

## **RIGHT TO PRIVACY IN THE DIGITAL AGE: ISLAMIC LAW PERSPECTIVE**

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### **ABSTRACT:**

A core component of the Islamic law regime for the protection of life and property within the objectives of legislation (Maqasid As-Shariah) is the right to privacy. As common trend in the global world, however, is infringement on the privacy of individuals due to technological advancement. This paper is an analysis of the Islamic law provisions on privacy including its sanctity and essential components which extends to cover data privacy in all aspects of the cyberspace, most importantly the social media. The paper adopted doctrinal methodology and found that interference with an individual's privacy while investigating criminal acts, is permitted in certain situations. Thus, preservation of life and property or common good of public are recognized justification for interference with the right to privacy under Islamic law. In all other situations, the right to privacy must be respected and protected.

Key Words: Privacy, Social Media, Cyber Crime, Cyber Security, Data Protection.

### **1.0 INTRODUCTION**

The right to privacy even though is not mentioned by some scholars as one of the objectives of Shariah, Few scholars, while considering the objectives of Shariah in the light of modern realities, have included the right to dignity.<sup>1</sup> The right to privacy is therefore considered as one of

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<sup>1</sup> Afridi M. A., 'Maqasid Al-Shari'ah and Preservation of Basic Rights Under the Theme "Islam and Its Perspectives on Global & Local Contemporary Challenges'

essential elements in the life of an individual, as it is very concern about the protection of other human rights such as right to life, property, family and religion.<sup>2</sup>

In the modern age, due to the advancement in technologies, the violation of right to privacy has become culture and tradition of people all over the world.<sup>3</sup> The current situation in the global world calls for a serious need to regulate and control the high degree of intrusion and invasion of people into the individuals' privacy that has so given a spacious room for all other criminal acts to flourish.

Islam envisages what the future may introduce, and provides certain guiding principles or ethics with which the right to privacy will be so respected, and at the same time, protected. The right to privacy guarantees security and protection of people's personal life. The development of technology in the digital era extensively gives many people opportunities to easily have access to personal information or data of other people without their permission. To a large extent, some of these information and data are being compromised, stolen, and even exploited. Islamic law, compared to Cyber Security Act in Nigeria, has for long made available enough provisions to ensure data privacy (online privacy) and prohibition of digital harms in society.

This paper seeks to examine the right to privacy in the digital age. The paper is therefore divided into different parts, first part addresses the right to privacy in Islam and legal aspect of Surat An-Noor verse 27-29. Second part discusses social media and right to privacy, while the third part examine data privacy and protection under Islamic law. Forth part deals with the right to privacy in the course of criminal investigation, and the paper finally ends with conclusion and recommendation.

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Journal of Education and Social Science, vol. 4, 2016<https://www.jesoc.com/wp-content/> accessed 12 December, 2022

<sup>2</sup> Ibid

<sup>3</sup> Sherwani M. ' The Right to Privacy under International Law and Islamic Law: A Comparative Legal Analysis' Vol. 1, No.1, 2018, *Kardan Journal of Social Sciences and Humanities*, <https://www.kardan.edu.af/data/public/files> accessed 13 December 2021, p. 42

## 2.0 RIGHT TO PRIVACY IN ISLAMIC LAW:

Privacy under Islamic law is referred to mean the right given to an individual to live his private life the way he or she wishes, free from any intrusion which may arise from other individuals or any authority.<sup>4</sup> It is a particular right given to an individual to operate his or her private affairs without being publicized or disclosed to the general public, except such is done with the prior permission of the person.<sup>5</sup> In other words, privacy is the right to protect individual's personal information from being abused or misused, which includes duty of individuals not to reveal their information.<sup>6</sup> It is, therefore, a basic right of an individual to enjoy freedom of his private affairs without any unauthorized intrusion or disturbance from the other people. This gives opportunity to an individual to determine when and how can other people get access to his abode, information or secrecy.

Islam, in order to protect the secret information of mankind, takes a precautionary step as it reflects in both Quran and Sunnah of the Prophet (SAW) where individuals are instructed on how to relate, and restrict the level of their access to other people's home and information. This provides security for the individuals' confidentiality from being disclosed or unjustifiably used by unauthorized individuals or hackers.

Allah says in Quran:

“O you who believe! Do not enter houses other than your own houses until you have asked permission and saluted their inmates; this is better for you, that you may be mindful. But if you do not find any one therein, then do not enter them until permission is given to you; and if it is said to you: Go back, then go back; this is purer for you; and Allah is Cognizant of what you do. It is no sin in you that you enter uninhabited houses wherein you have your

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<sup>4</sup> Ibid, p. 34

<sup>5</sup> Ibid.

<sup>6</sup>Masum. A. M. ‘ Ethical Issues in Computer use: A Study from Islamic Perspective’ Vol. 13, Issue 2, 2013, *Global Journal of Computer Science and Technology* Interdisciplinary,<https://computerresearch.org/index.php/computer/article> accessed 20 December 2021 p. 1- 11

necessaries; and Allah knows what you do openly and what you hide.”<sup>7</sup>

Allah, in giving His creatures the right to privacy and freedom to control or manage their private affairs, strongly warns individuals against any interference with other’s personal or domestic affairs without any authorization given or permission sought from the owner of the house or information. Therefore, the permission of the owner is considered necessary before having access to his or her home, property, even information relating to his or her personal life.<sup>8</sup>

It was said that the reason behind the revelation of the above verse was that, a woman from *Ansar* went to see the Prophet and said: ‘O Messenger of Allah, sometimes I am in my house in a state in which I do not like anyone to see me, neither father nor son. But then the father comes in or another man of the family comes in while I am in that state, what should I do?’ (as a response) the verse was revealed.<sup>9</sup>

It is crystal clear from the question been asked by the woman that she needed certain respect to her own privacy. For individuals to enjoy their privacy or to allow other to enjoy their privacy, certain ethics and guidelines must be strictly followed amongst which are permission before entry, greeting and waiting for permission to be granted.<sup>10</sup> Hence, Islam teaches Muslims to respect the rights of individuals to privacy in ensuring security both in domestic home and cyberspace.

There are other Quranic verses that condemn prying into other person’s affairs. Allah says in another verse:

“O believers! Avoid immoderate suspicion, for in some cases suspicion is a sin, Do not spy on one another.”<sup>11</sup>

According to the above verse, Islamic law forbids in every case the act of searching for defects or hidden affairs of one another or peeping at

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<sup>7</sup> Quran 24: 27

<sup>8</sup> Hayat M. A., ‘Privacy and Islam: From the Quran to Data Protection in Pakistan’ Information & Communications Technology Law, vol. 16, 2007<https://www.tandfonline.com/doi> accessed 12 December, 2022

<sup>9</sup> Al-hamd A. S., ‘*Tafseer Ayat Al-Ahkam*’ (3<sup>rd</sup> edn, Muhasasa uloom Al-Qur’an, Damusco, 2011), 250

<sup>10</sup> Ibid 254

<sup>11</sup> Quran 49: 12

one another from behind curtain. This may include reading other people's private letters, listening secretly to private conversation and the likes.<sup>12</sup>

This verse prohibits spying unto one's privacy, either by mere looking or listening to other person's secret discussion or confidential information. This is because, an act of spying unto individuals' privacy can only be established by unjust intrusion into individuals' privacy.

The above verse is also buttressed by the hadith of the prophet (SAW) where he was reported by Abu Dawud to have said:

“ O people who have professed belief verbally, but faith has not yet entered your hearts: Do not pry into the affairs of the Muslims, for he who pries into the affairs of the Muslims, Allah will pry into his affairs, and he whom Allah follows inquisitively, is disgraced by Him in his own house.<sup>13</sup>”

The right to privacy as guaranteed under Islamic law, is not limited to question of entry into other people's houses but extends to peeping at them to know their affairs, glance from outside, or even having access to other personal information such as listening to private conversation of one's neighbors or their secret and domestic affairs.<sup>14</sup>

In a hadith narrated by Uthman bn Abi Shaibah;

“A man came to see the Prophet (SAW) and sought permission for entry while standing just in front of the door. The Prophet said to him: ‘stand aside’: The purpose of the Commandment for seeking permission is to prevent casting of looks inside the house.<sup>15</sup>”

The combined reading of the above verses and the hadith shows the importance of having respect to the privacy of others, which includes

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<sup>12</sup> As-Sabuni M. A., ‘Safwat At-Tafashir’ vol. 2 (Darus- Al-Quran Karim, Beirut 1981) p, 334

<sup>13</sup> Al-Khattab N., ‘English Translation of Sunanu Abi Dawud’ Vol. 5, No. 4351 – 5274 ( 1<sup>st</sup> edn., Maktaba Dar-us-Salam, Riyadh, 2008),p 306

<sup>14</sup> Tahir A., ‘Privacy in Islam, a Sacred Human Right’<http://www.numl.edu.pk/journals/subjects/> accessed on 2 January, 2022

<sup>15</sup> Sahih Al-Bukhari, Hadith 258

their home, information, data and other related substances that fall under what should not be accessed without the permission of the owner. To safely interpret the above authorities to include data information, general implication of texts can be inferred from the verses under reference.<sup>16</sup> Under Islamic jurisprudence, the *ibarat An-Nass* of the above verses and hadith is the prohibition of entering into other people's house without their permission or spying into other people's hidden affairs.<sup>17</sup> But considering the verses, *dalalat* (implication of the texts) can, therefore, be extended to cover data information, letters, and other related objects.

Irrespective of importance of the personal information or data, such should not be exploited, leaked or even used for any purpose without the prior permission. Likewise, the owner of the privacy should not allow his or her personal information to be used in such a way that will create evil to his person and the society.<sup>18</sup>

Human beings are entitled to enjoy the right to privacy without any disturbance from other person who may claim an undue friendliness or familiarity.<sup>19</sup> It is important to note that, the only person that has right to give permission is the owner of the house or who is in lawful or actual possession of the property in question., such as tenants and landlord relations<sup>20</sup> The neighbor to the owner has no right to grant permission likewise an infant or person of unsound mind.<sup>21</sup>

Islam makes it also clearer by placing a distinction between public place or property and that of private.<sup>22</sup> Therefore, individuals have right to enter or have access to the public place without seeking any

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<sup>16</sup> Kamali M. H., 'Principle of Islamic Jurisprudence' <https://www.islamland.com/> accessed 13 December, 2022 p. 121

<sup>17</sup> Ibid.

<sup>18</sup> Al-hamd (n 9) p. 253

<sup>19</sup> Sahih Al-Bukhari, Hadith 263. It was narrated that Abu Huraira entered the house along with Allah's Apostle. There he found milk in a basin. He said, 'O Abu Hurr! Go and call the people of Suffa to me.' I went to them and invited them. They came and asked permission to enter, and when it was given, they entered.

<sup>20</sup> Ismail M. Y., 'Al-Adab Al-Ijtimahiyyah fi Surat An-Noor-Dirasat Al-Maodhiyyah', Vol. 13, No. 7, 2013, *Majalat Kuliyyat Al-Uloom Al-Islamiyyah* <https://coism.mosuljournals.com/> accessed 21 July, 2022

<sup>21</sup> Ibid

<sup>22</sup> As-Sabuni (n 12)

permission.<sup>23</sup> However, if seeking permission is deemed ethical, it is encouraged to do such.

It is pertinent at this juncture to analyze legal aspects of Surat An-Noor verses 27 to 29, in order to appreciate the verses and the purpose behind its revelation as they relate to right to privacy of persons. The legal issues therein are as follows;

### **1. Seeking Permission Prior to Entry:**

Islam makes it mandatory on every individual to seek permission from the owner of the house before entry into his or her house.<sup>24</sup> The verse started with Allah's commandment that, one should not enter another person's house is to prevent the evil that resides in entering house other than one's house without permission. Seeking permission before entry ensures security such as the protection of dignity, property, and eradicates the level of crime in the society.<sup>25</sup> This equally avoids inconvenience, disturbance or intrusion from the outsiders and gives opportunity to the inmates to determine whom to be given access to enter his or her house and as well imbibes good characters in the society.<sup>26</sup>

Islamic law enjoins a visitor, while seeking permission, to introduce him or herself by disclosing his or her name. In other words, a visitor is expected of mentioning his name known to the resident to enable them determine whether to permit him to enter or refuse the request.

It was reported in Sahih Bukhari and Muslim that Jabir sought permission from the Prophet (SAW) and the Prophet said: Who is that? And I said I am the one (without mentioning my name). The Prophet (SAW) repeatedly said: 'I am the one! I am the one' which showed that he dislikes the word I used.<sup>27</sup> The

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<sup>23</sup> Quran 24 verse 29

<sup>24</sup> Quran 24 verse 27

<sup>25</sup> Karyono G., and Ahmad A., and Asmai S. A. ' Privacy, Ethics, and Security on Social Media: An Islamic Overview' Vol. 8, No. 1.5, 2019, *International Journal of Advanced Trends in Computer Science and Engineering* <https://www.warse.org/IJATCSE/static/pdf/file/ijatcse5081.52019> accessed on 30 November, 2021

<sup>26</sup> Ibid

<sup>27</sup> Khan M. M., 'Sahih Al-Bukhari- Arabic – English' Vol. 8, No. 267 (Dar Al-Arabia, Beirut- Lebanon), 146

Prophet disliked this because the words used give no proper description of the visitor. What is expected of Jabir is to mention his names properly.<sup>28</sup>

It must be noted here that, there are situations or circumstances that may warrant entry into another person's house without permission.<sup>29</sup> The circumstances include; where there is a fire burning in one's house or property, one can enter that house to save other's lives and property.<sup>30</sup>

## **2. Avoiding Entry in the Absence of the Owner:**

The second legal aspect of the verse is to avoid entering into house of others in the absence of the resident no matter how the relationship between the visitor and the owner is.<sup>31</sup> This is encouraged to protect the dignity of the visitor from being accused of stealing or committing adultery.<sup>32</sup>

It was reported in Sunan Abi Dawud and Ahmad that the Prophet once went to the house of one of his companions, Saad bin Ubadah and sought permission twice after greeting with: As-salam Alaykum Wa Rahmatullah (peace be upon you and mercy of Allah), but the Prophet heard no response, he then turned back. Sa'ad later came out to see the Prophet, and told him that he was replying to the greeting in a very low voice.<sup>33</sup> The hadith by considering Isharat an-Nass (the alluded meaning) of it, indicates that the decision of the Prophet exhibits three things, namely; ethics, security and the right to privacy.<sup>34</sup> It therefore indicative from the hadith that the

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<sup>28</sup> Al-Khattab (n 13), p.306

<sup>29</sup> This falls within the purview of the established principle of Islamic law: 'Necessity warrants the doing of prohibited acts.' See Zakariyah L., 'Applications of Legal Maxims in Islamic Criminal Law with Special Reference to Shariah Law in Northern Nigeria (1999-2007) being A Thesis submitted to the University of Wales, Lampeter in partial fulfilment of the requirements for the Degree of Doctor of philosophy, 2009<https://core.ac.uk/> accessed 13 December, 2022

<sup>30</sup> Ibid

<sup>31</sup> Ismail (n 20)

<sup>32</sup> Ibid

<sup>33</sup> Mawdudi S. A., '*Towards Understanding the Qur'* an. vol. 6 (Islamic Foundation, United Kingdom, 2006), p.561

<sup>34</sup> Fauzan N. M., 'Application of Privacy, Security and Ethics in Islamic Concerned ICT' Middle- East Journal of Scientific Research, vol. 14 ((11), 2013<https://sitinur151.files.wordpress.com/> accessed 13 December, 2022



prophet (S.A.W) turned back to ensure that the owner of the premises is given the right to enjoy his privacy.

### **3. Turning Back when Permission is Refused:**

It is considered ethical and compulsory for the visitor to vacate the place immediately where he or she is told to leave or when the permission sought is refused.<sup>35</sup> The owner of the house may not be in a situation or condition to receive any visitor and this implies that the owner of the house has the right to fully enjoy his privacy without any intrusion.<sup>36</sup>

It is also unethical on the part of the visitor to remain at the door after he has been asked to leave. Refusal to permit the visitor to enter should not be calculated to cause any harm in his mind or lead to enmity. Allah says:

“and if it is said to you: go back, then go back; this is purer for you; and Allah is Cognizant of what you do.”<sup>37</sup>

Allah knows what is best for mankind and what protects their dignity from being stained or wrongly accused. According to Muhammad Ali As-Sabuni in his book “Safwat At-Tafashir,”<sup>38</sup> if a permission is not given, and the owner of the house insisted that you should return, it is expected of the visitor to adhere with the instruction of the owner and vacate the premises, immediately. That is the best action and the most considered step than to insist on staying within the premises.

### **4. Access to Public Place Without Seeking Permission:**

This aspect serves as an exception to the general rule. Islam commands that individuals should obtain permission to enter other people’s house there are certain places or properties that can be accessed or entered into without necessarily seeking permission of anybody,<sup>39</sup> These include market place during the marketing hours, Quran on the shelf of masjid and the likes. For instance, there is what is called (*Haqq Al-intifa’*) right to

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<sup>35</sup> Quran 24: 28

<sup>36</sup> Ismail (n 20)

<sup>37</sup> Quran 24: 28

<sup>38</sup> As-Sabuni (n 12)

<sup>39</sup> Quran 24: 29

usufruct of other person' belonging with intention of returning it to the own, such as sitting at the veranda or inside the mosque, or public road.<sup>40</sup>

### 3.0 SOCIAL MEDIA AND RIGHT TO PRIVACY:

Social media comes into existence as a result of development and advancement in technology.<sup>41</sup> It has globally become part and parcel of human life which is used as means of communication or sharing information.<sup>42</sup> To certain extent, some personal information are shared on social media through communication devices which often benefit the society such as easy communication and learning opportunities, and also cause serious damage to the society and as well violate the right to privacy of others.<sup>43</sup>

In the early age, the known means of communication is verbal communication followed by written one, before the technology later took us to the digital age where several ways of communication are open to the whole world.<sup>44</sup> In the digital age, sharing of information is conducted on the internet through Information Communication Technology.<sup>45</sup> This technology is not to expose what is ordinarily meant to be hidden from others, but same is globally abused by the users.<sup>46</sup>

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<sup>40</sup> As-Sulali A. A., 'Qismat Huquqi Al-Intifa' Wal- Manafi' Wal-Huquqi Al-Ma'nawiyah: Ahkamun Wat-Tatbiq' <https://qadha.org.sa/> accessed 13 December, 2022

<sup>41</sup> Akram W. and Kumar R. 'A Study on Positive and Negative Effects of Social Media on Society' [https://www.researchgate.net/publication/323903323\\_A\\_Study\\_on\\_Positive\\_and\\_Negative\\_Effect\\_of\\_Social\\_Media\\_on\\_Society](https://www.researchgate.net/publication/323903323_A_Study_on_Positive_and_Negative_Effect_of_Social_Media_on_Society) accessed on 2<sup>nd</sup> June 2022

<sup>42</sup> Ibid

<sup>43</sup> Ibid.

<sup>44</sup> Norwawi N., and others, 'Promoting Islamic Ethics on Privacy in Digital Social Network for User Data Protection and Trust' [https://oarep.usim.edu.my/bitstream/Promoting\\_Islamic\\_Ethics\\_On\\_Privacy\\_In\\_Digital\\_Social\\_Network\\_For\\_User\\_Data\\_Protection\\_And\\_Trust](https://oarep.usim.edu.my/bitstream/Promoting_Islamic_Ethics_On_Privacy_In_Digital_Social_Network_For_User_Data_Protection_And_Trust) accessed on 15 November 2021

<sup>45</sup> Ibid

<sup>46</sup> Tarequl Islam Md. (2019). 'The Impact of Social Media on Muslim Society: From Islamic Perspective' Vol. 3, No. 3, 2019, *International Journal of Social and Humanities Science (IJSHS)* <https://www.researchgate.net/publication> accessed 12 January, 2022

Social media is merely an interactive medium created for the individuals to express or share their different ideas, information, and even display and promote their commercial activities, amongst other things.<sup>47</sup> It also eases day-to-day transactions without taking long processes or procedures, such as YouTube, Instagram, Facebook, WhatsApp and other internet platforms.<sup>48</sup> The Users of these platforms usually go to large extent to share their personal or carrier information, video, pictures and even their individual thoughts via electronic devices such as laptop, phone and many more. These online platforms are equally used for showing or displaying to their friends outer and inner part of their houses, or posting video and pictures that show their nakedness.<sup>49</sup>

It is established from the current situation that most of these users neither know what privacy is all about nor the wisdoms behind protection of privacy as the law provides. For every society, irrespective of its legal system, that values the realization of benefits or prevention of its citizens from harm, must ensure that every individual's right to privacy is of essence to it.<sup>50</sup>

One of these goals in Shariah as intended by the Lawgiver is to guarantee individual's right to privacy, and to protect them from evil doers as well as unnecessary intrusion or disturbance, amongst others.<sup>51</sup>

Social media has been extensively used to expose or violate what is meant to be respected and honored as Allah directed, and this has caused different harms to the society such as cyber bullying, Facebook depression and exposure to inappropriate contents targeting children.<sup>52</sup>

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<sup>47</sup>Karyono G. (n 25)

<sup>48</sup> Ibid.

<sup>49</sup> Akinola I., 'Impact of Social Media on Teenagers: Nigerian Experience' Journal of Media & Management-ISSN: 2755- 0109

[https://www.researchgate.net/publication/357744528\\_Impact\\_of\\_Social\\_Media\\_on\\_Teenagers\\_Nigeria\\_Experience](https://www.researchgate.net/publication/357744528_Impact_of_Social_Media_on_Teenagers_Nigeria_Experience) accessed 18<sup>th</sup> July, 2022

<sup>50</sup> Soomro T. R and Hussain M., 'Social Media-Related Cybercrimes and Techniques for their Prevention' Applied Computer System, Vol. 24 No. 1, 2019 <https://sciencedirect.com/pdf/10.2478/acss-2019-0002> accessed on 3<sup>rd</sup> July 2022

<sup>51</sup> Ismail (n 20)

<sup>52</sup> Damota, M. D., 'The Effect of Social Media on Society', Vol. 78, ISSN 2224-3275, 2019, *International Institute for Science, Technology and Education (IISTE):E-Journals -New Media and Mass Communication* <https://core.ac.uk> accessed on 2<sup>nd</sup> June 2022

### 3.1 SOME NEGATIVE EFFECTS OF VIOLATING RIGHTS TO PRIVACY ON SOCIAL MEDIA

Social media as online platforms have two effects: positive and negative depending on the users. The platforms have great impact in daily activities of human beings. In this regard, therefore, it is pertinent to discuss some negative effects of social media as implication of violating the right to privacy. These effects are as follows;

#### 1. Theft and Kidnapping:

Theft and kidnapping cases, as far as Nigeria is concerned, are major crimes that have called for serious attention of the government.<sup>53</sup> One of the factors that contribute to these evil acts is an unwanted or unnecessary publicity of information on social media.<sup>54</sup> For instance, the kidnappers who have detail information about the financial status of a rich man may seize that opportunity to kidnap a child of a rich man, and thereafter demand for a ransom.<sup>55</sup>

Ordinarily, before any theft or armed robbery is carried out, gangs of armed robbers make use of social media to gather relevant information about the victims.<sup>56</sup> This may also be done through an insider who has access to the privacy of victims.<sup>57</sup> In most cases, it may be through the carelessness of the victim or his failure to protect his privacy as a necessity.

Islam enjoin Muslims not to oppress their fellow Muslims or non-Muslims with their wealth or other life materials.<sup>58</sup> Social media is one of the platform in which people are directly or indirectly oppressed.<sup>59</sup> This to some extent has negative

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<sup>53</sup> Chidi N. J., 'Kidnapping in Nigeria: An Emerging Social Crime and the Implications for the Labor Market' *International Journal of Humanities and Social Science*, vol. 4, No. 1, 2014 <https://www.ijhssnet.com/journals/> accessed 14 December, 2022

<sup>54</sup> Soomro T. (n 50)

<sup>55</sup> Ibid

<sup>56</sup> Akintola (n 49)

<sup>57</sup> Ibid

<sup>58</sup> Tahir (n 14)

<sup>59</sup> Siddiqui S., and Singh T., 'Social Media its Impact with Positive and Negative Aspects' *International Journal of Computer Applications Technology and Research*, vol. 5, 2016 <https://www.ijcat.com/archives/> accessed 14 December, 2022

impact on the oppressed people to invade unto oppressor's privacy with bad intention.

## 2. Adultery and Fornication:

Right to privacy is guaranteed in both English and Islamic law to prevent evil deeds that may lead to social atrocity. Ordinarily, it is prohibited for a woman to show up her body in front of other people including her relatives.<sup>60</sup> The only person that can legally have access to that is her husband. Though, it is said that there ornaments can be seen by her husband or their fathers, and other people stated in the said verse, but that does not mean that they should display parts of their body that are meant to be covered to their fathers or other relatives stated therein.<sup>61</sup>

It is very common nowadays on social media platform through which female in particular display their body even to some length display their private parts in the name of social life.<sup>62</sup> This often intrigues some men to engage them in sexual affairs. Intimacy with the opposite sexes on social media comes as a result of the manner they present themselves to the whole world.<sup>63</sup> This behavior after results some women hooking up with men and fall in the hand of ritualists.

Not only this, some homes have been destroyed and relationship has been broken down as a result of addiction of wives with social media, to the extent that women share their nude pictures or video to other men to expose what is meant to be covered such their body, homes and the likes.

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<sup>60</sup> Quran 24:31

<sup>61</sup> Ibid

<sup>62</sup> Abbasi I. S., 'Social Media Addiction in Romantic Relationships; Does User's Age Influence Vulnerability to Social Media Infidelity?' [https://www.academia.edu/3940591/Social\\_media\\_addiction\\_in\\_romantic\\_relationships\\_Does\\_users\\_age\\_influence\\_vulnerability\\_to\\_social\\_media\\_infidelity](https://www.academia.edu/3940591/Social_media_addiction_in_romantic_relationships_Does_users_age_influence_vulnerability_to_social_media_infidelity) accessed 18<sup>th</sup> July, 2022

<sup>63</sup> Adegboyega L.O., 'Influence of Social Media on the Social Behavior of Students as Viewed by Primary School Teachers in Kwara State, Nigeria', Vol. 7, No. 1, 2020, *Mimbar Sekolah Dasar*, <https://doi.org/10.17509/mimbar-sd.v7i1.23479> accessed 18<sup>th</sup> July, 2022

## 2. Cyber Crime:

With the gradual advancement of technology, cyber -crimes become inevitable in the society.<sup>64</sup> Cyber-crime is a global phenomenon that is committed every day on cyberspace or internet.<sup>65</sup> This crime includes cyber stalking, cyber intrusion, data breach fraudulent electronic mails, identity theft, hacking, Automated Teller Machine spoofing and piracy, amongst others.<sup>66</sup>

Internet users who are of the criminal minds operate on internet to defraud people across the world.<sup>67</sup> Some use personal information of others to commit theft and hack other people's account to get access to their bank details.<sup>68</sup> It is a known fact that Yahoo boys operate on cyberspace to defraud people after having access to personal information of people.<sup>69</sup> On the other hands, Facebook users faced different challenges from the hackers who normally hack people's Facebook account, and use same to spread fake information, commit fraud or invite people to fake business.<sup>70</sup>

As the electronic payment was invented to ease the monetary exchange and financial transaction in the country, some hackers, due to less security, use the said platform as a means

<sup>64</sup> Sharma S., and Sharma V. K., 'Cyber Crime Analysis on Social Media', Vol. XI, Issue: I, 2020, *BSSS Journal of Computer*

[https://bssspublications.com/PublishedPaper/Publish\\_258](https://bssspublications.com/PublishedPaper/Publish_258) accessed 18th July 2022

<sup>65</sup> Ibid

<sup>66</sup> Ibid

<sup>67</sup> Sunil G., and others, 'Various Forms of Cybercrime and Role of Social Media in Cyber Security', Vol. 29, No.2, 2020, *International Journal of Advanced Science and Technology-(IJAST)* <https://www.researchgate.net/publication/343774308> accessed 18th July, 2020

<sup>68</sup> Ibid

<sup>69</sup> Ndubueze P. N., 'Social Values and the Yahooboy's Subculture in Nigeria: Towards A Paradigm Shift for National Value Re-Oriented'

<https://www.nasajournal.com.ng/> accessed 13 December, 2022

<sup>70</sup> Kobiruzzaman M.M., and others, 'Impact of Social Media Towards Society, A Case Study of Teenagers', Vol. 1, No. 3, 2018, *International Journal of Education and Knowledge Management (IJEKM)* 1-

12[https://www.researchgate.net/publication/350133233\\_Impact\\_of\\_Social\\_Media\\_Towards\\_Society\\_A\\_Case\\_Study\\_on\\_Teenagers](https://www.researchgate.net/publication/350133233_Impact_of_Social_Media_Towards_Society_A_Case_Study_on_Teenagers) accessed on 2nd June 2022

of fraud, through which they get individual's private information or monetary transaction disclosed.<sup>71</sup>

It should be known from the above that Islamic law is not meant only to forbid evil deeds but also blocks all those factors or means which may lead to the evil or incite a person to commit same.

#### **4.0 DATA PRIVACY AND PROTECTION UNDER ISLAMIC LAW**

Data, according to Article 1.3 of the Nigeria Data Protection Regulation, 2019, means characters, symbols and binary on which operations are performed by a computer, which may be stored or transmitted in the form of electronic signals, stored in any format or any device. Therefore, data includes any digital information that has to do with an individual or company, protection of which will guarantee the right to privacy.<sup>72</sup>

In Nigeria today, personal data has encountered serious threat due to persistent increase of cyber fraud.<sup>73</sup> The situation has called the attentions of authorities to provide a mechanism that protects individual personal data and eradicate its incidence in society.<sup>74</sup> The Constitution of the Federal Republic of Nigeria, 1999 (as amended) as a ground norm provides for right to privacy, which also covers data.

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<sup>71</sup> Joseph O., and Richard I., 'Electronic Payment System in Nigeria: Its Economic Benefits and Challenges', Vol. 6, No. 16, 2015, *Journal of Education and Practice* <https://files.eric.ed.gov/fulltext/EJ109942> accessed 10 December, 2021

<sup>72</sup> Akindele B., 'Data Protection in Nigeria: Addressing the Multifarious Challenges of a Deficient Legal System' *International Journal of Information Technology and Management*, vol. 26, No. 4, 2017 <https://www.researchgate.net> accessed 14 December, 2022

<sup>73</sup> Makeri Y. A., 'Cyber Security Issues in Nigeria and Challenges', Vol. 7, No. 4, 2017, *International Journal of Advanced Research in Computer Science and Software Engineering-(IJARCSSE)* [https://www.researchgate.net/publication/318668652\\_Cyber\\_Security\\_Issues\\_in\\_Nigeria\\_and\\_Challenges](https://www.researchgate.net/publication/318668652_Cyber_Security_Issues_in_Nigeria_and_Challenges) accessed 3rd August, 2022

<sup>74</sup> Ibid

“The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected.”<sup>75</sup>

This provision guarantees and protects the right to privacy of citizens of the country, which includes their homes, all their correspondents, telephone conversation and telegraphic communication. From the above provision, though data is not specifically mentioned but it comes under the words “all their correspondence, telephone conversations and telegraphic communication”.<sup>76</sup> There are other Statutes that categorically take care of that. The Nigeria Data Protection Regulation (NDPR) also protects and safeguards personal data from being manipulated.<sup>77</sup>

In that regards, the network providers known as Data controllers such as MTN, Glo, AIRTEL and amongst others, are not entitled to share or reveal telephone conversation of their customer to the third party without being authorized or consented to, either by the customer or the appropriate authorities as the case may be.<sup>78</sup>

Nigeria Data Protection Regulation is enacted to specifically take care of individual’s personal data.<sup>79</sup> This regulation is to safeguard the rights of natural persons to data privacy, foster safe conduct for transactions involving the exchange of Personal Data and to prevent manipulation of personal data.<sup>80</sup> The Regulation also protects personal data of individuals which includes all Nigerians and non- Nigerians resident in Nigeria.<sup>81</sup>

Islamic law, has for long, provided general methods of securing personal information and data, which also cover information stored on a computer, from being accessed by an unauthorized person.<sup>82</sup>

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<sup>75</sup> Section 37

<sup>76</sup> Lubis M., and Kartiwi M., ‘Privacy and Trust in the Islamic Perspective: Implication of the Digital Age’ at 5<sup>th</sup> International Conference on Information and Communication Technology for the Muslim World, 2013 <https://www.academia.edu/> accessed 12 December, 2022

<sup>77</sup> Article 1.1 of the Regulation

<sup>78</sup> Article 2.3 of the Regulation

<sup>79</sup> Article 1.1 of the Regulation

<sup>80</sup> Article 1.1 of the Regulation

<sup>81</sup> Article 1.2 of the Regulation

<sup>82</sup> Quran 24: 27 - 29



However, the words ‘data and the likes’ used in the digital age may not be explicitly seen in Quran, Sunnah, *Ijma* and other sources of Islamic law. The first thing one need to bear in mind is the principle of Islamic jurisprudence that says:

“What matters, is the generality of the word, and not the specific reason of the matter.” Or “Consideration is in the generality of the wording, not in its specific cause of legislation”<sup>83</sup>

The import of the above principle is that, to consider the generality of the words used in a particular textual injunction is appropriate than to confine the meaning of words to a specific event that leads to the revelation of the texts.

The reason for the revelation of Quran 24 verse 27 to 29 and other relevant authorities as previous discussed above may not specifically based on data privacy or protection, but in line with the above principle. This is because legal ruling is not confine within the cause of the revelation of the verse, but extends to other related issues<sup>84</sup> The relevant verses have generally guaranteed the right to privacy and protect individual’s privacy from any invasion or intrusion as the right to privacy is not merely confined to the question of entry into other people’s houses, but extends to other materials such as person’s letter, property, personal information and many more.<sup>85</sup>

Secondly, in some cases, Allah, in prohibiting certain acts, may mention the lesser one, and therefore, by implication all the greater ones are also considered prohibited.<sup>86</sup> For instance, Allah says in Quran while admonishing children to do good and not to do bad to their parents.

“And your Lord has commanded that you shall not serve (any) but Him, and goodness to your parents. If either or both of them reach old age with you, say not to them (so

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<sup>83</sup> Al-Ash’qar M.S, ‘*Al-waadh’ Fi Usul- Fiqh*’ ( 2<sup>nd</sup> edn, Darus Salam, Cairo, 2004), 134

<sup>84</sup> Ibid p. 194

<sup>85</sup> Norwawi N (n 44)

<sup>86</sup> Kamali (n 16)

much as) “Ugh” nor chide them, and speak to them a generous word.”<sup>87</sup>

In the above verse the part in which Allah uses the word “*say not to them* “*uff*” does not mean that a child must not only say *uff* (contemptuous word) to his parents, but Allah mentioned the lesser act in prohibition of the greater offences.<sup>88</sup> Therefore, using abusive words to one’s parent, embarrassing them or beating them or any other act that is so insulting or embarrassing, is also prohibited even if those acts are not specifically mentioned.

In this regard, the words; “Do not enter houses other than your own houses until you have asked permission”, is a general prohibition that forbids individuals from having access to personal information of other persons. This is because, what leads to evil is must be prohibited to obviate the occurrence of the evil itself. In other word, having access to home leads to having access to any personal information of the resident. Hence, one of the goals Islam wants to achieve is to protect the personal information of others from being stolen, fraudulently used or exploited without the consent of the owner. It also blocks whatever way evils can take to create problem or chaos in the society.

If personal information or data of other people can be accessed today through other means apart from internets, verses under reference will definitely cover all illegal forms of accessing personal data or information of others. Islamic ethics, as relate to Information Communication Technology, stretches its hand to cover the hardware, software, social ware and heart ware.<sup>89</sup>

Thirdly, every individual has duty to protect and uphold the objectives of Shariah, among which are intellect, wealth, family and dignity. Therefore, the intellect, wealth and dignity of an individual can be affected with the intrusion into one’s privacy. Islam guarantees individuals’ right to privacy for the protection of their lives, both physical and intellectual property, and other personal or confidential information are not meant to be disclosed to any other persons.<sup>90</sup>

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<sup>87</sup> Quran 17: 23

<sup>88</sup> Al-Ash’qar (n 84) p.197

<sup>89</sup>Norwawi (n 44)

<sup>90</sup> Sherwani (n 3)

Since privacy is the right given to an individual to decide who has and who has no access to his personal information, and how it is being used, thus, entry into to someone's home, which may lead to having knowledge, or access to his personal information is equated to transgressing into one's personal property without seeking permission.

In this digital age, even if the permission is given to assess particular information, copy or share any content, there should be a limit to that. The person to whom the permission is given should not use that information against the owner.<sup>91</sup>

It is a duty of Muslims to protect their privacy, information and data as much as possible and should not allow his data to be exploited or used in aiding the criminal acts. Muslims should not also use his brother's information or data as such is regarded as forbidden act under Islamic law.

The Prophet was reported to have said that:

“A very good Muslim is the one who avoids harming the Muslims with his tongue and hands.”<sup>92</sup>

This hadith shows the quality of being a good Muslim, which is to stay away from anything that can cause harms to his fellow either thorough his hand or tongue. It is therefore disdain to see a Muslim engaging in exploiting his fellow's information or exposes same to the general public.

If the rapid expansion of technology enables individuals to store their personal data on cyberspace, and same is held in trust for the owner either by the corporate entity or government agencies, such data should not be disclosed or utilized without the consent of the real owner. This is as in the case of entry into someone's house occupied by a tenant or the landlord is in actual possession, except and until the owner or the tenant gives his consent, nobody has right to enter the house.

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<sup>91</sup> Ibid

<sup>92</sup>Sahih Bukhari, Book 2, Hadith 10

## 5.0 RIGHT TO PRIVACY IN THE COURSE OF CRIMINAL INVESTIGATION

Generally, Islam prohibits the act of prying into the individuals' affairs and suspicion as same are considered unlawful and unethical acts. Allah, while establishing the sacredness of individuals' privacy, prohibits the illegal invasion into one and other's privacy such as conducting a search on their person, home, domestic affairs, and in whatever manner in which individuals' privacy can be invaded. Allah therefore, warns Muslims against these acts in several places in the holy Quran.

“O you who believe! Avoid most of suspicion, for surely suspicion in some cases is a sin, and do not spy nor let some of you backbite others. Does one of you like to eat the flesh of his dead brother? But you abhor it; and be careful of (your duty to) Allah, surely Allah is Oft-returning (to mercy), Merciful.”<sup>93</sup>

It is the duty of the Authorities, such as law enforcement agencies, to curb evil acts in a society whether or not is secretly or openly committed. However, the applicability of the above verse on prohibition of suspicion extends to the government that is entrusted with duty to regulate the affair of the state. The prophet was reported to have said thus;

‘It was narrated from Jubair bin Nufair, Kabir bin Murrah, ‘Amr bin Al-Aswad, Al-Miqdam bin Ma’dikarib, and Abu Umamah, that the Prophet (SAW) said: ‘If the ruler treats people with suspicion, he will corrupt them.’<sup>94</sup>

In another authority:

‘It was also narrated that Zaid bin Wahb said: ‘Someone came to Ibn Mas’ud and said: ‘so-and-so has wine dripping from his beard.’ ‘Abdullah said: ‘We have been

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<sup>93</sup> Quran 49:12

<sup>94</sup> Al-Khattab (n 13) 306

forbidden to spy, but if anything becomes apparent to us we will deal with it.’<sup>95</sup>

At this juncture and in line with the above authorities, it is imperative to consider the views of scholars on the issue of investigation in the matter of a suspect through searching his person, residence and even his private conversation with another. In the legal interpretation of the Glorious Quran, Al-Qurtubi is of the view that, what Allah prohibits in the above verse and hadiths is the accusation of a suspect on the matter, which is untrue in fact or not supported by any evidence, such as adultery and drinking of alcohol. Al-Qurtubi, in accordance with the authorities as stated, explained that a suspicion is of the two (2) natures;

- (1) Suspicion that is strengthened by evidence or proof, which can be regarded as a reason for investigation, such as in a situation where a suspect is known with a dubious act or crime is linked to him.
- (2) Suspicion that is not devoid of cogent reason, such as suspicion established against an honest and respected person in a society.<sup>96</sup>

According to the above classification, it is therefore the view of Al-Qurtubi that, a suspect who is known as a notorious criminal or who openly commits an offence, even after he has left the scene of crime, can be investigated by searching his person, house and property. In that regards, the verse and many other only prohibit the investigation on people of integrity and honesty.

Other scholars are of the distinct view that, since suspicion is not classified in Quran or Sunnah, and the language used in the both is general not specific, therefore, the criminal record of a suspect is not sufficient to deprive him of the right to his privacy except the accusation is supported by a clear evidence.<sup>97</sup> This view was buttressed by the story of Umar Ibn Al-Khattab who was informed that Abu Mihjan At-Thaqafi was consuming an alcohol with some other people.

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<sup>95</sup> Ibid. Though, this Hadith was declared as (Da’if ) weak but it can be considered as it also forbids spying into someone affair and allows investigating what is so obvious. See Sunan Abi Dawud- English Translation, vol. 5

<sup>96</sup> Al-‘Alwani, T. J., ‘ The Right of the Accused in Islam’ <https://alwani.org/wp-content/uploads> accessed on 24 July, 2022

<sup>97</sup> Ibid

Umar went straight to Abu Mihjan's house, and invaded into his house without the permission of Abu Mihjan. Umar met a person with Abu Mihjan as against what he was told. The man said: O Umar! This is not permitted to you. Allah has prohibited you from spying.' Umar therefore walked out as he realized that he sought no permission and secondly, he came to spy at the secret affair of the man that is, Abu Mihjan.<sup>98</sup> They further argued that, Umar regretted his act of spying into the affair of Abu Mihjan despite the fact that Abu Mihjan was a habitual drunkard. In the case of drinking of alcohol, no right of individuals is manifestly violated or affected that may necessitate the violation of drunkard's right.<sup>99</sup>

In harmonizing the two views of scholars as stated above, what is sought to achieve is the protection of society by ensuring that culprits are not left unpunished for the offence committed and the innocents' rights are not infringed or punished for offence, which he did not committed.

It is therefore appropriate for law enforcement agencies, with Order of the appropriate authorities, to have access to the privacy of a suspect who conducts himself in a way that may endanger the life of others. The followings are the method applied by the law enforcement agencies;

#### **(i)Police search:**

Police making the arrest of the suspect is given a power to search the body, building of a suspect.<sup>100</sup> This power is carried out sometimes to obtain materials that are relevant to the offence committed or recover from an accused person a stolen property or any dangerous or offensive weapons, which are in his possession.<sup>101</sup> Except in the limited circumstance, a search warrant, in order to respect or protect the sanctity of privacy of the suspect, must be obtained by the investigating authority.<sup>102</sup>

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<sup>98</sup> Jafar A. M., '*Makarim Al-Ahlaq*' (Darul Qalam, Cairo, Egypt, 1385 A.H) 180

<sup>99</sup> Ibid

<sup>100</sup> Section 49 and 55 of Police Act, No. 2, Cap. P19, LFN, 2020

<sup>101</sup> Ibid

<sup>102</sup> Reza S., 'Islam's Fourth Amendment: Search and Seizure in Islamic Doctrine and Muslim Practice', Vol. 40, No. 3, 2009, *Georgetown Journal of International Law*  
[https://digitalcommons.nyls.edu/cgi/viewcontent.cgi?article=1856&context=fac\\_articles\\_chapters](https://digitalcommons.nyls.edu/cgi/viewcontent.cgi?article=1856&context=fac_articles_chapters) accessed 25 July, 2022

Islam pronounces criminal acts in society as unlawful, and any step that may assist in curbing such, is equally necessary. Therefore, the apartment belonging to a suspect whose act violates the right of others or endangers the society can be searched if so ordered by the appropriate authority.<sup>103</sup> It must be noted that the said search must be conducted, purposely to maintenance of social order and safety in society and must base on probable cause in the presence of the suspect or his relative.<sup>104</sup> The above position will be considered to come within the purview of the following principles of Islamic jurisprudence.

“Necessities make unlawful things lawful.” and “Greater injury should be prevented by committing lesser injury” or ‘if two evils clash, the greater one should be prevented by committing the lesser one’<sup>105</sup>

In a situation where a particular act is declared forbidden under Islamic law, there may be a circumstance that may necessitate or warrant Muslims to indulge in that act despite the fact that it is forbidden.<sup>106</sup> In the case at hand, the investigating officers who obtain a search warrant are allowed to search a suspect’s home, and such must be carried out in conformance with the laid down procedures.<sup>107</sup> A person of the opposite sex should not search a person,<sup>108</sup> and if there is a need in the course of conducting the search, to enter females’ apartment, a notification must first come, informing the woman to vacate the room pending the time an investigating officer is done.<sup>109</sup> It must be noted that, mere showing the suspect a search warrant, when the commission

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<sup>103</sup> Lippman M., ‘Islamic Criminal Law and Procedure: Religious Fundamentalism V. Modern Law’- Boston College International and Comparative Law Review- Vol. 12 ISSN 1 (1989)<https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1374&context=iclr> accessed on 22 July, 2022

<sup>104</sup> Ibid

<sup>105</sup> Ismaheel. B. M. ‘Qawaahid Al-Fiqhiyyah Baina Al-Asalaalat Wa At-Taojee’h’ (Darul Manar, 1997) p. 73 and 102

<sup>106</sup> Ibid

<sup>107</sup> If entering into suspect’s home is allowed due to reasonable and genuine necessity as stated, there should be a limit to that. A reliance is made on the sub-principle that says: Necessities are estimated according to their quantity or need.

<sup>108</sup> Section 82 of Criminal Procedure Code in Northern State of Nigeria, 1960 as it encourages decency and protects women from being exposed to sexual harassment.

<sup>109</sup> Section 79 of Criminal Procedure Code Northern Nigeria.

of offence is apparent, represents taking permission, and the suspect, while hiding his evils, cannot refuse permission.

Looking at the second principle, it is apparent that conducting a search of a premise is an invasion of the person's right to privacy. However, if there is a reasonable ground to believe that, dangerous materials are in custody of the suspect or there is no safety of lives of others due to the act of the suspect, such legally conducted search is therefore permissible under Islamic law, only for the protection of life, property, dignity of other people in the society. This is because; damage or harm, which invasion into privacy of the suspect will cause will be lesser than the damage or harm caused by not conducting a search. For instance, investigating medical report of a person who is suspected of battling with a communicable disease is necessary, as failure to do investigate may have a negative result on the entire public.

#### **(ii) Right to be furnished with Other's Bank Details:**

The security agents, especially the Economic and Financial Crimes Commission (EFCC) that has investigative power to investigate all financial crime are given right to request from any financial institution certain information about a customer who is suspected of committing financial crimes or some public funds are traced to his account. According to the EFCC and Money Laundering Acts,<sup>110</sup> the commission must be furnished with copies of account details of the suspect such as account opening packages, statement of account, certificate of identification, Bank Verification Number (BVN) and other useful information that may aid the investigation.<sup>111</sup>

It is obvious that the downturn of Nigerian economy is as a result of corruption such as embezzling public funds.<sup>112</sup> This commission was therefore established to eradicate or curb corruption in the country.<sup>113</sup> One of methods put in place to end this unlawful act is to have access to the account detail of the suspect without his permission or

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<sup>110</sup>Section 38 (1) of EFCC (Establishment) Act, No.1, 2004; section 19 and 20 of Money Laundering Act, Cap M18, LFN, 1995

<sup>111</sup> Section 38 (1) of EFCC (Establishment) Act, No.1, 2004

<sup>112</sup> Akanbi M.M., 'Corruption on Powl' being a paper presented at the 8<sup>th</sup> Biennial Conference of the African Bar Association in Abuja on November, 2002 (Olly Rogaat Production, Nigeria) 16

<sup>113</sup> Section 6 of EFCC (Establishment) Act



knowledge, but such is required to be done by Order of court being sought and granted.<sup>114</sup>

Islam as a religion, protects the right of *Ummah* (public) from being violated, and equally condemns the act of stealing or embezzling public funds.<sup>115</sup> Therefore, if the permission of a suspect is to be sought before the commission is allowed to conduct the investigation, that may preclude the commission from getting correct information. For instance, a suspect is informed that some funds are traceable to his account and his permission is needed for the verification. The suspect on this situation, who actually commits that offence would have kept abreast of the fact, and may run.

Placing heavier reliance on the principles as explained above, it is allowed for the investigating officer, in this situation after obtaining permission from the appropriate authority such as Order of court, to get the relevant or useful information about the suspect's account domiciled with the bank. This is because; the act of the suspect affects the public interest, which is greater than the privacy of the suspect.

On the other hands, Islam prohibits the act of diverting public funds to individuals' account, and encourages curbing such act in a society.<sup>116</sup> It is therefore an obligation for the authority concerned (government) to look into welfare of the governed to ensure that right of public are not buried for the right of a single person.

The above discussion also accommodates other lawful ways of obtaining information in a situation where the criminal act of suspect is apparent and negatively affect the public. For instance, tracking of missing persons or stolen phone and many more.

## **6.0 CONCLUSION:**

Violation of individual's right to privacy has, due to technological advancement, become a common trend in the global world. However, Islamic law primarily aims at securing benefits for individuals, and at the same time protecting them against any harm. To ensure security in

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<sup>114</sup> Section 39 of the EFCC (Establishment) Act, 2004

<sup>115</sup> Quran 2: 188

<sup>116</sup> Afridi (n 1)

the country, right to privacy must be given a high consideration among other rights.

Islam guarantees individual's right to privacy both in physical and in cyberspace. However, privacy of an individual may in certain circumstance be invaded, as it is not always guaranteed, particularly when the public interest is involved. Internet and social media create more opportunities for invasion into one's privacy such as data information, correspondences and many more.

To this end, investigation process which warrants invasion into a suspect's privacy should be free from a mere suspicion or presumption except there is probable cause to establish the commission of crime against the suspect. Where the investigation process is for the common good of the community, and that invasion into one's privacy is of lesser harm compared to greater harm such may cause to the entire community, the right to privacy in this circumstance may be violated according to the need. The paper therefore recommends the followings;

1. To eradicate insecurity in the country, individuals must be educated and enlightened on the negative effect of exposing their personal data on cyberspace.
2. A need to create more agencies that will monitor data information on cyber environments, to ensure that individual obviate from cyber-crimes.
3. The legislator should make a law that would further restrict the law enforcement agencies during the investigating process, to enable them know the extent to which they can go in the course of investigation.
4. There is also a need for the government to enact a particular law that prohibits every individual from exposing his or her personal information on social media or cyber environment.