

**GENDER AND EQUALITY IN  
MUSLIM FAMILY LAW**

**Tidak Untuk  
Disebarluaskan!!!**

# Gender and Equality in Muslim Family Law

Justice and Ethics in the Islamic Legal Tradition

*Edited by* Ziba Mir-Hosseini, Kari Vogt,  
Lena Larsen and Christian Moe

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The Editors

## GENDER EQUALITY AND THE HADITH OF THE PROPHET MUHAMMAD

### Reinterpreting the Concepts of *Maḥram* and *Qiwāma*<sup>1</sup>

*Faqihuddin Abdul Kodir*

We do not say, and any reasonable person cannot say, that women are above men or lower than men by a degree or more. But we have seen people who revile [women] the worst of revilements and disdain them and deny them most of their rights.  
– Al-Jahiz (d. 869)<sup>2</sup>

#### 1. Introduction

As I was trained in an Islamic boarding school by the religious scholar Husein Muhammad, who has later become known as an emerging Indonesian Muslim feminist,<sup>3</sup> I have for quite some time been disturbed by the ambiguity of Islamic jurisprudence (*fiqh*) in dealing with issues related to women. For example, on the one hand, Islamic jurisprudence, referring to the Qur'an (2:282), considers two female witnesses equal to one male witness in terms of testifying for financial contracts. On the other hand, the sciences of the Hadith (*'ulūm al-ḥadīth*) prescribe that one woman is equal to one man in terms of the reception and delivery of *ḥadīth* (pl. *aḥādīth*, hereafter simply 'hadith'),<sup>4</sup> the second source of Islamic teachings. Since testifying about financial contracts is not nearly as important as testifying

regarding traditions that have been passed down to generations of Muslims, the opinion disqualifying a lone woman from giving evidence in the case of financial contracts is questionable. However, this inconsistency within Islamic jurisprudence in dealing with women's issues opens up possibilities of rereading the texts of the Hadith in order to argue for justice for women.

The images of women in Islamic jurisprudence (*fiqh*) are established by Muslim theologians far more often using the Hadith than the Qur'an, which deals mostly with principles of Islamic teachings.<sup>7</sup> Nevertheless, reinterpretations of Islamic texts, establishing what Amina Wadud calls a 'tawhidic paradigm'<sup>6</sup> underpinning gender equality in Islam, have proliferated with regard to the Qur'an, but have largely passed over the Hadith, even though the Hadith has played a very important role in prescribing Islamic teachings throughout Muslim history.

Some scholars, like Asma Barlas, dismiss the Hadith as a possible source for a paradigm of gender equality in Islam as it has been corrupted by political interests, and it has texts that contradict each other and are influenced by Mediterranean cultures as well as by Judaism and Christianity.<sup>7</sup> Others dismiss the the Hadith as being of minor importance compared to the Qur'an. Wadud, for instance, concentrates her 'gender jihad' exclusively on the Qur'an, which is, she argues, 'congruent with the orthodox understanding of the inerrancy of Qur'anic preservation versus historical contradiction within the Hadith literature'.<sup>8</sup>

To the contrary, as I will be arguing in this chapter, the Hadith is very important to advocacy for gender equality in Islam, for the classical sciences of the Hadith (*'ulūm al-ḥadīth*) and the principles of Islamic jurisprudence (*uṣūl al-fiqh*) offer a hermeneutical basis for a contextual reading. As the Hadith has played a very important role in prescribing Islamic teachings throughout Muslim history,<sup>9</sup> its reinterpretation for the purpose of arguing for gender justice should be a central concern in the face of contemporary changed conditions of Muslims' lives. While many progressive Muslims have established a hermeneutical basis for reading the Qur'an for gender justice, this chapter supports those who call for a rereading of the Hadith to encourage equal relationships between women and men.<sup>10</sup>

For the purpose of rereading, this chapter takes the Hadith to be a scholarly effort (*ijtihād*) by classical '*ulamā*' to shape and interpret the concept of following (*ittibā'*) the Prophet. The *ijtihād* here is not only about the interpretation of the Hadith and the implementation of its meaning, but also its transmission from one generation to another and its collection in the period of codification of early Islamic knowledge. The transmission, as well as the collection of hadiths, should, accordingly, be perceived as the *ijtihād* of the collectors within the historicity of their context-based understanding. Moreover, works of interpretation of hadiths are obviously perceived as human scholarly efforts by the majority of scholars and jurists.

Within the complex grey areas of *ijtihād*, a contextual reading of the Hadith as a hermeneutical process should be applied to develop the ethical guidelines of

Islamic family law known as the 'objectives of Islamic law' (*maqāṣid al-sharī'a*) and the 'logic of the rulings' (*'illat al-aḥkām*). As regards this reading, many progressive Muslims have noted that the Qur'an emphasises the universality of the principle of justice. As it relates to the relations between women and men, this principle is seen in at least three aspects. First, women and men are created from the same entity (4:1), and for that reason they are of equal standing. Second, both women and men have the obligation to live good lives and to do good works (16:97). Third, women and men have the same right to be rewarded for their works (33:35).

The suggestion of rereading the Hadith in this chapter will be based on the universality of this principle of justice as the ethical purpose of Islamic teachings. Accordingly, this chapter calls for a reinterpretation of the Hadith that should be made in line with those aspects established by the Qur'an to ensure the principle of gender justice. Arguably, as mentioned by Ibn Qayyim al-Jawziyya (d. 1350), the ideals of justice and the welfare of the community are the foundational principles of Islam.<sup>11</sup> Thus, interpretations that are contrary to the principles of justice must be challenged and rectified. In this work, reinterpretation also highlights the inevitable historicity of the Hadith, that is, the essential, intrinsic, socio-historical embeddedness of much of the content.

## 2. What is the Hadith?

The term 'Hadith' is usually defined as an action, in the form of words, deeds or manifestations of approval, that can be traced to the Prophet Muhammad. Other terms used to refer to Hadith include *sunna*, *khābar* and *athar*. The term *sunna* is most common, which is why Hadith is sometimes also known as the Sunna of the Prophet. The literal meaning of *sunna* is 'way' or 'road', and it is therefore often translated as 'tradition' in the sense of a course of action commonly followed by the Prophet. *Khābar* literally means 'news', and *athar* means 'heritage'. The term *ḥadīth* itself means 'something that is new' or 'something that is reported', but it has come to refer to something reported from or about the Prophet.

Later scholars of Hadith, particularly after al-Shafi'i (d. 819), arrived at a consensus that the Sunna is identical with the corpus of hadiths, and refers only to the Prophet, whereas in early Islam the Sunna had been more broadly defined as the ways of the Prophet, the Companions and the community ('the people of Medina'). Scholars of Hadith, pioneered by al-Shafi'i, then proposed an interplay between the Qur'an and the Sunna in shaping Islamic teachings, and argued that the former should be explained and interpreted by the latter. Because of this development, the majority of Muslim scholars were convinced that the Hadith, as synonymous with the Sunna, was one of the authentic sources of Islamic rulings and teachings.<sup>12</sup>

However, in the hierarchy of sources the Hadith ranks second after the Qur'an. The Hadith serves as a clarification of the revelations contained in the Qur'an.

Insofar as the Hadith is also regarded as revelation according to some scholars – though it is problematic to have revelation other than the Qur'an – it is perceived by the majority as an indirect and secondary source, the accuracy of which is not necessarily guaranteed. The accuracy of the Qur'an as the very word of God as revealed to Muhammad, by contrast, is unquestionable, because the chain of transmission of the Qur'an from the time of its revelation to Muhammad, to its being written down in definitive form, included a large number of transmitters of the same text in each generation.

There is less certainty that the Hadith contains accurate reports of the Prophet's actual words and actions, simply because the number of individuals in each generation who orally relayed those reports from one person to the next is smaller. In most cases, there were only one or two transmitters in each generation. The fewer the links between the Prophet's words and the permanent written record, the greater the possibility of a mistake, an omission or an outright untruth.

In his analysis of the sources of Islamic law, for instance, al-Shafi'i categorised the Hadith as 'individual reports' (*akhbār khāṣṣa*), in the sense that they were heard and reported by a limited number of individuals, sometimes only one. This differs from the Qur'an, which al-Shafi'i termed a 'general' or 'public' report (*khābār 'āmm*) because it was heard, witnessed and transmitted publicly, and therefore accepted by and acceptable to all Muslims. The fact that knowledge of the Prophet's actions was much more limited than knowledge of the contents of the Qur'an makes it more difficult to justify applying the terms of the Hadith to all Muslims. Thus, the authenticity of the Hadith is 'strongly presumed' rather than axiomatic. It is for that reason that al-Shafi'i said, "We are not justified in demanding repentance of one who is doubtful as to the truth of a hadith."<sup>15</sup>

The Hadith carries less legal authority than the Qur'an but more than either the consensus of Muslim scholars (*ijmā'*) or the process of analogy (*qiyās*), which form the other sources of Islamic law. For that reason, scholars of Islamic jurisprudence (*fiqh* and *uṣūl al-fiqh*) have held that the authority of the Hadith only extends to matters of religious practice and not to matters of faith and creed.<sup>16</sup> The authority of the Hadith as evidence of God's will derives from the fact that the Prophet Muhammad possessed a special understanding regarding the meaning of the Qur'an, and thus these texts have primary significance as explanations and elaborations of the meaning of God's revelation. The Hadith serves a number of different functions in relation to the Qur'an. Sometimes it confirms the revelations given in the Qur'an, sometimes it supplies an interpretation of the Qur'an, and at other times it refers to new legal matters, which are not mentioned in the divine revelation but which have to be judged in accordance with its basic spirit.

Only a few hadiths were transmitted through multiple narrators (*tawātur*) like the Qur'an. The larger part of the Hadith – if not the whole – is only transmitted

through a solitary link (*āḥād*). However, the solitary character of the transmission of a hadith is, according to the scholars, not an obstacle to its authority as a source of Islamic law. According to al-Shafi'i, even though a hadith is the report of a single individual, it can still be accepted and put into practice, just as the testimony of a single witness is sufficient in a court of law, or as we rely on information from a single individual in daily life. However, he also wrote that

If anyone can say that there is a consensus (*ijmā'*) by the religious scholars (*'ulamā'*) confirming the authority of the solitary report (*al-khabar al-wāḥid*), it should be me. But that is not the case, I only say that as far as I know the legal experts do not disagree (i.e., there is no *ijmā'*) that the solitary report is a source for Islamic law (...)<sup>15</sup>

The quotation above implies that the authority of the Hadith is accepted by most but not all Muslim scholars (*'ulamā'*), while the Qur'an, on the other hand, is accepted by all. The Hadith is far from gaining recognition as a revelation besides the Qur'an by a consensus of scholars and jurists. At best, the Hadith is considered as a vital source for exegesis of the revelation – the Qur'an – and as a crucial criterion for flourishing Islamic jurisprudence.

In sum, the discussion above at least shows the scholarly assumption that the establishment of the Hadith, especially a particular hadith, as a source of Islamic teachings is a matter of *ijtihad*. Many of the scholars and the jurists even consider the Hadith as 'largely transmitted in the words of the narrators themselves'.<sup>16</sup> These features will be more noticeable in the following section, which discusses efforts made by scholars of Hadith in selecting, compiling, accepting, rejecting and critiquing texts according to their chain (*sanad*) and content (*matn*).

### 3. Studying the *sanad* and *matn* of the Hadith

At the time of the Prophet, the Hadith consisted solely of its content: the text (*matn*) or the message embodied in the Prophet's words or actions. After his death, the Hadith typically came to comprise two parts: the content and the chain of narrators, the *sanad*. With the passage of time, the evaluation of the authenticity of a hadith has become more and more difficult. The categorisation of a particular text as valid (*ṣaḥīḥ*), sound (*ḥasan*) or weak (*da'if*) is based on the reliability of the content (*matn*) and on the narrative chain (*sanad*). In short, a text is not considered to be valid, nor can it be implemented as the basis for a legal ruling, until both its *sanad* and *matn* have been subjected to critical evaluation.

The critique of the *sanad* and *matn* should be inseparable in the narration and implementation of a hadith. While this critical methodology has been employed

by Hadith scholars from the early period of Islam, they typically concentrate on the transmitters of the hadith, while the Islamic legal experts (*fuqahā'*) focus on the content. Critiquing the *sanad* involves investigating the integrity of the individuals named in the chain of transmission, from the last person in the chain who recorded the text, to the first person who had direct contact with the Prophet. In the evaluation of a *sanad*, the links in the chain of transmission must all be directly connected to the previous narrator, and each one must also meet a standard of integrity measured by his reliability (*thiqa*), honesty (*'adala*) and good memory (*dābit*).<sup>17</sup> Al-Shafi'i added the requirement that the transmitters of a hadith must comprehend its meaning.<sup>18</sup> If this is not the case, the hadith is considered weak (*da'if*), even if the deficiency relates to only one of the criteria in one generation of transmitters. In other words, if one or more of the following deficiencies are found in a transmitter, a text would be described as 'weak': the transmitter is unknown by Hadith scholars; disapproved of by the scholars; considered corrupt or of limited integrity; known to have produced invalid hadiths; or known to have lacked sufficient knowledge of the particular text. A weak hadith does not constitute a legal proof (*hujja*).<sup>19</sup> Generally speaking, Hadith scholars agree that the validity of a *sanad* does not inevitably indicate that the *matn* is valid, and vice versa. As stated by the Hanbali scholar Ibn Qayyim al-Jawziyya (d. 1350): 'It is understood that the validity of a *sanad* is one condition for the validity of a hadith, but it does not automatically guarantee that the hadith is valid.'<sup>20</sup>

For instance, internal inconsistency and confusion of the *matn* can add to the acknowledged weakness of a hadith. Accordingly, from the beginning, Hadith scholars have conscientiously evaluated the *matn* of each text for possible inconsistencies and confusion, known as defects of the Hadith (*'ilal al-hadith*). In his work *al-Mawḍū'at al-Kubrā*, Ibn al-Jawzi (d. 1201) mentions forms of defect that occur in *matn*. These include inconsistencies with a verse of the Qur'an, a more valid text of the Hadith or a contrary historical fact; inconsistencies in logic; and inappropriate linguistic formulation.<sup>21</sup>

These evaluations were subsequently further developed by Islamic legal scholars and theologians, who often had a greater interest in the correct implementation of a hadith, particularly when it affected the other foundations of law, such as the Qur'an, the consensus of Muslim scholars (*ijmā'*) and analogical reasoning (*qiyās*).<sup>22</sup> A text is considered inconsistent when it differs from a text related by another narrator with greater integrity, or from another hadith that is related by a larger number of narrators with the same level of integrity. There are several types of inconsistencies in *matn*: they can take the form of additions to the text, an inversion, a manifest discrepancy, a writing error or the inclusion of a narrator's interpretation within the hadith itself.

Thus, the critique of the *sanad* and the *matn* of reports related to the Hadith has been recognised and practised since the time of the Companions of the Prophet.

Indeed, the Companions debated whether the validity and truth of accounts communicated among them required confirmation. Some Companions readily accepted accounts coming from other Companions, while others demanded verification in the form of the testimony of another person or an oath in support of the transmission. Some Companions rejected hadiths narrated by their fellow Companions because they were deemed not credible, were considered to violate the demands of the Qur'an, or were inconsistent with reason or historical fact.

In his book *al-Ijāba*, al-Zarkashi (d. 1392) has recorded that 'A'isha, the wife of the Prophet, objected to certain hadiths from the Prophet narrated by 24 Companions, including hadiths that are available in *Ṣaḥīḥ al-Bukhārī*.<sup>23</sup> Among these is a hadith that states 'the sources of misfortune are three: horses, women, and houses'.<sup>24</sup> The text is rejected by 'A'isha based on the following verse from the Qur'an:

No misfortune can happen on earth or in your souls but is recorded in a decree before We bring it into existence: that is truly easy for Allah (57:22).<sup>25</sup>

The method of comparing Hadith reports with verses from the Qur'an was developed most extensively by scholars from the Hanafi school. For them, Qur'anic texts that have a broad meaning (*'amm*) could not have their meaning narrowed down by a hadith.<sup>26</sup> For example, the statement in the Qur'an that any Qur'anic verse may be recited in prayer (73:20) must be understood to have a broad purpose fulfilled by the recitation of any verse or chapter during prayer. The hadith stating that the recitation during prayer has to include the opening chapter (*Sūrat al-Fātiḥa*) cannot thus restrict the meaning of the Qur'anic verse, which has always been broad. Accordingly, unlike the Maliki, Shafi'i and Hanbali schools, recitation of the *Fātiḥa* in ritual prayer is not considered obligatory by the Hanafi school.<sup>27</sup>

Scholars often compare a *matn* or a text with historical fact and with other texts in order to critically evaluate the text. Muhammad al-Ghazali (1917-1996), a contemporary Muslim scholar, used this technique to critically assess a valid hadith, which suggests that it is preferable for women to perform their prayers in a secluded place.<sup>28</sup> In critiquing this hadith, al-Ghazali argued that the *matn* does not accord with historical fact as shown by other, more valid hadiths, which demonstrate that throughout the Prophet's lifetime, his wives and his female Companions regularly joined in congregational prayers without ever being excluded or reprimanded. Indeed, a special entrance had been constructed for women to enter the Prophet's mosque. On one occasion the Prophet heard a baby crying while he was leading the prayer. He quickly completed the prayers out of concern for the baby and its mother. An even more pointed indication of the inauthenticity of the hadith above is the fact that the Prophet issued a directive that women could not be prevented from entering the mosque.<sup>29</sup>

To sum up this section, the discussion of *sanad* and *matn* in the sciences of the Hadith opens up possibilities to reevaluate prevalent texts that disregard women and to centre Islamic thought, accordingly, on those that promote equality and kindness to women. In other words, a reformulation of the compilation of hadiths regarding gender issues, in accordance with an ethic of justice, is not only possible but is grounded in the classical intellectual tradition of hadith criticism in both the sciences of the Hadith and the theories of jurisprudence. In turn, the work of 'Abd al-Halim Abu Shuqqa (1924–1995), *Tahrir al-Mar'a fi 'Asr al-Risāla*,<sup>30</sup> should be acknowledged as a novel compilation of authentic hadiths on liberating women in the period of revelation. How Islamic theoretical jurisprudence (*uṣūl al-fiqh*) provides a contextual reading of the Hadith will be discussed in the next section.

#### 4. Contextual reading of the Hadith

Through a critical reading of the *matn*, the scholars of Hadith and the jurists have also made attempts (*ijtihād*) to arrive at a more precise appreciation of the meaning contained in the hadiths, which can help to clarify the correlation between particular hadiths and other sources. A hadith's text, scholars of Islamic jurisprudence argue, is also a linguistic text, and its meaning is thus related to the structure, character and vocabulary of the language in which it is expressed. Every language is a product of the culture to which it belongs, and functions within a cultural environment. In addition, the communication of ideas by means of linguistic symbols, and the interpretation of those symbols by readers, entails the inevitable risk of diverse, incompatible, and even reductionist and distorted understandings. As a result, diversity of interpretation is inescapable.

This diversity in interpretation is something that the Prophet himself observed and acknowledged. That point is illustrated by an incident commonly cited by scholars of Islamic legal theory (*uṣūl al-fiqh*). As the Companions were departing to return home after the Battle of Ahzab, the Prophet told them that no person was allowed to perform the first evening prayers (*'aṣr*) unless they had reached the village of Banu Qurayza.<sup>31</sup> Later, when the time for completion of the *'aṣr* prayer was nearly past and the group of Companions had not yet reached Banu Qurayza, they fell into disagreement. Some insisted that they were not to perform the *'aṣr* prayer along the way, and that the prayer must be performed in Banu Qurayza as commanded by the Prophet, even if that meant praying after the proper time had passed. Others in the group were of the opinion that the Prophet had instructed them to pray in Banu Qurayza in order to encourage them to travel swiftly, and that the *'aṣr* prayer should be performed at the proper time even if they had not yet reached the village.<sup>32</sup>

These two different approaches towards the interpretation of the hadith – one literal and the other contextual – are also evident among the scholars of the generation

after the Prophet and the Companions within the disciplines of law (*fiqh*), exegesis (*tafsir*) and religious doctrine (*'aqida*). Within Islamic jurisprudence, for example, a hadith regarding the almsgiving at the end of the fasting month (*zakāt al-fiṭr*) was interpreted in different ways by different scholars. While some Shafi'i scholars interpreted a hadith regarding the obligation to provide wheat and dates at the end of the fasting month as a fixed and unvarying requirement, others adopted a slightly broader interpretation of the hadith, allowing payment with other staple foods besides those mentioned in the text.

The Hanafi school, however, interpreted the hadith as imposing a more general obligation to fulfil the needs of the poor at the close of the fasting month. According to this interpretation, the form of the *zakāt* is unimportant. It can be paid in wheat, dates or other staples having equal value, provided that the needs of the poor are satisfied. Indeed, the *zakāt al-fiṭr* can even take the form of cash equal to the value of wheat or dates, since the poor know best what their needs are, and cash can be used to supply those needs.

Similar differences regarding interpretive approaches have been adopted with respect to the hadith stipulating the payment of *zakāt al-fiṭr* in the early morning, that is, the payment that should be made after sunrise but before the communal prayer of the first day after the end of the fasting month. Some scholars regard this as a hard and fast rule. Others interpret the text within the social context in which it was first articulated – that is, in which people lived simply, in small, close-knit communities, and had limited access to food. They suggest that charity can be distributed earlier too, including at the beginning of Ramadan. The only stipulation is that it be paid or delivered within the time frame specified by the Prophet, which made it possible to collect and distribute the *zakāt al-fiṭr*.

The discussion above illustrates that a particular hadith can be given a literal, textual meaning or can be interpreted substantively, according to its broader purpose. The use of a textual approach will generally have the effect of narrowing the scope of its application. The use of such approaches undermines the notion that Islamic law can be received and implemented at all times and in all places. Indeed, calls to avoid such literal and simplistic interpretations of hadith are heard with increasing frequency in the Muslim world.

It is in this context that Muhammad al-Ghazali has sharply criticised the growing tendency to use an overly literal approach to the interpretation of the Hadith. In order to provide some guidelines for using interpretative as opposed to literal approaches, his student, Yusuf al-Qaradawi, a prominent contemporary Muslim scholar, proposed eight basic guidelines for arriving at a proper understanding of hadiths: comparing the text with verses from the Qur'an; comparing the text with other texts that have similar themes; classifying texts that are contradictory in meaning; investigating the causes, circumstances and purposes of a particular hadith; distinguishing texts that concern particular as opposed to general matters; distinguishing texts that are

literal and metaphorical; distinguishing texts that concern the supernatural from those that concern the natural world; and finally, and most essentially, ascertaining the meaning of a hadith with a dictionary of Arabic.<sup>11</sup>

These guidelines are a blueprint for a contextualised interpretation of the literal terms of the Hadith. The words of hadiths do not change. What changes are the conditions of social life within which the hadiths are implemented. That is the reason why the inquiry into the circumstances that prompted the emergence of the hadiths, known as *'ilm asbāb al-wurūd*, has become such a critical area of investigation in Hadith studies.

The texts are historical records. As such, they are intimately connected to the social dynamics of Arab society at the time of the Prophet. Consequently, in light of the fundamentally contextual character of the Hadith, a number of scholars have adopted an understanding informed by the essential purpose of the text and the root problem that it addresses. The meaning inscribed in the literal language of the text is not regarded as definitive and need not be applied in an unconditional manner. In essence, then, as social contexts change, the essential purpose of the Hadith, rather than its literal meaning, should be emphasised.

Ibn Khaldun (d. 1406) illustrated this point using the hadith that states, 'Leadership is in the hands of the Quraysh.' While some read the text literally and considered one who does not accept the political leadership of the Quraysh as an apostate,<sup>14</sup> Ibn Khaldun understood it within the context of the time, when the Quraysh dominated the political sphere. The hadith, according to him, should be taken to refer to leadership qualities and not to eternal tribal hereditary rights to political office. Accordingly, later, as political power became more dispersed, even though the language of the hadith remained the same, the texts did not provide a mandate for Qurayshi hegemony but a comment on the leadership qualities required for Muslim rule.<sup>15</sup>

Muhammad al-Ghazali made the same point in connection with the hadith that states, 'A people that turns over leadership to a woman will never be happy.' He argued that this hadith must be understood in context; otherwise, it does not accord with the reality that women have often achieved positions of leadership in the world. The hadith addresses a situation in which a Persian queen was in line to succeed to the throne. At the time, the social and political circumstances in Persia were chaotic. The country had been defeated by the Romans and there was a general state of unrest. The times demanded a leader who was strong, disciplined and had a deep understanding of the political problems at hand. The throne, however, was given over to a young woman, who was inexperienced and had little understanding of the problems of the realm. In the hadith, the Prophet was addressing these realities, and not delivering a legal ruling prohibiting women in general from holding positions of political leadership.<sup>16</sup>

According to the Tunisian scholar Muhammad ibn 'Ashur (1879–1973), other hadiths concerning prohibitions, particularly those referring to body

ornamentation, should also be understood within the context of Arab society at the time. He argues that these hadiths were revealed at a time when certain fashions such as particular hairstyles, shaved eyebrows and the use of hair extensions marked women as commercial sex workers, but that such practices cannot be considered eternally forbidden. In other words, the prohibitions were not directed at specific markers of identity but rather at the associated amoral behaviour. After all, cutting one's hair or lengthening it are simply ways to make one attractive. Thus, if it is grooming that is to be prohibited, then all forms of grooming must be forbidden for everyone. But Islam allows us, including women, to make ourselves more attractive, provided it is not for the purpose of engaging in behaviour that lowers our self-respect or inhibits justice.<sup>17</sup>

Using this contextual reading method, we may go further to reinterpret all texts of the Hadith commonly understood as sources of discrimination against women in Islam. This method deliberately adopts the ethical principles of Islam as the light by which to understand the messages of its revelation, which were presented, interpreted and applied within the realities of political, social, historical, cultural and economic contexts. In the next two sections, I will reread the text that forbids women from travelling unless accompanied by their relative (*maḥram*) and the text that outlines the concept of household leadership (*qiwāma*) in the light of the principle of justice within the changed realities of our contemporary social context.

##### 5. The ethic of the concept of *maḥram* on women's journeys

Contemporary interpretations of many hadiths continue to engender inequality and unfairness in the relationship between men and women. This inequality violates the most fundamental principles of the Qur'an and Hadith. For that reason, a reinterpretation of hadiths that address the relations between women and men is imperative in order to turn the ideal of social justice embodied in Islam into a practical reality. The hermeneutical ground for the project of reinterpretation is, in the word of Sa'diyya Shaikh, to 'unearth [the] construction of a religious anthropology in which humanity, male and female, is presented in ways that are holistic, non-hierarchical, egalitarian and, I dare to say, Islamic!'<sup>18</sup>

Take, for example, the hadith of Abdullah bin 'Umar, which prohibits women from going out by themselves:

It is impermissible for a woman who believes in Allah and the Day of Judgment to travel the distance that can be covered in a journey of one day and one night without being accompanied by a close relative whom she may not marry (*maḥram*).<sup>19</sup>

In a feminist perspective, it would seem clear that a patriarchal way of thought lies behind this text and its interpretation among scholars and jurists. In the patriarchal

view, the woman's body is problematic and not only should be covered to limit the perilous temptation (*fitna*) it represents, but should be prohibited from public space, and, moreover, from a long-distance journey on her own. A quick reading of the book of *Subul al-Salām* (Paths to Peace), a commentary on hadiths of legal import (*aḥādīth aḥkām*) by al-San'ani (d. 1768), confirms this assumption. This book links the above hadith with the nature of bodily temptation of women. The book also mentions the opinion of al-Nawawi, who views the matter as a general restriction without any consideration of the duration mentioned in the text. The opinion that prohibits only young, not older, women, mentioned in the *Subul*, also justifies, obviously, the feminist assumption that the text was produced and interpreted on patriarchal grounds.<sup>40</sup>

However, as I discuss in the following, the issue was disputed among Hadith scholars and jurists, and this dispute uncovers the possibility of a less gender-biased interpretation. In the account of Ibn Hazm (d. 1064) in his magnum opus *Al-Muḥallā bi al-Āthār*, versions of the above hadith as well as opinions of jurists on the matter differ. One version states that the Prophet prohibits a woman from journeying unaccompanied by a *maḥram* for more than three days and three nights; another mentions a journey of three days; yet another, two days; one states the prohibition even for a journey of only one day; and there is also a version that unconditionally forbids an unaccompanied woman from making any journey.<sup>41</sup>

In the report of al-Zuhri (d. 742), however, 'A'isha, the beloved wife of the Prophet, disavows the text by saying: 'Not every woman has a *maḥram*.'<sup>42</sup> This saying of 'A'isha is considered by al-Zarkashi (d. 1392) as her criticism against her fellow Companions who narrate the above hadith from the Prophet. Moreover, some reports state that 'A'isha made a journey and was not accompanied by her *maḥram*.<sup>43</sup>

Though the majority of jurists have adopted a literal understanding of the prohibition rather than seeking the reason (*'illa*) behind the text, legal opinions vary on 'the issue of an unaccompanied woman', particularly with regard to the matter of hajj. We may reveal an ethical purpose of the ruling from the features of this dispute. Interestingly, literalists such as Ibn Hazm avow the possibility of a woman travelling alone on hajj. He opens the discussion by saying:

A woman who has no husband nor close relative performing hajj with her may travel without any requirement (to find a *maḥram*); if she has a husband obliged to do hajj, he should travel to accompany her; if he does not do so, he becomes disobedient towards God the Almighty. Therefore, she may travel alone without him for the hajj and he has no right to forbid her.<sup>44</sup>

In arguing his opinion, Ibn Hazm interprets the hadith concerning the prohibition with reference to the Qur'an (3:97), which describes hajj as a religious duty for men

and women (*al-nās*); to hadiths about women being permitted to go to mosques; and to the hadith that commands a man to accompany his wife, rather than forbidding her from the journey of hajj.<sup>45</sup>

However, in the absence of an ethical perspective on the issue, and as part of the patriarchal context of his society, Ibn Hazm takes a stance only on the direct literal logic of the rulings. Accordingly, he limits the permission only to performing the hajj, and even then only the obligatory one. He still encourages women to stay at home and asks them to obey their husband. In the case of non-obligatory hajj, for instance, he argues that women are not allowed to leave their home without their husband. Indeed, according to Ibn Hazm, to obey the husband is the highest religious duty for the wife, and it ranks above performing the non-obligatory hajj.

A contextual reading entitles one to link the hadith on the *maḥram* to the ethical principle that vulnerable people should be protected from the possibility of violence, particularly in the chaotic social context of wars. This principle is not only advocated by many verses of the Qur'an, but found amid the diversity and complexity of the classical scholarly debate on the issue. For example, protection is linked to the issue of accompanying women on their journeys in the Shafi'i school of law, under the rubric 'safety of ways' (*amn al-ṭuruq*).

In the commentary on the hadith that 'A woman should not travel', Ibn Hajar al-Asqalani (d. 1448) quotes in his *Fath al-Bārī* the opinion of al-Karabisi (d. 859), the student of al-Shafi'i, who sees no problems with a woman travelling alone on her hajj or *'umra*, as long as her safety is guaranteed during her journey; al-Qaffal (d. 1026) and Abu al-Mahasin al-Ruyani (d. 1107) extend the argument to travel for any purpose.<sup>46</sup> Thus, the security of a woman's journey should be posited as the objective of the hadith, not the literal prohibition of the journey itself. It stands to reason, accordingly, that all components of society would be under a common obligation to ensure the protection and security of the entire populace.

In addition, the literal reading of the hadith that prohibits women from travelling should be critiqued with reference to other texts of the Hadith. The two following hadiths provide further evidence that women have the right to travel without any religious restriction because the *maḥram* rulings are only a matter of suggestion in the context of tribal society. First, in the hadith of Abu Sa'id al-Khudri, the sentence 'A woman should not travel without being accompanied by her close relative', is followed by 'Journeys should not be conducted unless to three mosques; the mosque al-Haram, the mosque of al-Aqsa, and my mosque.'<sup>47</sup> Both sentences are mentioned in one hadith reported by al-Bukhari. Although both use the same negation, *lā*, many jurists interpret the former sentence as prohibition, but the latter only as a suggestion. The latter sentence, according to the jurists, only suggests the best places in religious terms for Muslims to travel. Accordingly, no Muslim is prohibited from travelling to other than the three mosques, or even to other places than mosques. If the second sentence should be taken as a suggestion, I submit

the same should apply to the first sentence. Thus, the first sentence also merely suggests a woman not travel without her close relative. A woman, therefore, is not prohibited from travelling alone, particularly if the journey is safe and good for her.

Moreover, it is reported by 'Adi ibn Hatim in the reliable collection of al-Bukhari that

Once a man came to the Prophet, peace be upon him, complaining of the condition of poverty, while another came with the case of brigandage. Then the Prophet asked his companion 'Adi bin Hatim: 'Have you seen the city of al-Hira?' 'No,' he replied, 'I have just been told about it.' The Prophet then replied: 'If you have a long life, you will see a woman who makes a journey from al-Hira and circumambulates the Ka'ba; for she does not fear anyone except God.'<sup>48</sup>

The quotation above discloses the context of why women, and even men, should be accompanied when they make a journey, namely the risk of high-way robbery. When the way becomes safe, people, including women, will travel comfortably from one place to another. It is a clear statement, I think, that shows the literal understanding of the hadith to be a mistaken *ijtihad*, because it not only misses the context of the text but negates the ethical principle advocated by Islam. Moreover, the subject should be discussed in light of the rights of women to work and to learn, which are principles of Islam advocated not only by the verses of the Qur'an but also, as mentioned in the work of Abu Shuqqa, by the Hadith.

Unlike the conservatives, who refer to the text above for the notion of women's domestication, the contextual reading argues for the protection and security of all people. At the time the hadith was narrated, the category of those in need of protection included women. In the tribal social system at the time, accompanying women was the only possible and reasonable way to keep them safe on long-distance journeys.

Unlike tribal society, the social order of our society no longer depends upon self-help and communal solidarity, but on the existence of rational institutions and systems, which include law enforcement and equal rights for all. Today, the state is expected to provide safety and protection for all of its citizens. Accordingly, the hadith needs to be understood as having emerged from a tribal context in which the family, the clan and the tribe protected their own. Now that society has significantly changed, the challenge today is how to interpret and integrate these older directives and sanctions within emerging civil societies. In essence, the time-honoured tradition of patriarchal authority is being significantly challenged by notions of gender equality and rule of law, and the interpretation and application of the Hadith has thus become a topic of considerable contention.

## 6. Reinterpretation of the concept of *qiwāma* in the household

In the main schools of Islamic jurisprudence, the marital relationship tends to be a hierarchical one in which the husband becomes the head of the household, while the wife is subordinate to him. The jurists have formulated, accordingly, a set of obligations of the wife towards the husband, as distinct from those of the husband towards the wife. The main duty of the husband, to provide maintenance (*nafaqa*) – shelter, food and clothing – is juxtaposed with the wife's main duty of submission (*tā'a*), that is, obedience to please the husband at least in terms of his sexual needs.

This unequal model of the relationship leaves the wife vulnerable to violence, as the husband has power to chastise, even to beat, the wife, while she has no power to chastise the husband. In the account of al-Nawawi of Banten (d. 1897), for instance, the husband has the right to beat his wife for trivial reasons such as the wife's refusal to dress when the husband asks her to do so; her refusal to immediately engage with her husband in sexual intercourse; going out without her husband's permission; tearing her husband's garment; touching her husband's beard; saying the word 'donkey' or 'stupid' to her husband even when he has just shouted at her; showing her face to others; talking to a non-*mahram* (a person other than a close relative whom she may not marry); talking to her husband loudly so that others can hear; or giving away something to others from the house of her husband which she should have taken care of or kept.<sup>49</sup>

The obedience of the powerless wife and the possibility of violence by the powerful husband are derived from the literal concept of *qiwāma*, namely, the leadership of men in the household, which is contrary to the principle of justice and equality of Islam. The concept of *qiwāma* should, accordingly, be revised to implement the principle of justice. As it relates to marriage, for example, the implementation of the principle of justice includes, among other things, the consent of both parties to the marriage contract (2:232–3); the assumption of responsibility (4:58); a shared commitment to create a peaceful family life that is full of love (30:21); an obligation to treat each other with kindness (4:19); consulting each other in order to resolve problems (2:233, 3:159, 42:38); and, lastly, sharing the tasks of daily life in order to avoid saddling one party with an unfair burden.

In the Indonesian context, besides verse 4:34 of the Qur'an, many religious preachers maintain the subordination of women in the domestic realm with reference to the hadith of 'Abdullah ibn 'Umar:

I heard Allah's Apostle saying, 'All of you are guardians and responsible for your wards and the things under your care. The Imam (i.e. the ruler) is the guardian of his subjects and is responsible for them and a man is the guardian of his family and is responsible for them. A woman is the guardian of her husband's house and is responsible for it. A servant is the guardian of his master's belongings and is re-

sponsible for them.' I thought that he also said, 'A man is the guardian of his father's property and is responsible for it. All of you are guardians and responsible for your wards and the things under your care.'<sup>30</sup>

Consistent with the commitment to the principle of justice, this hadith should be interpreted to develop the ethics of rulings rather than used for its literal meaning. Unlike the conservative reading, the contextual reading of the above hadith is centred on the ethic of responsibility rather than on the ruling of guardianship. The text, as clearly mentioned in the first and the last sentences, highlights the moral responsibility of everyone as a guardian. The scopes of guardianship mentioned in the text – the caliph over his people, the husband over his family, the wife over her household, the servant over his master's wealth and the man over his father's wealth – are only examples of where people should apply their responsibility. The ethic of moral responsibility is fixed regardless of persons, place and time, while the scope of guardianship, on the other hand, is changeable due to the conditions in the context.

Literally, the text highlights that the wife can be the guardian of the household of her husband (*rā'iyā fi-bayt zawjihā*) while the husband is the guardian of the whole family (*rā'in fi-ahlihi*). In another narrative, reported by al-Bukhari, the wife is also the guardian of the family of her husband (*rā'iyā 'alā ahli bayt zawjihā*).<sup>31</sup> Again, the scopes are not the crux of the message of the hadith; for the wife also can be the guardian either of the household or the family, though both are within the scope of the house of her husband. In the absence of the husband, for instance, the wife, practically, becomes the guardian of the whole family. She is not the guardian of only the internal household, but is also responsible for working outside it to provide everything needed by the members of the family. Of course, in our time there are many families with both husbands and wives working outside the home. Therefore, the scopes of guardianship of each member of the family should be changed in accordance with their capability, while the ethic – that everyone should be responsible for his or her guardianship – remains as the main purpose of the rulings of Islam.

The conservative concept of *qiwāma* in the Islamic jurisprudence was obviously established on the basis of the fundamentals of philosophical, metaphysical, social and legal assumptions and theories developed in the social context of patriarchal systems. Therefore, the nascent reinterpretation of the hadith of Abdullah ibn 'Umar, above, will be insufficient to purge the concept of *qiwāma* of its patriarchal elements. However, discussion of the ethical meaning of the hadith discloses the possibility of changing the concept of *qiwāma* to be more suited to the principles of marital relationship advocated by the Qur'an: equality, justice, peace and shared responsibility for one another. The concept of *qiwāma*, accordingly, should be interpreted as a responsibility of those who are physically and mentally better qualified to protect and guide those members of a family who are less qualified,

regardless of gender and age. This is beside the principles that members of the household are obliged to treat each other with kindness, respect, love and mercy.

## 7. Conclusion

The discussion above argues for the reinterpretation of texts of the Hadith in terms of gender equality, as the possibility of gender-equal interpretation is opened up within the diversity of classical Islamic scholarship. Indeed, in my opinion, this reinterpretation contributes more to the agenda of gender equality among Muslims than does challenging Muslims about the issues of the authority and validity of the Hadith. The authority and the authenticity of the Hadith – the assurance that the Hadith convey an accurate account of actual words and deeds of the Prophet – have, in fact, been discussed broadly by Muslim scholars since the early centuries of Islam. To reiterate, according to the sciences of the Hadith, for example, the sayings and deeds of the Prophet cannot be considered to be reliable as a second source of Islamic law unless they pass two main categories of assessment; namely, those relating to the chain of transmission (*sanad*) and those relating to the text (*matn*). Scholars of Islamic jurisprudence (*fiqh*), in this respect, have also extended the eligibility criteria of the Hadith to insist that it not be contrary to the Qur'an or the dictates of reason and natural law, which excludes some accepted texts of the Hadith of al-Bukhari.<sup>32</sup> While the grounding of the evaluation of even the authentic hadiths in the Qur'an is quite obvious in the works of al-Ghazali and al-Qaradawi, the use of reason in such an evaluation may, to some extent, be found in the work of Rashid Rida (d. 1935).<sup>33</sup> However, as Daniel Brown argues, what they do is not outside of classical criticism of the Hadith, but is rather 'explicitly grounded in the Islamic intellectual tradition itself'.<sup>34</sup>

In sum, any work of reformation of Islamic understanding simply cannot disregard the significant role of the Hadith as a source of Islamic teachings. This is to say that reinterpreting the Hadith, especially those texts which address the relations between men and women, is necessary work in order to achieve gender equality in Islam. It is also likely to be fruitful work, as the number of positive texts on women's issues is far greater than the number of negative ones, most of which are, in any case, weak. I am suggesting that we work for interpretation as the Hadith, according to Siddiqi, 'still [wield] a great influence on the minds of the Muslims, and is bound to influence them in the future also'.<sup>35</sup> In this respect, Khaled Abou El Fadl notes that '[it] is fair to say that considering the wealth of historical and legal sources that are yet to be studied, edited, or published, our understanding of gender dynamics and the way that these dynamics influenced the development of Islamic jurisprudence is still in its nascent stages'.<sup>36</sup> I hope that there will be many more attempts among Muslim feminists to address the lack of scholarship with regard to reinterpreting the Hadith to advocate gender equality within Islam.

## Notes

- 1 I would like to express my thanks to Amber Engelson and to the editors for their comments and suggestions how to make this article more readable.
- 2 I got this quotation from *Rasā'il al-Jāhiz* (3/312) from my close teacher K. H. Husein Muhammad, the prominent Muslim scholar feminist in Indonesia. English translation from Abou El Fadl, Khaled, *The Search for Beauty in Islam: A Conference of the Books* (Lanham: Rowman & Littlefield, 2006), p. 10.
- 3 On those who struggle for Muslim feminism in Indonesia, see: Feillard, Andree, 'Indonesia's emerging Muslim feminism: women leaders on inheritance and other gender issues', *Studia Islamika* 4/1 (1997), pp. 83–111; Robinson, Kathrin, 'Islamic influences on Indonesian feminism', *Social Analysis* 50/1 (Spring 2006), pp. 171–7; and Nurmila, Nina, 'The influence of global Muslim feminism on Indonesian Muslim feminist discourse', *Al-Jāmi'ah* 49/1 (2011/1432), pp. 33–64.
- 4 In this chapter I capitalise the term 'Hadith' to denote the concept of an authoritative source of knowledge in Islam traced back to the Prophet Muhammad, while the lower-case term 'hadith' represents a particular text of the Hadith. I often substitute the term 'text' for 'hadith'.
- 5 Stowasser, Barbara Freyer, 'The status of women in early Islam', in Freda Hussain (ed.), *Muslim Women* (London and Sydney: Croom Helm, 1984), pp. 1–43.
- 6 Amina Wadud uses the term 'tawhidic paradigm' to describe claims for the equality of human beings in Islam without distinctions of race, class and gender. The term *tawhid* denotes the unity of God, the essential doctrine of Islam. In the concept of *tawhid*, God is one and He is the Creator, while all human beings are His creation and thus equal before Him. The concept overarches both the horizontal and the vertical relationships of human beings. On a vertical axis, *tawhid* relates to the transcendent reality, the unity of Allah. On a horizontal axis, as an ethical term, *tawhid* relates to relationships and developments within the social and political realm, emphasising the unity of all human creatures beneath one Creator. See: Wadud, Amina, *Inside the Gender Jihad: Women's Reform in Islam* (Oxford: Oneworld, 2006), pp. 14–32.
- 7 Barlas, Asma, *'Believing Women' in Islam: Unreading Patriarchal Interpretation of the Qur'an* (Austin: University of Texas Press, 2002), pp. 44–5.
- 8 Wadud, Amina, *Qur'an and Women* (Oxford: Oxford University Press, 1999), p. xvii. (Originally published in 1992 by Penerbit Fajar Bakti Sdn. Bhd., Kuala Lumpur, Malaysia.)
- 9 Siddiqi, Muhammad Zubayr, *Hadith Literature: Its Origin, Development, Special Features and Criticism* (Calcutta: University of Calcutta, 1961), p. xviii; Graham, William, A., *Divine Word and Prophetic Word in Early Islam: A Reconsideration of the Sources, with Special Reference to the Divine Saying or Hadith Qudsi, Religion and Society* 7 (The Hague and Paris: Mouton, 1977).

- 10 See Clark, L., 'Hijab according to the hadith: text and interpretation', in Sajida Sultana Alvi, Homa Hoodfar and Sheila McDonough (eds), *The Muslim Veil in North America: Issues and Debates* (Toronto: Women's Press, 2003), pp. 214–86.
- 11 Ibn Qayyim al-Jawziyya, Muhammad ibn Abi Bakr, *I'lām al-Muwaqqi'in 'an Rabb al-'Ālamīn*, ed. Muhy al-Din 'Abd al-Hamid (Beirut: Dar al-Fikr, n.d.), Vol. 3, p. 14.
- 12 Kamali, Mohammad Hashim, *Principles of Islamic Jurisprudence* (Kuala Lumpur: Ilmiah, 1998), pp. 47–8.
- 13 Al-Shafi'i, Muhammad bin Idris, *Al-Risāla*, ed. Abd al-Fattah bin Zafir Kabbarah (Beirut: Dar al-Nafā'is, 1999), p. 235, text no. 1261.
- 14 Al-Suyuti, Jalal al-Din 'Abd al-Rahman, *Tadrib al-Rāwi fi Sharḥ Taqrīb al-Nawawi*, ed. Ahmad Umar Hisham (Beirut: Dar al-Kitab al-'Arabi, 1989), Vol. 1, p. 54.
- 15 Al-Shafi'i, *Risāla*, text no. 1249–50.
- 16 Kamali, *Principles*, p. 59.
- 17 Al-Suyuti, *Tadrib al-Rāwi*, Vol. 1, pp. 43–4.
- 18 Al-Shafi'i, *Risāla*, p. 201 no. 1040.
- 19 Kamali, *Principles*, p. 82.
- 20 Quoted from al-Khayr Abadi, Muhammad Abu al-Layth, 'Al-manhaj al-'ilmi 'ind al-muhaddithin fi al-ta'āmul ma'a mutūn al-Sunna', *Islamiyyat al-Ma'rifa* 4/13 (1998), pp. 14–18 (Kuala Lumpur: IIIT).
- 21 *Ibid.*, pp. 22–6.
- 22 See Kamali, *Principles*, pp. 58–65 and 75–6.
- 23 Al-Zarkashi, Badr al-Din, *Al-Ijāba li Irād mā Istadrakathu 'Ā'isha 'alā al-Sahāba*, ed. Sa'id al-Afghani (Beirut: al-Maktab al-Islami, 2000).
- 24 The hadith was narrated by Abdullah ibn 'Umar in Al-Bukhari, Muhammad ibn Isma'il, *Ṣaḥīḥ al-Bukhārī*, numbered by Muhammad Fu'ad 'Abd al-Baqi (Cairo: Dar ibn al-Haytham, 2004), book 56, ch. 47, text no. 2858.
- 25 The hadith of 'A'isha on the matter is available in al-Bayhaqi, Ahmad ibn al-Husayn, *Al-Sunan al-Kubrā*, ed. Muhammad 'Abd al-Qadir 'Ata (Beirut: Dar al-Kutub al-'Ilmiyyah, 2003), Vol. 8, p. 241, book of *al-Qasāma*, ch. 20, hadith no. 16525. See also al-Zarkashi, *Al-Ijāba*, pp. 124–7.
- 26 The position of the Hanafi school is that the broad meaning cannot be narrowed by a solitary hadith (*āmm al-Qur'an lā yukhaṣṣaḥ bi al-khabar al-wāḥid*). See al-Khin, Mustafa Sa'id, *Athar al-Ikhtilāf fi al-Qawā'id al-Uṣūliyya fi Ikhtilāf al-Fuqahā'* (Beirut: Mu'assasat al-Risala, 1998), pp. 204–14.
- 27 In the Hanafi school, the obligatory (*fard*) recitation in prayer, based on 73:20, is any verse of the Qur'an. The recitation of the *Fātiha* in particular, which is considered obligatory in other schools based on a hadith, is only a duty (*wājib*) in two units (*rak'a*) of prayer, while in the remaining units it is neither obligatory nor a duty, according to the Hanafi school. The term 'duty' here is similar to the term 'strongly recommended' or *sunna mu'akkada* in other schools, as prayer without

- the *Fātiḥa* is still valid in the Hanafi school. See Al-Jaziri, 'Abd al-Rahman, *Al-Fiqh 'alā Madhāhib al-Arba'a* (Egypt: Dar al-Hadith, 2004), Vol. 1, pp. 181–3.
- 28 Al-Haythami, Nur al-Din bin 'Ali bin Abi Bakr bin Sulayman, *Majma' al-Zawā'id wa Manba' al-Fawā'id*, ed. Muhammad 'Abd al-Qadir Ahmad 'Atha (Beirut: Dar al-Kutub al-'Ilmiyyah, 2001), Vol. 2, p. 118. A footnote in that work notes that the hadith is also reported by Ahmad ibn Hanbal in his *Musnad* (6/371), by al-Mundhiri in his *al-Targhib* (1/225) and by Ibn Khuzayma (no. 1689).
- 29 Al-Ghazali, Shaykh Muhammad, *Al-Sunna al-Nabawiyya bayna Ahl al-Fiqh wa Ahl al-Hadith* (Beirut: Dar al-Shuruq, 1992), pp. 62–4. The text of the hadith affirming that women may enter the mosque can be found in Ibn al-Athir, Abu al-Sa'adat Mubarak ibn Muhammad, *Jāmi' al-Uṣūl min Aḥādith al-Rasūl* (Beirut: Dar Ihya al-Turath, 1984), Vol. 6, p. 155, no. 3283, and Vol. 11, p. 467, no. 8698.
- 30 Abu Shuqqa, 'Abd al-Halim Muhammad, *Tahrir al-Mar'a fi 'Aṣr al-Risāla*, 6 vols (Kuwait: Dar al-Qalam, 2002).
- 31 Al-Bukhari, *Ṣaḥīḥ al-Bukhārī*, book 12, ch. 5, no. 946.
- 32 Al-'Asqalani, Ahmad ibn 'Ali ibn Hajar, *Fath al-Bārī Sharḥ Ṣaḥīḥ al-Bukhārī* (Beirut: Dar al-Fikr, 1993), Vol. 3, pp. 109–10.
- 33 Al-Qaradawi, Yusuf, *Kayfa Nata'āmal ma'a al-Sunna al-Nabawiyya: al-Ma'ālim wa al-Dawābiḥ* (Egypt: IIT, 1999), pp. 93–183.
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- 51 The last narrative is available in al-Bukhari, *Ṣaḥīḥ al-Bukhārī*, book 93, ch. 1, no. 7138.
- 52 Siddiqi, *Hadith Literature*, pp. 93, 194–204 and 201–3, cited in Kamali, Mohammad Hashim, *Hadith Methodology: Authenticity, Compilation, Classification and Criticism of Hadith* (Kuala Lumpur: Ilmiah Publishers, 2002), pp. 290–1. In his account, due to lack of *matn* criticism in the sciences of the Hadith, there are still found weak or forged hadiths even in the standard collections, such as that of al-Bukhari. He gives the example of three hadiths in al-Bukhari's collection that are questioned by scholars of the Hadith and jurisprudence. (1) The hadith that the Qur'anic verse (49:9) refers to 'Abd Allah b. Ubayy. This is criticised because 'Abd Allah b. Ubayy had not accepted Islam even outwardly at the time when the verse was revealed. (2) The hadith that if Ibrahim, the son of the Prophet Muhammad, had lived, he would have been a prophet. The hadith was considered a forgery by al-Shawkani, among others. (3) The hadith that Adam's height was 60 yards, as it conflicts with the fact that the measures of the homes and dwellings of some of the ancient nations do not show that their inhabitants were enormously tall.
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