li'ān*

Considering the sensitivity of *Qadhif*, it ought to be established only on faultless grounds. Therefore, the law prescribes some conditions for ascertaining validity of the claims by both the *Qādhif* (one who made the allegation i.e. accuser or allexer) and the *Maqdhūf* (the accused or alleged person). The former should be sane, matured and willing i.e. must not make the claim under coercion or external influence [ix]. The *Maqdhūf*, on the other hand, should be a sane, matured, free-born and chaste Muslim [x]. In addition, the *Maqdhūf* must possess the physical organs necessary for the act of *Zinā*. In a situation whereby someone is accused of *Zinā* with reliable four witnesses but eventually it is discovered that the accused lacks the organ used to engage in such an action, the penalty would be averted from him or her while the *Qādhif* is held liable for making false allegation. Penalty of *Qadhif* in the glorious Qur'^{ān} is eighty lashes as stated thus:

وَالَّذِينَ يَرْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً وَلَا تَقْبَلُوا لَهُمْ شَهَادَةً أَبَدًا وَأُولَئِكَ هُمُ الْفَاسِقُونَ. إِلَّا الَّذِينَ تَابُوا مِنْ بَعْدِ ذَلِكَ وَأَصْلَحُوا فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ.

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 Merciful (Q24:4-5).

The *Qadhif* penalty is applied on the accused if he or she fails to corroborate his or her claim by providing four witnesses. He or she would be flogged with eighty stripes. It is also added that his future testimony should be rejected outrightly. On the other hand, if the allegation proved valid beyond all reasonable doubt, either by self-confession of the *Maqdhūf* or by four witnesses, the accused is penalized for committing *zinā* while the allexer is absolved.

Li'ān is performed by both the allexer (i.e. the husband) and the alleged (i.e. the wife). The law imposes some pre-requisites for the exercise of *Li'ān*. Firstly, *Li'ān* must be between matured and sane couple. Secondly, there must be a claim by the husband that he saw his wife engaging in *Zinā* by saying: "O you fornicator" or saying: "I saw you engaging in *Zinā*" or by denial of his wife's pregnancy by claiming thus: "there was no sexual contact between me and

her for months” [xi]. Thirdly, the wife must belie the accusation leveled against her by the husband and she remains on it till *Li‘ān* is exercised. *Li‘ān* is not administered if it is based on suspicion or assumption [xii]. The Qur’ān says: “O you who believe! Avoid much suspicion; indeed some suspicions are sins...” (Q49:12). Moreover, *Li‘ān* ought to be administered by a judge [xiii].

The manner of exercising *Li‘ān* is that the judge would ask the man to testify on his allegation against the wife repeatedly for four times while on the fifth time he invokes the divine curse upon himself if he had lied against her. The Qur’ān thus enjoins:

وَالَّذِينَ يَرْمُونَ أَزْوَاجَهُمْ وَلَمْ يَكُن لَّهُمْ شُهَدَاءُ إِلَّا أَنْفُسُهُمْ فَشَهَادَةُ أَحَدِهِمْ أَرْبَعُ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الصَّادِقِينَ وَالْخَامِسَةَ أَنَّ لَعْنَتَ اللَّهِ عَلَيْهِ إِنْ كَانَ مِنَ الْكَاذِبِينَ

And for those who accuse their wives, but have no witnesses except themselves, let the testimony of one of them be four testimonies (i.e. testifies four times) by Allah that he is one of those who speak the truth. And the fifth (testimony should be) the invoking of the curse of Allah on him if he be of those who tell a lie (against her) (Q. 24: 6 – 7).

In the same vein, the accused woman testifies four times by saying: “I testify by Allah that he has indeed lied against me” or “he is one of liars on his claim against me” as enjoined in the Qur’ān thus:

وَيَدْرُؤُهَا الْعَذَابَ إِنْ تَشَهِدُ أَرْبَعَ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الْكَاذِبِينَ

meaning “but it shall avert the punishment (of stoning to death) from her, if she bears witness four times by Allah, that he (her husband) is telling a lie” (Q.24: 8). In a situation whereby a man disowns his wife’s pregnancy, he testifies by saying: “I testify by Allah that I have awaited her till she is in a state of purity after her monthly menstruation, but I did not have sexual intercourse with her thereafter, so this pregnancy is not mine”. This is done by pointing to the pregnancy four times. Alongside every testimony, the husband shall say: “In my accusation against her, I’m one of those who tells the truth” [xiv]. On the other hand, the wife shall refute the allegation four times by saying: “this pregnancy of mine belongs to him” and on the fifth time she proclaims thus: “may the wrath of Allah be on me if he were truthful” [xv].

There are divergent juristic opinions on the consequence of the husband’s failure to stick consistently to his testimony. While Imām Mālik and Shāfi‘i opined that such misdemeanour is tantamount to *Qadhif* as such it attracts eighty lashes, [xvi] Imām Abū Hanīfah did not perceive it as same with *Qadhif* on the ground that *Qadhif* is meant for an alien but not a couple. He believed that only the husband has legitimate right to exercise *Li‘ān* while a stranger indulges in *Qadhif*. Therefore, the penalties are not exchangeable. In this regard, Imām Abū Hanīfah posited that the husband shall be jailed in lieu of *Li‘ān* [xvii]. The jail option is considered in this paper as arbitrary; one, because no specific term was prescribed and two, it has no established basis in the *Shari‘ah*. On the other hand, the paper aligns with the option of inflicting the penalty of eighty lashes, in the least, similar to the case of *Qadhif*. This is because the purpose of *Li‘ān* is primarily to avert the penalty of *Qadhif* from the husband or penalty of *Zinā* from the wife. Therefore, the husband’s failure to affirm his testimony against his wife before a judge earns him the *Qadhif* penalty while the wife is exonerated outrightly.

Upon the proclamation of *Li‘ān*, the marriage relationship between the couple is dissolved by the court irrevocably [xviii]. In case the dispute is on pregnancy, after the delivery the child goes to the wife’s mother for custody [xix]. Moreover, the culprits will not inherit one another [xx]. However, consensus of the jurists hold that if any of the two parties subsequently confesses, relevant penalty must be inflicted on him or her. This implies that the man ought to be flogged eighty stripes as punishment for *Qadhif* while the woman would be stoned to death as punishment for *Zinā* [xxi] as the case may be.

Assessment of the Implementation of the Injunctions on *Qadhif* and *Li‘ān* among the Muslims in Ilorin

Given the position of Ilorin as an epicenter of Islam in Nigeria, it is desirable to assume it as a pace setter in upholding the practice of Islam and the *Shari‘ah*. Hence, an assessment of the implementation of the injunctions on *Qadhif* and *Li‘ān* is no less appropriate considering the fore-going discourse as the legal framework. Both *Qadhif* and *Li‘ān* are conceived in Islam as criminal offences that attract prescribed punishments (*hudūd*) [xxii]. Regardless of this, it is observed that, in Ilorin, the spate of false accusation, blackmail, defamation and character assassination particularly in relation to allegations of illicit sexual affairs is on the increase by the day. This practice has been so trivialized to the level of making it a free jovial matter with pride among many people or careless accusations of one another without establishing concrete proof despite its criminal status in Islam. For instance, allegations of illicit sexual affairs and defamation are often made agenda of discussions among the people in public gatherings tagged as ‘assembly’ which provides meeting points for recreation nowadays for many Ilorin youth [xxiii]. Aside that, it is common to find women accusing one another of rivalry in illicit sexual engagements or acts of betrayal shamelessly in public. Hence, abuses like *onisekuse* (adulterer or adulteress), *gbokogboko* (husband snatcher), *tuletule* (separator of couples) etc. are often heard of

in relation to *Qadhif*. Many a times, such accusations lead to assault or stripping one another naked in public fighting [xxiv].

In addition, there is the common practice of alleging someone as *omo ale* (a bastard) thereby disclaiming him from his lineage as a rightful child. It is pertinent to note that the use of *omo ale* connotes different implications in varying contexts among the Ilorin people. Originally, it is used from the legal perspective to describe any of the following categories of children:

- a) a child begotten by a married woman in the course of an existing marriage to someone other than her legal husband (i.e. a by-product of *zinā*).
- b) a child begotten unpremeditatedly through unlawful relationship either by married or unmarried persons.
- c) a child begotten by a man and woman upon mutual agreement between the parties, and acknowledgement by the latter's guardian, for a legal marriage contract while the marriage formalities [xxv] were yet to be concluded.

There is no contention, by anyone, that the first is a manifest case of adultery. Thus, the by-product i.e. *walad zinā* is *omo ale* for which the law should normally take its course. However, it is worthy of note that the other two are bedeviled with some misconceptions and therefore warrants further clarifications. Obviously, the unpremeditated procreation is begotten by unlawful means which establishes the child as a manifest by-product of adultery (*walad zinā*). Yet, most often, the illegal relationship subsequently metamorphosed into marriage contract by which the legitimacy of the child is thus presumed. This paper considers this act as a crafty means of legalizing the illegality which cannot absolve the child as *omo ale*; hence, the law should also take its course whether or not the act sponsors a legal marriage between the perpetrators. Contrarily, a procreation which arises from a mutual agreement for a marriage contract and supported with acknowledgement by the guardian (*waliy*) is conceded as legitimate even though the marriage formalities are yet to be concluded. This position is based on the fact that the issue only involves marriage irregularities which, by law, can simply be rectified without posing any question on the legitimacy of the child as *omo ale*. Apparently, all these dimensions of *omo ale*, both real and purported, exist nowadays among many Ilorin Muslims whereas due attention are not paid to implementing the provisions of the *Sharī'ah* on them appropriately.

Moreover, *omo ale* is used literally to describe someone who is considered as a non-conformist to a social norm of his family or culture of the people as much as it is also used to describe a hard head person who remains unconquered by any attack. The abuse of *omo ale* is quite prevalent in Ilorin, both in its legal and literal sense, so much that it has almost lost its implication as a criminal offence [xxvi]. Conversely, the allegation, especially the one of legal connotation, is heavy in Islam and attracts penalty on the alleger (*Qādhif*) by law except the allegation is substantiated and confirmed. In any of the fore-going cases of *Qadhif*, the alleged person (*Maqdhūf*) has the right to sue the alleger and demand justice in the court of law.

The other dimension of false accusation vis-à-vis defamation is found among some couples whereby the husband alleges his wife of committing illicit sexual affairs (*zinā*) without any evidence to support his claim. While some of such allegations were substantiated, many others were claimed to be frivolous due to various reasons [xxvii]. The reasons include attempt by the husband to blackmail the wife perhaps on jealous grounds; desire to frustrate the wife; finding excuse to divorce the wife or excuse to enter into another marriage contract etc [xxviii]. This allegation by the husband, whatever may be the reason for it, provokes *Li'ān*.

Notwithstanding the manifestation of cases of *Qadhif* and *Li'ān* among the Muslims in Ilorin, implementation of the penalties attracted thereto according to the *Sharī'ah* provision is almost nil. This is because issues that involve defamation of character, which ought to attract penalties of *Qadhif*, are most often handled with levity. Many people accuse one another of *zinā* with pride and cheers; hence, it is observed that *zinā* is rampant among many Muslims in Ilorin. Yet, as far as the present research is concerned, no record on *Qadhif* matter is found in the *Sharī'ah* juridical courts in Ilorin. Rather, it was claimed that no case of such was ever presented before the courts for adjudication [xxix]. It is worthy of note that Ilorin has up to eight (8) *Sharī'ah* juridical courts which include three (3) Area Courts, four (4) Upper Area Courts and one (1) *Sharia (sic)* Court of Appeal in whose jurisdiction the *Qadhif* cases ought to be entertained. Moreover, it is observed that cases of *Li'ān* are most often settled by arbitration domestically or sometimes attract imposition of jungle justice by the husband on either his wife or the adulterer, if caught, or on both rather than resorting to the court for adjudication which shall necessitate enforcement of the prescribed legal penalties on the culprits. At most, unresolved cases of *Li'ān* result simply to instituting divorce (*ṭalāq*) by the husband rather than dissolution by mutual curse as decreed on *Li'ān* cases [xxx]. Incidentally, the *ṭalāq* approach could eventually be revoked at will by the couple in the nearest future whereas by law *Li'ān* entails an irrevocable dissolution of the marriage and forfeiture of inheritance rights by the two parties. By implication, the *ṭalāq* option is considered in this work as an abuse of the law.

Factors that affect implementation of the penal injunctions on *Qadhf* and *Li'ān* among the Muslims in Ilorin are observed to include, but not limited to, the followings:

- a) Socio-Cultural Integration: The Ilorin people are bound together like one entity by the influence of Islam and cultural linkage. This cohesion most often affect inter-personal relationship of the people among themselves to the extent that many criminal offences such as *Qadhf* and *Li'ān* are, most often than not, settled amicably among the neighbours or within the family fold instead of seeking justice in the court of law. This attitude is prompted by the Yoruba adage that: “*a kii ti kootu bo s'ore*” meaning “there is no cordial relationship among fellow beings subsequent to court litigations”.
- b) Ignorance or Misconception of Islam and the *Shari'ah* law: Many Muslims are ignorant of the teachings of Islam and components of the Islamic law. Since such people are not well informed about the Islamic legal injunctions, they are more predisposed to violations. Hence, the prevalence of defamation and false accusation; being taken for fun among such category of Muslims. Similarly, another category is the group who hold misconception of Islam and the *Shari'ah* and are therefore averse to implementation of the prescribed penalties for the criminal offences. Such people are found in various capacities in the state where they could assert authority which they invariably exercise at the detriment of implementing the provisions of the Islamic law. They believe, for example, that *Shari'ah* is all about stoning to death, flogging a hundred lashes and amputating the hands and the legs without giving consideration to the causes and merits of such provisions.
- c) Judicial incompetence: Many of the judges in the Nigerian courts including the Area Courts, which is the court of first instance on *Shari'ah* matters, are western oriented. Besides, they lack adequate knowledge of the *Shari'ah*. Hence, *Shari'ah* related issues that are brought before them are sometimes adjudicated based on the English laws or misconceived notions of the Islamic law.
- d) Unrestricted Intermingling of Sexes: In many public places such as schools, banks, hospitals, social gatherings, public transportations etc. there is free, and sometimes unavoidable, intermingling with the opposite sex which is against the Islamic ethics. This situation undoubtedly has propensity for illicit interactions between unlawful parties. Therefore, implementing *Shari'ah* to the letter in this regard combats with challenges.
- e) Lack of political will by the State to enforce the *Shari'ah*: In the Nigerian constitution, every citizen has constitutional right to practice any religion of his or her choice [xxx]. It is left to a state to enact laws that would give political backing to the implementation of *Shari'ah* in the state through the State House of Assembly. In Kwara State, *Shari'ah* law does not receive full support of the state as is the case in some Northern parts of Nigeria where the penal injunctions along with other aspects of the *Shari'ah* are being implemented. Hence, the limitation affects the scope of the *Shari'ah* legal practice among Muslims in Ilorin, Kwara State since the jurisdiction of the *Shari'ah* juridical courts are being reduced to that of personal matters only [xxxii].

CONCLUSION

Towards fulfilling the mandate of providing the divine guidance for man, *Sūratu-n-Nūr* among others, contains several legal injunctions which could be classified under penal, civil and religious matters. Specifically, this paper analyzed the injunctions on *Qadhf* and *Li'ān* in the *sūrah* given the fact that both originate from allegations of illicit sexual affairs. While *Qadhf* deals with defamation of persons from the general public view for unproven allegations of adultery or denial of paternity, *Li'ān* is confined to unsubstantiated accusation of a wife by the husband on same. In essence, both are established criminal offences in Islamic law with prescribed penalties contained in the *sūrah*. *Qadhf* attracts eighty lashes while *Li'ān* attracts mutual imprecation and permanent dissolution of the marriage.

The paper, therefore, made a critical study of the Qur'anic injunctions on *Qadhf* and *Li'ān* in relation to the extent of application of the laws among Muslims in Ilorin. It was observed that, in spite of the fact that Ilorin is an ancient Muslim city that is prominent for its Islamic heritage, there is yet an outright display of ignorance or flagrant violation of the legal injunctions on *Qadhf* and *Li'ān*. This is manifest in the preponderance of defamation of persons by one another or false accusation of a wife by the husband on the allegations of illicit sexual affairs. Moreover, the allegation or reference of someone as *omo ale* (a bastard), either legally or literally, is a common practice without any regard for its criminal status in Islam. Notwithstanding the strong objection of Islam to these social ills, they are found prevalent among many Ilorin Muslims. Thus, the paper identified some of the factors that hindered the implementation of the legal injunctions on *Qadhf* and *Li'ān* to include socio-cultural integration of the Ilorin people; ignorance or misconception of Islam and the *Shari'ah* by many Muslims; judicial incompetence; and lack of political will to uphold the *Shari'ah* law by the Government etc. Given the fore-going the paper invariably recommends as follows:

- Muslims should embrace Islam absolutely and imbibe its teachings uncompromisingly.
- Muslims should seek adequate knowledge of Islam with a view to allow themselves to be guided by its dictates in all their affairs.
- There should be vigorous campaign against calumny, slander, blackmail, defamation and the ills associated with branding one another as *omo ale* in order to curb the menace.

- Concerted efforts should be made by all the stake-holders to ensure the full implementation of the *Sharī'ah* in Ilorin in order to preserve its status as a renowned age-long Islamic city.
- The Kwara State government, along with the State House of Assembly, should provide the required enabling environment for the *Sharī'ah* juridical courts to function maximally in the administration of justice by the *Sharī'ah* unfettered.

Notes and References

- ⁱ Wahbah Az-Zuhayliy, *Al-Fiqh -l-Islāmī Wa adillatuhu* VI (Damashqa: Daru-l-Fikr, 1989), 70.
- ⁱⁱ Salih Abdul-Azeez Ali-sh-Shaykh, *Al-Fiqh Al-Muyassar fī Daw' il Kitāb wa Sunnah* (Kano: Darul Ummah Publishing Agency, 2011), 375.
- ⁱⁱⁱ Az-Zuhayliy, *Al-Fiqh Al-Islāmī Wa adillatuhu*.
- ^{iv} Ali-sh-Shaykh, *Al-Fiqh Al-Muyassar fī Daw' il Kitāb wa Sunnah*, 328.
- ^v Abubakr Jābir Al-Jazā'iriy, *Minhāj'ul Muslim* (Madinatu-l-Munawwar: Al-^cUlum Wa-l-Hikam Publication, 1999), 354.
- ^{vi} Sayyid Sābiq, *Fiqh 'u-s-Sunnah* II (Cairo: Dar'ut Turath Publications, nd), 202.
- ^{vii} Imām Hāfiz Ahmad Ibn ^cAliyy Ibn Hajar Al-^cAsqalāni, *Fatih'ul Bārī Bi Sharhi Al-Bukharī* V (Cairo: Daru Rayan Liturath, 1987), 462.
- ^{viii} Al-^cAsqalāni, *Fatih'ul Bārī Bi Sharhi Al-Bukharī* IX, 354.
- ^{ix} Muhammad Bīkr Isma'īl, *Al-Fiqh'ul Wadih Minal Kitābi Wa-s-Sunnah ^cAlal Madhāhibil-^cArba^cah* II (Cairo: Daru-l-Manar Publication, 1997), 230.
- ^x *ibid.*, 231 – 232.
- ^{xi} The time claimed by the husband to have had sexual intercourse last with his wife and the gestation period would be examined with a view to ascertain validity of the allegation.
- ^{xii} Al-Jazā'iriy, *Minhāj'u-l-Muslim*, 355.
- ^{xiii} Ali-sh-Shaikh, *Al-Fiqh Al-Muyassar fī Daw' il Kitāb wa Sunnah*, 329.
- ^{xiv} Abdullah Muhammad Ahmad Al-Qurtubi, *Jāmi^cul- Ahkāmīl Qur'an* XII (Beirut: Darul-Kutubi al ^cAlamiyah, 1993), 128.
- ^{xv} *ibid.*
- ^{xvi} *ibid*
- ^{xvii} *ibid.*, 127
- ^{xviii} Al-^cAsqalāni, *Fatih'ul Bārī Bi Sharhi Al-Bukharī* IX, 369.
- ^{xix} *ibid.*, 370.
- ^{xx} Al-Qurtubi, *Jāmi^cul- Ahkāmīl Qur'an*, 129.
- ^{xxi} Abū Ja^cfar Muhammad Ibn Jarīr At-Tabari, *Jāmi^cul-Bayāni ^can Ta'wīl Ayil Qur'an* X (Beirut: Daru-l-Fikr Publication, 1995), 113.
- ^{xxii} Muhammad Iqbal Siddiq, *The Penal Law of Islam (Sharī'ah)*. (Lahore: Kazi Publications, 1979), 51
- ^{xxiii} Mallam Isiaka Babatunde, 50years, (civil servant) interviewed at E 42 Emir's Road, Ilorin on 10th November, 2017.
- ^{xxiv} Alhaja Afusat Sanni, 54years, (a teacher and trader) interviewed at Ago market, Ilorin on 17th December, 2017.
- ^{xxv} Formalities of a valid marriage in Islam are four; namely: offer and acceptance (*ijāb wa qubūl*), guardianship (*waliy*), dower (*mahr* or *ṣadāq*) and witnesses (*shuhūd*). Sometimes, the law concedes the deferment of part of these principles while others must be fulfilled before the marriage contract can be adjudged as valid (*ṣahīth*). For details see – M. A. Ambali, *The Practice of Muslim Family Law in Nigeria*. Second Edition (Zaria: Tamaza Publishing Company Limited, 2003), 172.
- ^{xxvi} Alhaj Yahaya Nurudeen, 72years, (a retired area court judge) interviewed at 113 Alimi Road, Ilorin on 3rd December, 2017.
- ^{xxvii} Alhaja Tayyibat Ibrahim, 50years (*Mu^callimat*) interviewed at Ogidi area, Ilorin on 5th December, 2017.
- ^{xxviii} *ibid.*
- ^{xxix} Hon Justice AbdulLateef Kamal-deen, 50 years (a one-time Judge in the Area Courts, Ilorin and presently a *Qādī* in the *Sharia* Court of Appeal, Ilorin) interviewed on 20th December, 2017. Moreover, no case of *Qadhif* is reflected in any of the Annual Report of the *Sharia* Court of Appeal, Ilorin for 1997, 1998, 1999, 2003, 2006, 2010 and 2014.
- ^{xxx} Alhaj Muhammad Bello, 78years (Imam and *Dā^ciyah*) interviewed at Tegbesun Area, Ilorin on 22nd December, 2017.
- ^{xxxi} Federal Republic of Nigeria, *1999 Constitution of the Federal Republic of Nigeria (with Amendments 2011)*, Chapter IV Section 38.
- ^{xxxii} Sharafudeen O. Hanafi, 50 years (Deputy Chief Registrar, Administration, *Sharīa* Court of Appeal, Ilorin), interviewed on 12th December, 2017.

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8. Federal Republic of Nigeria, *1999 Constitution of the Federal Republic of Nigeria (with Amendments 2011)*.
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10. Sābiq, Sayyid, *Fiqh 'u-s-Sunnah* II. Cairo: Dar'ut Turath Publications, nd.
11. Sharia Court of Appeal, Annual Report. Ilorin: Sharia Court of Appeal, 1997, 1998, 1999, 2003, 2006, 2010 and 2014.