

previous verse according to Imām Abū Ḥanīfah and some other Imāms, which is وَأَوْلَيْكَ هُمْ الْفَيْسُقُونَ (24:4). So, with this exemption it means that the one who is punished for false accusation is a sinner, but if he repents with sincerity and improves himself after obtaining forgiveness from the one he had falsely accused, then he will no longer remain a sinner, and his punishment will be pardoned in the Hereafter. In other words the two punishments meant for this world, which are referred in the beginning of the verse, that is eighty stripes and inadmissibility of his evidence, will remain despite the repentance. It is because the big punishment of stripes has already been executed and the second punishment is part of *ḥadd*. All scholars are unanimous on the point that repentance does not remit punishment of *ḥadd*, only the torment of the Hereafter is pardoned. Since inadmissibility of the evidence is part of *ḥadd*, it will not be remitted by repentance. Imām Shafi'i and some other Imāms have taken this exemption toward all the sentences of the previous verse, which means that as one does not remain sinner after repentance, hence he would also not be debarred from giving evidence. Jaṣṣāṣ and Maḥzarī have provided arguments on both sides - Those interested may consult them.

Verses 6 - 10

وَالَّذِينَ يَرْمُونَ أَزْوَاجَهُمْ وَلَمْ يَكُن لَّهُمْ شُهَدَاءُ إِلَّا أَنْفُسُهُمْ فَشَهَادَةُ أَحَدِهِمْ أَرْبَعُ شَهَدَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الصَّادِقِينَ ﴿٦﴾
وَالْخَامِسَةُ أَنَّ لَعْنَتَ اللَّهِ عَلَيْهِ إِنْ كَانَ مِنَ الْكَاذِبِينَ ﴿٧﴾ وَيَدْرُؤُا
عَنْهَا الْعَذَابَ أَنْ تَشْهَدَ أَرْبَعَ شَهَدَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الْكَاذِبِينَ
﴿٨﴾ وَالْخَامِسَةَ أَنَّ غَضَبَ اللَّهِ عَلَيْهَا إِنْ كَانَ مِنَ الصَّادِقِينَ ﴿٩﴾
وَلَوْ لَا فَضْلُ اللَّهِ عَلَيْكُمْ وَرَحْمَتُهُ وَأَنَّ اللَّهَ تَوَّابٌ حَكِيمٌ ﴿١٠﴾

And those who accuse their wives (of adultery) and they have no witnesses except their own selves, then the evidence of one of them would be to swear four oaths by Allah that he is from among the truthful, [6] and the fifth (oath) that Allah's curse be on him if he is from among the liars. [7] And it will remove the punishment from the woman if she swears four oaths by Allah that

he (the accuser husband) is certainly from among the liars, [8] and the fifth (oath) that Allah's wrath be on her if he is among the truthful. [9] And had it not been for the grace of Allah upon you and His mercy and (had it not been) that Allah is Most-Relenting, All-Wise (you would have been ruined). [10]

Commentary

The fourth injunction is of Li'an (لِإِن : curse) among the adjuncts of fornication

The meaning of لِعَان and مُلَاعَنَةٌ is to curse and praying for Allah's wrath on each other. Certain specific types of oaths between husband and wife with special connotation are called *Li'ān* (لِعَان) in Islamic law. When a husband accuses his wife of adultery or refuses to own his child as being legitimate, and his wife refutes his allegation to be false, and claims for the punishment of false accusation (قَذْف) of eighty stripes to be awarded to him, then the husband will be asked to produce four witnesses. If the husband produces four witnesses, then the wife will be awarded the punishment of adultery, and if he could not produce four witnesses, then they will be subjected to *li'ān* (لِعَان), that is first the husband will be asked to testify four times with the wordings given in the Qur'ān to the effect that he is honest, and the fifth time will say that if he was lying, then Allah's curse be on him.

If the husband hesitates from saying these words, then he should be arrested, and asked either to swear by saying these words five times or accept himself to be a liar. Until he accedes to one of the two alternatives, he should not be released. If he accepts himself to be a liar, then he should be awarded the punishment of false allegation of adultery (حَد القذف), but, in case he swears by repeating the required words five times, then the wife be asked to swear five times by uttering the words given in the Qur'an for this purpose. If she refuses to swear, then she should be put under arrest until such time that either she swears five times or accepts her guilt of adultery, in which case she will be awarded the punishment for adultery. In case she agrees to swear and utters the required words five times, then the process of *li'ān* (لِعَان) has been completed. This way they both have escaped the punishment in this world, but in the Hereafter, the one who has lied will suffer the punishment, as Allah knows best who is the liar. However, in this world

also, after the process of *li'ān* (لِعَان) this couple will be forbidden to each other for ever. The husband should free the woman by divorcing her. If the husband does not divorce her, then the judge or the ruler can have them separated by his decree, which will have the same force as divorce. Moreover, they also cannot get married again for ever. Details of the process of *li'ān* (لِعَان) are given in the books of *fiqh*, where they can be seen.

The law of *li'ān* (لِعَان) has been placed in the Islamic jurisprudence to take care of the psychology and emotions of the husband, because in the preceding verses it has been ruled that for putting the blame of adultery on anyone it is essential to produce four eyewitnesses, and if one fails to do so, then he himself will be liable to punishment of false allegation of adultery. For a common man it is possible to keep quiet and not to accuse someone of adultery if he cannot produce four eye-witnesses, in order to save himself from the punishment of false accusation of adultery, but for the husband it is different and a very grave matter, when he has seen the adultery of his wife with his own eyes. For if he accuses his wife without the support of four eye-witnesses he will be liable to punishment of eighty stripes, and if he keeps quiet, it will be a life long agony for him to live with the knowledge that his wife has been unfaithful to him. Therefore, the husband's case has been separated from the general law and a separate provision has been prescribed, which is exclusive to the case between husband and wife. For others the directive is the same as enjoined in the preceding verses.

The books of Ḥadīth have narrated two incidents under this subject. The commentators have different views as to which of the two incidents was the cause of revelation of these verses. Qurṭubī has taken both the incidents as the cause of revelation of verses so as the revelation was repeated twice. Ḥafīz Ibn Ḥajr, the annotator of Bukhārī, and Nawawī, the annotator of Muslim, have treated both incidents as the cause of revelation of the verses. Their reasoning is more appealing, which will soon appear. One incident is that of Hilāl bin Umayyah and his wife, which is narrated in Bukhārī on the authority of Ibn 'Abbās رضي الله عنه. The initial part of this incident, also on the authority of Ibn 'Abbās رضي الله عنه, has appeared in the Musnād of Aḥmad like this:

Sayyidnā Ibn 'Abbās رضي الله عنه has said that when the verses of Qur'ān on

punishment of false accusation of adultery were revealed namely,

وَالَّذِينَ يَرْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً

And those who accuse the chaste women (of fornication), but they do not produce four witnesses, flog them with eighty stripes - 24:4.

in which it is made obligatory on the person accusing a woman of adultery to produce four eyewitnesses, one of them he being himself, and if he fails to do so, then he should be charged with the false accusation and awarded eighty stripes instead, and should also be debarred for life from giving any evidence. After hearing these verses a leader of Madīnah, Sayyidnā Sa'd Ibn 'Ubādah ؓ enquired from the Holy Prophet ﷺ whether these verses were revealed like that only. The Holy Prophet ﷺ (was very surprised to hear this from Sa'd Ibn 'Ubādah), asked the Anṣār whether they were listening to what their leader had said. The group of Anṣār pleaded to the Holy Prophet ﷺ not to reproach him, as he had made this enquiry only because of extreme sense of honour. Then Sa'd Ibn 'Ubādah spoke himself and said "My parents be sacrificed on your honour! I know fully well that these verses are nothing but truth, and have been revealed from Allah Ta'ālā; but what I am surprised of is that if I see a shameless wife in a situation that a strange man is lying over her, then would it not be right for me to scold him and remove him from there. Instead, will it be incumbent on me to get four men and show them this situation to make them eye-witnesses, and by the time I could find four men, he runs away after performing his work?". (Sayyidnā Sa'd's wordings are recorded with slight differences by various narrators, but the gist of all is the same. - Qurṭubī)

Only a short time had lapsed after revelation of the verses of punishment against false accusation of adultery and the remarks made by Sa'd Ibn 'Ubādah, that the incident of Hilāl Ibn Umayyah ؓ took place. It so happened that Sayyidnā Hilāl ؓ returned from his lands late in the night, when he saw a man with his wife with his own eyes, and listened to their conversation. But he did not do any thing and waited until the dawn, when he went to the Holy Prophet ﷺ and narrated the story, the Holy Prophet ﷺ was very unhappy to hear about this incident and felt very bad. In the meantime the people of Anṣār were gathered and started discussing among themselves that the same thing had

happened as was hinted by their chief, and that Hilāl Ibn Umayyah ؓ would be punished with eighty stripes in accordance with the Islamic law, and be debarred for life for giving any evidence. Nevertheless, Hilāl Ibn Umayyah ؓ said 'By Allah I am very hopeful that Allah Ta'ālā will take me out of this predicament'. Ṣaḥīḥ of Bukhārī has also quoted that in fact the Holy Prophet ﷺ, after hearing the incident of Sayyidnā Hilāl ؓ had asked him, according to Islamic law, to produce four eye-witnesses or be prepared for the punishment of eighty stripes on the back. Sayyidnā Hilāl Ibn Umayyah swore an oath by God before the Holy Prophet ﷺ, and pleaded that he was honest, and that Allah will surely send down a command which will save his back from flogging. While this conversation was still on Jibra'īl ؑ descended with the verses containing the law of *li'ān*, that is:

وَالَّذِينَ يَرْمُونَ أَزْوَاجَهُمْ

And those who accuse their wives (of adultery). - 24:6.

Abū Ya'lā has quoted the same version on the authority of Sayyidnā Anas ؓ, which also says that when the verses of *li'ān* were revealed, the Holy Prophet ﷺ gave the good tiding to Hilāl Ibn Umayyah ؓ that Allah Ta'ālā has sent down the solution to his predicament. Hilāl replied that he was hoping the same from Allah Ta'ālā.

Then the Holy Prophet ﷺ called Sayyidnā Hilāl Ibn Umayyah's ؓ wife also, and when they were both together, he inquired from the wife about the incident. She said that her husband was making a false accusation against her. The Holy Prophet ﷺ said that Allah knows one of you is a liar, so would you not dread (Allah's torment) and come out with the truth and repent. Then Sayyidnā Hilāl Ibn Umayyah ؓ said 'My parents be sacrificed on you! I have said nothing but truth and whatever I have said is true'. After that the Holy Prophet ﷺ directed that the process of *li'ān* be conducted on both husband and wife according to the revealed verses of the Qur'ān. First Sayyidnā Hilāl ؓ was asked to testify four times with the wordings of Qur'ān, which are, 'Believing Allah to be present everywhere and seeing everything, I testify that I am honest in my allegation', Sayyidnā Hilāl ؓ testified four times with the Qur'ānic wordings. When it came to testify the fifth time, of which the Qur'ānic wordings are, 'Allah's curse be on me, if I were lying'. At that

time the Holy Prophet ﷺ said to Sayyidnā Hilāl Ibn Umayyah ؓ, as a warning, that he must be careful and fear Allah, as worldly punishment is lighter than the torment of the Hereafter. The torment of Allah is much more severe than the punishment of people, and that the fifth testimony is the final one, on which the ruling would depend. But Hilāl Ibn Umayyah insisted that he could say under oath that Allah Ta'ālā would not punish him for his testimony in the Hereafter (as he was sure that this was a true testimony). Then he uttered the wordings of the fifth testimony. After that the Holy Prophet ﷺ obtained four oaths, in the similar manner, from his wife. She too swore with Qur'ānic wordings that her husband was lying. When it came to testify the fifth time, the Holy Prophet ﷺ asked her to wait, and warned her that it was the fifth and final testimony, and as such she should be fearful of Allah, as His torment is much more severe than the punishment by the people, that is the Islamic punishment of adultery. On hearing this, she hesitated to swear and waited in that condition for a while. Then said ultimately 'By Allah I will not disgrace my people', and testified the fifth time, saying that if her husband was true then Allah's wrath be on her. This way when the process of *li'ān* was completed, the Holy Prophet ﷺ separated the husband and wife, that is broke down their marriage, and ruled that the child to be born of this conception will take the mother's name and will not be attributed to the father, but the child should not be disparaged. (Tafsīr Maḥzarī quoted from Musnad Aḥmad, authority Ibn 'Abbās).

The second incident

The second incident is also quoted in the Ṣaḥīḥs of Bukhārī and Muslim, and the details of the incident are narrated by Baghawī on the authority of Ibn 'Abbās ؓ. He has said that the Holy Prophet ﷺ, while standing on *minbar*, related the verses in which it is enjoined to punish the man making false accusation of adultery (حَدِّ الْقَذْفِ), that is وَالَّذِينَ يَرْمُونَ ۖ وَالَّذِينَ يَرْمُونَ (24:4). At that time Sayyidnā 'Āṣim Ibn 'Adiyy al-Anṣārī ؓ was also present in the crowd. He got up and pleaded 'O Messenger of Allah ﷺ, my life be sacrificed on your honour ! If any one of us discovers his wife lying in bed with another man and narrates this situation, then he will be punished with eighty stripes, and would be debarred from giving evidence for life. Moreover, the Muslims would call him liar. In such a situation how can we get the eyewitnesses immediately? And if we do, and

go in search of eyewitnesses, he would run away after doing his work, by the time we could bring the witnesses. It was the same inquiry made by 'Āsim Ibn 'Adiyy رضي الله عنه, which was made by Sayyidnā Sa'd Ibn 'Ubādah رضي الله عنه in the first incident.

This inquiry was made on a Friday. After that it so happened that 'Āsim Ibn 'Adiyy's رضي الله عنه cousin, 'Uwaimir, who had married Khaula رضي الله عنها, another cousin of 'Adiyy's, saw his wife involved with yet another cousin, Sharīk Ibn Saḥmā'. 'Uwaimir رضي الله عنه related this incident to his cousin 'Āsim Ibn 'Adiyy رضي الله عنه, who recited **إِنَّا لِلَّهِ وَإِنَّا إِلَيْهِ رَاجِعُونَ** and went to see the Holy Prophet ﷺ the next day – again a Friday. 'Adiyy رضي الله عنه said to the Holy Prophet ﷺ that he had made an inquiry on the previous Friday in which he himself has got involved unfortunately, as the same incident has taken place in his family. Baghawī has narrated the incident in great detail as to how were the husband and wife were called and went through the process of *li'ān* (Maḥzarī)

This incident is narrated in the Ṣaḥīḥs on the authority of Sayyidnā Saḥal Ibn Sa'd Sa'idi رضي الله عنه that 'Uwaimir al-'Ajlānī رضي الله عنه inquired from the Holy Prophet ﷺ that if someone finds his wife in bed with another man then should he kill that man, as a result of which he will be killed by people or what else should he do? the Holy Prophet ﷺ replied that Allah Ta'ālā has revealed an injunction for the case of your wife and yourself. Go and get your wife. Sayyidnā Saḥal Ibn Sa'd رضي الله عنه, the narrator of the Ḥadīth, narrates that the Holy Prophet ﷺ subjected them to the process of *li'ān* in the mosque (This process has been explained above). When the process of *li'ān* was completed after both husband and wife had sworn five times, 'Uwaimir said 'If I still keep her as my wife this will mean as if I had made a false accusation against her. Therefore, I am announcing three divorces to her'. (Maḥzarī on authority of Ṣaḥīḥs)

In both these incidents it is reported that the verses of *li'ān* were revealed for that particular incident. Ḥafīẓ Ibn Ḥajar and Shaikh ul Islam Nawawī رحمه الله تعالى have noted the likeness in the two by explaining that it looks the first incident was that of Hilāl Ibn Umayyah رضي الله عنه, and the verses of *li'ān* were revealed in that connection, and immediately after that 'Uwaimir رضي الله عنه was also confronted with a similar incident, which he presented before the Holy Prophet ﷺ, perhaps not

knowing Hilāl Ibn Umayyah's ﷺ incident, which had occurred earlier. Then the Holy Prophet ﷺ told him the judgement in his case. This appears plausible because, in the case of Hilāl Ibn Umayyah ﷺ the wordings are فنزل جبرئيل (Then Jibra'īl descended with these verses), while in the case of 'Uwaimir ﷺ the wordings are قد أنزل الله فيك (Allah has revealed about you), the meaning of which could be that Allah Ta'ālā has enjoined His command in a case similar to yours. (Mazharī) والله اعلم.

Ruling

When *li'ān* has taken place between husband and wife before the judge then that woman becomes forbidden for good for that man, just like foster relatives are forbidden for marriage among themselves forever. The Holy Prophet ﷺ has said in a Ḥadīth المتلاعنان لا يجتمعان ابداً (The spouses who have gone through *li'ān* can never join each other). Unlawfulness establishes immediately after the *li'ān*. As for the woman's second marriage with another man, she is allowed after the expiry of her 'iddah period of three months, when she is divorced by her first husband or if he had just said that he had left her. This is the ruling given by Imām Abū Ḥanīfah رحمه الله تعالى. But if the husband does not carry out any of the two alternatives, then the ruler or the judge would order the separation, which would have the same effect as the divorce, and after that she would complete three periods of menses, and then she would be free to marry another man. (Mazharī etc.)

Ruling

When the *li'ān* is completed, after that the child that would be born from that conception would not have the name of her husband, but would be called after the name of the mother. The Holy Prophet ﷺ gave this ruling in both the cases of Hilāl Ibn Umayyah and 'Uwaimir رضي الله عنهم. اجمعين.

Ruling

Although the torment of Hereafter would increase on the one who is liar, after the *li'ān*, but the punishment of the world be annulled. Similarly, it is not permissible to call the woman an adulterer nor is it permissible to call her child illegitimate. This was also ruled by the Holy Prophet ﷺ in the case of Hilāl Ibn Umayyah ﷺ. وقضى بان لا ترمى ولا ولدها.