

(d. 676/1277) explains, is that misattributing lineage is a form of ingratitude (*q.v.*) with enormous legal consequences: it destroys rights of inheritance, clientship (see CLIENTS), blood money (*q.v.*), and the rights of blood relatives (*q.v.*) and parents (*q.v.*) (*Sharḥ Muslim*, Faḍl al-Madīna).

Finally, it should be noted that the Qurʾānic interdiction against legal adoption works in conjunction with its frequent exhortations to care and provide for orphans (e.g., Q 2:83; 76:8) and encouragement of fostering. In short, the Qurʾān nullified adoption as it was practiced in the Age of Ignorance, and instituted new legal and social practices which ensure that the fostered child retains his or her lineage; members of the adoptive family do not become blood relatives, and they therefore remain marriageable to him or her; and the child inherits from his or her biological parents. Property or wealth so received is held in trust by the adoptive family until the child reaches the age of maturity (*cf.* Q 4:2 and 6).

Bibliography

- Abū Dāwūd. *Sunan*.
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 Zamakhsharī. *Kashshāf*.

See also: ABROGATION; BIRTH; BLOOD RELATIVES; BREASTFEEDING; CHILDREN; CLIENTS; FAMILY AND HOUSEHOLD; INHERITANCE AND PATRIMONY; MARRIAGE AND DIVORCE; PARENTS; ZAYD B. ḤĀRITHA.

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ADULTERY AND FORNICATION

ZINĀ

This entry comprises the following: i. Meaning and Usage; ii. Legal Definition; iii. Analogies; iv. The Enormity of *Zinā*; v. Marrying a Fornicator; vi. Social Harms of *Zinā*; vii. Legal Proof; viii. Repercussions; ix. Repentance; x. Prevention; xi. Rape; xii. Bibliography.

Meaning and Usage

The Arabic word for unlawful sexual intercourse, whether adultery or fornication (meaning intercourse between two persons not married to one another, irrespective of whether one or both are married to other people; see section on legal definition below), is *zinā* or *zināʾ*, infinitive form of the verb *zanā/yaznī*, from the trilateral root *z-n-y* (Azharī, *Tahdhīb*, *sub z-n-y*). Al-Farrāʾ (144-207/761-822) held that *zinā* (without the glottal letter *hamza* at the end) is the infinitive of *zanā*, while *zināʾ* (with a *hamza*) is the infinitive of *zannā* (*bāb al-tafʿīl*, or form II) (al-Zamakhsharī, *Asās al-balāgha* 1:424). Ibn Sida (d. 230/ca.845), quoting al-Lihyānī, commented that the form *zinā* (as in Q 17:32, and come not near adultery (*wa lā taqrabū l-zinā*)) was more commonly used by the people of Ḥijāz, while *zināʾ* was the preferred usage of the tribe of Banū Tamīm (*Muḥkam*).

The verbs *zanā* and *zannā* are synonymous, and denote accusing someone of fornication—one of the gravest forms of calumny (*q.v.*) if untrue. A child born out of wedlock is referred to as *zanya*, *ibn zanya*, or *ibn zinya* (Fayrūzābādī; Ibn Sīda, *Muḥkam*; Ibn Manẓūr). The root *z-n-y* appears in the Qurʾān nine times: twice in verbal form (*yaznūn*, *yaznīn*) (Q 25:68, 60:12), once in the infinitive *al-zinā* (Q 17:32), and six times as an active participle, thrice each in the masculine and feminine forms *al-zānī* and *al-zāniya* (Q 24:2, 3).

The more general terms *al-bighāʾ*, *al-fāhisha*, *al-sifāḥ*, and *ittikhādḥ al-akhdān* are also used in the Qurʾān to denote unlawful sexual acts, including adultery and fornication.

Al-bighāʾ (infinitive form of the root *b-gh-y*) means ardent desire leading one to exceed the limits of moderation in a quest or a search. This may have positive or negative connotations, depending on whether the quest is in a cause of truth and virtue, or falsehood and iniquity. Used more specifically for prostitution, an impermissible transgression (Rāghib, *sub b-gh-y*), *al-bighāʾ* occurs once in the Qurʾān: *Do not compel your slave-girls to prostitution ('alā al-bighāʾ) when they*

desire to guard their chastity, so that [you] may seek some gain of this worldly life (Q 24:33). The feminine active participle refers to an adulteress or a prostitute, as in the reproving exclamation of the Israelites to Maryam (*q.v.*) when they saw her with her child, upon him peace (see ʿĪsā): “O sister of Hārūn, your father was no man of evil, nor was your mother unchaste (*baghiyyā*)...” (Q 19:28; cf. Rāzī).

The terms *al-fāḥisha* and *fahshāʿ* (pl. *ḥawāshish*, infinitives from the root *f-ḥ-sh*) refer to any act not conforming to truth and rectitude, that is, any despicable deed or speech and, more generally, any form of perversity (Ibn Sīda, *Muḥkam*). The word *al-fāḥisha* occurs thirteen times: twice referring generally to a mistake or sin (Q 3:135 and 7:28); six times referring to unlawful sexual intercourse as an abomination (*fāḥisha*) (in Q 4:22 describing marrying the wife of one’s father; in Q 4:25 adultery; in Q 17:32 general lewdness; and in Q 4:19, 33:30, and 65:1 all in the phrase “open adultery” (*fāḥishatin mubayyinatin*)); and in five instances as a proper noun referring to unlawful sexual acts, whether lewdness generally (Q 4:15 and 24:19 (or: slander) or specifically the homosexual acts (Q 7:80, 27:54, and 29:28) (see HOMOSEXUALITY) committed by the people of the Prophet Lūṭ (*q.v.*), upon him peace. The plural *ḥawāshish* occurs four times referring to acts of indecency (Q 6:151, 7:33, and 42:37) and enormities (Q 53:32) in general. A cognate of the same root, *al-fahshāʿ*, occurs seven times: twice (Q 2:169, 268) referring to a range of wicked actions, including stinginess that leads to estrangement from one’s kin as well as adultery as per Ibn Kathīr (*Tafsīr*); in Q 7:28 referring to the pre-Islamic Arab practice (see JĀHILIYYA) of circumambulating the Kaʿba (*q.v.*) unclothed—a practice first described as “lewdness” (*fāḥisha*) and then denounced in the same verse: *Allah does not enjoin indecency (al-fahshāʿ)* (Ibn Kathīr, *Tafsīr*); once (Q 12:24) referring to the attempted seduction of the Prophet Yūsuf (*q.v.*) by the desirous wife of the ʿAzīz (Ibn Sīda, *Muḥkam*); and three times (Q 16:90; 24:21; 29:45) to indecency writ large (Ibn Kathīr, *Tafsīr*). Al-Rāghib al-Aṣḥāhānī (502/ca.1108) holds that Q 7:28, 7:33, and 16:90 all refer to unlawful sex (*Mufradāt*).

The term *al-sifāḥ* (infinitive of the *mufaʿala* form of the root *s-f-ḥ*) means “spilling”, whether bloodshed (*q.v.*) or shedding tears, or, according to Abū Ḥayyān (d. 745/1344), the spilling of semen. The Qurʾān employs both masculine and feminine active participles of the verb *sāfaḥa*, literally meaning “mutual spilling.” After listing women that a man cannot marry (Q 4:22-24)

(see MARRIAGE AND DIVORCE), the Qurʾān states: *Lawful to you are all beyond those mentioned, to seek with your wealth [in marriage], binding yourself [in marriage] (muḥṣinīn) and not for [mere] fornication (ghayra musāfiḥīn)* (Q 4:24). The next verse discusses the permissibility of marrying slave girls, provided that the marriage is a means by which to protect one’s modesty: *So, marry them with the permission of their masters, and give them their dues/dowers as recognized, they being bound [in marriage] (muḥṣanāt), not for [mere] fornication (ghayra musāfiḥāt), nor having paramours (wa lā muttakhidhāti akhdān; see below)*. Q 5:5 employs a similar formulation in discussing the permissibility of marrying *the virtuous women from [among] the believers, and the virtuous women from [among] who were given scripture before you* (see PEOPLE OF THE BOOK), *provided you give them their dues/dowers, binding yourself in marriage (muḥṣinīn), not for [mere] fornication (ghayra musāfiḥīn), nor having paramours (wa lā muttakhī akhdān)*. Abū Ḥayyān notes that in the Qurʾān *sifāḥ* always occurs in contradistinction with the term *iḥṣān*, which denotes trying to be chaste and protected from sin. Thus the words *musāfiḥīn* (Q 4:24, 5:5) and *musāfiḥāt* (Q 4:25), he writes, refer to adulterers, specifically those who make a living through debauchery (*al-zunāt al-mubtadhilīn/al-mubtadhilāt*) (*Baḥr*).

The phrase *ittikhādh al-akhdān* is used in construct form in Q 4:25 and 5:5 (see above), once in reference to men and once to women, both in the context of sexual injunctions. The phrase, literally “taking partners” (*akhdān*, sing. *khidn*, from the root *kh-d-n*, meaning amorous companions) denotes having clandestine sexual relations or taking secret lovers (Rāghib, *sub kh-d-n*).

Legal Definition

Jurists agree that the term *zinā* encompasses any copulation outside of a valid marriage (*nikāḥ*), in the absence of a justifiable (albeit erroneous) presumption of its validity (*shubhat al-nikāḥ*), or rightful possession of a female slave. However, legal schools vary regarding the technical parameters within which an unlawful sexual act fits the precise legal definition of *zinā* and thereby incurs the *ḥadd* punishment (see below; also see LEGAL PUNISHMENTS). Because Islamic law admits discretionary judgments for most transgressions except in specific cases incurring the *ḥadd* punishments, jurists and exegetes elaborate the conditions, definitions, and categories involved in such punishments in great detail. The positions of the four Sunni schools regarding adultery are as follows: