

CHAPTER 17

Gender

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Preliminary Remarks on Gender-Related Hadith

Many contemporary Muslim scholars have highlighted the androcentric and, at times, misogynistic nature of many hadith reports and their role in the construction of gender non-egalitarian cosmologies in the Islamic interpretative tradition (Ali 2010; Lamrabet 2018; Duderija 2011). Examples of such traditions, cited by Aslan (2013, 42), include:

If I were to command you to bow down before any power other than God, I would order you to bow down to your husbands.

A woman ought to smile when her husband enters the house; when he leaves she should be silent. If she finds sustenance she may eat; if she finds none, she should be silent.

All eyes commit *zināʾ* (extramarital sexual relations). If a woman puts on perfume and goes to the places visited by men, she commits *zināʾ*.

A straw carpet is more useful than a woman who cannot bear children.

Some contemporary Muslim scholars (Kodir 2007; Shaikh 2004; Duderija 2011, 2015a,b) have argued that the hadith can also be read and interpreted in gender-just ways if approached from certain methodological and hermeneutical vantage points. This chapter describes the hermeneutical approaches employed in this kind of scholarship.

The hadith literature, as a whole, presents a picture of the Prophet as issuing orders or advising the contemporary Muslim community on a vast number of issues concerning Islamic dogma, law, theology, ethics, and morality, even to the extent of laying down rules concerning the most private spheres of an individual's life. These include rules

about the status and roles of men and women in both the private and the public spheres that were incorporated into Islamic law, ethics, general sociocultural norms, and etiquette (Mahallati 2010). With the “traditionalization” of Islamic thought and “hadithification of Sunna” (Duderija 2015a), the textual indicants (*adilla*) on gender issues in the form of hadith became very important in shaping the views of Muslim scholars on issues pertaining to Islamic law, legal theory, ethics and, to a lesser extent, theology. In describing efforts of progressive Muslim scholars to produce non-patriarchal interpretations of the Islamic tradition I define gender justice as “the urgent need progressive Muslims scholars see in developing a legal [and ethical] system grounded in Islamic cosmology which is ever responsive to the contextually sensitive social realities in which Muslim women (and men) find themselves so that gender-based inequalities are not structurally disadvantageous to any of the sexes. Gender justice is therefore predicated on the idea that ethical values such as equality and fairness are non-gender hierarchical and ethically objectivist in nature, but can have at times significantly contextually dependent meanings based on prevalent social, economic, and political webs of relations affecting power distributions. Thus, they should be open to interpretation accordingly” (Duderija 2017, 148)

This definition emphasizes the importance of open-ended, context-driven, and rationalist approaches to Islamic theology and ethics when developing gender-just interpretations of Islam. As we shall see below, a number of contemporary approaches to the interpretation of the hadith use these and other principles as a lens through which gender-related hadith are interpreted to accord with the above definition of gender justice.

Rationalist Islamic Theology and Ontology

Neoclassical approaches to the interpretation of gender-related hadith, that is those approaches to the Islamic tradition which are hermeneutically restricted by and operate within the interpretational matrixes that constitute what is commonly referred to as classical Islam, are based on a non-rationalist and heavily textualist hermeneutic, and such approaches have yielded patriarchal interpretations of Islam (Duderija 2011). One of the assumptions that guides neoclassical approaches to gender issues in Islam is the idea that *only* males are capable of reason-based discourse and the forming of sound judgment (*ra'y/hazm*) and that women have either defective, incomplete, or non-existent rational capacities (Duderija 2016). Geissinger (2015, 150), writing on the gendered nature of exegetical authority in premodern Islam, notes that “the mythological, social, legal and medical discourses prevalent in the formative period typically present free Muslim males as the human beings who as a group are closest to actualizing human intellectual, spiritual and physical potential, while femaleness is equated with being innately flawed.” Similarly, Anwar argues that women and femininity are considered to embody “every kind of ‘less’ in quality: less autonomy, less rationality, less agency, and less independence” (2006, 133). Many of these ideas about such a supposed nature of women/femininity are derived from hadith-based literature (Mernissi 1991; Abou el Fadl 2001; Duderija 2011; Tuksal 2013).

Another theme that features prominently in discussions pertaining to the nature of gender in neoclassical Islam is the assertion of male ontological superiority over women. Such a view is defended on the basis of an interpretation of the Islamic creation story that is almost entirely based on hadith. This interpretation of the Islamic creation story views only Adam, in his capacity as a *man*, as symbol of primordial humanity and representative of the collective and unchanging attributes and qualities of all men for all times. Adam's existence is also interpreted as original and non-derivative since he was created first and *ex nihilo* while his female partner, Eve, who represents the collective and unchanging attributes and qualities of all women, was merely imitative and derivative. Hence, Adam's creation is ontologically prior to that of Eve. Furthermore, neoclassical approaches to interpretation of gender-related hadith paint the picture of Adam as a prophet who was seduced by Eve in committing the original sin and who, unlike Eve, is strongly associated with spirituality and obedience to God (Hassan 2001; Anwar 2006).

Hassan, a pioneer in Islamic feminist theology, has identified three foundational theological assumptions behind men's supposed ontological superiority over women in neoclassical Islam that again relies heavily on hadith literature:

- (1) that God's primary creation is man, not woman, since woman is believed to have been created from man's rib, hence, women are derivative and secondary ontologically; (2) that woman, not man, was the primary agent of what is generally referred to as "Man's Fall" or man's expulsion from the Garden of Eden, hence, "all daughters of Eve" are to be regarded with hatred, suspicion, and contempt; and (3) that woman was created not only from man but also for man, which makes her existence merely instrumental and not fundamental. (2001, 60)

Jalajel, in turn, demonstrated how this ontological inequality argument has translated itself into misogynistic discussions about women that go well beyond matters pertaining to religion *per se* but have strong ontological tones and are couched in form of opinions that view *only* men as honorable, complete, inherently worthy, and non-deficient (2013, 148–161).

Eshkevari (2013, 192), echoing Hassan, has identified three salient ontological-cum-epistemological assumptions on which the idea of male authority (*qiwāma*) and guardianship (*wilāya*) over women in Islam is premised:

- i. The idea that men were ontologically superior to women and that women either have an evil nature or engender evil and hence must be controlled. This ontological superiority is justified on the basis of men's supposed higher intelligence and rationality, women's potent sexuality and its ability to corrupt men, as well as women's "polluting" body as a function of their reproductive biology.
- ii. The argument that the patriarchal family serves as the most essential element of society without which the society cannot continue to exist.
- iii. The Aristotelian concept of justice.

Eshkevari argues that these assumptions have been incorporated and subsequently canonized into traditional Islamic law in the form of practices or laws enshrining men's

qiwāma and *wilāya* over women as well as others (Eshkevari 2013, 192–193). In this context, he states:

These epistemological assumptions, shaped and consolidated over several millennia, became the basis of an authoritarian ethical and legal system that is premised on the notion that, if women fail to obey men in the family and society, justice will be compromised, as both family and social order will disintegrate. (Eshkevari 2013, 193)

Eshkevari (2013) argues that the above assumptions regarding the sexes, primarily expressed in the form of hadith (Mernissi 1991; Abou el Fadl 2001; Tuksal 2013; Duderija 2011), do not have a strong foundation in the Qur'an and sunna. He also forms the view that these beliefs about the sexes had a significant role in determining gender relations in neoclassical Islam and that they were an outcome of patriarchal historical legacies which ought to be changed or interpreted differently in the interest of women as well as the well-being of society. An alternative set of ontological assumptions is necessary to achieve this. The two most relevant alternative assumptions to our discussion, here formulated by Eshkevari, are as follows:

1. *Men and women enjoy ontological equality.* In this context, he asserts that there is no “sound argument or textual proof” (Eshkevari 2013, 196) that would question this assumption. He continues to argue that, in fact, in Islam there is ample evidence to support this assumption, and he identifies a number of Qur'anic verses as constituting such evidence (4:1; 6:98; 7:189; 31:28; 39:6). He forms the view that the Qur'anic ontology, does not recognize any secondary human characteristics as a basis for discrimination and that the only things that matter from the perspective of “religion” are righteousness (*taqwā*) and righteous action (*ʿamal ṣāliḥ*).
2. *Women are not inherently weak in reason or ruled by their emotion* (Eshkevari 2013, 193–194).

In this regard, Eshkevari forms the view that belief to the contrary is a historical construct and the product of a particular patriarchal mindset that “influenced the religious sources” and was “attributed to the Prophet or other religious personalities” in form of the hadith (Eshkevari 2013, 194). He also adds that differences in biology and genes cannot act as the basis for differences in rights between the two sexes.

Moreover, rationalist approaches to Islamic theology (and ethics) that are being revived and further developed by progressive Muslim scholars (Al-Attar 2010, 2017; Duderija 2011, 2017) for whom rationality is the very purpose of revelation also reject the views I have outlined pertaining to the nature of women on the grounds that they are repulsive to sound human reason and objective experience (Lamrabet 2018; Barazangi 2004).

Therefore, the alternative assumptions and arguments presented by scholars like Eshkevari, which are representative of rationalist approaches to Islamic theology, can be used as ontological, theological, and methodological mechanisms to question and ultimately reject the normative nature of misogynist and patriarchal hadith that have been the lynchpins of neoclassical approaches to gender issues in Islam and to develop gender-just interpretations of these hadith instead.

The Conceptual, Hermeneutical, and Methodological Distinction Between Sunna and Hadith

A number of modernist scholars have made conceptual, hermeneutical, and methodological distinctions between the concept of sunna and hadith that go beyond those that existed, especially during the formative period of Islam (Duderija 2015b, 211–232). I have elsewhere termed these approaches “hadith-independent” approaches to sunna (Duderija 2015a). These modernist scholars include Javed Ghamidi (b. 1951), a strong critic of traditional Pakistani religious thought; Fazlur Rahman (d. 1988), one of the most prominent modernist scholars of the twentieth century; and Muhammad Shahrur (b. 1938), a Syrian intellectual. In what follows, I briefly examine their concepts of sunna and how these can be employed in developing gender-just interpretations or approaches to hadith.

Ghamidi has developed a very specific and systematic theory pertaining to the definition of *sunna* that is both epistemologically and methodologically independent of hadith. Ghamidi equates the concept of *sunna* with that of *millet Ibrahim*, by which he refers to the religious traditions of the faith of Prophet Abraham, who in the Qur’an is described as a *ḥanīf*, a person who follows true monotheism. The Prophet Muhammad revived, reformed, and added to these Abrahamic traditions. Furthermore, he argues that these religious practices have reached us through *in actu* (bodily perpetuations of numerous individuals) transmission of knowledge and not written or oral sources, such as the *hadith*. Therefore, the *sunna*’s epistemological value is same as that of the Qur’an, and much higher than that of hadith narrations, few of which, if any, Ghamidi considers as having such epistemological value. This concept of *sunna* is understood as being based on perpetuation of religious practices only through *ijmāʿ* of the Prophet’s companions and successors, by means of what Ghamidi refers to as *ʿamali tawātur* (Duderija 2015b, 213–214).

For Ghamidi (n.d., 18–19, 61–64) only sunna, not the hadith, can serve as an independent source of legal authority and, moreover, its scope of authority is to be restricted to religious practices only. The hadith is not an *independent* source of legal authority in Islam, and its content can be accepted only if it is in accordance with several criteria that include those that operate in classical hadith sciences but with important modifications. For example, Ghamidi’s approach rejects the widely established theory of dual revelation, whereby sunna derived from authentic hadith reports is a form of unrecited revelation (*waḥy ḡhayr al-maṭlū*) (Ibn Ḥazm n.d, 87), or the legal maxim from classical Islam that “the *sunna* rules over the Qur’an (*qāḍiya ʿalā al-kitāb*) and the Qur’an does not rule over the *sunna*” (Al-Baghdādī 1938, 14), and that the Book [Qur’an] [often] takes form in general sentences whose preciseness the hadith specifies (*yakshifuhā*) and with succinctness (*wa-ʿkhtiār*) whose details are indicated (*tadullu*) by the sunna (i.e. *al-kitāb* (Qur’an) *yaʿtī biʾl-jumal yakshifuhā al-ḥadīth wa-ʿkhtiār tadullu ʿalayhī al-Sunna*) (Ibn Qutayba 1972, 87). Instead, he argues that the Qur’an’s self-description as the *mizān* (“Scale of Truth”) and *furqān* is not dependent on the (hadith-based) sunna for its explanation, including for the purposes of its specification. On the contrary, the *hadith* need to be interpreted in the light of the Qur’an and cannot change or modify the Qur’an in any way.

For Rahman, sunna is a dynamic concept that historically underwent changes from being first associated with general ethico-behavioral norms of the Prophet and, over time, becoming coextensive and in a dialectic relationship with a conception of the *ijmāʿ* of the Muslim community that was inclusive of *ijtihād*. He argues that this concept of sunna is not to be conflated with what is contained in the classical “ḥadīth-fiqhi” literature. For Rahman, the neoclassical approaches to hadith and sunna represent the “interpreted spirit of the Prophetic teaching” and a total fixation of formerly dynamic living sunna that crystallized as a result of the *ijtihād-ijmāʿ* process (Rahman 2000, 74–75; see also Chapter 16).

Shahrur contextualizes the concept of sunna even further and argues that the sunna of the Prophet is specific and circumstantial in nature based on the following five principles:

- i. The Prophet’s decisions were conditioned by his historical context.
- ii. The Prophet’s *ijtihād* did not need divine revelation to restrict what was permitted.
- iii. The Prophet’s restrictions of unrestricted permissions were subject to constant correction as a result of changes in circumstances in his own life.
- iv. The results of the Prophet’s *ijtihād*, unlike revelation, were not infallible.
- v. The Prophet’s *ijtihād*, regardless of whether it was Prophetic or non-Prophetic, does not constitute Islamic legislation. (Shahrur 2009, 71–115)

For Shahrur, hadith-based sunna in classical Islamic scholarship inappropriately became practically the first source of legislation, in effect, displacing the Qurʾan. Hence it must be rethought along the lines described above. The concepts of hadith and sunna, as he defines them, are clearly not independent or supplementary sources of legal authority in Islam per se. Their role in Qurʾanic interpretation, including that of the Prophet’s *ijtihād*, especially in the realm of law, is non-binding because they are contextually contingent.

As I noted above, the majority of gender-related hadith are misogynistic and/or patriarchal in nature and neoclassical approaches have conceptually equated sunna and hadith (Duderija 2015a), introducing hadith-independent concepts of sunna (as in case of Ghamidi and Rahman) or developing a historically contingent or dynamic conceptualization of sunna itself (as in the case of Shahrur and Rahman) allows us to evaluate misogynist hadith with conceptual, hermeneutical, and methodological tools which go beyond the neoclassical *ʿulūm al-ḥadīth* and which free us from the association of such hadith with the concept of sunna itself or which consider these hadith as remnants of a patriarchal cultural context that now should be deemed contrary to the principles underpinning gender justice.

Women-Inclusive Authorization of Hadith and a Non-patriarchal Theology of Sunna

A number of scholars have argued that the process of interpreting hadith, and the portrayal of women in hadith in very early Islam, has evolved from being at least partially inclusive and emancipatory to that of being exclusive and patriarchal at the time of the

consolidation of classical approaches (Aslan 2013; Alwani 2013; Lamrabet 2018; Barazangi 2004). This evolution resulted in an almost complete exclusion of women's perspectives and experiences from knowledge formation of various bodies of knowledge, including that of the *'ulūm al-ḥadīth*. For example, Aslan asserts that

male interpreters' misapplication of laws relegated women to a marginal role in society and shut them out of public life. But women were not merely shut out; further theological arguments made women's return to authoritative knowledge impossible. This theological discrimination was impossible to support on the basis of the Qur'ān. Numerous ḥadīths, however, not only emphasized the danger posed by women, but also disqualified them by attributing to them degrading and inferior characteristic. (2013, 41)

Similarly, Alwani states that

since the beginning of the Islamic community in the earliest decades of the seventh century, women have taken a prominent role in the preservation and cultivation of the main sources of Islamic knowledge, i.e. the Qur'ān and Sunna. The legacy of women's scholarly activism was later suppressed and weakened, but never entirely extinguished. (2013, 45)

Alwani further laments that the involvement of women in hadith scholarship has over time waned while simultaneously the invocation of hadith literature became increasingly used "to suppress the role, rights, and status of women" (Alwani 2013, 53). This lack of women's representation and women's voices in classical Islamic scholarship in general and hadith sciences in particular detrimentally and "deeply affected women's legal rights" (Alwani 2013, 55).

More generally, Ragab (2010) has demonstrated how the epistemic authority discursively attributed to women in neoclassical approaches to Islam is merely circumstantial rather than essential as in the case of men. Furthermore, Ragab shows how classical Muslim male scholars adopted a skeptical stance toward the epistemic authority of women. This further contributed to the exclusion of women's perspectives and insights for the purposes of knowledge production in classical Islam, and this exclusion continues in neoclassical approaches.

More specifically, Barazangi laments the fact that the process of canonization of hadith was not informed by women's perspectives in the context of developing Islamic jurisprudence and what she terms the theology of sunna. In her words,

As canonizing ḥadīth authority without corroborating it by the Qur'ān dominated the process of developing Islamic jurisprudence, the absence of Muslim women left the field open for male elites to further marginalise women's perspectives. (2016, 161)

Barazangi makes a methodological distinction between authenticating and validating hadith. She emphasizes the need to distinguish hadith *authentication*, reflected in classical *'ulūm al-ḥadīth*, from hadith *authorization*, and she argues that any process of rereading and rethinking the theology of sunna ought to make such a methodological distinction regardless of whether or not the authentication process was accepted

(Barazangi 2016, 27). She adds further that traditional approaches to hadith authenticity have in actual fact conflated the processes of authentication with that of authorization with very detrimental consequences for women's rights (ibid.). In that respect Barazangi suggests that the process of authorization of hadith ought to be subjected to women's insights, experiences, and perspectives in order to arrive at the authentic non-patriarchal theology of sunna.

As such, Barazangi argues that Muslim women have a special role in the process of rethinking the hadith and developing a new non-patriarchal theology of sunna because they have been excluded from the production of Islamic knowledge in general and the construction of theology of sunna and Islamic legal theories (*uṣūl al-fiqh*) in particular (Barazangi 2016, 18, 27, 161). In this respect Barazangi is adamant that from a "proper" Islamic perspective, every Muslim, regardless of gender, has the autonomy and the right to exercise leadership in investigating the *authority* of reported hadith (Barazangi 2016, 191).

Therefore, the interpretational principles mentioned in this section, namely women-inclusive authorization of hadith, the bringing of women's epistemic authority ontologically to be on par with that of men, and the need to develop non-patriarchal theology of sunna can be used as important tools in developing gender-just interpretations of the relevant hadith literature.

Application of Insights from Contemporary Epistemology in Evaluating *‘Ulūm al-Ḥadīth*

The question of hadith authenticity and evaluation of its veracity in neoclassical approaches to Islam did have an epistemological element when applied by scholars of Islamic legal theory (*uṣūliyyūn*) whose methodology was distinct to that of the hadith scholars (*muḥaddithūn*) (Zysow 2013). However, the field of hadith interpretation and its relationship with sunna became associated primarily with, and dominated by, the methodologies of *muḥaddithūn*, which did not encompass this epistemological approach (Duderija 2015a). Hence, the insights of classical *uṣūliyyūn* approaches to hadith authenticity and evaluation remain on the margins. Neoclassical approaches to interpretation of Qur'an, sunna, and hadith thus remain decidedly premodern in nature and are premised on a retrogressive view of the nature and history of time according to which authenticity and highest forms of epistemic authority are to be found in the past (Duderija 2017; Souaiaia 2008).

While neoclassical approaches are able to accommodate change and do allow for new interpretations, they do so within the confines of a premodern epistemological and hermeneutical framework. Hence, neoclassical Islamic epistemology holds firmly on to the epistemological paradigm of the classical Islamic tradition by identifying legal epistemology (which is also incorporated into its methodology) with Aristotelian syllogism (Dahlen 2003; Duderija 2017).

Scholars such as Shahrur and Abou el Fadl have vigorously critiqued this aspect of classical Islamic tradition and applied their critique to the interpretation of sunna/hadith. For example, Shahrur (2009), whose views on the concept of sunna were discussed in the second section of this chapter, asserts that

we have demonstrated that it is necessary to place sunna into the epistemological, cultural and political context of seventh century Arabia. We showed that we, living in the twenty-first century, must be critical of the sunna's contingent and context-bound nature as well as of formulations and definitions of sunna that Islamic fiqh invented during the seventh to the ninth centuries. (Shahrur 2009, 108)

Coupled with his belief in the need to interpret the Qur'an in the light of the modern episteme, Shahrur's concept of sunna clearly presents a critique of its epistemological status in neoclassical approaches to sunna/hadith and a departure from an entirely past-oriented and justified epistemology of the classical Islamic epistemology (Dahlen 2003). Shahrur's approach, instead, endorses epistemic progressivism (Duderija 2017).

As I have already noted above, another progressive Muslim scholar who has recognized the need for an "updating" of neoclassical Islamic epistemology with specific reference to hadith is Abou el Fadl. Abou el Fadl critiques especially the puritan-Salafi approach to Islamic epistemology on the basis of its lack of dynamism, its lack of epistemological openness, and its immodest epistemological claim to objective, unmediated access to God's will (2001, 2014). One element of Abou el Fadl's epistemological critique concerns the hadith epistemology, not just of puritan Salafis, but of neoclassical approaches to Islam in general. In the light of contemporary epistemology, he argues, such epistemological claims become largely untenable:

The mechanical and nearly mathematical methodology that Ahl al-ḥadīth apply to the ḥadīth and Sunna in light of our modern epistemological knowledge about reality, meaning, fiction, archetypes, symbolism, phenomenology, and especially history is untenable... In fact the oral reports that are commonly titled the books of ḥadīth often construct and narrate a performance – a performance that preserves a memory of the prophet in some form but that also documents the epistemological attitude of early Muslim generations. (Abou el Fadl 2014, 317)

While he still sees value in preserving and studying this body of knowledge for its historical, theological, ethical, and moral insights, this process of study ought to be achieved by means of an "epistemological arsenal that is available to us today – not through the epistemological tools that existed more than ten centuries ago" (Abou el Fadl 2014, 318). Abou el Fadl also forms the view that the traditional Islamic sciences approached this body of knowledge too literally:

the books of ḥadīth are replete with dramatized performances that are deeply embedded in the epistemological and phenomenological dialectics of the first centuries of Islam and therefore are not to be understood as strictly factual. (Abou el Fadl 2014, 318)

Abou el Fadl, therefore, strongly critiques the idea of the epistemological promise inherent in the neoclassical approaches to Islam. Importantly, like Shahrur, Abou el Fadl argues that a regressive view of epistemology is also at odds with the Qur'anic approach to epistemology that is embedded in neoclassical approaches. Instead, Abou el Fadl advocates a dynamic and progressive view of human epistemology and the need for Muslims and the Islamic tradition to seriously negotiate the moral progress and epistemological growth which was brought about by modern historical

experiences resulting in what he calls an “epistemological overlapping consensus.” This epistemological overlapping consensus is to be considered a product of both Muslims and non-Muslims and their respective civilizations (Abou el Fadl 2014, 377). In this context, Abou el Fadl writes,

Muslims have to be intimately connected with all moral progress and epistemological growth, learning from and, in turn, influencing it. As the Qur’ān emphasizes, the imperative confronting Muslims is to understand the moral and ethical and epistemological overlapping consensus that exists in this globalized world, critique it, and improve on it – grow with it, and seek to establish a new epistemological, moral and ethical realization. Along this path and process, the Qur’ān provides moral and ethical directives as well as epistemological illustrations. (Abou el Fadl 2014, 388)

One specific example of an epistemological critique of hadith literature found in Abou el Fadl’s work is his recourse to conceptions of “multiple authorship” and “authorial enterprise.” According to Abou el Fadl, the term “authorial enterprise” refers to the process of determining to what extent the Prophet’s role in the historical transmission of *any* hadith report can safely be established. In this context, he argues that when evaluating reports attributed to the Prophet, we need to keep in mind that these reports are a result of what a number of companions have “seen/heard, recollected, selected, transmitted and authenticated in a non-objective medium.” Hence they have multiple author, and a hadith narration can viewed as the product of several authors and various collateral influences, each impacting upon both the structure and the meaning of the report. Therefore, in each report, the personality of the transmitter is indelibly imprinted, a process he terms “authorial enterprise” (Abou el Fadl 2001, 88). He further argues that because of this characteristic of the hadith, “it is virtually impossible to attribute any specific report to a particular person in history, whether the Prophet or any of the early generations of Muslims” (Abou el Fadl 2014, 316–317). Rather, these reports, which might retain kernels of truth from the Prophet, are more indicative of the memory of the early generations of Muslims and the contesting ideological currents that were prevalent at the time (*ibid.*).

The critique of premodern epistemology embedded in neoclassical approaches to hadith and the case for embracing epistemological progressivism as argued by scholars such as Shahrur and Abou el Fadl that were outlined above provides important avenues for rethinking the place of hadith in Islamic epistemology in general and can be used for developing gender-just interpretation of hadith literature in particular since these critiques radically question the epistemological promise of neoclassical approaches to the hadith as representative of the normative teachings of sunna that have yielded patriarchal interpretations of Islam.

Rationalist Islamic Ethics and the Ethical Filtering of Hadith

Neoclassical approaches to Islamic ethics are premised on ethical voluntarism that ties ethics to a heavily textualist Qur’an–hadith hermeneutic (Duderija 2011, 2017; Al-Attar 2010, 2017). On the one hand, these approaches have resulted in patriarchal

interpretations of Islam in general and gender-related hadith in particular (Duderija 2011). Rationalist approaches to Islamic ethics, on the other hand, can yield gender-just interpretations of hadith and Islamic tradition in general. Furthermore, for a number of reasons, in neoclassical Islam there is a de facto separation of Islamic ethics and morality from Islamic law. He forms the view that this separation of law from ethics in classical Islam in the context of contemporary epistemological cosmopolitanism provides an enormous challenge for contemporary Islamic thought, including those issues pertaining to gender which needs to be addressed urgently (Abou el Fadl 2014).

In fact, Abou el Fadl has applied such ethical filtering to misogynist hadith by appealing to an ethical regulatory mechanism relating to the normative effect of hadith reports. According to this rule, reports having “widespread moral, legal, or social implications” must be of the highest rank of authority and “require [the] heaviest burden of proof” (Abou el Fadl 2001, 89). When approached with certain morally repugnant but “sound” hadith (from the perspective of classical hadith sciences) that have wide-ranging implications for society, such as those pertaining to gender relations, the proof must be the highest otherwise the hadith will not be considered as normative. Lastly, when dealing with morally offensive (i.e. misogynist) hadith, Abou el Fadl introduces the concept of a “conscientious pause,” which is an ethical faith-based objection to textual evidence that rejects their normative value on the basis of their moral repugnance (Abou el Fadl 2001, 93).

He utilizes these hermeneutical principles to reject the normative nature of these misogynistic hadith (Abou el Fadl 2001). Based upon these principles Abou el Fadl also discards all hadith narrations advocating segregation or seclusion of women, all narrations linking women to the concept of *fitna* (i.e. sociomoral chaos), and hadith reports advocating the “removal” of women from public spaces or prohibiting gender mixing (Abou el Fadl 2001, 426–535). He asserts of them and of his own position, that

quite aside from the issues of technical, chain of transmission-focused authenticity of these traditions, they are indicative of a dynamic and highly negotiative process. In fact I believe that as to the overwhelming majority of traditions dealing with the role of women in society, the role of the Prophet in the authorial enterprise is minimal ... [And] that there were too many patriarchal vested interests circulating, advocating and embellishing these types of reports. (Abou el Fadl 2001, 246–247)

Such application of rationalist ethics can advance gender-just approaches to hadith literature.

Contextualist Approaches to Hadith Interpretation Based on Traditional ‘*Ilm Asbāb al-Wurūd*

Neoclassical approaches to the interpretation of gender-related hadith are heavily textualist and yield gender-unjust interpretations. Contextualist approaches to the same have the potential to engender gender-just interpretations (Duderija 2011). In this section I describe the scholarship of an Indonesian progressive Muslim scholar

Faqihuddin Abul Kodir, one of the pioneers of gender-just approaches to the interpretation of hadith, who uses a contextualist method with roots in classical *‘ilm Asbāb al-Wurūd* to document the historical circumstances behind the hadith (Al-Suyūṭī 1988).

Kodir's (2007) foundational premise is that classical hadith sciences contain useful mechanisms for a contextualist reading of hadith on the basis of which gender-just interpretations can be developed. For Kodir, the contextualist interpretation of hadith entails a critical reading of the hadith by means of *ijtihād* of the text (*matn*) of the hadith conceived of as a linguistic text that functions within a certain cultural environment (Kodir 2007).

For Kodir, hadith texts are historical records. As such, they are intimately connected to the social dynamics of Arab society at the time of the Prophet. Consequently, in light of the fundamentally contextual character of the hadith, meaning inscribed in the literal language of the text is not to be regarded as definitive and need not be applied in an unconditional manner. In essence, then, as social contexts change, the essential purpose of a hadith should be emphasized rather than its literal meaning (Kodir 2007, 19–20). If hadith narrations are approached in this way, the meanings of hadith can yield a number of different interpretations, some of which are commensurable with gender-just interpretations/meanings (Kodir 2013, 176).

Adopting this contextualist approach, Kodir (2007, 1–25; cf. 2013) argues that the proper interpretation of hadith is obtained by evaluating narrations with respect to the original sociopolitical contexts in which they were embedded and by inquiring into the circumstance behind the emergence of hadith, as per *‘ilm asbāb al-wurūd*. This is especially so in relation to hadith pertaining to gender issues. In this context, Kodir (2007, 25) states that

the ḥadīth regarding relations between men and women are windows into a particular socio-cultural reality. These texts must therefore be understood to be based on the logic of the historical role they played in furthering justice and the general welfare of specific communities.

The contextualist approach to hadith developed by Kodir assists in developing gender-just interpretations of the relevant hadith by examining the content of the relevant hadith through the prism of the social dynamics of the revelatory and early Muslim community society, its values and gender-related norms and mores, which they largely reflect (Duderija 2016), rather than considering them decontextually and as binding upon all generations of Muslims.

Maqāṣid-Based Approaches to Hadith

Maqāṣid al-sharī‘a “is a system of values that could contribute to a desired and sound application of the *sharī‘ah*” (Auda 2011, 194). This concept has been employed as a legal hermeneutical tool in premodern Islamic legal theory (*uṣūl al-fiqh*) at least since the third century AH (Nyazee 2000, 162–175). It is based on the idea that Islamic law is purposive in nature, that is, the law serves particular purposes, such as promoting

people's benefit and welfare and protecting them from harm, that are either explicitly present in or can be derived from the sources of Islamic law, namely, the Qur'an and the sunna (Nyazee 2000, 162–175). Neoclassical approaches to *maqāṣid*, however, are embedded in a heavily textualist hermeneutic which, when coupled with non-rationalist approaches to Islamic theology and ethics, significantly curbed the potential of the *maqāṣid*-based approaches to engender gender-just interpretation of the Islamic tradition in general and hadith in particular (Duderija 2011, 2014). Kamali (2011, 37–52), for example, laments the fact that the neoclassical approaches to Qur'an, sunna, and Islamic jurisprudence and ethics pertaining to women and family law were not sufficiently informed by and grounded in the *maqāṣid*-based approach to Islamic law, which, in itself, has been methodologically undertheorized and marginalized in the overall Islamic legal theory.

Kodir is one of the few scholars who applies a *maqāṣid*-based approach to gender-based hadith texts that extends beyond the hermeneutical confines of neoclassical approaches to *maqāṣid*. In addition to his contextual approach (outlined in the previous section), Kodir argues that hadith pertaining to gender issues should be read in accordance with their underlying objectives. These objectives take the form of ethico-religious values such as justice, equality, and mercy, understood and conceptualized in ethically objectivist terms. In this context, Kodir asserts that in respect to gender issues, references to the hadith must be approached from the perspective of the interpreter being aware of the fundamental values the Prophet Muhammad's message entailed, including the oneness of Allah, the equality of all human beings (rich or poor, men or women), justice, and mercy (Kodir 2007, xxi). The rational principles of justice and equality in particular play a prominent role in this type of reasoning and interpretation of hadith (Kodir 2013, 171). Kodir (2007, 23) laments that this approach to interpretation of hadith is lacking today, as evident from the following quote:

Contemporary interpretations of many [of these] ḥadīth continue to engender inequality and unfairness in the relationship between men and women. This inequality, moreover, violates the most fundamental principles of the Qur'an and the ḥadīth.

Kodir, therefore, acknowledges the long history of androcentric interpretation of hadith that in many contexts continues in the present day but urges for a much more “gender sensitive” approach that takes into account women's needs and experiences. In this context, he asserts,

I believe that we need to re-examine the ḥadīth in this gender sensitive fashion so as to restore the teachings of Islam to their original truth in which women are accorded respect and compassion. Though we often hear ulama and other scholars asserting that Islam has never discriminated against women, that Islam treats women and men equally, we also constantly hear and witness the opposite. In fact, Islamic preachers commonly use the very ḥadīth I have quoted in the preceding chapters as a justification for restricting women's rights and treating them as subordinate second class citizens. They argue that this inequality and necessary subservience has been ordained by God. (Kodir 2007, 162)

Thus, Kodir applies a novel “interpretive paradigm” to the hadith that seeks to establish gender relations that are in accordance with the contemporary conceptualizations of gender justice which are also the most truthful reflections of the fundamental values and teachings of Islam itself (Kodir 2007, xix).

Duderija (2014) has also argued that the development of an interpretational approach to hadith which hermeneutically privileges ethico-religious values and purposive (*maqāṣid*) approaches, in addition to that of contextualism and recourse to rationalist Islamic theology and ethics, has a potential to support a gender-just interpretation of hadith /Islam. This approach is premised on hermeneutical recognition of moral trajectories in some gender-related hadith, such as:

The best of you are those who behave best to their wives

The more civil and kind a Muslim is to his wife, the more perfect in faith he is

Women are but sisters (or twin halves) of Men. (Duderija 2014, 201)

When approached in concert with all of the above methodological and hermeneutical mechanisms discussed, such hadith narrations can be viewed as embodying gender-related *maqāṣid* that are truer to the objectives and the philosophy behind Islamic ethics and legal philosophy than those prevalent in neoclassical approaches, and they can therefore contribute to gender-just interpretation of hadith as a whole.

Conclusion

The main concern of this chapter was to provide a brief outline of the interpretational arsenal employed by feminist and progressively minded Muslim scholars in interpreting gender-relevant hadith in gender-just terms. The lynchpin of the patriarchal nature of the still dominant neoclassical approaches to the Islamic tradition are particular approaches to the hadith literature which have important social, cultural, legal, ethical, and political implications. Therefore, the emergence of feminist and progressive approaches to the canonical hadith literature described above has the potential to contribute significantly to religious delegitimization of patriarchal and misogynistic approaches to the Islamic tradition and the engendering of alternative, gender-just interpretations.

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Further Reading

Systematic approaches to gender-just interpretation of hadith are a relatively recent genre that has emerged over only the last decade and a half. Most of the literature is written in English with a few sources in French (the works of Mernissi Fatima and Lamrabet Asma), Indonesian (Abdul Kodir Faqihuddin), and Arabic (Abu Shuqqa, Jasser Auda). The following works are in my view the most relevant and important written on the subject matter from the perspective of interpretational methodology.

- Duderija, Adis. 2011. *Constructing a Religiously Ideal "Believer" and "Woman" in Islam: Neo-traditional Salafi and Progressive Muslim Methods of Interpretation*. New York: Palgrave. Compares and deconstructs the interpretational assumptions of neoclassical and progressive Muslim approaches to interpretation of the Qur'an and hadith and explains how they lead to diametrically opposing ideas on gender issues, especially on segregation, women's dress and husband–wife dynamics.

- Duderija, Adis. 2014. "Maqāṣid al-sharīʿa, Gender Non-Patriarchal Qurʾān-Sunna Hermeneutics and the Reformation of Muslim Family Law." In *Maqasid Al Shariʿah and Contemporary Muslim Reformist Thought*, edited by A. Duderija, 193–219. New York: Palgrave. Develops a systematic four step interpretational method which can be employed to engender gender-just interpretations of hadith.
- Kodir, Abdul, Faqihuddin. 2007. *Hadith and Gender Justice: Understanding the Prophetic Traditions*. Cirabon: Fahmina Institute. The most comprehensive treatment of gender-just interpretations of hadith from an interpretational methodology perspective. The first two chapters are theoretical in nature and lay out the principles according to which all gender-related hadith are to be interpreted. Subsequent chapters apply these in relation to various aspects of marital relationship, the rights of women in education and the public sphere to name but the most important few.
- Mernissi, Fatima. 1991. *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam*. Cambridge, MA: Perseus Books. Uses largely classical hadith sciences to question the legitimacy of misogynistic hadith pertaining to the nature of women and their place in the public sphere. One of the earliest works on gender-just interpretation of the hadith literature.
- Shaikh, Sa'diyya. 2004. "Knowledge, Women and Gender in the Hadith: A Feminist Interpretation." *Islam and Christian-Muslim Relations* 15: 99–108. Provides both a critique of the patriarchal neoclassical understanding of highly gendered constructions of human nature, knowledge, rationality and authority as presented in al-Bukhārī's *Saḥīḥ* (the chapter on "Knowledge") as well as an alternative interpretation of the same on the basis of a feminist hermeneutic.