



Prevention Strategies for the Crime of Adultery in the Light of Islamic Law

History of Author	Abstract
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Introduction

Adultery is one of the greatest moral and social offenses, in which Islamic religion prohibits this kind of shameful act since it destroys families and the structure of society. As a result, it entails the following evils: mixing of lineages, severing ties of kinship or cutting off family bonds, prevention of inheritance, family dispersal, and the spread of sexual transmitted. Hence, that is why the Almighty Allah emphasized in more than one verse in the Holy Qur'an that adultery is forbidden and that it is one of the major sins as revealed in the following verse. "...They are those who do not invoke any other god besides Allah, nor take a human life made sacred by Allah except with legal right, nor commit fornication. And whoever does any of this will face the penalty."¹ Hence, it is vivid that all divine rules categorically condemn the repugnant act of adultery; furthermore, the traits of believers are those that do not engage in adultery. And on that note, Allah (SWT) says: "...those who abstain from illegal sex". (Qur'an, 23: 5) and Almighty Allah swore to punish those who commit adultery severely if they didn't truly repent. Therefore, what prevents the occurrence of this crime is the obedience of the rules, etiquette, beliefs, and morals that Islam commands. In this regard, Allah (SWT) says: "Do not go

¹ Qur'an, 25: 68

near adultery. It is truly a shameful deed and an evil way”.² Based on the aforementioned, Islam has put in place some strategies and measures that seek to reduce the risk of crimes occurring and their potential harmful effects on individuals and society, including: self-accountability, lowering the gaze (by shifting away on what is illegal to look at), meet with a non-Mahram woman in privacy, shaking hands with a non-mahram woman, Tabarruj (make-up grooming), command women to stay at home, wear Hijab for modesty and chastity, indulge in marriage and accept polygamy, impose penalty for adulterous disobedient, among others.

A review of the literature regarding the crime of adultery yields various studies. Specifically, there are many articles and academic thesis on preventive measures against adultery in Islamic law, such as Ahmad Abdulmajid³ and Fadhlu Ilahī⁴ However, most of these studies handle this topic from the perspective of the preventive measures associated with women; rather they do not focus on the preventive measures associated with society at large with the provisions related to adultery. In English literature reviews, some of the articles deal with the issue of punishment for adultery in general, such as Nqobizwe and Desan⁵ there are also specific geographical case studies on the penalty for committing fornication and adultery, such as Niger Abdulmajid⁶ As well as the Arabic literature reviews, where the articles investigate the crime of adultery. Consequently, these articles contribute to our study by analyzing the core issue comparatively within the four Madhhabs of Islamic law and making connections to the issue of prevention strategies for the crime of adultery.

Thus, the significance our research is revealed by the large number of mortality rate associated with HIV/AIDS and other infectious diseases caused by adultery; for instance, statistic show that 33.9 million–43.8 million people globally were living with HIV in 2021. While 1.1 million–2.0 million people became newly infected with HIV in 2021 and 510 000–860 000 people died from AIDS-related illnesses in 2021.⁷ It’s important to note that, the study seeks to answer the following research questions: What effects does adultery have on a person, society, and the government? What is the position of Islamic law on adultery? What are the preventive measures put ahead in Islamic law to avoid the crime of adultery? Thus, this paper attempts to examine the prevention strategies for the crimes of adultery in the Light of Islamic Law. This study employs qualitative information gathered from a variety of sources, including books, journal articles, reports, conference papers, and websites. The information is analyzed through an explanatory research approach by providing scholars’ opinions and their arguments on the subject matter. Structurally, this research paper is divided into three main sections. The first section of the paper will begin by defining the word zina (adultery) and the element of adultery. It will then delve into the punishment of adultery according to Muslim jurists. Also examine the minimum threshold for proofing adultery. In the second part of the paper, the focus will be on prevention techniques for the crime of adultery. Initially, the section will explore some measures and other aspects such as publicity, physical barriers, community engagement,

² Qur’an, 17: 32

³ Ahmed Abdulmajid, *Ahkam Walad Al-Zina fi Al-Islami*, (Master dissertation, Al-Najah National University 2008)

⁴ Fadhluillahī, *At-Tadabir al-Wiqaiyah mina al-Zina fi al-Fiqhi al-islamiyyah* (1st edn, Riyadh: Maktab Al-Maarif, 2011)

⁵ Nqobizwe Mvelo Ngema and Desan Iyer, ‘Penalty for Committing Fornication & Adultery (Zina) in Islamic Law as a Violation of Freedom from Torture’ (2022) 6 (15) *The journal of Ontario International development agency* 11-18

⁶ Abdulmajeed Hassan Bello, ‘The punishment for adultery in Islamic law and its application in Nigeria’ (2011) 2 (13) *Journal of Islamic Law and Culture* 166-182

⁷ UNAIDS, (2021) *Global HIV & AIDS statistics*, official website: <<https://www.unaids.org/en/resources/fact-sheet>> accessed 28 February 2023.

environmental change, and rule setting, among others. The third section present a discussion of findings, and the last section concludes and makes recommendations.

Literature Review

Concept of Adultery in Islamic Law

The word “zina” (adultery or fornication) literally means physical contact with an alien and unlawful organ.⁸ This may include all sexual relationships out of wedlock or all extramarital affairs, regardless of the marital status of the perpetrators. There are numerous definitions of zina due to the divergence of the doctrines of the jurists, and among these definitions: “sexual intercourse between a man and a woman without legal right or without semblance of legal right”.⁹ But the more comprehensive definition is “sexual intercourse with a foreign woman through her virginity with willful intercourse”.¹⁰ In light of the above, Muslim jurists concur in agreement that the following constitutes a crime of adultery: (i) Sexual intercourse is the insertion of the penis into a woman’s vagina until the glans is absent. Other than this, it won’t be regarded as adultery, and the offender won’t be eligible for Hodood (a fixed penalty). (ii) Mukallāf (Accountable person): is the one who is pubescent and sane, so the punishment will not be inflicted on the minor, insane, or under duress. (iii) A foreign woman: there is no marital relation; neither is she a wife or slave. On the other hand, Adultery is not a crime in Kenya as it is voluntary sexual intercourse between a married person and someone other than the lawful spouse. (iv) In virgin: If someone has sex intercourse with a foreign woman through her anus, the jurists differ in this case; the majority of Muslim jurists in the likes Malik, Shafi, Hanbalī, and Shia Imams considered this kind of act as adultery as long as there is no marital relationship that allows that act.¹¹ On the contrary, Hanafī jurists limited adultery to acts committed through virgins only.¹² As a result, any hypothetical for engaging in sexual activity other than the criteria mentioned above will be regarded as a discretionary crime rather than a fixed crime.

Adultery is a serious offense that is prohibited by the Qur’an, Sunnah, and the consensus of Muslim jurists, which is why its punishment is severe. Thus, Allah (SWT) says: “Do not go near adultery. It is truly a shameful deed and an evil way”.¹³ Adultery is a shameful deed, and that is why people in the pre-Islamic error abstained from it. Othman ibn ‘Afan said “I have not committed fornication before or after the coming of Islam, nor did I ever want another religion for me instead of my religion since Allah gave guidance to me, nor have I killed anyone. So for what reason do you want to kill me?”¹⁴ In the same aspect, Hindu asked the Prophet Mohammad (SAW) does a free woman commit adultery? Prophet replied no.¹⁵ Sexual intercourse was totally prohibited except for some women.

⁸ Fayumī, Aimad bin Mohammad Al-Misbah Al-Munir Fi Gharab Al-Sharhu Al-Kabir, Vol 1, (Beirut: Maktabah Al-Ilmiah, n.d) 156.

⁹ Al-Mirghinani’Ali Ibn Bakr, Al-Hidayah Sharihu Bidayatul Muftadi (2nd edn, Beirut :Dar Ihyau Al-Turath Al-Arabi, 1995) 339.

¹⁰ Abdulrahman, M.M., & ElSayfi, H.elDin, ‘Rules of Cohabitation in Islamic Jurisprudence A Comparative Study with Digo Customs in the Republic of Kenya’ International Journal of Fiqh and Usul Al-Fiqh Studies, (2018) 2 (Spcl), 64. Retrieved from <https://journals.iium.edu.my/al-fiqh/index.php/al-fiqh/article/view/79>

¹¹ Mohammad ibn Awadh Al-Thamali, ‘Al-Watu al-Mahdhur al-‘Uqubah wal-Athar’ (1438) 2 (70) Journal of Umm Al-Qura University for Sharia & Islamic Studies 74

¹² Kamal Din Mohammad bin Abdulwahid Al-Humam, Fath al-Qadir (n.p, n.d) 402-404

¹³ Qur’an, 17: 32

¹⁴ Moḥammad ibn Yazīd Ibn Mājah al-Rab‘ī al-Qazwīnī, Sunan ibn Majah, Vol 2, (1st edn, Beirut: Dar Ihyah al-Turathi al-Arabi, 1395) 847

¹⁵ Abu Ya’la al-Mawsili, Musnad Abu Ya’la, Vol 8, (1st edn, Damascus: Dar Maamun Liturathi, 1984) 194, Hadith no: 4754

Allah (SWT) says: "... and those who abstain from illegal sex. Except with those joined to them in the marriage bond or (the captives) whom their right hands possess for (in their case) they are free from blame".¹⁶ Furthermore, believers always abstain from adultery, as captured in the following verse. Allah (SWT) says: "They are those who do not invoke any other god besides Allah, nor take a human life—made sacred by Allah—except with legal right, nor commit fornication. And whoever does any of this will face the penalty. Their punishment will be multiplied on the Day of Judgment, and they will remain in it forever, in disgrace".¹⁷ In the previous verses, the Almighty Allah clarifies the attributes of the believers: that they do not associate partners with Him, do not kill the forbidden soul, and that they guard their private parts from sexual immorality, and He warned that whoever commits these immoralities, his fate will be eternity in multiples humiliating torment if they do not repent. On the other hand, adultery was prohibited in the revealed laws, considered a major sin, and recognized as shameful. There are so many verses from the Torah that forbid adultery, some of which include the following: "He who commits adultery is devoid of sense; only one who would destroy himself does such a thing. He will meet with disease and disgrace; his reproach will never be expunged".¹⁸ Another verse, "No one of illegitimate birth shall enter the assembly of the Lord; none of his descendants, even to the tenth generation, shall enter the assembly of the Lord". (Deuteronomy: year, 23:1) Additionally, among the other ten commands, adultery was forbidden in the Christian religion and was listed as follows: "Thou shall not commit adultery".¹⁹ Nevertheless, Paul warns the Corinthians and other Christians to abstain from adultery. "Flee sexual immorality. Every sin that a man does is outside the body, but he who commits sexual immorality sins against his own body".²⁰ In Christianity adultery is punishable by the wrath of God as well as expelling the adulterer from the heirs of the kingdom of Christ.

Adultery is one of the greatest sins after shirk (idolatry or polytheism), so the Almighty Allah has associated it with shirk and murder because it involves wasting or delinking of lineages, violating sacred limits, igniting enmity and hatred among people, and causing harm to people's mother, wives, daughters, and sisters of the counterpart. That is why the punishment for married adulterers is stoning to death. The Prophet Mohammad (SAW) said, "It is not permissible to spill the blood of a Muslim except in three [instances]: the married person who commits adultery, a life for a life, and the one who forsakes his religion and separates from the community."²¹ Imam Al-Qurtubī in his commentary commented that: The verse indicates that after disbelief, there is nothing greater than the sin of murder and then adultery. If the adulterer is unmarried, he or she must receive 100 strokes as punishment. Allah (SWT) says: "For the unmarried woman or man found guilty of sexual intercourse lash each one of them with a hundred lashes."²² The Khawaraj sect refused to acknowledge the punishment of Rajm (stoning to death) because they believed there was no clear verse from the Qur'an stating so. Seemingly, according to their sect both the married and the unmarried should be liable to the same punishment, in contrary to all Muslim jurists agreed upon punishment of "Rajm", and they supported their opinion with the following evidence:

¹⁶ Qur'an, 23: 5-6

¹⁷ Qur'an, 25: 68-69

¹⁸ The Holy Bible, New International Version, NIV Copyright 1973, 1978, 1984, 2011 by Biblica, Proverbs 6:32

¹⁹ Opcit., Exodus: 1978, 20:14

²⁰ Corinthians: 6:18

²¹ Abubakar ibn Abu Shaibah, Musnad Abu Shaibah Vol 1, (1st edn, Riyadh: Dar al-Watan1997) 169, Hadith no: 244

²² Qur'an, 24: 2

The prophet Muhammad (SAW) said; “killing of a Muslim is lawful for one of three acts: infidelity after embracing Islam, adultery after marriage and killing a soul without a valid reason”.²³ Accordingly, the said verse of Rajm was abrogated but its verdict continued to be applied.²⁴ Furthermore, the Prophet Muhammad (S.A.W) ordered the adulterer and the adulteress named Maiz and Ghamiah when one affirmed to be guilty of adultery with her servant to be stoned to death. Lastly, the distinction between Muhsin (married) and Ghair-Muhsin (unmarried) is based on the fact that the married person has no reason to commit Zinah as he could enjoy lawful sexual relations with his wife. This opportunity is not available to the unmarried, so their punishment should be lighter than the punishment of the married.

In addition to corporal punishments, there are also immoral punishments, including Tafđih (exposing), whereby the punishment will be done openly. Allah (SWT) says; “...and let a party of believers witness their punishment”.²⁵ Another set of immoral punishment is taghrīb (banishment), which means exile from the land. The prophet Mohammed (SAW) said the “punishment of a young man and woman found guilty for adulterating is given hundred lashes as well as banishment for one year”²⁶ although Muslim Jurists differed regarding the previous Hadith. Abu Hanifa said: «This hadith stands nullified or is at least unknown». They opine that the punishment of banishment is to be treated as Taazir (punitive sanctions for major sins at the discretion of the state leader/ruler that are not captured in the scripts) and does not constitute Hudud. (Punitive measures captured on the scripts for major sins).²⁷ In his view, Imam Malik said banishment entailed a male offender and not a female.²⁸ On the other hand, Shafi and a dissenting opinion from Imam Malik, in their views, said banishment is included in the ‘Hadud’, punishment for both the adulterer and the adulteresses. (‘Oudah, n.d) A part of the immoral punishment was that they were not allowed to get married, and this opinion was supported by the companions of Prophet Mohammad (SAW) like ‘Alī ibn Abī Ṭālib, Ibn Masoud, Abu Hureira and Aisha (RA), who supported the opinion with the following Hadith: Marthad ibn Abu Marthad al-Ghanawi used to take prisoners (of war) from Mecca (to Medina). At Mecca there was a prostitute called Inaq who had illicit relations with him. Marthad said: I came to the Prophet (S.A.W) and said to him: May I marry Inaq, Ooh! Messenger of Allah? The narrator said: He kept silence towards me. Then the verse was revealed:”....and the adulteress none shall marry save and adulterer or an idolater.” He called me and recited this verse²⁹ to me, and said: Do not marry her.³⁰ Sheikh Nasor al-Din Al-Malik said the aim of the verse is to abstain believers from getting married to adulterers and rebuke them for abominations.³¹ Furthermore, their testimony will not be accepted as a penalty for committing this kind of crime.³² Last but not the least, if the culprits were

²³ Ahmad ibn Hanbali, Musnad Ahmad bin Hanbali Vol 2, (1st edn, Beirut: Alim al-Kotob1998) 367, Hadith no: 8798

²⁴ Abū Abdullāh Badr ad-Dīn Mohammed bin Abdullah bin Bahādir az-Zarkashī, Tanshif Masam‘ bi Jam‘ al-Jawami‘ Li Taj din al-Subkī (2nd edn, Cairo: Maktabah al-Qurtubah1998) 863

²⁵ Qur’an, 24: 2

²⁶ Sulaymān ibn al-Ash‘ath ibn Ishāq al-Azdī al-Sijistānī Sunan Abū Dāwūd vol 4, (1st edn, Beirut: Maktab al-Asriyah, n.d) 144, Hadith no: 4415

²⁷ Abdulqadir ‘Oudah, (n.d) Criminal of Islam vol 1, (1st edn, Beirut: Dar al-Katib al-Arabi, n.d) 639

²⁸ Opcit., 639

²⁹ Qur’an, 24: 3

³⁰ Mohammad bin Abdallah Naisaburi, al-Mustadrak alaa Sahihain, Vol 1, (1st edn, Beirut: Dar al-Kutub al-Ilmiyah,1990) 197, Hadith no: 387

³¹ Mahmoud bin Amru bin Ahmad Al-Zamakhshari, Al-Kashshaf an Haqaiq Ghawamida At-Tanzeel, Vol 2, (3rd edn, Beirut: Dar al-Kitāb al-Arabī, 1407) 212

³² Fadhluallahī, At-Tadabir al-Wiqaiyah mina al-Zina fi al-Fiqhi al-islamiyyah (1st edn, Riyadh: Maktab Al-Maarif, 2011) 46

not punished in this world, they would not escape the punishment hereafter. This was reported in the following Hadith as follows: “So we went on till we came to a hole like an oven, narrow at the top and wide at the bottom, under which there was a fire. It contained naked men and women who when the fire rose mounted till they almost came out, but who returned into it when it subsided. I asked what this was and they told me to come away... those I had seen in the hole were fornicators”³³

Adultery on another aspect, is a crime that requires the testimony of four witnesses. For a witness to be accepted under Islamic law, the evidence must fulfill the following conditions: must be an adult and sound in mind; therefore the testimony of a minor and insane will not be accepted. In this respect, Muslim jurists support their opinion with the subsequent evidence. That Allah (SWT) says: “As for those of your women who commit illegal intercourse—call four witnesses from among yourselves. If they testify, confine the offenders to their homes until they die or Allah ordains a different way for them.”³⁴ Evidently, the evidence of the first witness must not contradict that of the other correspondent; otherwise, their testimony will be null and void. Also, Muslim jurists in the following sects; Hanafi, Malik, Hanbali, and Shia imams said that the witnesses must be in one sitting when giving the testimony. If they come separately and testify one by one, their testimony is rendered unacceptable.³⁵ While Shafi jurists do not consider the condition of testifying on one session reason being that the verse of the Qur’an did not mention it. On the other hand, the Hanafi jurists also uphold that the testimony will not be accepted aftermath due to the passage of time. However, Malik and Shafi School of thoughts allow testimony regardless of the passage of time logic being that it may have been caused by a lawful reason, which means that a sentence will be executed afterwards. Muslim jurists also agreed that hearsay would not substantiate as evidence. Last but not the least, the witnesses must be in capacity until the hour of execution because before the execution, one of the witnesses may be insane or die, and if he is a living person, he can change his mind.³⁶ On the other hand, a person may not be admitted to be a competent witness due to the following grounds: insane, idiot, offender of major sin, short memory, non-Muslim, habitual liar, a person convicted of qadhfu (defamation), and a person punished with a Hudood sentence due to tarnished integrity and hence lacks full trust. Lastly, they must be fully aware of what they are witnessing. Allah (SWT) says: “Do not follow what you have no sure knowledge of. Indeed, all will be called to account for their hearing, sight, and intellect.”³⁷

Confession is another kind of testimony for adultery crimes, and the following requirements must be met if a sane person confesses adultery before the judgment: the confession must be made in oral form and will not be accepted through words or gestures. Also, the crime of adultery may be proved by confession in an authorized court. Although, the opinions of jurists differ regarding the number of confessions in court; according to Hanafi and Hanbali scholars, a four-time confession is a must for proving the crime and punishment. Since they have based their opinion on the following hadith: A man from the tribe of Banu Aslam came to the Prophet Mohammad, confessed to having committed adultery, and gave testimony against himself four times. The Prophet (SAW) then ordered that he be stoned to death. While according to Malik and Shafi jurists, if a person confesses one time,

³³ Mohammad ibn Isma’il al-Bukhari, *Sahih al-Bukhari Vol 2* (1st edn, Beirut: Dar Tuq al-Najat, 1422), 100 Hadith no: 1386

³⁴ Qur’an, 4:15

³⁵ Wahbah Mustafa al-Zuhayli, (n.d) *Fiqh Islam wa Adillatuhu*, vol 7, (4th edn, Damascus: Dar al-Fikr, n.d) 318

³⁶ Inas Mohammad Wahba, *Adultery between Islamic law and ordinances: A comparative study* (Master dissertation, Middle East University, 2014) 27

³⁷ Qur’an, 17: 36

in an authorized court then it is sufficient for inflicting a penalty on him. In this regard, they based their opinion on the following hadith; The Prophet Mohammad (SAW) requested his companion Unais to go and ask a certain woman whether she had committed adultery or not, and if she confessed, then stone her to death. Unais went there, and when she confessed, he stoned her to death.³⁸

In addition, the scholars have mutually agreed that the precedence of time (Taqadūm) does not affect the admission of adultery in the event that the person is not accused against himself. Accordingly, the approval is accepted even after the elapsed time. Additionally, the confession must be made in front of judge. Ibn 'Abbas said that when Ma'iz b. Malik came to the Prophet and he said, "Perhaps you kissed, or squeezed, or looked at," he replied, "No, Messenger of God." He then said, "Did you have intercourse with her?" asking the question in plain words, and when he replied that he had, he gave orders that he should be stoned to death. But if the confessor retracts from his confession no penalty would be inflicted upon him. The Prophet Mohammad (SAW) said: "Avert the prescribed punishment by rejecting doubtful evidence".³⁹ Likewise, as earlier mentioned the confessor must be an adult and sane; if he or she is a minor, insane, prodigal, intoxicated, or under duress, it will not be accepted.⁴⁰

Based on the aforesaid, the crime of adultery is one of the greatest crimes and major sins, and it has the worst impact on an individual and the society. Therefore, the perpetrator deserves punishment in this world and the hereafter. If the adulterer is married, then his punishment is stoning to death, and if he is unmarried, he is to be flogged with a hundred lashes. This punishment is administered in this world. As for the hereafter, it will be double the torment, and eternity which will be humiliating. However, it is difficult to prove this typical offense since the legal procedural requirements were instituted to protect women from slander and false accusations. Instead, failing to provide sufficient justification is a serious offense that leads to being flogged with 80 lashes as a punitive sanction. Contrary to, if adequate proof is presented, then the punishment is levied in accordance with it; otherwise, the punishment in this life is waived for the accused, but the punishment in the afterlife is still imposed.

Effects of Adultery on Individuals and Societies

There are many effects and evils that accrue to the individual and society due to the act of adultery, including and not limited to: Adultery may be a cause of transmitted diseases, among them sexually transmitted infections (STIs), also referred to as sexually transmitted diseases (STDs). These infections are transmitted through sexual activities, through vaginal, anal, and oral sex.⁴¹ Most STIs are treatable and curable; of the most common infections, syphilis, gonorrhea, chlamydia, and trichomoniasis are curable, while HIV/AIDS and genital herpes are not curable. In 2022, about 374 million people living with STIs other than HIV/AIDS.⁴² More than 1 million sexually transmitted

³⁸ Mohammad bin Mahmoud al-Maturidi, Tafsir al-Maturidi Vol 2, (1st edn, Beirut: Dar al-Kutub al-illmiyah, 2005) 69

³⁹ Abubakar ibn Abu Shaibah, Al-Musanaf Fi Alhadith wa AlAthar, Vol 5, (1st edn, Riyadh: Maktab Al-Rushd, 1409), 511, Hadith No: 28493

⁴⁰ Mohammad Ismail Abdulrahman, Al-Ithbat bi-Iqar fi al-Fiqh al-Islami wa Tatbiqat fi Mahakim al-hariyah (Master dissertation, Hebron University: 2012) 93-106

⁴¹ World health organization (2022) Sexually transmitted infections (STIs) official website: <[https:// www.who.int/news-room/fact-sheets/detail/sexually-transmitted-infections-stis](https://www.who.int/news-room/fact-sheets/detail/sexually-transmitted-infections-stis)?gclid=Cj0KC QjwnrmlBh DHARI sADJ5b_n9WdCDVLF_cE3d7LH9ufifjFfoGlb4Sndgknw3b69YKzxLXjfqIfcaAmWDEALw_wcB> accessed 28 February 2023.

⁴² UNAIDS, (2021) Global HIV & AIDS statistics, official website: <<https://www.unaids.org/en/resources/fact-sheet>> accessed 28 February 2023.

infections (STIs) are acquired every day worldwide. 650 000 people died from AIDS-related illnesses in 2021 (UNAIDS, 2021) In this regard, the Prophet Mohammad (SAW) who said: Immorality never appears among a people to such an extent that they commit it openly, but plagues and diseases that were never known among the predecessors will spread among them.⁴³ What is meant is that many diseases that were not known before have appeared due to the emergence and spread of indecency. STDs spread fast in this world; some are curable while others are not, although there have been several attempts to find some kind of curable treatments. According to Mark Manual, STDs are the most infectious disease in the world today. And the number of people infected with it increases every year, and for almost two decades, the World Health Organization has estimated that 250 million people are infected with gonorrhoea annually. It also estimates the numbers of people infected with syphilis are at 50 million.⁴⁴ Nevertheless, the obstetrics and gynecology from United States reported that over the four years as of 1970–1974, there was an 800% increase in suspected instances of cervical cancer among girls between the ages of 18 and 22. This increase is as a result of unrestrained adultery and or fornication.⁴⁵ On the contrary, Professor William, who worked in the Gulf for more than twenty years, affirmed that, said, “The purest virgins are from the Arab countries,” because he explored a case study by examining more than thirty thousand women and took samples from the vagina and cervix. It appeared that most of them were free from gonorrhoea, trichomonas, chlamydia, and cervical cancer. And the professor insisted that this is because they purely abstain from adultery and do circumcision.⁴⁶ The sexually transmitted disease (STDs) as an epidemic not only affects the health of individuals; but also results in the loss of billions in financial income due to the deaths of thousands of workers as human capacity. In addition, it has resulted to the increase of street children and orphans in every corner due to the absence of someone to take care of them and provide them with their needs. Furthermore, it has led to an increase in other diseases and infections because the body’s immunity goes down tremendously and opportunistic diseases increase, so there are diseases caused by lower immunity are tuberculosis, diarrhea, and other similar diseases. Finally, this has led to an increase in the number of widows in the community, thus reducing the country’s workforce.

One of adultery’s effects is the proliferation of illegitimate children. In this regard, Dr. Celas. S. Deschim said, I would not be surprised if I heard of a significant increase in the percentage of sexually transmitted diseases and illegitimate births, as this is a natural result of what is happening in society now.⁴⁷ Out-of-wedlock child refers to a baby born to parents through an illegitimate route or forbidden relationship.⁴⁸ According to the definition of “out-of-wedlock,” Childbirth can occur through adultery or artificial insemination.

The lineage of the child is one of the most important rights that children acquire as soon as they are born. Sharia guaranteed it to them, in addition to maintenance, custody, and inheritance. Muslim jurists agreed that the lineage of out-of-wedlock child belongs to the mother. This opinion was mentioned in their books. The following scholars have these contributions to make: Ibn Najim said, “The lineage of the adulterous child belongs to the mother, so that she inherits him and he

⁴³ Moḥammad ibn Yazīd Ibn Mājāh al-Rab‘ī al-Qazwīnī, Sunan ibn Majah, Vol 2, (Beirut: Dar Ihyah al-Turathi al-Arabi, 1395) 847

⁴⁴ Mohammad Ali Al-Bari, Amradh al-Jinsiyyah Asbabuha Wailajuha (2nd edn, Jidda: Dar al-Manar,1987) 18-19

⁴⁵ Opcit., 18-19

⁴⁶ Ibid.,

⁴⁷ Fadhlullahī, At-Tadabir al-Wiqaiyah mina al-Zina fi al-Fiqhi al-Islamiyyah (1st edn, Riyadh: Maktab Al-Maarif, 2011) 46

⁴⁸ Mausū‘ al-fiqhiyah, Wizarat al-Awqaf wa Shun Diniyah Vol 3, (Kuwait: Dhata Salail, 1983) 70

inherits from her because he is certain of his lineage on her part.”⁴⁹ Ibn Abdulbarī said, “A mother is never excluded from her child, and he is associated with her in any case because of her birth.”⁵⁰ Al-Bakrī said, “The child of adultery is not attributed to a father but rather to his mother.”⁵¹ The following evidence will be used to infer that the illegitimate child’s genealogy attached to his mother: It was narrated that Ibn ‘Umar said: “The Messenger of Allah conducted the procedure of Li’an (Oath of condemnation or sworn allegation of adultery committed by one’s spouse) between a man and his wife, and he separated them and attributed the child to his mother.”⁵² Another evidence, ‘A’isha (RA) reported that: the prophet companions Sa’d bin. Abu Waqqas and Abdullah bin Zam’a (RA) disputed with each other over a young boy. Sa’d over his paternity. Sa’d said: Ooh! Messenger of Allah, he is the son of my brother ‘Utba bin Abu Waqqas as he made it explicit that he was his son. Look at his resemblance. Abdullah bin Zam’a (RA) said: Ooh! Messenger of Allah, he is my brother as he was born on the bed of my father from his slave-girl. Allah’s Messenger (SAW) looked at his resemblance and found a clear resemblance with ‘Utba. But he said: “He is yours Ooh! ‘Abdullah bin Zam’a (RA), for the child is to be attributed to one on whose bed it is born, and stoning for a fornicator. Sauda bint Zam’a (RA) O you should observe veil from him.” So he did not see Sauda at all. Muhammad b. Rumh did not make a mention (of the words): “O Abd.”⁵³ Furthermore, being that blood relationship is one of the causes of inheritance. Out-of-wedlock childbirth cuts off his lineage from his father. and it is not attributed to him according to the Islamic Sharia, even if it originated from his sperm, so there is no inheritance between them because there is no reason for inheritance. This was supported by Hanafi, Malik, Shafi and Hanbali school of thoughts. (Ahmed, 2008) On the other hand, as mentioned in advance Muslim jurists are in agreement that an out-of-wedlock child will inherit her mother because he or she is attributed to her and that blood relationship (*nasab*) is one of the causes of succession. (Ibn Najim, n.d) Maintenance is an additional right attached to a child. The care of the child is the father’s responsibility. However, since he was born out of wedlock therefore cannot be linked to the adulterer and is not obliged to care for the illegitimate child.⁵⁴ However, this does not prevent the father from the child maintenance since the child is as result of his adultery, and he is explicitly the one who committed the crime which affects his upbringing and catering responsibilities accorded to him; thus, he was reason for his coming to the world in an unbroken lineage.

Adultery’s effects are the perpetrator’s entry into hellfire. Abu Hurairah (RA) reported that: Messenger of Allah (SAW) was asked about the deed which will be foremost to lead a man to Jannah. He replied; “Fear of Allah and the good conduct.” Then he was asked about indulgence which will admit a man to Hell (Fire) and he answered, “The tongue (vulgarous and abusive) and the genitals (infidelity).”⁵⁵ Furthermore, the perpetrator’s faith will be plucked out in the eve of committing adultery. In this regard, the Prophet (SAW) said, “The one who commits an illegal sexual intercourse is not a believer at the time of committing illegal sexual intercourse.”⁵⁶ Additionally, the adultery of

⁴⁹ Ibn Najim, Al-Bahru al-Raiq, Vol 5 (Beirut: Dar al-Ma’rifa, n.d) 251

⁵⁰ Ibn Abdulbarī, Al-Istidhkar, Vol 5, (Cairo: Dar Al-Wa’i, 1993) 342

⁵¹ Ali Al-Bakrī, ‘Ina Twalibina Vol 2, (Beirut: Dar at-Turathi al-Arabi, n.d) 128

⁵² Ahmad ibn Shu‘ayb ibn ‘Ali ibn Sīnān al-Nasā’ī, Sunan Nasai, Vol 8, (2nd edn, Halab: Maktab al-Matbu‘at al-Islamiyyah, 1986) 154 Hadith no: 5130

⁵³ Al-Bukhari (n 38) 54 Hadith no: 2053

⁵⁴ Ibn ‘Abidin, Hashiya Radd Mukhtar ala Dur Mukhtar Sharh Tanwir al-Ibsar Vol 4, (1st edn, Beirut: Dar Al-Kutob al-Ilmiyyah, 1994) 371

⁵⁵ Hussein bin Masoud Al-Baghawī, Sharh Sunnah (2nd edn, Beirut: Makatb al-Islami, 1983) Vol 13, 80 Hadith no: 3498

⁵⁶ Sulaymān bin Ahmad Tabaranī, al-Mujam al-Awsat, Vol 1, (1st edn, Cairo: Dar al-Haramain, 1415) 170 Hadith no: 534

a married person leads to the lawful shedding of his blood, so there is no sanctity for his blood. On the respect, ‘Abdallah bin Mas’ud reported God’s Messenger as saying, “The blood of a Muslim who testifies that there is no god but God and that I am God’s Messenger may not lawfully be shed but for one of the three reasons: a life for a life (illicit murder crime); a married man who commits adultery; and one who turns aside from his religion and abandons the community.”⁵⁷

Adultery inherits detrimental effects such as poverty. Infidelity, like all sins; it brings calamities, misfortunes, and corruption to life. The preceding are the most prominent effects, damages, and evils of adultery, which are contrary to the righteousness of the world, its individuals, and society co-existence. Therefore, Islam forbids adultery because it is a subject of moral decay, psychological effects, health problems, and economic hazards, among others.

Adultery Prevention Methods in Islamic Law

Islam has a clear prevention strategy for preventing individuals and the Muslim community from falling into adultery. The prevention methods can be summed up as follows: eliminating all factors that could encourage someone to commit adultery; promoting marriage as a strategy to protect society from adultery; and removing unnecessary barriers to marriage. Furthermore, every way that leads to falling into adultery is forbidden by Islam, as Islam came to preserve and cut off the causes leading to adultery, and among the most prominent strategies for preventing adultery are:

Self-Monitoring: The person will have strength of faith that keeps him from committing sins and helps him see things in reality when he is held accountable for his words and deeds. Therefore, he or she sees sin in their repulsive appearance and hates and avoids them. The prophet Mohammed (SAW) described self-monitoring as Ihsan. Prophet Muhammad (SAW) was asked about Ihsan and replied, “To worship Allah as if you see Him, and if you cannot achieve this state of devotion then you must consider that He is watching at you.”⁵⁸ A Muhsin (right doer/righteous) performs an act of worship as if he or she sees Allah. If he does not reach that level, he feels God’s watchfulness in all his actions, and this encourages him to do good deeds. And this position of Ihsan was clearly manifested in the position of Yusuf (Joseph), which was captured in the Quran. “And the lady, in whose house he lived, tried to seduce him. She locked the doors ‘firmly’ and said, “Come to me!” He replied, “Allah is my refuge! It is not right to betray my master, who has taken good care of me. Indeed, the wrongdoers never succeed.” “And it so happened that the lady in whose house Joseph was living, sought to tempt him to herself, and one day bolting the doors she said: “come on now!” Joseph answered: “May Allah grant me refuge! My Lord has provided an honorable abode for me (so how can I do something so evil)? Such wrong-doers never prosper”.⁵⁹ Self-monitoring was an important tool for keeping individuals from committing sins, such as adultery, because if it didn’t exist, many people would have sinned.

Lowering the gaze: Islam commands men not to exchange glances at women, Allah (SWT) said, “O Prophet! Tell the believing men to lower their gaze and guard their chastity. That is purer for them. Surely Allah is All-Aware of what they do.”⁶⁰ According to the above verse, it is forbidden

⁵⁷ Al-Muhalab bin Ahmad, Al-Mukhatasar an-Nasih fi Tahdhib al-Kitab al-Jami‘ al-Swahih Vol 3, (1st edn, Riyadh: Dar Tawheed, 2009) 9 Hadith no: 1328

⁵⁸ Abu Shaibah (n 44) 157, Hadith No: 30309

⁵⁹ Qur’an: 12:13

⁶⁰ Qur’an, 24: 30

to look at women and exposure of their nudes. Likewise, Islam commands women not exchange glances at men. As Allah (SWT) said, “And tell the believing women to lower their gaze and guard their chastity”⁶¹ Eyes are the way to adultery. In this regard, one of the famous poets said “A look, then a smile, a nod of the head, then talk, a handshake, a promise, then the warmth of a bed.”⁶² Islam guides its men to close their eyes when suddenly looking at foreigners suddenly and shift their look away from them. In regard to, the prophet’s companion, Jarir bin ‘Abdullah (RA) said: I asked the Messenger of Allah (SAW) about (the Islamic ruling on) accidental glance (i.e., at a woman Islamically not allowed to look at with his eye contact) and he ordered me to turn my eyes away.⁶³ The Prophet (SAW) said: to Ali (RA): Do not give a second look, Ali, (because) while you are not to blame for the first (glance), you have no right to the second one. (Al-Bayhaqī, 1344) another Hadith, the Prophet Mohammad (SAW) said: “Avoid sitting by the road side.” The people then said, ‘O Allah’s Messenger (SAW), we cannot do without those meeting places in which we converse” So he said, “Well, if you insist (on that) give the road its due rights.” They asked, ‘What are the road’s due rights?’ He replied, “Lowering your gaze, abstaining from anything offensive, returning salutations, enjoining the right (Ma’ruf) and forbidding from evil deeds (Munkar).” The narration is agreed upon.⁶⁴ Thus, the Islamic law commanded men to lower their gaze, just as it commanded women to cover up and wear veils so as not to arouse desires and to maintain the prevailing Islamic atmosphere in society.

Meet woman privacy: Islam forbids meeting a woman in privacy to prevent the spread of corruption and indecency. For that, Ibn Abbas (RA) said: The Messenger of Allah (S.A.W) said, “No one of you should meet a woman in privacy unless she is accompanied by a Mahram (i.e., a relative within the prohibited degrees of marriage).”⁶⁵ In another hadith narrated by ‘Uqbah bin ‘Amir (RA) said: The Messenger of Allah (SAW) said, “Avoid (entering a place) in which there are women (uncovered or simply to mix with them in seclusion).” A man from the Ansar said, “Tell me about the brother of a woman’s husband.” He replied, “The brother of a woman’s husband is deadly or more severe (to be secluded with).”⁶⁶ The Prophet Mohammad forbade men from entering into foreign ladies’ privacy; thus, it is not necessary to spend time with them in private. One of the companions asked Prophet Mohammad (SAW) about *Hamwu* (husband’s relatives, such as the brother, paternal uncle, and paternal uncle). The prophet clarified that their entry is more dangerous than a foreigner’s entry and that crime is more likely to occur. Furthermore, people take it easy to stay in privacy with their brother’s wife, so he enters without reprimanding him, which makes him more susceptible to temptation and wickedness. However, the prophet Mohammad (SAW) forbade people to interrelate with women even during prayer, so the Prophet commanded women to stay late and not to stay with men. The prophet Mohammad (S.A.W) said: “The best of the men’s rows is the first and the worst is the last; and the best of the women’s rows is the last and the worst is the first.”⁶⁷ Additionally, the prophet Mohammad (S.A.W) also designated a door specifically for women to use to enter the mosque. Today, some mosques set aside a door for women alone so that men cannot see them. Privacy is a great evil

⁶¹ Qur’an, 24: 31

⁶² Ahmad Shawqi, Shiri Ahmad Shawqi, Official website: <https://adabworld.com> شعر-نظرة-فابتسامه-فسلام-أحمد-شوق accessed 12 March 2023.

⁶³ Ahmad bin Mohammad Tahawi, *Sharh Ma’āni Al-Āthār* Vol 3, (1st edn, Cairo: Alam Al Kotob1994) 15 Hadith no: 4285

⁶⁴ Mohammad ibn Hibban, *Ṣaḥīḥ Ibn Ḥibbān* Vol 2, (2nd edn, Beirut: Musasat Risalah, 1993) 356, Hadith no: 595

⁶⁵ Al-Bukhari (n 38) 37 Hadith no: 5233

⁶⁶ Mohammad Abu Issa, *Sunan at-Tirmidhy*, Vol 8, (1st edn, Beirut: Dar al-Gharb1998) 465 Hadith no: 1171

⁶⁷ Ahmad Ibn Hanbal, *Fadaail As-Sahaabah* vol 12, (1st edn, Beirut: Muasasat al-Risalah, 2001) 320, Hadith no: 7362

in being alone, which the *Shari'a* warns against and prohibits. Rather, the Prophet informs us that Satan is present when a man is in private with a woman and becomes a messenger between them, so he adorns the woman for the man, and the man adorns the woman, and finally they will think they are committing sin. The Prophet Muhammad said, "Whenever a man is alone with a woman, the devil makes a third."⁶⁸

Shaking hands with a non-mahram woman: Islam forbids shaking hands with a non-mahram woman, and the seriousness of this act was elucidated by Prophet Muhammad (S.A.W) when he said, "For one of you to be stabbed in the head with an iron needle is better for him than that he should touch a woman who is not permissible for him." (Tabarani, n.d) because it will cause fitnah (temptation), provocation of desire, and the committing of sins. Shaking is immoral, but touching in itself is a kind of adultery. The prophet's companion Muhammad bin Munkadir said that he heard Umainah bint Ruqaiqah say: "I came to the Prophet (SAW) with some other women, to offer our pledge to him. He said to us: '(I accept your pledge) with regard to what you are able to do. But I do not shake hands with women.'"⁶⁹ Thus, the Islamic Sharia prohibited men from touching a non-mahram woman so as not to cause temptation and spoil the pure Islamic atmosphere.

Tabarruj is one of the causes of adultery which refers to a display of beauty. Tabarruj is an Arabic term that refers to a woman displaying her beauty in a way deemed inappropriate by Islamic standards. (In a coquetry manner or in a flirtatious behavior) It is often used to refer to a woman who fails to observe hijab, but the term also encompasses a general attitude in social interactions. Those who engage in tabarruj are called Muttabarijat. Islam therefore prohibited it. Allah (SWT) says, "Settle in your homes, and do not display yourselves as women did in the days of pre-Islamic ignorance".⁷⁰ Tabarruj is among the major sins. The prophet companion 'Ubida b. as-Samit reported: "Allah's Messenger (may peace be upon him) took (a pledge) from us as he took from the women that we will not associate anything with Allah and we will not steal, and we will not commit adultery, and we will not kill our children, and we will not bring calumny (false accusations) upon one another and do not display yourselves as women did in the days of pre-Islamic ignorance."⁷¹ Whoever meditates on this honorable hadith will find that the Messenger of Allah (SAW) has associated tabarruj with the greatest of the major sins. Tabarruj brings curses and expulsion from Almighty Allah (SWT). The Messenger of Allah (SAW) said, "There are two types of people who will be punished in Hell and whom I have not seen: men having whips like the tails of cows and they will be beating people with them, and, women who will be dressed but appear to be naked, inviting to evil; and they themselves will be inclined to it. Their heads will appear like the humps of the Bactrian camel inclined to one side. They will not enter Jannah and they will not smell its fragrance which is perceptible from such and such a distance."⁷² One of the tabarruj practices that Islam forbids is for women to walk around while perfumed so that men can smell it and get passionately tempted and inspired to commit adultery. Islam therefore prohibits women from praying in the mosque while smelling perfume. In this regard, The Prophet Muhammad said, 'If any of you (women) attend the mosque, do not wear perfume.'⁷³ It is obvious that the reason why a woman is prohibited from wearing perfume or wearing adornments

⁶⁸ Muḥammad ibn 'Īsā at-Tirmidhī, Sunan at-Tirmidhī, Vol 2, (1st ed, Beirut: Dar Al-Gharb, 1998), 465, Hadith No: 1171

⁶⁹ Malik ibn Anas, Muwatta Imam Malik, Vol 2, (1st edn, Egypt: Ihyau Turath al-Arabī, n.d) 982 Hadith no: 1775

⁷⁰ Qur'an, 33: 33

⁷¹ Muslim bin Hajaj an-Naisaburi, Sahih Muslim, Vol 3, (1st edn, Beirut: Dar Ihyau Turath Al-Arabī, n.d) 1333 Hadith no: 43

⁷² Opcit., Vol 6, p. 1680, Hadith: 125

⁷³ Aḥmad ibn Shu'ayb ibn 'Alī ibn Sīnān al-Nasā'ī, Sunan Nasai Vol 8, (2nd edn, Halab: Maktab al-Matbu'at al-Islamiyyah, 1986) 155 Hadith no: 5131

when going out to pray in the mosque is because it may lead to temptation and evil. In conclusion, tabarruj in whatever form has the potential to result in adultery, and if women had been forbidden from flaunting their beauty throughout the Muslim society, fornication and adultery would have declined significantly.

Command women to stay in their homes: It is common in Islam for women to stay in their houses. Allah (SWT) says, “Settle in your homes, and do not display yourselves as women did in the days of pre-Islamic ignorance”.⁷⁴ Hence the scholar ibn kathīr, in his commentary, commented that: “Stay in your house, and do not go out except for genuine reasons.”⁷⁵ There are so many hadiths which indicates that the principle for women is to stay at home, and for this reason, women are not required to attend the mosque for congregational prayers or Friday prayers, which have significance in Islamic sharia. This is nothing more than Islamic law’s desire to keep the woman at home for chastity. What was mentioned above does not mean that it is forbidden for women to work outside the home, but there are two types of work. (i) Work associated with the nature of women, such as obstetrics and nursing, and teachers in special schools, are examples of the kind of work for which the Islamic State should prepare a group of women who fill the needs of society and meet its requirements, and this will be considered *fardh kifaya*, which means a legal obligation that must be discharged by the Muslim community as a whole, such as military struggle; if enough members of the Muslim community discharge the obligation, the remaining Muslims are freed from the responsibility before God. (ii) Work associated with the nature of men, such as agriculture, industry, and trade. In these jobs, it is permissible for a woman to engage in work according to her necessity and ability, but with the following conditions: (a) should be in accordance with the nature and femininity of the woman. (b) Should not contradict the basic function of her home towards her husband and children. (c) Seeking permission from her guardian, such as her parents or her husband if she is married. (d) The place must be free from Islamic taboos, such as the display of bodies, unveiling, and so on. (e) Must wear legal hijab and not show any of it to a *muhrim* person except for what is necessary in terms of outward clothing.⁷⁶

Nevertheless, there are great negative effects of a woman working outside the home, these negative repercussions can be broken down as follows: (i) Negative effects on the child: the child’s loss of care and tenderness, the absence of mother to whom the child can complain about his concerns, and someone who guides the child to the right path and shows him right from wrong. In addition, when a woman returns tired from her work, she may beat, scold, and yell at the children, which has a psychological impact on the child, especially if he is young, in addition to the moral damage and bad habits that he acquires from the presence and absence of house-helpers. (ii) The negative effects of a woman’s work on herself: working during the day and night with her children and husband is a great stress for the woman that she cannot bear, and it may lead to bad effects and chronic diseases with the passage of time. She will also lose her femininity to interact with men. (iii) The negative effects of a woman’s career on her husband: women’s career may affect husband’s psychological state, thoughts that his wife betrays him may affect their marital relationship and lead to separation between them.⁷⁷

⁷⁴ Qur’an, 33: 33

⁷⁵ Ismā’īl ibn ‘Umar ibn Kathīr, *Tafsīr al-Qur’ān al-‘Azīm* Vol 6, (2nd edn, Riyadh: Dar Taibah, 1999) 409

⁷⁶ Abdallah bin Mohammad, Dhawabit Amal Marat, official website: <https://www.alukah.net/spotlight/0/88394/ضوابط-عمل-المرأة> accessed 28 April 2023

⁷⁷ Abdulrahman, M. M, ‘An Analysis of the Causes of Divorce among Muslims in Mombasa County in the Sharia Law Perspective. (2020) 3 (2) International Journal of Islamic Studies and Humanities 90–97.

Wearing Hijab: Allah (SWT) commanded the Muslim girls and women generally to wear the hijab to cover and preserve themselves, and to preserve her dignity, so that do not not fall into human traps and their malicious intentions, and by wearing the veil, the Muslim girl announces to the whole world that she is a girl who honors her religion and respects the command of her Lord. so, her veil became a reason to protect her from harm and abominations. Hijab must cover her entire body, except for her face and hands, and it is forbidden to show her private parts in front of non-Mahram. Hijab should not be so transparent that what is underneath it becomes visible, so that it covers the woman's private parts and does not expose the color of her skin. The dress should be wide and loose so that it does not describe the features of the woman's body. Tight clothes highlight the women figures and at the same time describe the shape and size of the body.⁷⁸ The prophet companion Usama bin Zaid (RA) reported that the Prophet Mohammad (SAW) clothed me with a thick garment that was given to him by Dihya al-Kalbī. And I gave it to my wife to clothe, so he said: "Command her to put on a veil, because I am afraid that it will describe the size of her bones. Does not contain symbols that are specific to the denomination of non-Muslims. Not to be perfumed because the smell of perfume attracts men to it and causes problems. In this regards the Prophet Mohammad (SAW) said: "Any woman who puts on perfume then passes by people so that they can smell her fragrance then she is an adulteress."⁷⁹ The veil was imposed by Allah (SWT) for great wisdom, such that hijab was legitimate to preserve honor and to avoid the causes of suspicion, seduction, and corruption. Also, Hijab prevents the influence of displaying beauty, unveiling, and interacting with non-Mahrams. Additionally, Hijab is a sought of immunity against adultery.

Another preventive measure is to avoid prolonged distant relationship by spouses. In this regard, Allah (SWT) forbade *īla* (vow of continence) for more than four months. *īla* means taking an oath in the name of Allah or one of his attributes to avoid sexual intercourse with his wife for a period of at least four months. Hence, Allah (SWT) says, "Those who swear not to have intercourse with their wives must wait for four months. If they change their mind, then Allah is certainly All-Forgiving, Most Merciful. But if they settle on divorce, then Allah is indeed All-Hearing, All-Knowing."⁸⁰ The Muslim elite Ibn al-Qayyim al-Jawziyya in his commentary, commented that: "Almighty Allah knows that the women cannot patiently wait more than four months, so he specified a time. If the husband fulfills his oath, the marriage is dissolved; if he breaks it, the marriage continues."⁸¹ Furthermore, Omar ibn Khattab (R.A.) asked Hafsa, how long can a wife wait for her husband? She can't wait more than four months. Based on this information, Omar did not accept that a Mujahid should stay away from his wife for more than four months. According to the precedent, Islam prohibits entering the lady's house for those whose spouses are absent to avoid temptation into committing sins. This was captured in the following verse, "And when you believers ask his wives for something, ask them from behind a barrier."⁸² The statement was addressed specifically to the prophet's wives, but the commands are general for all believers until the Day of Judgment.

Stay away from forbidden places: One of the preventative strategies for committing the crime of adultery is to avoid places where they encourage it, such as nightclubs and bars, among others. This

⁷⁸ Abdulrahman, M. M, 'The Influence of Dress Code on the Quality of Higher Education from a Sharia Critical Perspective: A Case Study of Umma University' (2023) 2 (1) El-Aqwāl: Journal of Sharia and Comparative Law, 13-26. <https://doi.org/10.24090/el-aqwāl.v2i1.7637>

⁷⁹ al-Nasā'ī (n 79) Vol 8, 155 Hadith no: 5131

⁸⁰ Qur'an, 2: 226-227

⁸¹ Ibn Qayyim, *Zad al-Ma'ad Fi Hadyi Khair Al 'Ibaad*, Vol 5, (27th edn, Beirut: Muasasat al-Risalah, 1994) 345

⁸² Qur'an, 33: 52

was clearly captured in the story of the person who killed hundred persons and come to the renowned scholar and asked him if there was any chance for his repentance to be accepted. He affirmatively replied to him and asked, ‘Who stands between you and repentance? Go to such and such land; there (you will find) people devoted to prayer and worship of Allah, join them in worship, and do not come back to your land because it is an evil place.’⁸³ (Al-Bayhaqi, 1994) Also, the peer accompanied matters, it is recommended not accompany evil friends who might stray you away and encourage you to commit adultery. In this regard, the prophet Mohammad (S.A.W) said, “The similitude of good company and that of bad company is that of the owner of musk and of the one blowing the bellows. The owner of musk would either offer you some free of charge, or you would buy it from him, or you smell its pleasant fragrance; and as for the one who blows the bellows (i.e., the blacksmith), he either burns your clothes or you smell a repugnant smell”.⁸⁴ In light of the aforementioned, it is recommended to stay away from places where they encourage sins and not to accompany strayed people, as it might encourage committing adultery.

Marriage is considered as a key deterrent to committing adultery. In this regard, Islam has not opposed sexual desire that exists in human beings but also came to regulate it within a legal framework that pleases God and His Messenger, and this framework is marriage. Marriage is highly valued and regarded as being half of one’s faith. Allah (S.W.T) says, “if you were to marry them, then marry other women of your choice—two, three, or four. But if you are afraid you will fail to maintain justice, and then content yourselves with one”⁸⁵ A subsequent verse from the Qur’an, “Marry off the free singles among you, as well as the righteous of your bondmen and bondwomen. If they are poor, Allah will enrich them out of His bounty. For Allah is All-Bountiful, All-Knowing.”⁸⁶ and the prophet Mohammad (S.A.W) said, “When a man marries he has fulfilled half of the religion; so let him fear God regarding the remaining half.”⁸⁷ So a person will be rewarded when he performs sexual intercourse with his wife. The Prophet Mohammad (S.A.W) said, “man’s sexual intercourse (with his wife) there is a Sadaqah.” They (the Companions) said: “O Messenger of Allah is there reward for him who satisfies his sexual need among us?” He said, “You see, if he were to satisfy it with something forbidden, would it not be a sin on his part? Similarly, if he were to satisfy it legally, he should be rewarded”.⁸⁸ (Muslim, n.d) Marriage is the only right way for a person to satisfy a sexual instinct. Therefore, marriage is obligatory for anyone who is at high chance committing adultery. If he does not get married and is financially capable of providing for his wife’s needs, and is not afraid to oppress his wife or fall short of her rights, then he will be committing a sin whenever he is succumbed to pressure of bowing down to the temptation of adultery.

Islam permits polygamy if a single wife is not enough to satisfy his spouse needs. Allah (SWT) says, “if you were to marry them, then marry other women of your choice—two, three, or four. But if you are afraid you will fail to maintain justice, and then content yourselves with one”⁸⁹ Polygamy originated in antiquity and still exists today. However, the prior society did not specify

⁸³ Abū Bakr Aḥmad ibn Ḥusayn al-Bayhaqī, Sunan al-Kubra, Vol 1, (1st edn, India: Majlis Dairatul Maarif,1344) 90, Hadith no: 13898

⁸⁴ Abdulkhaliq al-Ishbili, al-Ahkam Ashri‘yah Vol 1, (1st edn, Riyadh: Maktabah Rushd, 2001) 96

⁸⁵ Qur’an, 4: 3

⁸⁶ Qur’an, 24: 32

⁸⁷ Suleiman bin Ahmad, Al-Mujam Al-Wasit, Vol 7, (1st edn, Cairo: Dar Al-Haramein, n.d) 332, Hadith No: 7647

⁸⁸ Muslim (n 77) 376, Hadith No: 21476

⁸⁹ Qur’an, 4: 3

the number of wives; some men married ten wives, while others married more. Through polygamy, women experience several issues such as discriminative behaviour of the husbands, unequal treatment with their wives, jealousy, poor marital satisfaction, unhealthy competition, lack of trust, and many other mental health disorders. To solve these difficulties, Islam has specified a number of wives that one can marry and does not permit the exceeded number of four wives. Furthermore, Muslim jurists put some conditions on polygamy as follows: (i) justice or fairness: It is permitted to marry more than one with the condition of treating them equally in terms of maintenance, spending the night with them, and other material things that are under his control. If he cannot, therefore it's not appropriate to engage in polygamy. On the contrary, love is not held accountable for him because he has no control over that. Hence, 'A'isha narrated that the Prophet used to divide his time among his wives equally and say, "O God, this is my division concerning what I possess, so do not blame me concerning what Thou possessest and I do not."⁹⁰ (Daramī, 2000) (ii) Ability to finance more than one wife: It is not allowed to marry more than one wife because of a lack of financial means. This was captured in the following verse, where Allah (S.W.T) said, "And let those who find not the financial means for marriage keep themselves chaste, until Allah enriches them of His Bounty."⁹¹

Sanctions on adulterers and fornications: The severe penalty was also considered a preventive measure for adultery. The penalty for a married person committing adultery is stoning to death. That ruling has been proven against the married adulterer. The Hadith reports that the penalty is Mutawaatir and authenticate by the prophet Mohammad (S.A.W) where he stoned a married adulterer known as al-Maaiz. Based on this, the senior companions of the prophet (RA) and other Muslim jurists were unanimous, so the ruling on stoning the married adulterer was proven. On the other hand, the punishment for a non-married adulterer is one hundred lashes and banishment from his country for a year, according to some jurists. Consequently, Allah (SWT) says, "As for female and male fornicators, give each of them one hundred lashes".⁹² As such strong punishments are inflicted upon the offender so that he abstains from committing adultery in the future and it will also be a lesson to the other members of society who hold such unlawful desires.

Conclusion

This study critically reviews prevention strategies for the crime of adultery in the Light of Islamic Law. The study established that adultery is a serious offense that is prohibited by the Quran, Sunnah, and the consensus of Muslim jurists. On the other hand, it was found that adultery was forbidden in other revealed laws, considered a major sin, and recognized as shameful. The penalty for a married person committing adultery is stoning to death (*rajm*), while the penalty for a non-married adulterer is one hundred lashes. In addition to corporal punishment, there are also immoral punishments, including *Tafđīh* (exposing), *Taghrib* (banishment), and *Tahrim* (not being allowed to get married among the participants of such). Furthermore, there are many effects associated with adultery, they include, transmitted diseases, proliferation of illegitimate children, lawful shedding of blood, and leading to poverty, and more severe perpetrators entering hellfire, among others. Therefore, it is recommended to adopt the preventative measures established by Islam for the crime

⁹⁰ Abdallah bin Abdulrahman Al-Darami, Sunan Ad-Darami, Vol 3, (1st edn, Saudi: Dar Al-Mughni, 2000), 1416, Hadith No: 2253

⁹¹ Qur'an, 24: 33

⁹² Qur'an, 24: 2

of adultery in order to prevent mortality and preserve the wellbeing of the society. Finally, it requires a concerted effort from religious leaders, community members, and relevant stakeholders to address the underlying causes of adultery and promote a culture of moral integrity and respect for marital commitments.

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