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Abstract

The status of cheques in Islamic financial dealings in light and sharia and other laws: Acomparatiwe and analogical study

This study is going to search ,illustrate and detail in the topic of the adjudgments of the cheques dealing (financial bond) in the terms of the jurisprudence and legislation (law) and this study has gone to origin the ways to deal with the cheques in the terms of the jurisprudence and enhance that by evidences.

The importance of this study resides in its topic which represents one of the most common topic among Muslims. Furthermore, this dissertation investigates in the virtual side of the Islamic jurisprudence which represents continued situation of the development and movement. Moreover, this study search about the originality of the cheques, and return its case concept back to the Quran and *Sunih* by illustrating the discipline criteria of the cheques dealing to achieve the true dealing of the cheques among Muslims .

The essence of this study search about the juristic output of the cheques and the multi ways of the dealing with it. This study stands on the descriptive approach by knowing what has been mentioned about the cheques according to the jurists saying and also get benefits from the extrapolated approach to shape clear image about that.

This study has concluded the importance and the specialty of the dealing of the cheques in the west bank comparing with the Arab countries when the cheques represents credit of the devotion and trust.

This study has recommended to increase researches to investigate and to find alternative process that is acceptable in the Islamic law, instead of the usury system (Riba) of the cheques in the bank dealing. Also, this study recommends towards the specialization in the cheques types such as the internal and external tourist cheques by comparing that with the international commercial law. Furthermore, search about another types of financial commercial documents by taking west bank as case study.

(End)

﴿قُلْ إِنَّ صَلَاتِي وَنُسُكِي وَمَحْيَايَ وَمَمَاتِي لِلَّهِ رَبِّ

الْعَالَمِينَ ﴿١٦٢﴾ لَا شَرِيكَ لَهُ، وَبِذَلِكَ أُمِرْتُ وَأَنَا أَوَّلُ الْمُسْلِمِينَ ﴿١﴾

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					1997	1418	1	586	3
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			.23	25		2005	1426	3	
						279-277			
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	.119		.384	
.361-359		.460	.527	
	.266	.1966	"12 "	(2)
	.609		.118	
	.364	.299-298		(3)
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.223 7 . 1994 1415 1 (2)

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2000 1	487				(1)
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.153			.1966	12	(1)
	.306		.489		
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﴿وَابْتَلُوا الْيَتَامَىٰ حَتَّىٰ إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ﴾ (4)

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					2003	1424	1
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﴿يَأْتِيهَا الذَّبَابُ فَأَمْنُوا لَا

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تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَطْلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ ﴿٢﴾

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						2003	1424	3	
8					.20695	299	34	...	(4)
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3						2003	1424	3	
	1424	1							
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:				1979	1399	2			2004
:									
	1263	101	3						
					1995	1416	1		
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							1997	1418	
				1979	1399	1	1459	279	5
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﴿ وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ ﴾

﴿ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ ﴾⁽⁴⁾

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﴿الَّذِينَ تَرَوُا أَنَّ اللَّهَ سَخَّرَ لَكُمْ مَّا فِي السَّمٰوٰتِ وَمَا فِي الْأَرْضِ وَأَسْبَغَ عَلَيْكُمْ نِعْمَهُ ظَهْرَهُ وَبَاطِنَهُ وَمِنَ النَّاسِ مَن يُجَادِلُ فِي اللَّهِ بِغَيْرِ عِلْمٍ وَلَا هُدًى وَلَا كِتَابٍ مُّنِيرٍ﴾⁽¹⁾.

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﴿وَمَا كَانَ رَبُّكَ﴾ :

﴿نَسِيًّا﴾⁽²⁾ .⁽³⁾

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⁽¹⁾. 1981

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						.182	(2)
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						.329	(4)
						.59	(5)

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		:	437	2	
			1993	1	
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.358 (6)

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	.10947	576	5						(1)
1985	1405	2		1402	275				
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						.171			(2)
1416	1		379						(3)
								1996	
				.297-296					(4)

" : 1989 1409
(3) "

" 1990 1410

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.207 1 (1)

.180 (2)

<http://www.themwl.org/Publications> .<http://islamtoday.net> (3)

<http://www.fiqhacademy.org.sa> . www.islamqa.com (4)

<http://www.bankaalbilad.com.sa> (5)

<http://www.alifta.net> (6)

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1981 (889)

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.68 2 " " " " " " (1)

324 1 " "

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.http://www.kantakji.com (1)

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.1326 175-174 5 ."

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.317 1 " "

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.57 2 " "

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	.342			.(1966)	(12)		(1)
352				.342-341			(2)
	.102			.	2010	1430	1
					.247		
	.341			.227			(3)
		1997	1418	2		94	

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.227

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.439 6

.228 2

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23 4

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<http://islamtoday.net> (1)

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.228 2

.126 13 (2)

.39 2 .439

.39 2 (3)

.246 (4)

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2008 1428 1

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2005 1426

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2006 1427 1

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.372

.251-250

.376

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703 4611

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.66 3 (3)

.36 29 (4)

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.325

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.529 2

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1996 1417 1

206 4

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.580 2

.534-533 2

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.215 15

.280 4

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.218 15

.280 4

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	1992 ()	14-9	1412	12
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	.249	(1)
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.268	.514	(2)
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.342	.94	.247
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.397	.103
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<http://islamtoday.net> (1)

<http://islamtoday.net> (2)

<http://www.kantakji.com> (3)

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.333-332		.275-271		(1)	
	.344		.264		
		.281		(2)	
		.22	14	(3)	
		.94	2	(4)	
				(5)	
			:		
	.885				
	:	739	2		
	.	1996	1416	1	
	.	446	1		
			.99	5	(6)
		.173	3	(7)	

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1422/10/26-21

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<http://www.themwl.org/Publications> .<http://islamtoday.net> (1)

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. . 1968 1388 1 . : 214 4
.453 2 " " .158 2 " "

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	.263	8		.154	10		(1)
				.69-68	10		
				.409	2		(2)
3			1398	2	2	5	
							.542
		300 -299	12				(3)
1					:	254	
				.461	3		1994
4	.332	3			.443	6	(4)
							.202
				.175	23		(5)
				.1966	12		(6)

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.143

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.542 3

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1998 1418 1

212 1

-10 6

.461 3

282 3

(5)

.11

(1)»

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-1 : ﴿وَإِنْ كُنْتُمْ عَلَىٰ سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهْنَ مَقْبُوضَةً﴾ (2)

(3)

-2 : ﴿وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَىٰ فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَىٰ اللَّهِ وَمَنْ عَادَ فَأُولَٰئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ﴾ (4)

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32	3	.98	5	(1)	
		1997	1417	1	
				:	
			.283	(2)	
	:	121	5	"	
				"	
			2001	1422	1
				.275	(4)
	:	381	4	(5)	
			2006	1427	1
			.215	(6)	
.306-305	12	.122	2	(7)	

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			.367	3	
	.32	3		.98	5
.216			.246		(1)
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.1385 4 " " " " (2)

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1993 1414

1313 134 4 (3)

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1405 1 27 3 1982

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1995 1415 1

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.559 2

.262 3

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.100 6

.119 2

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.291

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: 61 6

2005 1425 1

(1) " : -1
(2) "

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: 888 2

2001 1422 1

.2174 32 2 .. (2)

.2177 33 2 (3)

.1584 404 (4)

.2061 7 2 (4)

5 .14 2 .136 4 (5)

175 (6)

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1993 1413 2 : 519 2

.210 4

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.136 4

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.1131 3

.1051

.307 7

.354 26

.264 3

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.354 26

.136 4

.175 5

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.638 4

1425 1

306

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2005

.119-118 2

.216 5

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.55 4

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.247

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			. 595	
1417	1		:	378
.318	5	.320	4	1996
			.303	2 (1)
		.1585	405	(2)
		.1584	405	(3)

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.1587 405

.82 (1)
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﴿وَالْقَمَرَ قَدَرْنَهُ﴾:

﴿مَنَازِلَ حَتَّىٰ عَادَ كَالْعُرْجُونِ الْقَدِيمِ﴾⁽²⁾

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.81 25

.302

(1) :

.39 (2)

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(3)

(4) (272-271)

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	.	"	"	.65	5	"	"	(1)
5	"	"		.122	5			
				.58	2	"	"	.2006
832	6					.443		(2)
							1992 2	
3		482-481	1					(3)
							1992	
		.299				.314-313		(4)
		995	3					(5)

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						.983	2		(1)
	.		2000	1420	1		535		
			.6967	309	4		...		(2)
	:	185	13						(3)
	.		2001	1421	1		...		
.	.	1930	1349	1			5	12	
10	...								(4)
.	.4472	369	5				.20372	204	

⁽¹⁾.(260)

(271)

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.303-302 (1)

.343

. 1966 12 (2)

.300

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(1) "

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.1966

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.347

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1966 12 (1)

.324 (2)

.1976 43 (3)

.340 .359 (4)

.447

(1) "

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.341

.1966

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.360

.449

.473

.228

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298

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(3)

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2003 1423

.598

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(4)

.295

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. 1088

1992 1413

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.228 7

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.238 3

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.224-223/128 6

(4)

.326

(5)

.242 8

(6)

320 8

(7)

1984 1404

" ... : ... :
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" (73)

(3)"

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(4) ﴿وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ﴾:

	.327		.315	14	(1)
":	.3594	644			(2)
	.142	5			
	.108	2	.64		(3)
	.219		.1976	43	
			.78		(4)

"

-4

(1)"

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(2) ﴿يَحْسَبُ الْإِنْسَانُ أَنْ يُتْرَكَ سُدًى﴾:

(3)

(4)

		.40	1	.96	(1)
				.271	12
				.36	(2)
	.67	6	" "	" "	(3)
.324	4	" "		.235	4
		1981	1404	1	
				.167	7
					(4)

"

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(1)

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(2)

(190)

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(260)

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(3) "...

...(246)

(4) "

.338

.263 (1)

.522

.441 .263 (2)

.303 .1966 (12) (3)

303 (4)

(1)

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(2) " "

.310-304

.341

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2340 400

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" " : 2865 55 5 " "

115

" " : 3400 74 2 .11384

.384 4

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(421)

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(1)

1993 1413 2
.101

243

.248

(1)

(421)

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(890)

30

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(2) "



.215-214

.247

.81

(1)

.245

.251

(2)

"

(1) "

.(890)

"

...

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"

(890)

(2)

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(3)

.194		.124	(1)
.27-26		.252	(2)
	120		
.253		254	
	.91		(3)

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-1 ﴿يَأْتِيهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا﴾ (1).

:

(2)

-2 ﴿وَاحِلَ اللَّهِ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِّن رَّبِّهِ فَانْتَهَىٰ فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَٰئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ﴾ (3).

-3 " (4) " :

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	.29	(1)
.247 6	.626 6	(2)
	.275	(3)
	.99	(4)

" (279)

(1) "

(2) .

" (277)

(3) "

"

...

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		.1966	12	(1)
.411		.244-243		(2)
	.427	.512		
		.1966	12	(3)

(1)

" (276)

(2) "

" (270)

(3) "

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(4)

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.240		.410	(1)
	.512	.428	(2)
		.	(3)
.512		.413	(4)
		.248-247	

: (421) 1988 (9)
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(1) "

(2)

(3)

(535)

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" (535) 1999 (17)

(4) "

.156-155 .290-289 (1)
.103-102 (2)
.262-260 (3)
.287 .511 (4)

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(1)

﴿وَالَّتِي يَأْتِيَنَّ الْفَجْشَةَ مِنْ نِسَائِكُمْ فَاسْتَشْهِدُوا عَلَيْهِنَّ أَرْبَعَةً﴾

	.153	6		.332	5		(1)	
.424	13		.390	1		.319	6	
		.526	12		.255	4		
	.190-189	28	183	15		.223	6	
	1415	2		483				
	531	6						
2						2000	1421	1
1990	1410	1						311

مِنْكُمْ فَإِنْ شَهِدُوا فَأَمْسِكُوهُمْ فِي الْبُيُوتِ حَتَّى يَتَوَفَّيَهُنَّ الْمَوْتُ أَوْ يَجْعَلَ اللَّهُ لَهُنَّ سَبِيلًا ﴿١﴾

":

" (2) "

﴿ إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ

يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خَلْفٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ﴾ (3)

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" (4) "

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.15 (1)

5 : 366 1 (2)

34 2

1984 1404 3

1367 3 436 4

.33 (3)

.389 8 (4)

2001 1422 1

: 185 2

: 485 3

1993 1413 1

(1) " . . . :

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(2) "

(3)

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(4) "

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(5) "

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104	3							...	(1)
-459								.4372	
								.1764	460
	.1417	334							(2)
743								" "	
								.4876	4875 4874
221/192	8	.10581	221	6	.9213	184	5		(3)
					.18764	186	10	.15314/14842	
						208-207	3		(4)
						.1910	2		(5)

" :
 ... "

(1) "

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 (2) "

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(3)

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(6) .

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(7) "

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.44	5			.208	3	(1)
:		33	3			(2)
				2000	1421	1
.253	4			.424	13	(3)
				.22	4	(4)
				.22	8	(5)
				.270	12	(6)
				.628	2	(7)

(1) "

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(6) "

.159 6 (1)

.210 20 (2)

49 .64 28 (3)

.341 3 (4)

: 688 2 (5)

1428 1 (6)

1575 272

33 .2444 380

20016 220

264 3 1449 552 1

" -2

(1) "

(2) -3

"

(3) "

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	"		"	791	
	1710	290			(1)
753				" "	
				.4958	(2)
	.52	1		.799	
	1993	1414	48	1	
220	2				(3)
		2003	1423		
	.691-689	2		.52-49	

(1) "

(2) "

...

(3) "

(4) "

(5) "

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﴿يَتَأْتِيهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ

تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا﴾⁽⁶⁾.

(7) "

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220	2	(1)
.44	5	(2)
.355	4	(3)
.22	8	(4)
.526	12	(5)
	.29	(6)
	.34	(7)

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.445 (1)

.44 5 .54 10 (2)

.692 2 (3)

.628 2 (4)

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.713 6

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.77. 36 104 .96	275	﴿وَاحْلَ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَاَ فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ﴾	
77	283	﴿وَإِنْ كُنْتُمْ عَلَى سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهِنَّ مَقْبُوضَةً﴾	
32	6	﴿وَابْتَلُوا الْيَتَامَى حَتَّى إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا فَادْفَعُوا	

			إِلَيْهِمْ أَمْوَالُهُمْ ﴿١٠٣﴾
108	15	﴿وَالَّذِي يَأْتِيكَ الْفَدْحِشَةَ مِنْ نِسَائِكُمْ فَاسْتَشْهِدُوا عَلَيْهِنَّ أَرْبَعَةً مِنْكُمْ فَإِنْ شَهِدُوا فَأَمْسِكُوهُنَّ فِي الْبُيُوتِ حَتَّىٰ يَتَوَفَّهِنَّ الْمَوْتُ أَوْ يَجْعَلَ اللَّهُ لَهُنَّ سَبِيلًا﴾	
.103 .34 114	29	﴿يَتَأْتِيهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالَكُم بَيْنَكُم بِالْبَاطِلِ إِلَّا أَنْ تَكُونَتْ بَحْثَةً عَنْ تَرَاضٍ مِّنْكُمْ﴾	
108	33	﴿إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِّنْ خَلْفٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ﴾	
	163	﴿قُلْ إِنَّ صَلَاتِي وَنُسُكِي وَمَحْيَايَ وَمَمَاتِي لِلَّهِ رَبِّ الْعَالَمِينَ ﴿١٦٣﴾ لَا شَرِيكَ لَهُ، وَبِذَلِكَ أُمِرْتُ وَأَنَا أَوَّلُ الْمُسْلِمِينَ﴾	
36	64	﴿وَمَا كَانَ رَبُّكَ نَسِيًّا﴾	
96	78	﴿وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ﴾	
36	20	﴿الَّذِينَ تَرَوُا أَنَّ اللَّهَ سَخَّرَ لَكُمْ مَّا فِي السَّمَوَاتِ وَمَا فِي الْأَرْضِ وَأَسْبَغَ عَلَيْكُمْ نِعْمَهُ ظَاهِرَةً وَبَاطِنَةً وَمِنَ النَّاسِ مَن يُجَادِلُ فِي اللَّهِ بِغَيْرِ عِلْمٍ وَلَا هُدًى وَلَا كِتَابٍ مُّنِيرٍ﴾	
88	39	﴿وَالْقَمَرَ قَدَرْنَاهُ مَنَازِلَ حَتَّىٰ عَادَ كَالْعُرْجُونِ الْقَدِيمِ﴾	
97	36	﴿أَوْ يُحْسَبُ لِإِنْسَانٍ أَنْ يَتَرَكَ سُدًى﴾	

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109	" "	3
82	" "	4
86	" "	5
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112	" "	8
61	" "	9
84	" .	10
85 .82	" "	11
84	" "	12
104 .99	" "	13
114 .34	" "	14
36	" "	15
109	" "	16
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108		"	5

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82		5
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112		9
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		.	1980 1400 1	-8
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		2006 1427 1	
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1998 1418 1		-43
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1426					-54
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2007	1428	1			-55
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		:			-63
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1981 1404 1		-79
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	.	2001 1422	-124

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	2010	1430	1			-131
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1998	1419	1				-139
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			1995	1416	1	-139
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- <http://www.bankaalbilad.com.sa>
- <http://www.alifta.net>

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