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The American University in Cairo

School of Global Affairs and Public Policy

**ISLAMIC FEMINISM:
A PERFECT MATCH OR A CONTRADICTION IN TERMS?**

A Thesis Submitted to the

Department of Law

**in partial fulfillment of the requirements for the degree of
Master of Arts in International Human Rights Law**

By

MERNA ABOUL-EZZ

December 2017

The American University in Cairo
School of Global Affairs and Public Policy

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DEDICATION

This thesis is dedicated to all the women out there who are being oppressed through having their inner faith abused in the name of religion.

To those who inspired it.

ACKNOWLEDGMENTS

Had it not been for my father, I would not have been able to pursue my dreams and complete this Masters degree. I am forever grateful to his financial as well as emotional support, and thankful for how he always pushes me to achieve my goals and become the person I am today. To the person who has always tolerated my staying-in-bed-days, my nervous breakdowns and my never-ending whining about never finishing on time, my mother; thank you for your tolerance and patience, unconditional love and support, and for all the hugs, kisses and smiles you throw at me in times of need. To my sister and brother, Rawan and Fady, thank you for always debating with me, allowing me to think outside my own bubble, and for supporting my career decisions, despite the teasing comments on what a nerd I am. To this family I am forever indebted, for they never fail to make me feel I am their pride and joy.

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Supervised by Professor Jason Beckett

ABSTRACT

Gender inequality is a global issue that limits women's social, economic as well as political opportunities. Fortunately enough, there have been many feminist movements that fight for gender equality and women's rights. The basis for male domination is sometimes justified by culture, or religion. The problem arises when the oppression of women is being justified on the basis of religion mainly Islam in the Arab countries, for it becomes harder to women to challenge the situation, because it conflicts with their inner faith. This thesis will tackle the issue of Islamic Feminism, a recent movement that calls for gender equality in the name of Islam, through providing an alternative feminist interpretation of the Qur'anic text as well as Islamic Law. Although Islamic Feminists have succeeded in using their interpretation to reform laws that address women's issues in the Muslim countries, they still face many challenges from traditional scholars who have attained Islamic education and have studied Islamic jurisprudence. Consequently, this paper argues that in order to move a step forward, and for the movement to be more effectively successful, Islamic feminists have to engage with the traditionalists, to increase the movement's credibility as well as legitimacy and to be able to make the changes they long for come true.

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Introduction **What, How and Why**

*“The wife is her husband’s prisoner, a prisoner being akin to a slave. The Prophet directed men to support their wives by feeding them with their own food and clothing them with their own clothes; he said the same about maintaining a slave”-
Ibn Qayyim al-Jawziyya ¹*

Islamic Feminism is a growing movement that calls for gender equality in the name of Islam. Islamic feminists have provided an alternative interpretation and a platform to the relationship between men and women, as guided by Islamic Law, which strongly contests the traditional ideas. The purpose of this thesis is to study the feminists’ attempt in challenging the traditional understanding of the unequal relationship between men and women in Islamic Law, especially in the private sphere. The paper discusses their arguments and re-interpretation, presenting the strengths and weaknesses.

I have chosen to focus on the private sphere because of two specific reasons. Firstly, family is considered one of the most fundamental pillars of any society, and marriage is the first block in building it. However, it is considered in the private sphere, which makes tackling it closely a challenge and difficult task. There have been many laws in different Arab countries to strengthen women’s position politically, economically and socially, like the divorce laws in Morocco and Egypt, for example. On the contrary, when it comes to marriage, it is always considered a private matter that no one touches upon. According to Welchmann, the Egyptian legal regime uses Shari’a to reinforce the privacy of family, which makes addressing issues of obedience or domestic violence difficult.² However, I believe that marriage is the basis for the enhancement of the status of women. Hence, understanding the roles played by men and women in this form of interaction is essential as it builds up societies and it builds up certain perceptions about the roles males and females are expected to play in their lives and towards the society.

¹ IBN QAYYIM AL-JAWZĪYAH, MUHAMMAD IBN ABĪ BAKR, AND ṬĀHĀ ‘. A. SA‘D. A‘LĀM AL-MUWAQQI‘ĪN ‘AN RABB AL-‘ĀLAMĪN. (Dār al-Jīl, Bayrūt, 1973), (1973).

² LYNN WELCHMAN, WOMEN AND MUSLIM FAMILY LAWS IN ARAB STATES: A COMPARATIVE OVERVIEW OF TEXTUAL DEVELOPMENT AND ADVOCACY, 261 (Amsterdam University Press, 2007), (2007)

Secondly, a personal experience of coming from a background that very much stresses on the importance of men superiority in the private sphere and the vital role of women as housewives. The situations that usually grab attention in the nuclear family as well as the extended one are very simple yet they stress on how husbands feel superior and are in fact more powerful. For instance, husbands usually have the upper hands in marriage decisions, even if consultancy has occurred between the two partners, the final word usually belongs to men. Furthermore, the priority for women should always be her family, not career like husbands, as they are responsible for the finances of the house. Hence you could always see how women, no matter how tired they are, care enough to do the housework perfectly and according to their husbands' schedules (example: food should always be ready for him once he is home).

What strikes me the most is the reactions when this topic is opened for discussion; male and female family members of mine, and of many other families, usually justify these role differences played in marriage using the Qur'an and Islamic law. They tend to claim that these are the roles both genders have been assigned to by the Qur'an, and we should follow them without questioning since it is a divine sacred text. Apart from family members, a survey conducted by the Egypt Demographic and Health showed that there is a very high level of tolerance on behalf of women when it comes to domestic violence or obedience. The study indicated that women believe that men are justified to beat their wives in certain cases, if she does not answer him back or disobeyed him, for instance.³ These simple situations can clearly show men superiority in the house, though it is in the private sphere.

While such actions never really offend my female family members, this might be because they have not been exposed to different possibilities that might arise from the Qur'an. In their case and in many other cases in the Arab world, it would be unfamiliar or even frowned upon to approach them from a western feminist ideology, due to the constant fear of western imperialism in the Arab region.⁴ Patriarchal laws and beliefs that are

³ *Id.*

⁴ BADRAN, MARGOT. FEMINISM IN ISLAM: SECULAR AND RELIGIOUS CONVERGENCES, 244 (Oneworld Publications, 2013), (2013)

being legitimized by the divine will govern the lives of many Muslim women, and many of those women lack the needed knowledge, power or even the luxury of choice to challenge this system. This is why I became interested in Islamic feminism and its significance, because it can encourage these women to fight for their rights without making them fear that they would be unfaithful to God's words in the Qur'an.

A. Research Question

In my thesis, I would like to provide a critical analysis of the work conducted by Islamic feminists such as Amina Wadud, Azizah al Hibri, Ziba Mir-hosseini, Kecia Ali and Asma Barles. The paper argues that Islamic feminists should engage in a dialogue with the traditional scholars in order for the movement to be acknowledged and intellectually considered as a contribution. In doing so, the paper should provide a critical approach on the methods used by these feminists to reach their conclusions and results. My research question is to ask if these Islamic feminists have successfully proved that Qur'an promotes gender equality in marriage or not through focusing on and studying their methods and approaches in reaching this conclusion. The paper aims at examining the different interpretations offered by Islamic feminists to verses that have to do with women's rights, freedom and the relationship between males and females in the private sphere. The paper will focus on analyzing whether Islamic feminists have succeeded in contesting the way traditional scholars misused the Qur'an to undermine women's rights as wives and emphasize men superiority as husbands. After examining the process through which Islamic feminists had to go through to come up with the current outcome, focusing on the political limits they are confronted with during this process, I argue that a direct confrontation has to take place between Islamic feminists and traditional scholars to increase the movement's effectiveness and popularity.

In my process of reaching such conclusion, I chose to divide the stages of Islamic feminism movement into three phases: merging Islam with feminism, confronting the Islamic jurists with the outcome, considering the stance of the state and the law. This first step is merging Islam, its concepts and ideas, with the feminism theory, also its concepts and ideas. Are they compatible or incompatible? Has Islam always believed in gender

equality or is it a new concept? Does the Qur'an protect women rights or male superiority? Islamic feminists have studied this issue thoroughly, and provided valid arguments and extensive research to prove that Islamic and Feminism are compatible.

However, while answering these questions, the feminist scholars depended mostly on an independent reasoning and reading of the Qur'an. Some research has been done on their behalf, of course, however their basis depended on an interpretation of the Qur'anic verses based on reason and logic. This strategy is somehow problematic when Islamic feminists had to continue the process and be challenged by the second step, which is confronting the Islamic jurists. Traditional Muslim scholars have spent nearly all their lives studying and examining the Qur'an and its laws thoroughly. Islamic jurists have produced years of Islamic jurisprudence using the "theory of law" (*usul el fiqh*) such as the detailed interpretation of the primary sources of the religious text (*Qur'an*) and the prophetic sayings (*al hadith*) as well as secondary sources such as consensus among the scholars (*ijma'*) and analogy (*qiyas*)⁵

Though there are some minor differences among scholars when it comes to certain areas and rules, issues related to women in general, whether in marriage, divorce or their roles in society are nearly similar. Most traditional scholars believe that women's right to maintenance is linked to her duty to obedience, for instance. In addition to this, most traditional scholars believe that "sexual pleasure and social reproduction were the core philosophy of marriage."⁶ They also believe in gender roles when it comes to dividing roles in marriage. Eventually, as will be discussed later, many traditional scholars have critiqued Islamic feminists for their lack of knowledge and expertise when it comes to studying the Qur'an, because as mentioned before, they have depended mostly on reason, without making use of the methods developed over the years by traditional scholars. The reaction of Islamic feminists was never to engage in an intellectual dialogue with the

⁵ WAEL HALLAQ, A HISTORY OF ISLAMIC LEGAL THEORIES: AN INTRODUCTION TO SUNNĪ USŪL AL-FIQH, 33 (Cambridge University Press, 1997), (1997)

⁶ Hassan Eshkevari, *Rethinking Men's Authority over Women: Qiwama, Wilaya and their Underlying Assumptions*, in MEN IN CHARGE: RETHINKING AUTHORITY IN MUSLIM LEGAL TRADITION, 205 (OneWorld Publications, 2015), (2015)

conservatives; instead, they decided to consider the criticism as a continuous process of patriarchy. While it might be true that male scholars might be threatened by the new interpretations, leading to strong opposition on their behalf, there are still some critiques to the arguments and methods that should be addressed as valid. Firstly disregarding their work followed by ignoring their critiques strongly affects the clarity and the credibility of the new interpretations. In addition to this, it negatively affects the seriousness and significance of the movement as a whole.

Therefore, I argue that choosing to engage in the conversation by offering different approaches and interpretations forces Islamic feminists to thoroughly study the conclusions provided by traditional scholars after years of work on the Islamic jurisprudence. After which there should be a dialogue or a conversation that acknowledges the work of both movements as valid and accepted. As mentioned before, the work of Islamic feminists is sometimes considered “un-interpretation” or a “re-interpretation” of the existing work. Consequently, they might first engage with the existing work before trying to counter-argue it or provide alternatives for it. However, this was not the method developed by the movement, for they decided to start fresh and from the beginning, ignoring all the already-available work.

As much as scholars, and especially feminists, might contest this idea, involving men in the process of promoting gender equality has proven to be essential and effective. Though it is a depressing fact, but it is still a given one that we live in a patriarchal society dominated by men, and endorsing a radical strategy of attacking them on one hand, or ignoring their work on the other has not proved to be politically effective for the enhancement of women’s status. Apart from this, the situation is much harder in the Arab states, especially because of how religion and the state (both dominated by men) are interlinked. So far, Islamic feminists have adopted a more of a positivist approach, where they separated Islamic law from the political realities, which is why they only focus on producing new progressive work that enhance Muslim women’s statuses. However, It is really complicated in the Arab world when reformists try to oppose religious male biases because discussing religion is still considered a taboo in most Arab countries; people

might even go to jail if they wanted to propose a reformed modern ijthihad. Consequently, and unfortunately, engaging with the conservatives is an important strategy that should be implemented by Islamic feminists in order to achieve political and social authorization.

Since this paper argues that Islamic feminists have to engage conservatives in their work, a descriptive summary followed by a critical analysis of the arguments developed by exegetes of the feminist tafsir (interpretations) is essential. First, the paper will summarize the arguments using five categories, which are Masculinity of God, Historical Contextualization, Intratextual Method and Tawhidic Doctrine and Qur'anic Gradual Approach. Secondly, the paper will analyze the strengths of the movement as an important development to the Qur'anic status with women's rights and gender equality, offering a new method of looking at the Qur'an and contesting the accepted traditional patriarchal notion of the divine text. Thirdly, the paper will discuss the weaknesses and flaws that can be used by the traditional scholars against the arguments, which will negatively affect the credibility and importance of the movement. And finally, the paper will discuss if there are alternatives or solutions that can address these weaknesses and provide a transition for a better approach in understanding the role of Qur'an in promoting gender equality. In addition, the paper stresses on the importance of finding a space for a needed discussion between Islamic feminists and traditionalists. For the purpose of avoiding selectivity or flawed argument, the paper will use a constant English Qur'anic translation, that of Yusuf Ali.

B. Men vs. Women: Conservative vs. Reformist Understanding:

“Marriage is the ownership of the vagina in return for a stated compensation.. Woman “gives” and man “takes” pleasure; woman is married and man marries” Hassan Eshkevari.⁷

In order to study the roles that are played by men and women, one should first look at the stated purpose of marriage as detailed in the Qur'an. Many traditional scholars perceive marriage as an act of business transaction, where women offer their sexuality and men offer their money. Basically, the essence of marriage is downgraded to conducting lawful

⁷ *Id.*

sexual intercourse. In this way, the jurists have already disregarded the Qur'anic and Prophetic claims of mutual respect, love and companionship when they addressed the reasons behind marriage. This is evident from the beginning of how marriage is planned by guardians of females (father or brother) in different Arab Muslim countries, without real or effective consent from the brides involved.

In addition, this idea is also impeded in traditional jurists' permission for wives to file for a divorce, for example, where she cannot ask for divorce if her husband suffers from insanity or other skin diseases "because the purpose of marriage (sexual intercourse) could still be fulfilled" as if this is the only thing women care about.⁸ Same goes in cases of a missing husband, when they tried to favor women, jurists said she could have a petition to get a divorce because she cannot enjoy "intimacy in marriage". As Judith Tucker inferred, they did not touch upon other financial needs for example.⁹ Islamic feminists reject this purpose of marriage and this image of women, presenting different Qur'anic verses, which shows that God has encouraged a relationship based on respect, compassion and love in addition to constantly encouraging men to treat their wives with love and mercy.

C. Significance

The significance of this study arises from offering a platform for understanding the political and cultural context as well as needs of the women living in Muslim States. The issue of gender equality in Islam should be studied thoroughly and in details, as it is an essential problem when it comes to women rights. Through the oppression of women is a universal and cultural issue, it becomes much harder for women to fight against it if the practice is justified by religion, in this case Islam. Consequently, it becomes very challenging for Arab Muslim women to ask for or defend their rights as male superiority is always justified by the Qur'an, the Islamic principles and is institutionalized by the state. Islam is also being used by the state to oppose some ideas in the The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), where many

⁸ JUDITH TUCKER, WOMEN, FAMILY, AND GENDER IN ISLAMIC LAW, 93 (Cambridge University Press, 2008), (2008)

⁹ *Id.* at 95

Arab Muslim countries made reservations or added the sentence of “as abided by Islamic law” or “in accordance to shari’a.” This hinders the whole international feminism movement as well as their efforts in trying to achieve gender equality. The problem is worse because many women has been socially constructed in this way, as these ideas are usually included in the socialization process of girls when parents raise up. I find it strange when I talk to my family female members, or female friends where they strongly believe in such dogmas, as part of their devotion to Islam and a way of following God’s and Islamic rules. This is why there should be a new logical interpretation that is not challenging for males in order to achieve public support as well as backing from male jurists as well as females. Furthermore, more Arabic literature on this topic needs to be addressed because this will enable more people of the Arab communities to access it and read it. When Islamic feminists understand the limitations to their work, know how to address them accurately as well as know how to promote their ideas, I believe that many Arab Muslim women’s statuses might be enhanced and improved. As Ziba Mir Hosseini explained it:

A movement to sever patriarchy from Islamic ideals and sacred texts and to give voice to an ethical and egalitarian vision of Islam can and does empower Muslim women from all walks of life to make dignified choices. This, in the end, is what Islamic feminism is about.¹⁰

¹⁰ Ziba Mir-Hosseini. *Muslim Women's Quest for Equality: Between Islamic Law and Feminism*. Vol.32 no. 4, CRITICAL INQUIRY, 629, at 645 (2006)

Chapter II What is Islamic Feminism?

“The vast flood of tradition soon formed a chaotic sea. Truth, error, fact and fable mingled together in an undistinguishable confusion. Every religious, social, and political system was defended when necessary, to please a Khalif or an Ameer to serve his purpose to support all manner of lies and absurdities or to satisfy the passion, caprice, or arbitrary will of the despots, leaving out of consideration the creation of any standards”-Moulvi Cheragh Ali.¹¹

Islamic Feminism, as defined by Ziba Mir-Hosseini as well as Marwa Sharafeldin is an awareness of the injustice imposed on women by the different interpretation and Shari’a laws developed by male scholars. It could be considered an act of advocacy, activism in the hope of producing new knowledge which grants Muslim women their rights. The movement is called “Islamic” Feminism as those who support it are inspired by Islam and its basic principles of justice, human dignity and the human equality.¹² According to Badran, the term was first used in 1990s in many different countries. Iranian scholars, such as Ziba Mir-Hosseini, for instance used the term and wrote about its progression in the women’s journal named *Zanan* founded by Shahla Sherkat in 1992. In addition to this, scholars from Saudi Arabia such as Mai Yamani have used the term in 1996 in her book named *Feminism and Islam*. There are also Turkish scholars such as Yesim Arat, Nilufer Gole and Feride Acar, and South African activists such as Shamima Shaikh who used the term in their writings and speeches.¹³ Therefore, by mid or late 1990s, the term was already used worldwide and the movement was increasing and developing, being circulated among Muslim women who want to advocate for equality in the name of Islam.¹⁴

¹¹ MOULVI CHERAGH ALI, quoted in *FEMINISM AND WORLD RELIGIONS*, (Arvind Sharma, Katherine K. Young, State University of New York Press 1999), (1999)

¹² Marwa Sharafeldin, *Egyptian Women’s Rights NGOS: Personal Status Law Reform between Islamic and International Human Rights Law*, in *GENDER AND EQUALITY IN MUSLIM FAMILY LAW: JUSTICE AND ETHICS IN THE ISLAMIC LEGAL TRADITION* 62 (I.B.Tauris & Co Ltd, 2013), (2013).

¹³ BADRAN, *supra* note 4, at 244.

¹⁴ *Id.*

Muslim feminists, such as Riffat Hassan, Azizah al-Hibri and Amina Wadud believe that the Qur'anic core belief is promoting justice and equality. In their works, they focus that this is the message God and prophet Muhammad were trying to convey through preaching for Islam as a religion of justice and equality. Therefore, their contribution comes from arguing that "all scriptural interpretations must be made in light of this fundamental, sacred principle."¹⁵ They argue that it is the duty of all Muslims to choose and prioritize readings of the Qur'an that favor gender equality and promote women's rights and all the oppressed groups. For this exact reason, scholars of feminist exegesis, tafsir, advocate for giving Muslim women a chance to engage with the Qur'anic text, for they are the ones who can improve their status in society the most.¹⁶

Islamic feminists believe that the traditional interpretations of the Qur'an were influenced by the cultural context at the time. Wadud, for instance, states that gender is a "social construction" that is changing through history and different cultures.¹⁷ Ziba Mir Hosseini concurs that gender equality is a "modern ideal", a "problem" that traditional Muslim scholars and jurists did not have to tackle before 20th century.¹⁸ For traditionalists, the fact that Islam promotes equality, kindness and mercy have nothing to do with imposing gender equality, for the concept was alien to them. According to Wadud, the historical and cultural backgrounds affect the person's perception on the gender relationships and roles. Therefore, the Qur'anic verses that have to do with women and male-female relationships were interpreted depending on the "social understanding of gender among the prior texts influencing the reader."¹⁹

¹⁵ Riffat Hassan, *Muslim Women and Post Patriarchal Islam*, in AFTER PATRIARCHY: FEMINIST TRANSFORMATIONS OF THE WORLD RELIGIONS, 59 (Orbis Book, 1991).

¹⁶ *Id.*

¹⁷ AMINA WADUD, QUR'AN AND WOMAN: REREADING THE SACRED TEXT FROM A WOMAN'S PERSPECTIVE, 5 (Oxford University Press, 1999) (1999).

¹⁸ Ziba Mir Hosseini, *How to Challenge the Patriarchal Ethics of Muslim Legal Tradition*, OPEN DEMOCRACY, May 2013, at 4, available at <https://www.opendemocracy.net/5050/ziba-mir-hosseini/how-to-challenge-patriarchal-ethics-of-muslim-legal-tradition>

¹⁹ WADUD, *supra* note 17, at 5

Hidayatullah explained these arguments by stating that the fact that conservative male exegetes refuse to address the historical contextualization of their interpretations when it comes to gender norms “is further compounded by their subsequent accumulative authority of their readings.”²⁰ Which is why a more reformed and developed interpretation is needed that will suit the different definition of gender nowadays. Ziba Mir Hosseini describes that Islamic jurists has “lost touch” with the developments and changes happening in political modernity, hence they failed to address new emerging concepts, such as gender equality.²¹ Evidently, a female input is needed to result in a more egalitarian perspective.

Badran summarized the methods of Islamic feminists to “classic Islamic methodologies of *ijtihad* (independent investigation of religious sources), and *tafsir* (interpretation of the Qur'an). Used along with these methodologies are the methods and tools of linguistics, history, literary criticism, sociology, anthropology etc.”²² On the other hand, Omaima Abou Bakr, for example, describes the work of Islamic feminists as an “un-interpretation” rather than a “re-interpretations”, for she explains that the project is a “continuous attempt to un-interpret past gender biased readings done by male jurists” in order to produce new interpretations which promote justice and equality from and within the Islam itself. She explained the project to be an attempt of “undoing the doings of patriarchy.”²³

The term “Islamic Feminism” is sometimes challenged by many scholars as well as feminists due to the fact that “Feminism” sometimes holds a western or secular connotation. According to Margot Badran, there is an inability in the Middle Eastern region to relate to the term “feminism” beyond the belief that is a “western and colonial imposition.”²⁴ The second reason is the lack of awareness about Middle Eastern feminism

²⁰ AYSHA A. HIDAYATULLAH, *FEMINIST EDGES OF THE QUR'AN*, 79 (Oxford University Press, 2014), (2014).

²¹ Mir Hosseini, *supra* note 18, at 5

²² BADRAN, *supra* note 4, at 5

²³ Omaima Abou-Bakr, *What's Done Can be Un-Done: Un-Interpreting Gender-Hierarchy in Quranic Exegesis*. 17, (12th Mediterranean research Meeting, 2011).

²⁴ BADRAN, *supra* note 4, at 15.

and the constant belief that Feminism is beyond the ability, culture and traditions of Arabs and Muslims. On this, I endorse Badran's contestation about affiliating the term feminism with the West.²⁵ She introduces the historical development of the term, starting with being coined by Hubertine Auclert in France in 1880s, in the 20th century in Britain, in 1910s in the United States, then it was started to be used in Egypt and different Arab states in the early 1920s.²⁶ While she acknowledged the fact that the term feminism originated in the West, she believes that it is not Western. Just like American feminism refuses to be similarly compared to French feminism, Badran states the same about Islamic feminism, which is different from any Western type.²⁷

Based on this, I will choose to refer to this ideology/movement as "Islamic Feminism" due to the fact that all the work of the mentioned feminists below shares two common characteristics, which are challenging male authority and superiority over women (Feminism) and doing so by depending on an independent reasoning and reformed interpretation of the Qur'an (Islamic).

A. Development of Islamic Feminism

*"Gender rights as constructed in Islamic jurisprudence (fiqh) not only neglect the basic objectives of the shari'a but are unsustainable under the conditions prevailing in Muslim societies today." - Ziba Mir Hosseini.*²⁸

The development of Islamic feminism is characterized by the historical context in which it flourished, as well as religious factors and changes that take place in the Arab Muslim countries throughout the years. This section begins with a brief description of its origins in the 1990s followed by a discussion of the historical factors contributing to its development. In addition, to addressing the religious factors and the islamization process

²⁵ *Id.*

²⁶ *Id.* at 3.

²⁷ *Id.* at 4.

²⁸ ZIBA MIR HOSSEINI, Justice, Equality And Muslim Family Laws: New Ideas, New Prospects, in GENDER AND EQUALITY IN MUSLIM FAMILY LAW: JUSTICE AND ETHICS IN THE ISLAMIC LEGAL TRADITION (I.B.Tauris & Co Ltd, 2013), (2013).

that took place in several Muslim countries, which had both positive as well negative consequences on women.

1. Historical Context

The term “Islamic Feminism” is considered new, but one that has been affected by many historical changes in the Arab Muslim countries. According to Margot Badran, the emergence of a new feminist discourse which some have called “Islamic Feminism” occurred in the 1990s, in the post-colonial era and during the struggle of the Middle Eastern countries to promote democracy and economic development. Badran clearly explains the reasons, which have helped this movement to rise. First is the discourse of nationalism and the encouragement of all citizens to be involved in the building of their nation-states. Secondly, Badran argues that education in the late twentieth century was reachable by women more than men, which developed women’s education and self-worth, enabling them to think for themselves and answer back. In addition to this, the development of education of women enabled them to achieve high levels in the religious sciences, which made them capable of responding to their own needs, to fight the spread of conservative Islamist movements and to challenge it with an alternative progressive Islamic voice. Badran also points out an interesting phenomenon at the time, which is the increasing percentage of women participating in the employment in the public sphere, which made it challenging to accept the conservative and traditional call for them to “retreat to the home in the name of Islam.”²⁹ Just like Ziba Mir Hosseini, she attributes the emergence of Islamic Feminism to the countries that first had the spread of patriarchal Islamism, along with an increasing and expanding middle class females that adopted the feminist thought and activism.³⁰ In her words, Badran provides a clear definition of Islamic Feminism as being the:

Recognition of gender equality and of women's rights that a particular religion, nation, society, or culture may affirm in its basic tenets but withhold in

²⁹ BADRAN, *supra* note 4, at 151.

³⁰ Margot Badran, *Islamic Feminism Revisited*, AL AHRAM WEEKLY ONLINE, February 2006, at 1-3, available at <http://weekly.ahram.org.eg/Archive/2006/781/cu4.html>

practice...and identification of ways to secure the practice of such rights by women and men alike.³¹

In addition to this, she describes Islamic feminism to be “more radical” than secular feminism, since they advocate for gender complementarity in the private sphere, rather than gender equality.³² Huma Ahmed-Ghosh further illustrated that Islamic Feminism, especially in Asian Muslim countries, focus on “equity” rather than “equality”, employing the rhetoric of “supporting” not “competing” gender roles, because they are “separate or different but equal.”³³ Ziba Mir Hosseini explained the rise and development of Islamic feminism as a consequence of the rise of Islamism in general in different Arab countries and especially in her own country, Iran. She concurs that the Islamic Revolution in Iran along with the emergence of Islamism in Arab states produced an “unwanted child”, which is the voice of Islamic feminists.³⁴ According to her analysis, the introduction of Islamism has given women a chance to talk and speak about their own issues in Islamic law in the public sphere. The more their issues become up for discussion in a public debate, the more Muslim feminists realize that their oppression stems from an unjust biased patriarchal laws and interpretation, and not from Islam itself.³⁵ Consequently, this had led to questioning the hegemony and monopoly of male jurists over Qur’anic interpretation, Shari’a law formulation and its application in the private as well as public spheres.³⁶

According to Wagner, secular feminism is perceived as a threat to the traditions, family structure and culture of the Arab society. The term “feminist” is still perceived as

³¹ BADRAN, *supra* note 4, at 199.

³² Badran, *supra* note 30, at 3.

³³ Huma Ahmed-Ghosh, *Dilemmas of Islamic and Secular Feminists and Feminisms*, Vol. 9, no.3, 99-116, at 105, *Journal of International Women's Studies*, (2008)

³⁴ Ziba Mir Hosseini, *Feminist voices in Islam: Promise and potential*, OPEN DEMOCRACY, November 2012, at 1, available at <https://www.opendemocracy.net/5050/ziba-mir-hosseini/feminist-voices-in-islam-promise-and-potential>

³⁵ *Id.*

³⁶ Ziba Mir Hosseini, *Stretching the Limit: A Feminist Reading of the Shari’a in Post Khomeini Iran*, in *FEMINISM AND ISLAM: LEGAL AND LITERARY PERSPECTIVES*, 285-286 (New York, 1996) (1996).

negative, shameful or has a bad reputation till today in the Arab states. This is problematic because in order to change the situation, Muslim women need the support and the help of men working in powerful positions, such as the state of religious institutions to improve their statuses.³⁷ On the other hand, some Muslim women do not align themselves with secular feminism, for their faith is an important part of their lives, and they refuse the imposition of secular feminism, which involves judgment of their practices such as wearing the veil, for instance. Therefore, Islamic feminism is an ideal choice that conforms to their beliefs as devoted Muslims as well as their rights as female human beings. It is considered a concept that emerged out of confronting patriarchal Islam on one side, and secular feminism on the other.³⁸

On the other hand, the development of global human rights doctrine and instruments gave women's a "reference, a language and organizational tool" to use and defend their rights and struggles against oppressive political Islam.³⁹ In addition to this, Ziba Mir-Hosseini acknowledged that the 1980s witnessed the rise of the international women's movement and non-governmental organizations, which gave women a tool for "policymaking and public debate over the law."⁴⁰

2. Religious Factors

The concepts used by Islamic feminists and the attempt to enhance women's lives in the voice of Islam is not a new phenomenon, despite the current movement's special widespread success and progression. According to Aysha Hidayatullah and Margot Badran, the history of Islamic feminism followed the modern developments of the Qur'anic exegesis, as by scholars such as Muhammed Abdouh, Fazlur Rahman and many others.⁴¹ These scholars started to understand Qur'an in a different way, addressing the importance of individual understanding of the Qur'an and contesting the traditional static

³⁷ Rob L. Wagner, *Islamic Feminism in the Middle East*, INT. POLICY DIGEST February 2012, at 5. <https://intpolicydigest.org/2012/02/02/islamic-feminism-in-the-middle-east/>

³⁸ Liv Tonnesson, *Islamic Feminism*, 3-12 (Sudan Working paper, 2014) <https://www.cmi.no/publications/file/5289-islamic-feminism-a-public-lecture-by.pdf>

³⁹ Mir Hosseini, *supra* note 34, at 2.

⁴⁰ Mir Hosseini, *supra* note 18, at 5.

⁴¹ HIDAYATULLAH, *supra* note 20, at 28.

interpretation imposed on the society by the jurists.⁴² This is an essential aspect in which Islamic feminists base their arguments on. Rhouni has also concurred how Islamic feminism is associated with contemporary thought developed by Mohammed Arkoun, Nasr Hamid Abu Zaid, and Abdullahi Ahmed An-Na'im. In her own words, she describes Islamic feminists as "the granddaughters (or rather grandchildren, since not all Islamic feminists are women) of Islamic modernist or reformist thought born in the last decade of the nineteenth century and early decades of the twentieth century as represented by Egyptian jurist and religious scholar Muhammad Abduh."⁴³

On the other hand, Tonnessen mentions the work of Hasan al-Turabi in 1973 as a first step towards challenging the patriarchy imposed on Islam by traditional scholars, for he advocated for reforming the status and rights of Muslim women in the classical jurisprudence, *fiqh*.⁴⁴ Just like the approach adopted by the current Islamic feminists, al-Turabi called for the need of re-interpreting the Qur'an in an unrestricted and free way of research. He stated that, "what we need is to go back to the roots, and create a revolution at the level of principles."⁴⁵ He believed that women's rights are protected in the true essence of Sharia, but male jurists have exploited their interpretive authority and granted more rights for them in a liberal and expansive sense at the expense of limiting women's rights.⁴⁶

This strategy is now employed by Islamic feminists such as Fatima Mernissi, where they decided to go back and "recover a lost history where women are included."⁴⁷ This is done through studying the status and lives of women during the prophet's period and reaching the conclusion those women were visible and active in the private as well as public sphere. Scholars who endorse this approach examine case studies were women

⁴² HIDAYATULLAH, *supra* note 20, at 31.

⁴³ RAJA RHOUNI, *SECULAR AND ISLAMIC FEMINIST CRITIQUES IN THE WORK OF FATIMA MERNISSI*, 7 (Briston, Brill, 2010) (2010).

⁴⁴ Tonnesson, *supra* note 38, at 4.

⁴⁵ HASSAN TURABI, quoted in *MAKERS OF CONTEMPORARY ISLAM*, 105 (Esposito and Voll, Oxford University Press, 2001) (2001).

⁴⁶ Tonnesson, *supra* note 38, at 4.

⁴⁷ Ambar Ahmad, *Islamic Feminism- A Contradiction in Terms*, 5 (Fes India Paper, May 2015).

participated in trade and business, like the prophet's first wife Khadiga, or when women were active in wars, like the prophet's wife Ayisha.⁴⁸ Scholars who rely on going back to history and studying these cases reached a conclusion that women were denied access to their rights only after the prophet's death and the decline of the Muslim community as a whole.⁴⁹

Ziba Mir Hosseini describes the emergence of Islamic feminism as a result of the changing politics of the relationship between religion, the state and gender. She states that the codification of Islamic jurisprudence rulings have resulted in a dichotomy where the laws in Arab and Muslim countries did not fit in the classical fiqh doctrine, or in the western doctrine. However, the fact that Islamic law was being codified into codes and laws, family laws were no longer considered a private matter, since the legislative branch of the nation-state had to endorse it. Consequently, this had a negative effect on women, since the patriarchal interpretation of the Qur'an and of Islamic jurisprudence has now become adopted by the "machinery of the modern nation-state" and is being imposed on women's lives.⁵⁰ However, as mentioned above, the rise of Islamism opened the debate for women to engage in the debate or in the discussion. On this, Ziba Mir-Hosseini points out:

In short, 20th century developments not only made gender equality inherent to widely accepted conceptions of justice, but also made the intimate links between theology and politics increasingly transparent. This led to the emergence of feminist voices and scholarship in Islam, which by the new century came to constitute an internal critique of the patriarchal ethics of Muslim legal tradition that cannot be ignored. They are forcing the tradition to assimilate an idea that until recently was considered alien: the idea of gender equality.⁵¹

⁴⁸ Ahmed-Ghosh, *supra* note 33, at 105.

⁴⁹ Ahmad, *supra* note 47, at 5.

⁵⁰ Mir Hosseini, *supra* note 18, at 5.

⁵¹ *Id.* at 3.

B. Feminism and Religion

“The appropriation by women of the sacred texts of traditional Judaism, Christianity and Islam has led to an awareness of the power that can be unleashed when feminine experience is allowed to shape theology.”- Victoria S. Harrison.⁵²

Tova Hartman referred to feminists who try to reform their religious texts, including the Qur’an as “Restorative Feminism”, which means that they try to restore old habits and culture when it comes to gender relations or women’s rights that is considered new or modern nowadays.⁵³ In the case of Islam, for instance, she highlights the approaches used by Islamic feminists in going back to history to prove that women had high status in the society with the rise of Islam:

Despite the theoretical and practical difficulties, restorative feminists have been working to show that the currently low status of women in Islam is a historical departure. These scholars are producing evidence of Muslim traditions that may be said to have enhanced the status of women relative to that in earlier Middle Eastern cultures. Unlike those earlier cultures, Islam permitted women to bear witness, allowed them to pray together with men, and did away with the stigma against marrying non-virgins (widows and divorcees).⁵⁴

Hartman referred to this strategy as “the way out of *is* is through the *was*.”⁵⁵ However, Hartman warned about this approach as it can sometimes lead feminists to be apologetic. This might occur because their urge for restoration might be driven from “feelings of emptiness” at the present moment, or a sense of “perversion, “aberration” or the feeling of having taken a wrong direction which makes them want to excavate the past.⁵⁶

Therefore, Zwissler argues that oppressed people view the religion as a source for “liberation from oppression”, because it is an integral part of people’s lives around the

⁵² Victoria S. Harrison, *Representing the Divine: Feminism and Religious Anthropology*, Vol. 16, no. 1, FEMINIST THEOLOGY, 128, at 129 (2007).

⁵³ Tova Hartman, *Restorative Feminism and Religious Tradition*. Vol. 11, no. 1, COMMON KNOWLEDGE, 89, at 99 (2005).

⁵⁴ *Id.*

⁵⁵ *Id.* at 103.

⁵⁶ *Id.*

world.⁵⁷ According to Zwissler, all feminists of faith claim that religion does not promote misogyny. However, it is the conservative male-dominated interpretations and traditions that lead to societal, structural and institutional oppression and discrimination against women. She argues that “It is naive to think that if everyone woke up tomorrow an atheist, no one would continue to be sexist, racist or homophobic.”⁵⁸ Furthermore, she added that “Women in secularized contexts are killed by ex-partners out of jealousy. Wives and daughters are physically punished by men for dressing in “inappropriate” ways, speaking or behaving immodestly, or for sleeping with the wrong people under the wrong circumstances.”⁵⁹

In the Islamic classical jurisprudence, for example, Kecia Ali and Ziba Mir Hosseini argue that it was solely based on male-centered questions, which resulted from addressing their experiences as they were influenced by the patriarchal society present at the time.⁶⁰ In their process, most feminists rely on re-interpreting the sacred texts and traditions, however, according to Zwissler, they tend to “prioritize and embrace” the traditions and components that go along with the feminist theory in a way of promoting “women’s personal well-being and social empowerment.”⁶¹

According to Levy, gender inequality still persists everywhere in a way that people still conduct a behavior that focuses on policing women, and this gender oppression is not exclusive on religions. Rather, it also happens outside religious contexts.⁶² The call for reform started when females asked for their rights to serve as rabbis, priests or ministers. This demand has often been rejected and denied by the conservatives, who believe that men and women have different roles to play in society with no possible changes. Furthermore, since these are God’s given rules, they are regarded as natural and

⁵⁷ Laurel, Zwissler, *Feminism and Religion: Intersections between Western Activism, Theology and Theory: Feminism and Religion*, Vol. 6, no. 7, RELIGION COMPASS, 354, 362 (2012).

⁵⁸ *Id.* at 363.

⁵⁹ *Id.* at 362.

⁶⁰ Tonnesson, *supra* note 38, at 6.

⁶¹ Zwissler, *supra* note 57, at 359.

⁶² BARRIE LEVY, *WOMEN AND VIOLENCE*, (Seal Press, 2008), (2008).

unchangeable.⁶³ The conflict stems from the first-wave of feminism that used to regard women and men as identical. However, according to Harrison, the relationship between feminism and religion changed with the rise of the second wave of feminism beginning 1960s. Instead of focusing on giving women equal opportunities and equal rights, they focused on liberating women from any form of oppression or exclusion, which came as a result of becoming aware of the real differences between men and women as two distinctive genders.⁶⁴ The second wave rejected the notion of providing equal rights and opportunities for women by ignoring any differences between the genders.⁶⁵ Therefore, the new problem is not focusing on making women serve their communities as priests or ministers as they would not fit in, but rather to change the institutional structure of the job to suit both sexes. As Harrison puts it:

This new analysis of the problem facing women in both secular and religious society constituted a fundamental breakthrough in feminist women faced, thereby generating novel, potential solutions. And once the second wave of feminism got underway, the challenge it posed to traditional ways of thinking about, and ordering, society became more profound than many conservative thinkers were able to recognize.⁶⁶

C. The Issue of Masculinizing God

God's gender has been an important point that religious feminists focus on. Not surprisingly, most of them reject the practice of masculinizing God, for it comes with consequences on men's superiority. According to Ruether, Abrahamic religious feminists believe that there is only one God, and the gender of God will automatically have serious implications for understanding and relating to human gender.⁶⁷ The theologian Mary Daly, for instance, has a famous statement which says "If God is male, then the male is God."⁶⁸

⁶³ Harrison, *supra* note 52, at 130.

⁶⁴ *Id.*

⁶⁵ *Id.* at 135.

⁶⁶ *Id.* at 136.

⁶⁷ ROSEMARY R. RUETHER, *GODDESSES AND THE DIVINE FEMININE: A WESTERN RELIGIOUS HISTORY*. (University of California Press, 2005) (2005)

⁶⁸ MARY DALY, *BEYOND GOD THE FATHER: TOWARD A PHILOSOPHY OF WOMEN'S LIBERATION*, 19

The relationship between patriarchy and God's gender is interlinked, making reference to the divine as "Mother" unacceptable and strange. Johnson explained this relationship by inferring that referring to God as a ruling male has played a role over the years in legitimizing male domination in social structures and institutions.⁶⁹ In addition to this, It gave men legitimacy over being the representatives of any religious institution or community. Johnsons' explains how the patriarchal traditions have failed to respect the non-literal character of religious language⁷⁰. According to her:

insofar as male dominant language is honored as the only or the supremely and obscures the height and depth and length and breadth of divine mystery. Thus it does damage to the very truth of God that theology is supposed to cherish and promote.⁷¹

Islamic feminists also commented on the issue of God's gender. Barlas has opposed the concept that the Qur'an is considered a patriarchal text. It is agreed upon in Islamic traditions that it is heretical to assume or imagine any picture for the Divine even though the words "Him" and "He" are used to refer to God in the Qur'an.⁷² However, according to Islamic feminists, this should not be mistaken for human masculinity, for any comparison between God and males is considered as a violation to God's oneness, contributing to idolatry or shirk.⁷³ Barlas mentions that it is stated in the Qur'an that God is incomparable, does not beget and is not begotten. Hence, any attempt in associating God with male nature or characteristics is a violation of the unique solo nature of God,

(Beacon Press, 1973), (1973).

⁶⁹ ELIZABETH A. JOHNSON, *SHE WHO IS: THE MYSTERY OF GOD IN FEMINIST THEOLOGICAL DISCOURSE*, 18 (10th ed. The Crossroad Publishing Company, 1992) (2002).

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² BARLES, *supra* note 80, at 22.

⁷³ Riffat Hassan, *Feminist Theology as a Means of Combating Injustice toward Women in Muslim Communities*, in *EVIL AND THE RESPONSE OF WORLD RELIGION* (Paragon House, 1997)

which is a form of shirk.⁷⁴

Islamic feminists argue that masculinizing God has resulted in a male biased Qur'anic interpretation which results in male privileges and "patriarchalized misrepresentations of God"⁷⁵. Furthermore, Islamic feminists reject the masculinization of God since it legitimizes male hierarchy over Muslim women, and it gives more authority and significance to the roles men play in society as fathers, sons, or husbands. Therefore, they use the Tawhidic doctrine to emphasize on God's sovereignty. If the traditional scholars refuse the idea of referring to God as female, this should also be applied when trying to pose any social or anthropological consequences of referring to God as "Him" in the sacred text.⁷⁶

⁷⁴ BARLES, *supra* note 80, at 107.

⁷⁵ *Id.* at 108.

⁷⁶ HIDAYATULLAH, *supra* note 20, at 116.

Chapter III

Feminist Approaches of Interpretation

“Gender rights are neither fixed, given, nor absolute. They are, on the contrary, cultural and legal constructs which are asserted, negotiated and subject to change.” - Ziba Mir Hosseini.

A. Historical Contextualization

The historical contextualization method involves taking into account the historical context in which the Qur’an was revealed in, for it sometimes has a significance regarding the verse being read or interpreted. Aysha Hidayatullah summarizes the work of the feminist exegetes when it comes to using to this method into four categories:

- 1- Studying asbab al-nuzul, which is the occasion of a verse’s revelation
- 2- Differentiating between verses that were addressed to the practices of audience of the seventh century, which is descriptive, and verses that prescribe practices to all audience, which is prescriptive
- 3- Differentiating between verses that apply to specific situations, which is particular, and verses that apply to all human beings generally, which is general
- 4- Researching the historical events and situations that shaped the revelation and exegesis of the Qur’an at that time.⁷⁷

The Islamic feminists have opposed the fact that the traditional conservatives have not taken into account the historical contextualization method, because they believe that it will reduce from its universality. According to the Islamic feminists, there is a misconception that conservatives hold that historicizing the context of the Qur’an will eventually lead to historicizing its contents, hence its application on the universal terms will be challenged.⁷⁸ However, the feminist exegetes believe that reading the Qur’an in a historical manner will give a better understanding of its contents, hence increasing its universality in terms of applicability and relevance.

⁷⁷ *Id.* at 65

⁷⁸ *Id.* at 66

Muslim feminists argue that when conservatives ignore the historical context in which the verse was revealed, they often make the mistake of not differentiating between the ‘amm and khass verses (general vs. particular). Differentiating between the ‘amm and khass verses is one of the principles of Qur’anic tafsir, but traditionalists have often ignored the difference. Both feminists, Wadud and Barles, argue that the khass verses need to be studied and examined according to the historical context it was revealed in.⁷⁹ Otherwise, the reading will be distorted and inaccurate. This is why, studying the reason for the revelation, asbab el nuzul, is essential in examining each verse. They argue that some verses are only particular in a way that they addresses particular practices that were happening at the time. Therefore, they should not be generalized and asked to be applied when the context has changed.⁸⁰

This can be applied in the verse 33:59 that had to do with the veil, for instance, as the feminists provide a different interpretation of its reading. The verse states:

“O Prophet! Tell thy wives and daughters, and the believing women, that they should cast their outer garments over their persons (when abroad): that is most convenient, that they should be known (as such) and not molested. And Allah is Oft-Forgiving, Most Merciful.”

For Asma Barlas, this verse should be read strictly according to the context, where slaves were existent and were being used sexually in the pre-Islamic Arabia. Hence, to protect Muslim women, the Qur’an imposed a marker to make Muslim women recognizable, to prove their sexual unavailability and to protect them from being mistaken for slaves.⁸¹ Barlas argues that only in such context are Muslim women asked to veil themselves and protect their honor against being a target of sexual abuse in a society where women were treated as second citizens. Therefore, the verse is specific for a given particular situation

⁷⁹ AMINA WADUD, *INSIDE THE GENDER JIHAD: WOMEN'S REFORM IN ISLAM*, 194 (Oneworld, 2006), (2006)

⁸⁰ ASMA BARLES, *BELIEVING WOMEN IN ISLAM: UNREADING PATRIARCHAL INTERPRETATIONS OF THE QUR'ĀN*, 55 (University Of Texas Press, 2002), (2002)

⁸¹ *Id.*

in a certain context of social conditions. However, since the context has changed, the meaning and application of the passage should also follow.⁸²

1. Different Feminist Qur'anic Readings

There are some verses chosen by the Muslim feminists in which they provide a different reading based on historicizing the verse in the context it was revealed. The first, and probably most controversial verse, is 4:34, which states that

“Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means.”

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ

Traditional interpretation usually read the verse that men are in charge of women because God has preferred them and because they provide for them from their means, hence implying “men’s absolute superiority and dominance over women.”⁸³ However, the feminist exegetes provide a different method on looking at this verse. Wadud, for instance, argue that the verse was revealed in a social context where the socio-economic situation at that time gave husbands the financial responsibility over their wives.⁸⁴ As a result, the Qur’an addresses a specific situation in a specific context. When it comes to the word “fadalla, meaning preferred”, she argues that the Qur’an is relating to the fact that men inherit more than women, hence should provide financially for their families.⁸⁵ Wadud argues that the Qur’an is distributing the responsibilities among family members, according to the historical context at the time, where women had no capacity to be their own financial providers. The verse should not be applied for women who are financially independent nowadays, for instance, for the family relationships and the male-female co-dependence has changed.⁸⁶

⁸² *Id.* at 56

⁸³ HIDAYATULLAH, *supra* note 20, at 71.

⁸⁴ WADUD, *supra* note 17, at 73.

⁸⁵ *Id.* at 71

⁸⁶ *Id.*

Al-Hibri takes another approach in reading this verse, where she argues that the word “qawwamun” does not mean that men are in charge of women, however it means that they have an advisory role to play depending on their higher status in the society at the time.⁸⁷ She also argues that this role has conditions to be followed. Firstly, men who wish to exercise their advisory roles have to possess qualities such as financial expertise in order to help women if they need an advice. In addition to this, the man cannot exercise this right if he does not have the better knowledge.⁸⁸ She writes that men are “not qawwamun over financially independent women, nor are ignorant men qawwammun over educated women”⁸⁹

Based on these arguments, both Islamic feminists claim that the financial capability or expertise given to men in this verse is more of a responsibility than a privilege, to help women who need financial help or guidance. Therefore, the Qur’an is just “responding” to the socio-economic context and to the needs of women at the time rather than “endorsing the contextual situation itself.”⁹⁰ For them, the Qur’an wanted to help poor women become more financially secure in a social context where they had not chance of becoming financially independent. Consequently, ignoring the historical context of the verse will result in a false interpretation where men are better than women generally, and men made-up superiority will be the result of this misreading.

Another issue studied by the feminist exegetes is the fact that the Qur’an addresses male believers directly. Wadud argues that this is the case because of the situation during the seventh century, where men had more power and privilege over women, hence had the authority to reform and establish equality and justice.⁹¹ She argues that the Qur’an

⁸⁷ Azizah Y. al-Hibri, An Introduction to Muslim Women's Rights, in *WINDOWS OF FAITH: MUSLIM WOMEN SCHOLAR-ACTIVISTS IN NORTH AMERICA* 63, (Syracuse University Press, 2000). (2000).

⁸⁸ *Id.*

⁸⁹ Azizah Y. al-Hibri, *Qur'anic Foundations of the Rights of Muslim Women in the Twenty-First Century*, in *WOMEN IN INDONESIAN SOCIETY*, 19 (University of Richmond, 1997), available at <http://scholarship.richmond.edu/cgi/viewcontent.cgi?article=1384&context=law-faculty-publications>

⁹⁰ HIDAYATULLAH, *supra* note 20, at 73.

⁹¹ WADUD, *supra* note 78, at 215.

addresses male because given their status in society, they had the ability and the responsibility to fight oppression and protect the disadvantaged people. According to Hidayatullah, this is just “a reflection of the Qur’an historical context rather than an indicator of preferential treatment of men.”⁹²

To conclude, Islamic feminists believe that since gender is a social construct, its definitions and understandings change over time. Therefore, Wadud argues that the cultural background of the exegetes at the time is the reason behind the interpretations that go against women’s rights and gender equality, and not the Qur’an itself. In her argument, she acknowledged that the Qur’an has admitted the “functional distinctions” between men and women, however it has not proposed an exclusive set of roles that should be played by either gender, since it changes depending on the culture and society.⁹³ Hidayatullah explained this by stating that:

“...when an exegete proposes a single definition of gender roles based on the Qur’an, the proposal originates with the exegete, not with the Qur’an. An exegete’s proposal of gender norms based on the Qur’an is informed by his or her historical context rather than the text of the Qur’an itself.”⁹⁴

Barlas also agrees with this, for she explained how the existing patriarchal interpretation of the Qur’an is not but a reflection on the “misogyny” that used to exist during the era.⁹⁵ This affected the scholars and made male exegetes favor their interests and desires.⁹⁶ This is why, argued by the Muslim feminists, historicizing the Qur’an is an important method when trying to read it, since it will be the tool by which they will free or “rescue” the Qur’an from the “patriarchal context of its revelation.”⁹⁷

⁹² HIDAYATULLAH, *supra* note 20, at 78

⁹³ WADUD, *supra* note 17, at 64.

⁹⁴ HIDAYATULLAH, *supra* note 20, at 80.

⁹⁵ BARLES, *supra* note 80, at 9.

⁹⁶ *Id.* at 17.

⁹⁷ HIDAYATULLAH, *supra* note 20, at 81.

B. Intratextual Method

The intratextual involves reading the Qur'an through the Qur'an. This means that the Qur'anic verses should be read collectively and holistically as opposed to reading the verses in isolation. The approach involves comparing verses with each other with taking into consideration the overall values of the Qur'an, which is human equality, harmony and justice.⁹⁸ Hence, when there is a conflict between verses, al Hibri writes that they must be "carefully studied in search of a meaning that makes them consistent with each other."⁹⁹ This method is not invented by Islamic feminists, and has been used by several reformers, such as Falzur Rahman. Rahman advocated for reading in unity and intratextually.¹⁰⁰

Al-Hibri and Barlas also share the same argument, stating that before trying to interpret the Qur'an, one must acknowledge that it has an internal consistency, which should be followed to achieve its fullness. This approach, according to Islamic feminists, is not apparent in the traditional literature we have, for they ignored the coherence and consistency of the Qur'an and have disregarded the main messages of equality that resulted in a biased and distorted interpretation in favor of men. Wadud writes, "a methodology for linking similar Qur'anic ideas, syntactical structures, principles or themes together is almost non-existent."¹⁰¹ Which is why, according to Barlas, the patriarchal and traditional readings were a consequence of "reading the text in a piecemeal and decontextualized way... by privileging one word, or phrase or line...over its teachings as whole"¹⁰²

When it comes to the verses on male-female relationships, Islamic feminists rely on the intratextual method to prove that the Qur'an has emphasized the importance of martial

⁹⁸ *Id.* at 88.

⁹⁹ Azizah Y. al-Hibri, *Deconstructing Patriarchal Jurisprudence in Islamic Law: A Faithful Approach*, 227 (New York University Press 2000).

¹⁰⁰ FALZUR RAHMAN 1982, *ISLAM AND MODERNITY: TRANSFORMATION OF AN INTELLECTUAL TRADITION*, (University of Chicago Press, 1982).

¹⁰¹ WADUD, *supra* note 17, at 2.

¹⁰² BARLES, *supra* note 80, at 169.

harmony and tranquility the most.¹⁰³ In many of the verses, there have been encouragement and emphasis on building a marital relationship that is based on love, companionship, mercy and harmony. According to Hidayatullah, there are three verses that talk about this most commonly used by the feminist exegetes which are 30:21, 2:187 and 9:71 stating respectively:

“And among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquility with them, and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect.”

“Permitted to you, on the night of the fasts, is the approach to your wives. They are your garments and ye are their garments. Allah knoweth what ye used to do secretly among yourselves; but He turned to you and forgave you; so now associate with them, and seek what Allah Hath ordained for you, and eat and drink, until the white thread of dawn appear to you distinct from its black thread; then complete your fast Till the night appears; but do not associate with your wives while ye are in retreat in the mosques. Those are Limits (set by) Allah: Approach not nigh thereto. Thus doth Allah make clear His Signs to men: that they may learn self-restraint.”

“The Believers, men and women, are protectors one of another: they enjoin what is just, and forbid what is evil: they observe regular prayers, practice regular charity, and obey Allah and His Messenger. On them will Allah pour His mercy: for Allah is Exalted in power, Wise.”

Wadud believes that these verses explain how marriage should be built on harmony and mercy, for the males and females are the protectors of each other. Barlas also commented on this, when she states that the fact that God has referred to men and women as each other’s protectors, this shows how the Qur’an advocates for “mutual care between the sexes.”¹⁰⁴ According to al Hibri, this is another verse to show that the Qur’an encourages husbands to treat wives with kindness and love or decide to leave and release them. for Verse 2:229 states:

“A divorce is only permissible twice: after that, the parties should either hold Together on equitable terms, or separate with kindness. It is not lawful for you, (Men), to take back any of your gifts (from your wives), except when both parties

¹⁰³ HIDAYATULLAH, *supra* note 20, at 94.

¹⁰⁴ BARLES, *supra* note 80, at 148.

fear that they would be unable to keep the limits ordained by Allah. If ye (judges) do indeed fear that they would be unable to keep the limits ordained by Allah, there is no blame on either of them if she give something for her freedom. These are the limits ordained by Allah; so do not transgress them if any do transgress the limits ordained by Allah, such persons wrong (Themselves as well as others).”

Consequently, Shaikh concludes that based on various of verses, the Qur’an clearly emphasized on the mutual protection and care spouses should endure as two equal human beings capable of creating a healthy environment full of tranquility and happiness. For her, this is the epitome of the Qur’an’s role and responsibility in managing the gender relations. She writes:

the notions that believing men and women provide friendship and mutual protection for one another, that they equally undertake moral agency in the world, that human beings strive to live in a state of tranquility with their spouses, that marital relationships are to be approached as the embodiment of Divine love and mercy, collectively reflect the Islamic ideal of gender relations.¹⁰⁵

Therefore, any readings or interpretations that contradict with the core values of Islam about marital harmony and equality are flawed and needs revisiting. Therefore, any verse, which is not contextualized, hence interpreted in a way which implies that men are better than women is invalid. As Wadud writes, she argues any attempt to make one gender better than the other contradicts with the concept of equity that was established throughout the Qur’an as a whole and united text.¹⁰⁶

A case study chosen by Aysha Hidayatullah to explain the intratextual approach used by Islamic feminists when reading the Qur’anic verses that have to do with gender relations is Polygyny. In fact, several Islamic feminists such as Wadud, al-Hibri and Barlas have opposed the traditional interpretation of giving men the permission to marry more than one wife. The concept of polygyny, as argued by Muslim feminists has to be historically

¹⁰⁵ Shaikh, Sa’diyya. *A Tafsiir of Praxis: Gender, Marital Violence, and Resistance in South African Muslim Community*,” in VIOLENCE AGAINST WOMEN IN CONTEMPORARY WORLD RELIGIONS: ROOTS AND CULTURES, 67 (The Pilgrim Press, 2007.)

¹⁰⁶ WADUD, *supra* note 17, at 69.

contextualized, where there were several wars during the time making husbands and fathers die on the road, leaving women who are incapable of taking care of themselves. Therefore, the Qur'anic permission is restricted in a specific point of history and its "conditional nature."¹⁰⁷ The Qur'anic verses which tackle this issue is verse 4:3 and verse 4:129, which respectively states:

"If ye fear that ye shall not be able to deal justly with the orphans, Marry women of your choice, Two or three or four; but if ye fear that ye shall not be able to deal justly (with them), then only one, or (a captive) that your right hands possess, that will be more suitable, to prevent you from doing injustice."

"Ye are never able to be fair and just as between women, even if it is your ardent desire: But turn not away (from a woman) altogether, so as to leave her (as it were) hanging (in the air). If ye come to a friendly understanding, and practise self-restraint, Allah is Oft-forgiving, Most Merciful."

In the first verse, it is shown that there is a condition if a man wishes to marry more than one wife, which is treating them equally and justly. If selecting this verse and basing an argument on it, one would see it as a permission for men to have more than one wife on the condition of treating them equally. However, many reformers along with the Islamic feminists see it differently. In fact, their argument is based on reading the Qur'an intratextually, where all the verses are interlinked and related. Consequently, one cannot choose only verse 4:3 and claim Qur'anic allowance of polygyny, when verse 4:129 explicitly states that men would not be able to treat several women as their wives equitably, even if they wish to. According to the Islamic feminists, this shows that "the Qur'an itself renders the allowance at least questionable, if not altogether void."¹⁰⁸

According to Barlas, one cannot simply choose to ignore a Qur'anic verse.¹⁰⁹ Therefore, verse 4:129 stating that men are incapable of meeting the condition to marry more than one wife cannot be overlooked or interpreted with no significance, as this would pose a bigger issue of implying that "not all of the Qur'an is meaningful."¹¹⁰ The feminist exegetes argue that the main values of Qur'an is justice, which is why the Qur'an itself

¹⁰⁷ HIDAYATULLAH, *supra* note 20, at 100.

¹⁰⁸ *Id.* at 101

¹⁰⁹ BARLES, *supra* note 80, at 192.

¹¹⁰ *Id.*

explained how polygyny results in injustice against women, because husbands will not be able to treat all of them in an equal manner even if they desire. In this case, the Qur'an advocates against polygyny because it "violates one of its overall core aims."¹¹¹

C. Tawhidic Doctrine

This is another important method that the scholars of Islamic feminism conduct when trying to reform and contest the traditional interpretation of the Qur'an. The Tawhidic paradigm emphasizes God's authority over humans in several ways. Firstly, The Tawhidic Paradigm focuses on differentiating between the Qur'an, as a divine and sacred text, and the Qur'anic interpretation that involves human element, which is subject to flaws. Islamic feminists stress on the fact that there could not be one constant and right interpretation of the Qur'an as it is composed of language, and language is subjected to multiple meanings and explanations. The final most accurate interpretation of the Qur'an belongs to God only as no one can claim to have God's knowledge or capacity.¹¹²

Scholars of the feminist interpretation distinguish between the Qur'an and its exegesis. Hence, they state that any form of interpretation that is biased in favor of men and against women is open to criticism and is prone to error, because it contains a human element. In addition, the language of the human beings and their mental capabilities are limited compared to God, which is why the interpretations should always be improved and criticized.¹¹³ Khaled Abou El Fadl argues that claiming to have authority and legitimacy over the Qur'anic interpretation is a form of "abuse of scholarly authority."¹¹⁴ He writes "the reader is able to displace the Author and set himself as the sole voice of authority. In essence, the reader becomes God."¹¹⁵ For him, this approach contradicts with the Tawhidic doctrine that promotes for no share of authority of God. Barlas also agrees on this, she states that even though there is a difference between the divine text as words of God and the way we choose to read and understand them, some scholars often fail to

¹¹¹ HIDAYATULLAH, *supra* note 20, at 101.

¹¹² *Id.* at 118.

¹¹³ *Id.* at 116.

¹¹⁴ ABU EL FADL, KHALED. SPEAKING IN GOD'S NAME: ISLAMIC LAW, AUTHORITY AND WOMEN, 265 (Oneworld Publications, 2001), (2001).

¹¹⁵ *Id.*

draw this line. She states, “A reading of the Qur’an is just a reading of the Qur’an, no matter how good, it does not approximate the Qur’an itself,” which is why all interpretations are subject to human subjectivity and error.¹¹⁶

Therefore, Islamic feminists and reformers stress on the fact that it is the duty of Muslims to always look for new methods to develop the interpretation of the Qur’an. According to Khaled Abou El Fadl, “closing the text” is a form of authoritarianism as indicating that one’s knowledge is similar to God’s. He argues that locking new methods of understanding God’s message relevant to the changing contexts is dangerous since it negatively affects the integrity of the text.¹¹⁷ Barlas also emphasizes the importance of continuous development of the Qur’anic interpretation. In fact, she states that it is essential to the “moral development of human beings” stressed on in the Qur’anic text.¹¹⁸ On the other hand, Wadud argues that the process of understanding the Qur’an can never be a complete task, hence the evolving interpretations is not only desirable, but also essential.¹¹⁹

1. Obedience to men vs. Obedience to God

Secondly, the Tawhidic paradigm’s principles focus on uniting and equating all human beings under God’s authority. Al Hibri argues that the Qur’an’s message is treating all humans as “equally capable moral agents, since they are created from the same nafs.”¹²⁰ Therefore, humans are judged based on their achievement of taqwa, which is the Arabic word for piety, and their devotion to God. Hence, differentiating between humans on the basis of race, or sex is a deviation from God’s message. On the other hand, exegetes of the feminist tafsir argue that only God has the authority to punish people and evaluate their deeds, and if men claim to have this authority, it falsely puts them in the same position as God’s. Therefore, any sexist interpretation of the Qur’an is a form of sexist

¹¹⁶ BARLES, *supra* note 80, at 17.

¹¹⁷ Abou El Fadl, *supra* note 93, at 92.

¹¹⁸ BARLES, *supra* note 80, at 60.

¹¹⁹ Amina Wadud, *Alternative Qur'anic interpretation and the status of Muslim women* in WINDOWS OF FAITH: MUSLIM WOMEN SCHOLAR-ACTIVISTS IN NORTH AMERICA 63, (Syracuse University Press, 2000). (2000).

¹²⁰ Al Hibri, *supra* note 86, at 52.

discrimination, and it amounts to “violation of God’s supreme authority and uniqueness.”¹²¹ According to Wadud, this is an act of shirk, which means a violation of the oneness of God.¹²² Riffat Hassan states that one of Islamic core beliefs is that humans, both men and women, are responsible for their own actions and deeds. She thus questions “How, then, can the husband become the wife’s gateway to heaven and hell? How, then can he become the arbiter of not only of what happens to her in this world but also her ultimate destiny?”¹²³

Consequently, most of the reformers disagree with the traditional interpretation of verse 4:34, since it calls for wives to be obedient to their husbands, and that disobedience is prohibited and shall be punished.¹²⁴ Hassan Eshkevari, for example, indicates that humans can be submissive and obedient to God only.¹²⁵ Hence, by inferring that women should be obedient to men and by claiming that men are superior to women, this means giving men the same authority as well as degree of highness as of God’s. Shaikh explains that this interpretation gives a “God-like authority to men” which instantly violates the concept of tawhid.¹²⁶ Wadud claims that this is “considering oneself better than another, rather than obeying the will of Allah and acknowledging the necessary interconnection between all human”¹²⁷. Both argue that any form of male superiority is a contradictory act to the Tawhidic doctrine of God.

Sa’diyya Shaikh took it even further to claim that the traditional interpretation puts the wifely obedience as a requirement of one’s obedience to God. According to Shaikh, this interpretation amounts to a “spiritual hierarchy”. In her words, she explains the picture as “God occupies the pinnacle, men the center as mediators, and women.. the bottom

¹²¹ HIDAYATULLAH, *supra* note 20, at 112.

¹²² WADUD, *supra* note 78, at 32.

¹²³ Hassan, *supra* note 78, at 59.

¹²⁴ HIDAYATULLAH, *supra* note 20, at 112.

¹²⁵ Eshkevari, *supra* note 6, at 205

¹²⁶ Sa’diyya Shaikh, *Exegetical Violence: Nushuz in Qur’anic Gender Ideology*, Vol. 17, Journal for Islamic Studies, 49-72, at 62 (1997).

¹²⁷ Amina Wadud, *Islam Beyond Patriarchy Through Gender Inclusive Qur’anic Analysis*, in WANTED: EQUALITY AND JUSTICE IN MUSLIM FAMILY, 103 (Sisters in Islam, 2009)

echelon.”¹²⁸ In addition, Shaykh explains that this puts the relationship between females and Gods as secondary and “only accessible via a correct man-woman relationship” making men “divine intermediaries” or “demi-gods”.¹²⁹ Wadud and al-Hirbi also agree on this by claiming that this is a form of “istikbar”.¹³⁰ On the other hand, Badran explained this phenomenon by stating that emphasizing on male protection and material support have resulted in “exaggerated forms of obedience to men” through linking “woman’s path to heaven lay through obedience to her husband, thus detouring her obedience to God.”¹³¹

Hence, male supremacy contradicts with the uniqueness and supreme authority of God. In addition to this, only God can evaluate and judge people on the basis of their actions. Men are not allowed to discipline their women, as this is one of the main basics of Islam that humans (whether men or women) will be judged and assessed on their good deeds as well as bad actions by God. In fact, Hassan revealed her anger at this behavior stating that it is a form of “audacity and arrogance to deny women direct access to God.”¹³² To solve this, Wadud states that “women and men must occupy a relationship of horizontal reciprocity, maintaining the highest place for God in His/Her/Its uniqueness.”¹³³

D. Qur’anic Gradual and Progressive Change

The overall gradual progression of the Qur’an is not a new argument. In fact, many scholars before have explained how the Qur’an had a gradual process of change. The rationale behind this approach is basically to “ensure the effectiveness and longevity of the reform, reasoning that gradual change meets with less resistance and is therefore more successful in the long run.”¹³⁴ Hassan Eshhkevari and Aziza Al Hibri have agreed that the Qur’an could not have imposed radical changes on the society, as it should have been

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ Amina Wadud, *Forward: Engaging Tawhid in Islam and Feminisms*, 435, INTERNATIONAL FEMINIST JOURNAL OF POLITICS, (2008)

¹³¹ Badran, *supra* note 30, at 2.

¹³² Hassan, *supra* note 15, at 59.

¹³³ Wadud, *supra* note 129 at 437.

¹³⁴ HIDAYATULLAH, *supra* note 20, at 96.

done in a progressive way in order to increase people's acceptance of the new religion.¹³⁵ They emphasized on the importance of gradual social change of the Qur'an, where certain dogmas could not be challenged at the time.

Eshvekari provides the example of wine and slavery, for instance, and how they have gradually abolished. In fact, he encourages people to continue developing the Islam and its principles, an act that should not have stopped following the Prophet's death, in his opinion.¹³⁶ Commenting on the issue of slavery, Wadud proves the approach of gradual reform by stating that slavery would have not been abolished if Muslims decided to rely on the Qur'anic verse only, since it was not directly abolished in any of the Qur'anic verses.¹³⁷ However, the Qur'anic messages of freeing humans, both women and men, and promoting the values of equality and justice are the reasons behind the contribution of such reform on slavery.¹³⁸ Hassan also agrees on this by writing that the message of the Qur'an was liberating humans from any sort of discrimination or authoritarianism based on wealth (slavery and tribalism), race or sex.¹³⁹ According to Hidayatullah, the feminists have taken an approach of moving beyond the sacred text, a method that she called "reading the Qur'an beyond the Qur'an."¹⁴⁰

While the Qur'an imposed some radical changes such as abolishing polytheistic practices and female infanticide, it is argued by Islamic feminists that these are fatal and drastic issues that needed to be addressed immediately. On the other hand, the male-female unequal social relationship had a more of a gradual change depending on how we see and interpret the Qur'an. According to al-Hibri, only fundamental matters were changed instantly by the Qur'an, however matters that had to with entrenched beliefs, customs and values required a more gradual approach to it.¹⁴¹ According to her "The Qur'anic

¹³⁵ Eshkevvari, *supra* note 6, at 197.

¹³⁶ *Id.* at 198.

¹³⁷ Wadud, *supra* note 17 at 63.

¹³⁸ *Id.*

¹³⁹ Hassan, *supra* note 15, at 62.

¹⁴⁰ HIDAYATULLAH, *supra* note 20, at 99.

¹⁴¹ Al Hibri, *supra* note 86, at 56.

philosophy of gradualism is predicted upon the fundamental changes in human consciousness do not usually occur overnight, instead they require a period of individual or even social gestation.”¹⁴²

The gradual approach has always been used to interpret the controversial verse 4:34, especially when it comes to the word “*idrabuhunna*”, traditionally interpreted as “to strike” or “to beat”. While the traditional interpretation of the word strongly promotes male-female unequal relationships in which males are superior to discipline their wives, the feminist exegetes have taken an opposing point of view. Al-Hibri explains this by stating that at that time, violence against women was a common practice, and the Qur’anic verse tried to gradually alleviate the problem of marital violence in the society.¹⁴³ In her explanation, she writes that the wifely abuse in the society was “overwhelmingly prevalent and deeply entrenched”, which is why the Qur’an imposed a three-stage model for marital conflict, verbal communication, physical separation, then beating. In a context where violence against wives was commonly used, this is considered to be a realistic, gradual development approach developed by the Qur’an aiming to eventually eliminate marital violence altogether.¹⁴⁴

Wadud also agrees on this, stating that the verse “is not a permission, but a severe restriction of existing practices”, for it prohibits men from resorting to beating their wives any chance they get without trying to solve the problem peacefully and verbally first.¹⁴⁵ In addition to this, the Qur’an has also presented conditions if the husbands had to resort to this last stage of anger management. For example, as al Hibri explains, the Qur’anic verse has restrict prohibited husbands to use violence and reluctantly gave permission for it as a last step after exhausting the other two solutions and only in serious cases, such as adultery or lewd behavior.¹⁴⁶

¹⁴² *Id.*

¹⁴³ Al Hibri, *supra* note 86, at 60.

¹⁴⁴ HIDAYATULLAH, *supra* note 20, at 106.

¹⁴⁵ Wadud, *supra* note 17 at 76.

¹⁴⁶ Al Hibri, *supra* note 86, at 61.

Apart from this, there have been several hadiths, prophetic sayings, which explain how the beating should be. Hidayatullah illustrated al Hibri's understanding of the word "daraba" as "a very mild or symbolic form of striking that must not be on the face or leave a mark."¹⁴⁷ It has often been commented that the husband cannot beat his wife in a way that painfully harms her. In addition to this, it was often stated that if husbands resort to the option of beating, it had to be with a tool that is not stronger than a soft twig or a toothbrush. With the contextual changes and structural and societal development happening, one may interpret the harm to include the psychological and mental state of the women, which will prohibit the husband to do something that is harmfully humiliating. Hence, husbands are restricted from beating their wives by any means.

Another issue that the Islamic feminists base the argument of gradual approach on is polygyny. As discussed in the intratextual method, the Qur'anic verses about polygyny clearly states that there is a condition of treating wives equitably in one verse, and states that men will not be able to meet this requirement in another. Based on this, the feminists argue that the Qur'an aimed not at permitting polygyny as the verses have been traditionally interpreted, but actually at abolishing it. They argue that a radical change was not possible because the Qur'an "was revealed to a culture steeped in polygamy" where men used to marry more than hundreds of women¹⁴⁸. Therefore, the Qur'an adopted a gradual approach towards abolishing polygamy altogether which will result in a more successful and sustainable reform of the practice in the long run.¹⁴⁹

¹⁴⁷ HIDAYATULLAH, *supra* note 20, at 104.

¹⁴⁸ Al Hibri, *supra* note 86, at 58.

¹⁴⁹ HIDAYATULLAH, *supra* note 20, at 101.

Chapter IV A Critical Revaluation

In order for the Islamic feminists to have their voices heard, they must address the problems and flaws in their own arguments. As going into a discussion with the conservatives is essential for the movement's project, Islamic feminists must undertake some reforms and changes in their approaches in reading the Qur'an. I argue that the existent flaws of their arguments stem from endorsing an apologetic strategy that is sometimes extended to unnecessarily claim that the Qur'an favors women more than men, which is an approach that is subjective and defies some of their arguments. On the other hand, the movement has In the following section, I will address the issue of favoritism of Muslim women and the issue of being apologetic thoroughly as well as the challenges posed by the traditionalists as well as the state which hinders the success of the movement.

A. Favoritism of Women

One of the main critiques against the available traditional interpretation of the Qur'an is that males tend to privilege fathers/ husbands or rulers and provide them with rights and superior status that is not even stated in the verses. Asma Barles contested this idea when she claimed that the Qur'an not only rejects the notion of patriarchy, the rule of fathers and the "symbolism" of fatherhood, but it actually privileges "mothers" as opposed to fathers.¹⁵⁰ This evident in verse 4:1

4:1 "O mankind! Reverence (have taqwa for) your Guardian-Lord, who created you from a single person (nafs), created, of like nature, His mate, and from them twain scattered (like seeds) countless men and women;- reverence God, through whom ye demand your mutual (rights), and (show taqwa for) the wombs (That bore you): for God ever watches over you."

Using the words "Reverence", Taqwa, and "Mercy", Rahma, only for mothers (not both parents), according to Barles, brings mothers in the "same sphere of symbolic

¹⁵⁰ BARLES, *supra* note 80, at 172.

signification as that reserved for God.”¹⁵¹ She argues that God linked the reverence Muslims owe to him and the reverence children owe to their mothers, which is a reserved privilege not granted to fathers. This totally contradicts with the Tawhidic paradigm, which is one of the main aspects of Islamic feminism. It conflicts with the argument of putting men in the same authority and degree of highness as of God’s.¹⁵² In addition, some scholars also base their argument of gender equality promoted by the Qur’an by referring to the fact that Qur’an not only gives mothers the same inheritance’s share as fathers, but actually doubles their share if the deceased had no son. This is very strange, as male traditionalists are always being criticized for claiming higher authority for men since they get higher share of inheritance as sons. Here, while trying to prove that the Qur’an emphasizes equality between men and women, some scholars unfortunately do the same as the traditional male scholars by imposing an unnecessary higher status for women (mothers) on the basis of certain words as well as inheritance share. This thus unintentionally defies their main argument of equality between men and women in Islam.

In addition, Islamic feminists always reject any static or constant interpretation of the Qur’an, claiming that it is composed of human language, hence different people might interpret it in different ways depending on their background and analysis. This makes sense, however, it should be acknowledged that old jurists might have interpreted the verses in a patriarchal way because of their patriarchal societal background. And feminists interpret in a way, which protects women rights because they come from a background where gender equality is becoming more accepted and familiar. In addition, Islamic feminists also claim that because only male jurists were the ones authorized to provide a Qur’anic exegesis, then the outcome always favored men. There is another contradiction here, as what makes the new interpretation of Islamic feminists, which favors women and promotes gender equality more objective, coming from “female scholars”? More importantly, what makes their interpretation more valid, accurate or even acceptable than the ones provided by the traditionalists? Ali warns the feminist exegetes that when claiming their interpretation is what the Qur’an really “intends”, they

¹⁵¹ *Id.* at 175.

¹⁵² *Id.* at 178.

risk making the mistake of presuming authoritarian pronouncements as those that want to contest in the first place.¹⁵³ This further emphasize the need to engage with the traditionalists, not in a competitive approach as whose interpretation is more accurate or valid, but rather as an authorization of the two different works, and an acknowledgment of the differences in the cultural backgrounds and societal values that have led to different conclusions.

B. Being Apologetic

According to Ambar Ahmed, Islamic feminists endorsed tools of post-modernism as important methods for re-interpreting the Qur'an, through engaging with the language and use it as a "mechanism of institutional control."¹⁵⁴ The significance of this approach is apparent because of the assumption that "language is value-laden has led to the attempt to expand the domain of reinterpretation to a new linguistic construction of the Arabic language."¹⁵⁵ The interpretations selected and chosen by the feminist exegetes are sometimes very far stretched to prove that gender equality is a concept inherited in the Qur'anic text.

According to Rhouni's criticism, Islamic feminists try "by any means to retrieve gender equality as a norm established by the Qur'an, to the point of becoming a blinding dogma that weakens analytical rigor and produces mystifying narratives". She states that Islamic feminists often rely on a "simplistic methodology of selectively invoking Qur'anic passages that support gender equality and/or providing for other interpretations that are more 'woman friendly.'¹⁵⁶ This approach sometimes makes the arguments apologetic and incoherent, for the scholars of feminist tafsir often choose to go too far to prove that the Qur'an supports gender equality, which is a fact that no one can be sure of. Cooke also endorses this view on Islamic Feminism, claiming that it "seeks justice wherever it can find it" with the involvement of gender discrimination in a political as well as intellectual

¹⁵³ KECIA ALI, SEXUAL ETHICS AND ISLAM: FEMINIST REFLECTIONS ON QUR'AN, HADITH, AND JURISPRUDENCE, 156 (Oneworld, 2006) (2006)

¹⁵⁴ Ahmad, *supra* note 47, at 5.

¹⁵⁵ *Id.*

¹⁵⁶ RHOUNI, *supra* note 43, at 20.

awareness. She argues that Islamic Feminists try to open new possibilities for Muslim women to engage in the public life. However, she argues that their approach requires “self-positioning”, meaning that they remain in the context of the community of which they criticize.¹⁵⁷

When it comes to the roles of husbands and wives in a marriage, for example, Barles also tends to stretch out her interpretations a little bit. Firstly, she provides very rare meanings of certain words, such as “*qawamun*” and “*daraba*”. While there is not enough room to discuss her arguments about each separately, I will criticize the practice of getting different meanings to the words. Since the Qur’an is a linguistic text, it is understandable that each word might confer different meanings, yet it is only logical that people would eventually use the most standard and “common” meaning. So when it comes to “*daraba*”, it is reasonable to interpret it as “strike/beat” not to “set an example” (*daraba al masal*) as Barles suggests. So, the problem is not only does Barles contest the chosen meaning of certain words in the traditional interpretation, but she also provides a radically opposite explanation for it (strike vs. set an example).

Barlas’ attempts infer the assumption that she is simply trying too hard to show that the Qur’an is in women’s favor. Since one of Barles’ main arguments is to contextualize the Qur’an while interpreting it, this should also be applied to the meanings of the words. And in a society (pre-Islamic Arabia) where women were objectified and mistreated, it should be assumed how words like “*qawamun*” and “*daraba*” would be understood. If the Qur’an wanted to actually state the meanings Barles provides, I would argue that more coherent and clear words could have been used to send the message. On the other hand,, even if the Qur’an did not intend to infer negative practices against women, we cannot ignore the possibility of understanding such words in an abusive way.

Apart from this, many scholars pointed out that being the “breadwinners” does not necessarily mean that the husbands should be head of the households. However, if we use

¹⁵⁷ MIRIAM COOKE, WOMEN CLAIM ISLAM: CREATING ISLAMIC FEMINISM THROUGH LITERATURE, 113 (Routledge, 2001) (2001)

the concept of contextualizing the Qur'an, one should not overlook or disregard the importance of economy. Economic capability has always been one of the main catalysts of sustaining a household. Hence, if the Qur'an explicitly declares this role for the husbands, it is challenging to argue that this does not mean they could be the head of the households. Women economic vulnerability has always been one of their main obstacles when it comes to having a voice, or becoming independent from men. When putting it into context, one can even argue that the financial responsibility given to men is more of a privilege, not a duty like the Islamic feminists claim, since the financial role of a husband automatically gives him certain powers over women in need or those who could not provide for themselves. On this, Hidayatullah argues that assigning the "breadwinner" role to men makes women "vulnerable to how a society will attach social values to that role.. the result may very well be a power imbalance."¹⁵⁸ Therefore, even if Islamic feminists see the Qur'anic imposition of gender roles as an act of mere recognition of male-female differences and organizing the responsibilities in the household, which does not necessarily mean inequality, she concurs neither does it essentially infer a notion of equality at the same time.¹⁵⁹

Another issue that Islamic feminists need to address is the gradual and progressive change of the Qur'an. As discussed above, Islamic feminists have acknowledged that there could be no radical reform to the pre-Islamic traditions in order to promote for Qur'an and Islam as religion. However, since the Qur'an has decided to prohibit certain practices against females as a gender, this makes Aisha Hidayatullah question the verse 4:34, which is usually interpreted as giving the permission to men to beat their wives as a last resort. There are many reforms that Islam has conducted which contradicts with the patriarchal society at the time, such as allowing women the right to inheritance, as well as prohibiting female infanticide, so why hasn't the Qur'an considered the beating of women as an essential practice to be eliminated? Also, would women who are subject to domestic violence, justified on the basis of Qur'an and Islam, consider the "gradual social change" an accurate or effective way to eliminate domestic violence?

¹⁵⁸ HIDAYATULLAH, *supra* note 20, at 157.

¹⁵⁹ *Id.* at 159.

Chapter V

Moving Beyond Islamic Feminism

*“It is true that patriarchy cannot be reduced to religion, but it is equally true that Islam cannot be degenderized into a neutral observer of gender relations”-
Shahrazad Mojab.¹⁶⁰*

Before engaging in the discussion with the conservatives, Islamic feminists need to first have a solid base to stand on. Therefore, Islamic feminists need to increase the solidity and accuracy of their arguments in order to be prepared to confront the work Islamic jurisprudence developed by the traditional scholars. Islamic feminists need to re-study the Qur’an using different approaches, not solely depend on their reason. When looking at the Qur’anic verses, Islamic feminists need to expect the possibility that the Qur’an might not actually be promoting or supporting gender equality. However, starting to read the verses with the belief that the interpretation has to be in favor of gender equality can result in a flawed analysis. They need to try and understand that gender equality is a modern and new concept; hence supremacy or the privilege of men over women does not necessarily mean that Islam is not a religion of equality and justice. Maybe the Qur’an endorses concepts of equal moral capacity and recompense between men and women, but male authority and control at the same time. According to Hidayatullah, “to assume a necessary contradiction is to project our values onto the Qur’an in a manner that is anachronistic and not fully justifiable.”¹⁶¹

The way men abuse and exploit their rights under Qur’an is a different issue from claiming that Qur’an does not give men more rights than women in the first place. It is an evident fact that we live in a patriarchal society in which males, including male jurists, try as much as they can to favor themselves. However it should be acknowledged by the Islamic feminists that the Qur’anic text plays a role in this as it leaves room for such a misplaced and controversial interpretation to be conducted. According to Kecia Ali, for instance, the Qur’an does have certain verses that “presuppose male agency and female

¹⁶⁰ Shahrazad Mojab, *Theorizing the Politics of Islamic Feminism*, Vol. 69, no.69, 124-146, at 135, FEMINIST REVIEW (2001)

¹⁶¹ *Id.* at 166.

passivity”, in the way that it talk directly to men about women.¹⁶² Hence, sometimes, the Qur’an prescribes behavior of male-female relationships that is based on the presumption of male control. According to Hidayatullah, “the patriarchal historical context of revelation does not alleviate the impact of the text’s content.”¹⁶³

Rhouni examines this explicitly in stating that even though the Qur’an promotes equality and justice, it cannot be used as a feminist text advocating women’s rights, which is what the feminists are trying to make it. While the Qur’an aims to provide social transformation and achieve justice, there should be a distinction between the Qur’anic messages of justice and its somehow patriarchal discourse, which should not be avoided. She writes:

With respect to gender, I think that the Qur’an contains two moments, which can support two opposing perspectives. As a believer who sticks to equality and justice above all, I see these values to be the core of Islam. There are clear moments in the Qur’an that support this vision. But objectively, I can also see that the Qur’an contains an androcentric language, and, therefore, cannot adhere to an easy, naïve discourse that declares Islam or the Qur’an as feminist, or that gender equality is normative in the Qur’an.¹⁶⁴

John Law explained how sometimes people reach their research conclusions using biased and subjective methods to start with. This, consequently, makes the findings static, expected and less creative. In his *Birdwatching* article, for example, he carefully examined how sometimes people who exercise the observational activity of birdwatching tend to only focus on specific features and ignore others, because they create a list of the things they should look for. This automatically makes them ignore other interesting factors that could have helped their theories or resulted in different conclusions.¹⁶⁵ In his words from *After method: an introduction*, John Law states that the methods do not only

¹⁶² ALI, *supra* note 112, at 129

¹⁶³ HIDAYATULLAH, *supra* note 20, at 134.

¹⁶⁴ RHOUNI, *supra* note 43, at 13.

¹⁶⁵ John Law and Michael Lynch. *Lists, Field Guides, and the Descriptive Organization of Seeing: Birdwatching as an Exemplary Observational Activity*, vol. 11, HUMAN STUDIES, 271, 271-303 (1988).

contribute to understanding social realities, but they contribute to the creation of the social realities.¹⁶⁶ He accuses the methods used in research of avoiding any messy results, as if all realities should be clear and precise, and they cannot be fluid or elusive. He explained the problem of methods because that they are characterized by:

The desire for certainty; the expectation that we can usually arrive at more or less stable conclusions about the way things really are; the belief that as social scientists we have special insights that allow us to see further than others into certain parts of social reality; and the expectations of generality that are wrapped up in what is often called ‘universalism’. But, first of all we need to unmake our desire and expectation for security.¹⁶⁷

Depending on his words as well as Hartman, one can infer that there is a possibility that Islamic feminists are searching for security and desire to make gender equality a stated fact in the Qur’an, which affects their objectivity and their research findings. According to Raja Rhouni, “the major flaw of Islamic Feminism is its central assumption of recovering gender equality as a norm established by the Qur’an.”¹⁶⁸ They do so out of inner faith that Islam is a religion of equality, hence it cannot degrade women. However, it should be noted that “believing something is never enough to make it true.”¹⁶⁹ Hence, Islamic Feminists need to revisit their approaches and to avoid setting a pre-research list of findings and answers, which they are so eagerly committed to prove.

A theoretical reform that needs to take place in Islamic feminism is identifying concepts of equality and justice, and expecting that there might be a difference between the concept of equality imposed by the Qur’an and our modern understanding of the term. Bauer, for example, explains that during the search for gender equality enlisted in the Qur’an, the feminists often demand certain standards of sexual equality that is not necessarily reflect in the Qur’an.¹⁷⁰ On this, I agree with Hidayatullah that accepting the

¹⁶⁶ JOHN LAW, *AFTER METHOD: MESS IN SOCIAL SCIENCE RESEARCH*, 8 (Routledge, 2004), (2004).

¹⁶⁷ *Id.* at 9

¹⁶⁸ RHOUNI, *supra* note 43, at 35.

¹⁶⁹ Law, *supra* note 165, at 148.

¹⁷⁰ KAREN A. BAUER, *ROOM FOR INTERPRETATION: QUR’ĀNIC EXEGESIS AND GENDER*, 182 (Princeton University, 2008), (2008)

possibility that the Qur'an "may not fully align with out contemporary calls for equality and justice," is the first step towards avoiding reaching apologetic conclusions or distorting the text.¹⁷¹ She argues that many of the anthropological studies have proved that the notions of equality, hierarchy or justice are experienced differently depending on the contexts.¹⁷²

Hence, classical and pre-modern views on love and sexuality endorsed attitudes of "possession, passivity and submission as natural to loving relationships."¹⁷³ Therefore, our modern understanding of the link between love and mutuality and gender equality existed in a different way, where lack of sexual consent, for instance, was not considered an "affront to women's dignity or overall worth"¹⁷⁴ On the other hand, Hidayatullah argues this set of love relationships might have been "comforting, nurturing and supportive of what they agreed was women's more passive nature."¹⁷⁵

As a result, some critics argue that maybe in the context of the Qur'an, "patriarchy is not bigotry, hatred or oppression, but rather the natural social order."¹⁷⁶ Hence, if there are any Qur'anic verses that assert male control or female submission, they does not fundamentally contradict with the Qur'anic values of love, companionship and kindness between men and women in relationships. It just shows that the Qur'anic approach of concepts of sexual equality and differences might be different from the understandings and assumptions of the modern feminist theory. The relationships between equality and hierarchy are not necessarily contradictory, perhaps this is just the way we understand it in modern times.

¹⁷¹ HIDAYATULLAH, *supra* note 20, at 153.

¹⁷² *Id.* at 154.

¹⁷³ *Id.* at 165.

¹⁷⁴ *Id.* at 166.

¹⁷⁵ *Id.*

¹⁷⁶ HIDAYATULLAH, *supra* note 20, at 166.

A. Challenges to the Movement

1. The Battle Between Conservatives and Islamic Feminists

“The dangers of this phenomenon may not be obvious today; but as this “intellectual” output continues, the cultural environment will become polluted by its by products until future generations are left unable to breathe clean air... I ask Allah – Most High – to bring these bright minds back to the vastness of their culture and heritage, and the origins and reality of their existence.” - Shaykh Dr. Hasan Maḥmūd ‘Abd al-Laṭīf Al-Shāfi‘ī.¹⁷⁷

As mentioned above, a major challenge that Islamic feminists face is a non-existent communication with the traditional scholars. According to Harrison, many conservative thinkers still lack the knowledge of feminist theory and its development since 19690s. In fact, they still have a limited understanding of feminism, which is why they fail to address the needs of many educated and modern women till today.¹⁷⁸ In fact, some of them actually attack the Islamic feminists for failing to speak or know Arabic, which is the language of the Qur’an. However, Grami analyzed the opposing views of male conservatives as a consequence of being threatened by Islamic feminism. She explains that the privileges enjoyed by men as a result of the patriarchal society will be limited if Islamic Feminism gained legitimacy.¹⁷⁹

The movement of Islamic Feminism is a defensive response to the traditional male-biased interpretation, which is why Grami has categorized the conservatives as one of the main important opposition groups to Islamic feminists. She summarized their critiques to accusing the movement of lacking the expertise needed to understand the religious science or Islamic culture.¹⁸⁰ Hasan Al-Shaf’i, for example, described the work of Islamic

¹⁷⁷ Hasan al-Shafī‘ī, *The Movement for Feminist Interpretation of the Qur’an and Religion and its Threat to the Arabic Language and Tradition*, THE INTERNATIONAL JOURNAL FOR QUR’ANIC STUDIES, at 14 (2010), available at https://dialogicws.files.wordpress.com/2011/06/feminist-hermeneutics_shafii.pdf

¹⁷⁸ Harrison, *supra* note 52, at 136.

¹⁷⁹ Amal Grami, *Islamic Feminism: A New Feminist Movement Or a Strategy by Women for Acquiring Rights?*, Vol. 6, no. 1, CONTEMPORARY ARAB AFFAIRS, 102, at 108 (2013).

¹⁸⁰ *Id.*

feminists as an attempt to adopt “the Western “hermeneutic” methodology and try to apply it to the Islamic principles, with a complete lack of awareness or knowledge of the established principles of tafsir and jurisprudence in general.¹⁸¹ Not only does he completely oppose the movement’s work, but also he perceives it as a dangerous attack on Islamic culture and the Arabic language in general. In his own words, he writes:

This movement has a linguistic aspect which – in my opinion – threatens the soundness of the Arabic tongue and its expressiveness, not to mention its religious and civilizational heritage.¹⁸²

The conclusions reached by the traditional Islamic jurists, as biased, subjective or even misogynist as they might be considered by feminists, were based on religious evidences, custom practices, certain interpretation of a Qur’an and depending on a certain hadith by the prophet. To make it clear, criticizing the feminists’ approaches does not mean that this paper agrees to the findings of Islamic jurists. However, it raises a question to how have the feminists confronted these findings and how have they counter-argued its basis? My skepticism arises from the fact that feminists tend to ignore the years of jurisprudence and the logic behind achieving such results. This is problematic because producing new interpretation of the Qur’an automatically situates feminists in a conversation with Islamic jurists and instantly forces them to engage in this discussion. Independent reasoning of the Qur’an is an important and accepted method, but it is not enough to challenge the Islamic authorities when confronting the traditional Islamic rules. The fact that feminists have not done extensive research to traditional Islamic jurisprudence and depended merely on independent reasoning and language meanings have negatively affected their ideology and threatened its overall credibility and acceptance.

While the available traditional interpretation has a male-subjectivity approach, Hidayatullah argues that not all the critiques stems from this reason. She argues that the critics may be correct in accusing Islamic feminists of demanding too much from the text to suit their personal needs and contemporary values. For her, criticizing Islamic

¹⁸¹ HIDAYATULLAH, *supra* note 20, at 151.

¹⁸² Shaf’i, *supra* note 131, at 2.

feminists for manipulating the text to make it mean what “they” want it to mean might be a valid concern, hence committing the same mistakes previously made by their opponents of imposing their views on the Qur’an and claiming interpretative authority, rather than choice of responsibility.¹⁸³ In responding to the critics, Hidayatullah explained that the feminists’ rigid responses have led to a “deadlock” between traditionalists and Islamic feminists.¹⁸⁴ When in fact, their critics should be addressed thoroughly as they include a possibility of truth. She argues that:

“Feminist interpretation may very well be inappropriate to the Qur’an and subvert the exegetical tradition, not because feminism is necessarily or categorically mistaken, immoral, foreign or sullied...but because in placing feminist demands on the Qur’an, we have projected a historically specific and...theoretically unclear sense of gender justice onto the text without fully considering how our demands might in fact be anachronistic and incommensurate with Qur’anic statements and the exegetical tradition.”¹⁸⁵

2. *State/Law vs. Islamic Feminists*

The role of the state as well as the law plays an important part in challenging and undermining Islamic feminism. As Ziba Mir Hosseini indicated, Islamic Feminism is an “unwanted child”, inferring that the state and religious institutions do not welcome or encourage such movement or initiative to flourish.¹⁸⁶ Therefore, there is still an opposition from the state to the call for reforming the traditional codes of Shari’a, for they see it as a threat to their own status and privilege in society. Since the codification of Shari’a and Islamic law in Egypt, for example, the state has taken a role in making sure that Shari’a is applied and emphasized in the society when it comes to domestic affairs. Even though family is considered in the private sphere, the state still manages to and control regulate the private relations through the law.¹⁸⁷ According to Fineman:

¹⁸³ HIDAYATULLAH, *supra* note 20, at 173.

¹⁸⁴ *Id.* at 174.

¹⁸⁵ *Id.* at 150.

¹⁸⁶ Ziba Mir Hosseini, *supra* note 34, at 2.

¹⁸⁷ Martha A. Fineman, *Feminist Legal Theory*, Vol. 13, no. 1, AMERICAN UNIVERSITY JOURNAL OF GENDER, SOCIAL POLICY, AND THE LAW, 22, (2005).

Law defines who may marry whom and what formalities must be observed. Only some relationships are “legitimate” or “legal” ones, which carry the weight of the state behind them. Law defines the consequences of marriage and parenthood during on-going relationships and imposes significant policy directives in the context of divorce. Law also defines the responsibilities of a family and the role of the family within the larger society.¹⁸⁸

Almost all Middle Eastern countries have two common characteristics, which are authoritarian regimes and patriarchy. Often, Islamic law is used as a justification and basis for gender equality and male superiority. In Egypt, for instance, women may be treated as equal citizens to men, where their right to equality is granted in the constitution, however in practice this is not the case. Article 2 in the Egyptian constitution states that Shar’ia is the main source of legislation, which is often used against advocates of women’s rights that many of their ideas conflict with the traditional understanding of Shari’a.¹⁸⁹

According to Welchmann, Shari’a acts as a tool for subordinating women to male family members. She indicated that Shari’a does not by itself authorize violence or discrimination against women, it is used as a “contributing factor” due to the politics of interpretation and enforcement.¹⁹⁰ Eventually, due to all these political limits and challenges Islamic feminists are confronted with, their outcome is yet to be more developed and improved. On this, Zayzafoon writes:

The real challenge for Muslim feminists today is not simply to prove Islam’s compatibility with women’s rights, but how to empower and include women in the political apparatus of the postcolonial Islamic state, which remains for the time being (with few exceptions) inaccessible to the Muslim masses, male and female alike.¹⁹¹

¹⁸⁸ *Id.*

¹⁸⁹ WELCHMAN, *supra* note 5, at 260.

¹⁹⁰ *Id.* at 261

¹⁹¹ LAMIA B. Y. ZAYZAFOON, *THE PRODUCTION OF THE MUSLIM WOMAN: NEGOTIATING TEXT, HISTORY, AND IDEOLOGY* 26 (Lexington Books, 2005), (2005).

Chapter VI Confronting the Traditionalists

“Reading and understanding the Qur’an implies the interpretation of it and the interpretation in its turn includes the application of it which must be in the light of the existing circumstance and the changing needs of the world”-Judge Mohammed Shafi

One of the challenges that Muslim traditional scholars face is being perceived by the reformers as monolithic, which makes their engagement in the discussion seem impossible. The development of Islamic jurisprudence and Ijtihad began to fall down, and sometimes considered closed, because of a political move where rulers of the Muslim countries decided to codify Shari’a and to enter the era of modernity by having a statutory law. This had led to now having four main schools or madaheb, that govern the Muslim countries. Even though this action limited the freedom of choice Muslims had to govern their daily lives according to Islamic law, there is still a room for reform. Islamic feminists need to acknowledge that there are many differences among the four schools, and even within them. I am aware of the fact that all four schools have subjective and biased opinions on women’s matters, but the fact that changes and differences exist can be used as an enriching environment for new opinions and ideas. Instead of perceiving this phenomenon as a move to make Shari’a law seem static, it can be used in the favor of Islamic feminists to encourage different opinions as a fact that has always been present, rather than alien. This is why, as mentioned before, Islamic feminists need to go to the basics of Islamic Jurisprudence, where the evolution of it can help the movement find legitimacy for their arguments.

In his book, *A History of Islamic Legal Theories*, Hallaq provided an extensive research on how Islamic theory has evolved. While doing so, Hallaq divided the theorists into religious utilitarianism and religious liberalism, where scholars were divided into traditionalists, those who believe that the human conduct should be governed by the authoritative text, without depending on human reason.¹⁹² However, according to Hallaq, there were reformers or liberals who developed and provided a more progressive

¹⁹² HALLAQ, supra note 5.

approach to Islamic law. This approach was based on reading the text while taking into consideration the context, leading to a broad interpretation “beyond the specific language of the text.”¹⁹³ Though their methodologies differ, they all agreed that the traditionalists’ interpretation will not be able to adapt to the changing situations and contexts.

One of the leading prominent jurists is Mohammed Ashmawi, whose theory calls for the distinction between “religion as a pure idea and religious thought as an elaboration of that idea.”¹⁹⁴ Religious is represented in the Qur’an and Sunna, but their interpretations are “systems of religious thought that are merely human, and thus susceptible to error.”¹⁹⁵ Hence, the Qur’an, according to Ashmawi is a “living creature” and religious thought “can never be isolated from the particular reality and history of the society.”¹⁹⁶ This is the basic thought for making Shari’a compatible and adaptable to the changes of society.

On the other hand, there is Mahmoud Taha, who believes that the Qur’an and Islam were brought to the Muslim community through stages, divided into general and specific. He believes that the Qur’an addressed the specific cases at the time of its revelation to encourage people to accept it, so that they will not frown upon it had the radical changes been imposed forcibly. However, he urges people not to forget the main messages of Islam, which are human equality, mercy and companionship. Consequently, he advocates that the Muslim community in the twentieth century “free themselves from the constriction of the old ideas form the past” so that they will be able to develop a Shari’a that is reformed and adaptable to the modern society, putting aside the traditional idea that Shari’a “as it stands today is immutable never to be revised or changed.”¹⁹⁷

In addition to this, in 1898, Muhammad Abduh also developed a reformist approach, where he called for the need of a fresh interpretation of the Qur’an using human reason because the outdated existing one cannot adapt itself to the modern society.¹⁹⁸ On the other hand, there is Falzur Rahman, who depended his theory on abrogation of verses by

¹⁹³ *Id.* at 230.

¹⁹⁴ *Id.* at 232.

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ Rachel Anne Codd, *A Critical Analysis of the Role of Ijtihad in Legal Reforms in the Muslim World*, Vol. 14, No. 2, 112- 131, at 119, ARAB LAW QUARTERLY, (1999).

¹⁹⁸ *Id.* at 121.

another as well as the law of graduation. Rahman believed that the Qur'anic legal terms and rules evolved according to the changes of the society. He argues that general principles should be drawn from the specific rulings of the Qur'an. Since the Qur'an provides ethical and logical reasons for its specific rulings, "an understanding of these reasons becomes essential for drawing general principles." meaning to take full "consideration of the sociological forces that produced these rulings."¹⁹⁹

It should be noted that there has always been a conflict between the reformers and the conservatives. In the past, the ideas of the reformers were contained, which hindered any changes or reforms to take place as a result. However, during the late 1940s and early 1950s, the progressive ideas started to be formulated into practice, and the reformers started to win the clash in certain areas concerning women's issues. In doing so, the jurists and the judges opened the space for a re-interpretation of the Qur'an, and for improvement in the traditional Islamic law, which they thought is not coping or adapting to the changes and ideas of the modern society.

A. Practical Reforms

On the other hand, there have been, although minor, successes when it comes to reforming Islamic law in certain areas concerning women's issues and family code in many Muslim countries. In order to gain legitimacy, these reforms were based on religious basis. Codd explained this by providing case studies from Egypt, Syria and Morocco in which the reformers were able to change traditional Islamic rules to adapt to the changes of the society.²⁰⁰ In Egypt in 1946, reformers were able to change the inheritance law so that it includes the orphaned grandchildren being entitled to their parents' share even with the existence of a son of the deceased. Before, the traditional law did not grant share to the orphaned grandchildren if the deceased had a son. In doing so, the reformers depended on the interpretation of the Qur'an as well as on a traditional opinion by jurist Shaf'i, which stated that close and near relatives can also be entitled to

¹⁹⁹ HALLAQ, *supra* note 5 at 244.

²⁰⁰ Codd, *supra* note 149 at 120.

inheritance, even if they did not fit in the exact definition of legal heirs²⁰¹. Here, the reformers used depended on the traditional authorities to depend their arguments, making it more legitimate as it does not threaten or completely break with the past traditionalists.²⁰² However, when conservatives strongly opposed this claim, the reformers claimed that their conclusion was based on a fresh interpretation of the sources, mainly the Qur'an. This can also support the Feminists' call, as providing new interpretation for the Qur'anic text is not a new phenomenon.

As mentioned above, there have been several reforms when it comes to the case of polygamy, where many depended on the Qur'an to prove that the traditional interpretation is flawed, not reading the Qur'an holistically. Nowadays, polygamy is being governed and regulated by courts in some countries, and fully abolished in another. In fact, just recently, there have been significant reforms in Jordan and Tunisia. In Jordan, the rape law was improved so that the charges are not withdrawn if the murderer decided to marry the victim. As for Tunisia, the law on inheritance has been improved so that both men and women now inherit equally. In addition, polygamy was abolished altogether and Tunisian Muslim women are now allowed to marry non-Muslims. In the present, the Tunisian family code is considered to be the most progressive among the Arab countries. Hence, reforming Shari'a and reforming the existing interpretation of the Qur'an was the basis behind many developments that occurred to support women's rights. Islamic feminists need to sell their ideas by using this strategy, in order to gain legitimacy.

Consequently, the movement of the Islamic Feminism is not unprecedented, and they could use the past experiences as well as the to gain legitimacy and authority.

Of course, these reforms have not gone without opposition from the anti-reformers, especially from Al-Azhar, the highest religious authority that is based in Egypt. Al Azhar condemned such laws, calling them "blasphemous" and anti-religion. While the situation in Egypt still requires so much work and effort, it should be noted that the khul' law

²⁰¹ *Id.* at 122.

²⁰² *Id.*

granted to women was a great progress and offers an encouraging atmosphere for more laws and reforms to come, and the judges depended on a hadith to support the decision. Though the traditionalists in Al Azhar would still perceive these changes as western-agendas being imposed on the Muslim society, providing a strong evidence of similar case studies from the traditional Islamic jurisprudence is the only way the Islamic feminists can win this. An important factor to take into consideration is the openness and curiosity of the younger generation in the Arab Muslim countries nowadays. In my opinion, this is a perfect environment for Islamic feminism to grow and to continue pushing for their ideas. The feminist movement in the Middle East is flourishing in an unprecedented way, for these reforms have never taken place before.

VII. Conclusion

Despite the weaknesses and ambiguity in some of the concepts adopted by the movement and apart from the movement's lack of a coherent theoretical framework, Islamic Feminism has been a significant initiative towards providing a platform for devoted Muslim women to protect their own rights. The movement is benefiting from the world of Internet and Satellite to spread its cause quickly and globally, and it has made great progress theoretically and practically. The constant emphasis on gender equality enriched in the Qur'an has provided an alternative to family codes. The movement's work has been reflected in several reforms in different Muslim countries, like the Mudawwana in Morocco, which according to Badran, is considered the "most gender-egalitarian sharia' grounded civil code. Furthermore, there is the new Indonesian draft Family Code, which was adopted by religious scholars, most of whom were women. Both codes were imposed to reform the traditional family marriage and divorce laws in favor of men, and both are based on Shari'a and Islamic jurisprudence, which is different from the classical.²⁰³

In addition to this, the movement contributed to the creation of the transnational movement, Musawah, which aims at engaging activists and feminists in global projects to reform the family codes in Muslim countries. They work on emphasizing the core beliefs of gender equality from Islam. Most of the Islamic feminists have worked with the organization, for it is considered a platform to promote for the ideas and gain popularity for the movement. A forerunner to Musawah is Sisters in Islam, based in Malaysia, which focuses on helping Malaysian women know their rights and fight any form of oppression based on Shari'a. The organization mostly focuses on preventing domestic violence against wives, which is justified by false Qur'anic interpretation. The organization provides different projects such as talking to local people and providing religious trainings for understanding new interpretations.²⁰⁴

Most importantly, Islamic feminism, despite being contested from male scholars and

²⁰³ Tonnesson, *supra* note 38, at 10.

²⁰⁴ Elizabeth Segran, *The Rise of Islamic Feminists*, THE NATION, December 2013, at 5. (<https://www.thenation.com/issue/april-17-2017-issue/>)

secular feminists, have provided a middle ground for Arab and Muslim women to protect their rights without having to abandon their faith. The doctrine suited the socio-cultural context of many women who are subject to discrimination and oppression falsely based on their faith. Providing an alternative for women who have accepted their fate as part of their religious devotion is a very progressive edge against the imposition of an alien type of feminism that does not suit women's values, culture or beliefs on one hand, and the institutionalized patriarchy adopted by the state and religious institutions against women on the other. This is where Islamic feminists have positively succeeded at the most as a start. According to Ambar Ahmed, "the question is not whether it (Islamic Feminism) can ultimately achieve gender justice, but whether its present strategies of challenging patriarchy are fruitful", which they are.²⁰⁵

Choosing to engage in the theological debate has opened a door for Islamic feminists to directly confront the main sources used by male traditionalists to justify patriarchal politics, which strengthens their position. According to Ahmed, it was easier for the authorities in the Muslim societies to "brush aside feminist questions earlier on by labelling feminism as alien, Western, anti-Islam and corrupt, knowledgeable interrogations by Islamic feminists have made it impossible to dismiss these questions anymore." Because of Islamic Feminists, these questions are now common, legitimate and their "widespread visibility" is on the rise.²⁰⁶ Even though some scholars such as Haideh Moghissi and Hania Sholkamy have warned Islamic feminists from the inevitable fall in the vicious cycle of multiple interpretations without knowing which one is the most authentic or correct, Ziba Mir Hosseini contested how this critique disregards the work conducted by Islamic Feminists and Musawah. On the other hand, she replies to the criticism of multiple interpretations by stating that:

There always have been, and will be, competing interpretations of Islam's sacred texts. The power of any interpretation depends, not on its correctness, but on the social and political forces supporting its claims to authenticity.²⁰⁷

²⁰⁵ Ahmad, *supra* note 47, at 10.

²⁰⁶ *Id.*

²⁰⁷ Ziba Mir Hosseini, *Beyond "Islam" vs. "Feminism"*, Vol. 42 no.1, IDS Bulletin (Blackwell Publishing Ltd, 2011)

According to Judith Butler and Joan Scott, the success of any feminist theory stems not from ending the confusion and solving the problem, but from its ability to allow us to engage in a discussion of critique and analysis on the multiple forms of inequalities and differences. This approach will enable theorists to acknowledge the limitations of their theoretical enterprise.²⁰⁸ In his two articles “That’s Interesting!” and “That’s Classic!” Murray S. Davis explains that there are four characteristics for a social theory to succeed.²⁰⁹ In his analysis, he concluded that addressing a primary audience concern, providing a novel twist to an old problem, appeal to a general and broad academic audience and being paradoxically ambiguous and incomplete are the main four features of any theory to find its own platform.²¹⁰ On this, I argue that Islamic Feminism has succeeded in being a different type of feminist theory, one that meets all the mentioned criteria. I will use Kathy Davis’ analysis when she applied these criteria on the intersectionality theory to explain why the “buzz word” has resulted in widespread popularity and debate. On the qualities presented by Davis for the theories to succeed, she agreed that:

“These are the qualities that allow a theory to weather the storms of competing interpretations and prevent the authoritarian privileging of one interpretation over another. In short, successful theories are successful precisely because they do not settle matters once and for all; they open them up for further discussion and inquiry.”²¹¹

When studying all the facts thoroughly, one cannot but acknowledge the success and achievements of the Islamic Feminism movement. The movement has succeeded in finding a language to refute the institutionalized patriarchal society in the Muslim world

²⁰⁸ JUDITH BUTLER AND JOAN W. SCOTT. FEMINISTS THEORIZE THE POLITICAL, (Routledge, 1992) (1992).

²⁰⁹ Murray. S. Davis, *That’s Interesting! Towards a Phenomenology of Sociology and a Sociology of Phenomenology*, Vol. 1, PHILOSOPHY OF THE SOCIAL SCIENCES (1971).

²¹⁰ Murray. S. Davis, *That’s Classic! The Phenomenology and Rhetoric of Successful Social Theories*, 285–301, PHILOSOPHY OF THE SOCIAL SCIENCES (1986).

²¹¹ Kathy Davis, *Intersectionality as Buzzword: A Sociology of Science Perspective on What Makes a Feminist Theory Successful*, vol. 9, no. 1, 67-85, at 77 (2008).

that best fit the socio-cultural aspects of the region. Islamic feminists were able to find a pathway to challenge the rooted arguments and catalysts of their oppression. They started a process of digging deep to uncover a “hidden history” and rereading textual sources.”²¹² Islamic feminists have addressed the social, cultural, and political lives of Muslim women, through which they decided to offer a suitable alternative to protect their rights. This feature was nearly absent from the Western feminism literature, which enforces the rhetoric of “otherness”, failing to recognize or accept the differences in the experiences, values or beliefs between women.

In addition to this, Islamic feminism movement was able to show how terminology moves from one place to another, affected by the different socio-cultural aspects and based on different experiences lived by women. Therefore, Amal Grami described Islamic Feminism to be a “telling manifestation of post-modern thought”²¹³ She concurs that Islamic feminism movement has shed the light on the importance of intellectual freedom that is colored by the social class, religion and values. Has Islamic feminism reached its goal? Is it considered a challenge to a false claim of Islamic patriarchy or a defeated apologetic attempt to improve women’s statuses? While all these questions are essential to address, it is also important to remember that change is a process, a continuous progress, and not a fixed solution. There will be setbacks, but change is a process of trial and error, and courageously finding ways to engage in the political debate using theological language that is often misused to privilege men in the Muslim states is a significant step towards enhancing the lives of Muslim women.

While Islamic Feminism is still a movement in formation, its advocates should make use of this by developing their approaches and addressing the apparent flaws in their arguments, for the movement to grow. As mentioned before, Islamic feminists have to acknowledge the validity of the traditionalists’ work, in order to be able to engage in a debate arguing that Qur’an promotes gender equality. However, before doing so, Islamic feminists need to first address the issues in their arguments. They need to expect new

²¹² Mir Hosseini, *supra* note 10, at 14.

²¹³ Grami, *supra* note 132, at 111.

possibilities that might arise from the Qur'an, that is not necessarily a deviation from its messages for equality and justice, but rather distinct from our contemporary beliefs and standards of these concepts. Addressing the Qur'an in Nasr Abu Zayd's approach may be a first step towards reaching more coherent understandings. Abu Zayd argued that readers should address the Qur'an as a "discourse" rather than a "divine text."²¹⁴ In his analysis, he explained that the Qur'an is delivered to humanity, not upon it, hence the needs of the readers greatly affects the dialogue between the human element and the Qur'anic understanding. The Qur'an is thus a "living discourse of God's words", which should not be equated with considering it "the eternal word of God", because it has a human dimension that should not be ignored.²¹⁵ Catherine Keller has explained that sometimes, confronting the uncertainty and working under the conditions of "theoretic incommensurability" can lead to new possibilities.²¹⁶ On this, Hidayatullah also agrees that confronting the Qur'an is this new approach would not close the door, but rather open it for new paths leading to new promises.²¹⁷

²¹⁴ Nasr Hamid Abu Zayd, *The Qur'an: God and Man in Communication*. Inaugural Lecture, 5 Leiden University, (2000), available at http://www.let.leidenuniv.nl/forum/01_1/onderzoek/lecture.pdf.

²¹⁵ *Id.*

²¹⁶ Keller, Catherine. *The Apophasis of Gender: A Fourfold Unsayings of Feminist Theology*, Vol. 76, no. 4, 905-933, at 925, JOURNAL OF THE AMERICAN ACADEMY OF RELIGION, (2008)

²¹⁷ HIDAYATULLAH, *supra* note 20, at 195.