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WOMEN’S HUMAN RIGHTS AND ISLAM
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Women’s Human Rights and Islam
A Study of Three Attempts at Accommodation

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Late in November 2000
Jonas Svensson
Introduction

Background, Aim and Questions Asked

The background to this dissertation can be traced back to the year 1987. I was 17 years old when I left Sweden for a one-year stay in Kenya as an exchange student. I had been told that my host family were Muslims, which made me somewhat worried. In my imagination, at that time, to be Muslim simply equalled being a religious fanatic, intolerant and violent. Fortunately, real-world, face-to-face encounters often challenge prejudices. This was what happened in my case. I came to realise that a difference in formal religious affiliation is not necessarily a hindrance to mutual affection and solidarity. Furthermore, it became evident to me that there are other issues, besides those pertaining to the nature of God, the religious duties of human beings and the means for personal salvation, that engage believing Muslims in every-day conversation. More importantly, which will influence the following study, I realised that shared religious affiliation does not necessarily equal shared values, attitudes and/or worldviews.

Apart from the above changes in attitude, my experiences in Kenya also created a lasting interest in the religious beliefs of Muslims, an interest that made me pursue studies in Islamology at Lund University and eventually enrol as a doctoral student. Especially the topic of modern interpretations of Islamic religious sources engaged my attention. This is how I ended up studying a contemporary debate among Muslim religious activists1 on women’s status, roles and rights. Happily unaware of the problems of terminology I wrote an essay in 1994 on ‘feminist’ interpretations of Islam that was later published as Muslimsk feminism. Några exempel (1996).2 Here I studied how interpretations of the Qur’an, the hadith-literature (collections of utterances and narratives on actions attributed to the prophet Muhammad) and Islamic historiography were put to use by contemporary Muslims in demands for gender equality.

The focus in this work is still on the issue of women’s rights and interpretations of the Islamic religious sources, but I here take as a starting point the existence of an international standard on gender equality and women’s rights. The aim is to study examples of what I term an ‘accommodation-position’ within a contemporary international debate on women’s human rights and Islam. The word ‘international’ is used in this setting in a wide, non-technical sense, as opposed to debates taking place more specifically within the framework of a

1 I use the designation ‘Muslim religious activists’ for individuals and groups who in public speech, action or texts express views on how Islam is to be correctly understood and practiced in accordance with God’s will.
2 Svensson 1996
geographical region or particular nation state. ‘Accommodation-position’ is used to designate an acceptance of women’s rights as expressed in international human rights schemes, combined with a claim that these rights can be reconciled with the Islamic normative sources, provided the latter are interpreted ‘correctly’. This focus on women’s human rights has important advantages. It allows for conceptual stringency concerning the meaning of such words as ‘equality’ and ‘women’s rights’, it places interpretations of Islam in an international debate and it makes possible the utilisation of previous research on interpretations of Islam and the issue of human rights generally.

The notion of gender equality without distinction has been elaborated in the International Bill of Human Rights,3 and in subsequent UN declarations and conventions. Especially important here is the Convention on the Elimination of All Forms of Discrimination against Women (henceforth the Women’s Convention) from 1979.4 The expression ‘women’s human rights’ – that will be used throughout this dissertation – relates to formulations concerning gender equality in these documents. It also refers to rights pertaining specifically to women, on the grounds of biological difference, to be found in or deduced from them.

The suggestion that UN formulations of human rights can be reconciled with ‘correctly’ understood Islam stands in contrast to other views in the international debate. It is most clearly separable from the notion of an essential contradiction. Such a notion may underlie both rejections of international human rights norms, or rejections of Islam as normative in connection with human rights. It is also different from the notion of specific ‘Islamic’ human rights, and consequent formulations of ‘Islamic’ human rights schemes, containing qualifications in relation to UN documents. Such qualifications often relate to areas such as religious freedom, corporal punishment and – most importantly for this thesis – women’s rights.5 The specific problems identified in the international debate concerning women’s human rights in a Muslim context will be discussed in Chapter 1. These involve both legal and social discrimination. The debate is clearly influenced by the general discussion on ‘cultural relativism’ in the context of human rights. This is an issue that is also addressed in Chapter 1.

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3 The International Bill of Human Rights consists of the Universal Declaration of Human Rights (UDHR) of 1948, the International Covenant on Economic, Social and Cultural Rights (ICESCR), of 1966, and the International Covenant on Civil and Political Rights (ICCPR) of 1966, together with Optional Protocols of the latter.

4 UDHR, ICESCR, ICCPR, the Women’s Convention and additional human rights instruments can be found on International Human Rights Instruments database on the Internet: www.unhchr.ch/html/intinst.htm.

5 The distinction between made here different views in the debate has equivalents in, for example, Hjärpe 1988:27 and in Mayer 1995a:2–3. See also Tibi 1994 for a discussion. Philosopher Heiner Bielefeldt presents a primary distinction between ‘conservative arguments’ and ‘liberal arguments’ where the first category includes both the rejection of human rights and the formulation of specific ‘Islamic’ human rights. In addition, he speaks of a “‘pragmatic’ reconciliation” in terms of the practical legal application of religious rulings. This, however, is a topic outside the focus of this dissertation (see Bielefeldt 1995:602–614).
The accommodation-position is approached through texts produced by three individuals that are treated as exponents for it, all active in the international debate on human rights and Islam. An important aspect of the international focus is that the ‘consumers’ of these interpretations are not only believing Muslims, a fact that I hypothetically assume influences their content.

The texts produced by the exponents are approached through a set of questions: How are the religious sources presented and interpreted in order to state the compatibility between Islam and international human rights schemes? What results have been reached? What are the stated reasons and justifications given for this activity? How do the exponents relate it to a contemporary situation in Muslim societies and their own expressed views on the ideal role of religion in society? How are claims to authority and legitimacy for the interpretations put forward, explicitly and implicitly? How can these presentations of women’s human rights and Islam be related to an ongoing international debate?

Important reservations should be made already at this stage. I do not wish to evaluate the ‘Islamicness’ of interpretations within an accommodation-position. That would amount to participating in the debate. Furthermore, this dissertation is not a comparison between human rights norms – or their possible ideological foundation – and any ‘Islam’ in the abstract. It concerns a part of a contemporary debate on women’s human rights and Islam and as such it does not specifically address the actual situation of Muslim women in different parts of the world.

Material and Motives for Choice of Exponents

The three individuals whose texts are chosen are the Moroccan sociologist Fatima Mernissi, the Indian-born philosopher and religious studies scholar Riffat Hassan and the Sudanese legal studies and human rights scholar Abdullahi Ahmed an-Na‘im. Most of the material used in this work exists in printed form as books or as articles in journals or books. In addition, some of the material used has been downloaded from the Internet. Availability is a problem in the latter case. Internet addresses provided in footnotes were updated a final time before the dissertation was printed, and I have filed printed copies of all the texts collected from the Internet and referred to in the Bibliography.

Published texts by the three exponents form the main part of the primary sources to be studied. The focus is on those texts that relate specifically to human rights, gender and Islam. The choice of texts by Mernissi, Hassan and an-Na‘im was made on the basis that these three individuals have all addressed the

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6 The term is borrowed from Stenberg 1996a. Islamologist Leif Stenberg outlines a contemporary discourse on the ‘Islamization of Science’ with the help of four individuals as exponents of four different ‘positions’ within this discourse (see Stenberg 1996a:23).
issue of women’s rights as a human rights issue. All three exponents have stated a basic compatibility between international human rights norms and Islam, provided the latter is interpreted ‘correctly’. Furthermore, they have been selected because their texts form part of an international debate on human rights, Islam and gender equality. They are active in human rights NGO-activity, are of approximately the same age and have all reached high academic positions within a secular educational setting. They are a part of an international jet set of Muslim academics presenting Islam to a potentially global audience.

Texts by the exponents have been published extensively in the English language, either in their original form or as translations. This is important. In this thesis I take English to be the main language of international communication, the ‘lingua franca of the global communications system’. English has also become the prime language in trans-national communication on religious issues among Muslims, but also in such communication between Muslims and non-Muslims. Texts published in English – whether originally or as translations – are therefore used as the primary sources of this dissertation. Several of Fatima Mernissi’s texts are originally in French, but even in this case it is the English translations that are treated as primary sources. Translations of an-Na‘im’s, Hassan’s and Mernissi’s work from English into other languages do not form part of the material for this study.

A more important motive than those stated above for choosing texts by these three individuals, is that their names often occur in references made by commentators on the ongoing intra-Muslim debates on gender equality, women’s human rights and Islam. They are identified as providing alternative ‘liberal’ or ‘progressive’ interpretations of the religious sources. This in itself merits a closer examination. In Fatima Mernissi’s case it is especially her book The Veil and the Male Elite (1991) – originally published in French as Le harem politique (1987) – that has been identified as an example of progressive, ‘feminist’ interpretations of Islam, or more specifically early ‘Islamic’ history. References to Mernissi’s and Hassan’s works are abundant in general assessments of ‘feminist’ interpretations of Islam in academic works. Riffat Hassan has been identi-
fied as a Muslim ‘feminist theologian’, and as exemplifying an accommodation-position in the context of human rights generally.\textsuperscript{10} I have found no instance where an-Na‘im is presented as providing a ‘feminist’ interpretation of Islam. On the other hand his work – especially the book \textit{Toward an Islamic Reformation} (1990) – is noted as an example of ‘progressive’ interpretations of Islam in relation to human rights in general, including women’s human rights.\textsuperscript{11} An-Na‘im may here appear as the odd man out. Apart from not being identified as a ‘feminist’, he is also male. The reason for including his texts in this dissertation is my focus on women’s rights in the context of human rights. His frequent appearance as a representative of an accommodation-position in general makes him difficult to exclude.

The choice of texts is thus not arbitrary. Texts by other participants in the international debate could, of course, also have been chosen. There are others besides Hassan, Mernissi and an-Na‘im who have expressed views in writing that Islam, correctly understood, demands complete equality between the sexes – without distinction – in legal, social, economic and political matters.\textsuperscript{12} A few examples will be included in the following for comparative purposes.

In order to outline the larger international debate on women’s human rights and Islam I make use of studies that describe and analyse discussions on human rights in general, women’s human rights and human rights and Islam. In addition, UN-documents and texts produced by NGOs and individual activists, for

\textsuperscript{10} For Hassan as a Muslim ‘feminist theologian’, see, for example, Gross 1996:118; Lewis 1994:47. See also Young 1999:21 for Hassan as providing an ‘insider’ perspective on Islam from a feminist point of view. In the context of human rights, see, for example, Bielefeldt 1995:608–609; Traer 1991:119.


\textsuperscript{12} The names of Azizah Y. al-Hibri, Amina Wadud and Leila Ahmed, for example, sometimes appear in references – in the context of Islam and gender equality – together with the names of Fatima Mernissi and Riffat Hassan (see, for example, Eickelman & Piscatori 1996:96–97; Karram 1998:252 note 10; Mir-Hosseini 2000:5; Webb 2000:xii). Al-Hibri is a philosopher of Lebanese origin working in the US. In 1984 she edited a special issue of \textit{Women’s Studies International Forum} on the topic of ‘Women and Islam’. She is the founder of the organisation KARAMAH: Muslim Women Lawyers for Human Rights. The African-American convert to Islam Amina Wadud has a PhD in Islamic Studies and Arabic, and is renowned for her book \textit{Qur’an and Woman} (first published in Malaysia in 1992). For interviews with both al-Hibri and Wadud, see Fernea 1998:395–404. Amina Wadud also has connections with the Malaysian women’s group Sisters in Islam that has received attention internationally for its two pamphlets \textit{Are Muslim Men Allowed to Beat Their Wives?} and \textit{Are Women and Men Equal Before Allah?} (both published in 1991) (see, for example, Mir-Hosseini 2000:5; Roald 1999:17; Simmons 2000:223). Historian Leila Ahmed is often noted in connection with Fatima Mernissi as providing a feminist re-reading of early history in her book \textit{Women and Gender in Islam} (1992) (see, for instance, Bennett 1998:61–62; Roald 1999:20). Furthermore, I could have made a long list of Muslim individuals who have been identified internationally as providing ‘liberal’ or ‘progressive’ interpretations of Islam, including on the issue of human rights and Islam. For a collection of examples of ‘liberal’ and ‘progressive’ interpretations of Islam, see \textit{Liberal Islam} (1998) edited by sociologist Charles Kurzman.
example, are used as primary sources. A distinction between secondary and primary sources in relation to the contemporary debate on women’s human rights and Islam is, however, not always easily upheld. An academic text that purports to be describing or analysing a debate may also – intentionally or unintentionally – take part in that debate, in the sense that it favours a certain position. As such it becomes a primary source for the debate itself. This will have to be taken into consideration in the following. When quotations from the Qur’an are given in this study, it is – unless otherwise stated – Mohammad M. Pickthall’s translation that is used.

Theoretical and Methodological Considerations

The aim of this thesis is thus both descriptive and analytical. It rests upon a basic understanding of the academic study of religion as a descriptive secular study of religious belief systems – including value systems and norms – and religious practice as they appear in different settings of social interaction in history or in the contemporary world. As such, it is clearly differentiated from a confessional-normative study of religious texts or religious dogma with the purpose of providing norms for correct belief or action. Religions – as they can be observed in terms of belief systems, rituals and dogma – are here treated as social phenomena, imbedded in and formed by structures of social relations. I subscribe to the view that what is held by adherents of a specific religious tradition as religious truths and religiously correct actions is initially constructed and later reproduced or challenged in social interaction. Religious change in this context is an aspect of social change. For the believers themselves, however, the content of a religious tradition often appears as detached from social interaction, as an objectively existing and eternal ‘reality’. I am here influenced by the discussion on ‘symbolic universes’ in Peter Berger’s and Thomas Luckmann’s The Social Construction of Reality (1966). Articulations and understandings of a religious tradition differ in different social contexts, and are related to social variables such as class, status, gender and ethnicity. A version of a religious tradition may in a specific social context function in a socially conservative way in legitimising a set of existing social institutions (i.e. habitualised reciprocal social actions), through providing it with subjective meaning and norms. At the same time articulations of a religious tradition in words or action may have a function of social criticism, pointing to a discrepancy between the ideal and the reality.

13 This basic distinction rests upon the differentiation made by my supervisor, Jan Hjärpe, relating to the study of Islam (Hjärpe 1994:297–300).
14 Sociologist Bryan S. Turner poses this view on religious diversity against the notion of religion functioning as uniting ‘cement’ in society (see Turner 1991:61–62).
15 See Berger & Luckmann 1991:70–85.
As such a religious tradition may be a source for social mobilisation of protest against an existing social order.\textsuperscript{16}

\textit{Muslim religious diversity}

What consequences do these basic views concerning the study of religion and the social function of religion have on this dissertation? They compel me to view articulations of what constitutes ‘true’ Islam as variable, imbedded in and dependent upon specific social settings. To assert diversity in religious belief and practice among Muslims around the world – as opposed to viewing Islam as a ‘monolith’ – has become commonplace in academic works, and is generally uncontroversial. It is sometimes expressed through the use of the plural ‘Islams’.\textsuperscript{17} I take empirically observable diversity to be the major premise for this study. The issue on what constitutes ‘true’ Islam in the midst of this diversity in any objective, essentialist or eternal sense is one that I deem outside my field of competence and interest.

This view on diversity stands against a commonplace Muslim notion of unity in religious beliefs and practices as a basis for the \textit{umma}, the worldwide community of Muslims. In a sense there is some foundation for this notion. There are certain basic premises concerning Islam that are shared by a majority of believing Muslims around the world, along with notions on a set of religious rituals to be fulfilled as duties to God. This makes it possible to speak of a ‘Muslim world’ in a cultural or ideological – rather than geographical – sense. So, for example, the \textit{status} of the Qur\textsuperscript{ā}n as the unadulterated word of God is generally undisputed, as is the \textit{status} of the person Muhammad as both the vessel of divine revelation, and as a normative ideal in words and actions. Similarly, there is a widespread notion of a shared ‘sacred history’, where especially the earliest period under the leadership of Muhammad and the first four ‘rightly guided’ caliphs, \textit{al-khulafā}’ \textit{ar-rashidūn}, constitutes a religious and social ideal. Here, however, it is important to note the historical difference between Sunnī and Shī‘ī traditions. Within the Shī‘ī tradition the ideal period has usually been restricted to that under the leaderships of Muhammad (622–632) and of \textit{c}A\textit{l}ī, the forth caliph (656–661). The \textit{notion} of a historical ideal in itself is nevertheless shared.

That adherence to Islam implies certain rules for human beings to follow can also be said to constitute a basic view among believing Muslims. This is often

\textsuperscript{16} An illustration of this dual feature of the social function of religion is provided in Chapter 3 of anthropologist Michael Gilsenan’s book \textit{Recognizing Islam} (1982). Here the socially conservative function of the Shi‘ī \textit{ta‘ziyā} ritual in a village in Lebanon is compared with the revolutionary function of the same ritual as social criticism in the Iranian revolution of 1979.

\textsuperscript{17} See, for example, al-Azmeh 1993:1; Turner 1994:104.
expressed in the terms of an eternal and divine law, the *shari‘a*, ultimately accessible through interpretation of the religious sources.

There is furthermore a shared ‘sacred terminology’, a set of words and expressions – mainly derived from the Arabic language and often with Qur′ānic origin – that have historically gained a positive or negative emotive charge.

These considerations do not contradict my basic view of diversity. Instead it establishes a framework for it. The premises enumerated above constitute reference points in what I, in this thesis, term the ‘contemporary Islamic discourse’ among Muslim religious activists. I see the Muslim debate on women’s human rights and Islam as a part of this discourse. The term ‘discourse’ is here used with recognition of its use within academic disciplines such as anthropology, sociology, history and religious studies, inspired by the works of the French philosopher Michael Foucault. As such, ‘discourse’ here connotes more than ‘discussion’ or ‘debate’. Statements on Islam uttered by participants in diverse debates – or sub-discourses – are part of a continuous construction of the religious tradition. In this process ‘true’ knowledge concerning religion is produced using diverse techniques such as labelling, categorisation, omissions etc. To speak of a ‘discourse’ in this context is also to postulate that participants in diverse sub-discourses share certain basic premises – i.e. the reference points above – that also serve as tools for identification of the boundaries of the discourse, including some actors and excluding others.¹⁸ The use of the term ‘Islamic’ in relation to this discourse is not a statement on its validity in relation to any absolute religious norm. Different versions of what constitutes ‘true’ Islam are constructed within this discourse through social interaction, and they are all presented by their proponents as legitimate versions. In this process of construction through social interaction the reference points are invested with diverse meanings. A shared notion of the Qur′ān as the unadulterated word of God does not imply shared views on how specific verses are to be understood (for example, literally or ‘in spirit’). Nor does it imply consensus on who is invested with authority to interpret the Scripture (for example, any individual Muslim or only the religious scholars, the ‘*ulamā‘’). Similarly, while there might be a shared

¹⁸ I have come to understand that Foucault did not provide a clear and unambiguous definition of ‘discourse’ that runs through his literary production. For this dissertation I have found two texts inspiring. One is a speech delivered at Collège de France on December 2 1970. Here Foucault mainly discusses the ways in which the production of discourse is controlled, for example through excluding that which threatens coherence and internal mechanisms for establishing rules limiting what can be said or written (see Foucault 1972:216–227). The main issue is one of the power and control discourse has on the production of speech and texts. In *The History of Sexuality* (1976) another feature important for this dissertation is stressed. Here there is an opening for the use of ‘discursive elements’ in a variety of ways, by different actors and for different purposes (see Foucault 1990:100–101). Both these aspects – the control that discourse has over speech and texts, and the strategic use that can be made of elements within a discourse for different purposes – are important in this dissertation. For a similar use of the term ‘discourse’, see Stenberg 1996a:21–23.
view among believing Muslims that God demands certain conduct from human beings, this does not equal consensus as to the content or the scope of these demands. Nor does it equal consensus as to whose responsibility it is to make sure that these demands are implemented (for example, the state, the community or the individual). Words and expressions that are part of the ‘sacred terminology’ do not carry any inherent and stable meaning, but receive such meaning in the social contexts where they are employed, and where their emotive charge may be utilised rhetorically.\textsuperscript{19} I here adopt a philosophically ‘nominalist’ rather than ‘realist’ view of the relationship between terms and concepts. I hold that there are no necessary or ‘natural’ connections between a word or an expression and the way they are conceptualised in the course of social interaction. I am aware that many participants in the contemporary Islamic discourse do not share this view in relation to the ‘sacred terminology’.

The construction of different versions of Islam – regarding both content and ideal function – within the accommodation-position in the debate on women’s human rights and Islam is one important theme that will be discussed in this thesis. The texts by the three exponents will be treated as a form of \textit{social interaction}, and as a part of the larger contemporary Islamic discourse. In relation to this, I have found inspiration from some theoretical and methodological considerations within a tradition of sociologically orientated ‘discourse analysis’ of texts and speech, noting, however, that the definitions of ‘discourse’ here do not necessarily correspond with my use of the term discussed above.\textsuperscript{20} On the most basic level the notion of speech and texts as \textit{social action}\textsuperscript{21} corresponds with my view on the texts produced by the three exponents. These texts are produced, published and read in specific social settings, which – hypothetically – have an impact on their form and content. Besides this aspect, the texts themselves also ‘\textit{construct} versions of the social world’.\textsuperscript{22} The latter consideration is important. It makes it possible to analyse these texts without getting entangled in issues concerning the ultimate motives or intentions of the authors. This means that texts produced by Mernissi, Hassan and an-Na‘īm do not have to be studied with the purpose of gaining information on the authors as individuals. Rather, focus can be set on what these texts \textit{do} in terms of constructing versions of Islam. This is not to say that Mernissi, Hassan and an-Na‘īm are uninteresting as individuals, only that a psychological or biographical study is not the purpose of this thesis.

\textsuperscript{19} See Eickelman & Piscatori 1996:11–16.
\textsuperscript{20} I am indebted to Sahlin 1999 and Fahlgren 1998 for introducing me to this topic.
\textsuperscript{21} See, for instance, the definitions of ‘discourse’ and ‘discourse analysis’ in Potter 1996:105; Potter & Wetherell 1987:7.
\textsuperscript{22} Potter & Wetherell 1987:33
Another useful consideration within certain strands of discourse analysis is the possibility to leave issues of ‘reality’ and the validity of various claims to the ‘truth’ – religious or otherwise – in the texts outside the analysis. Social psychologist Jonathan Potter speaks of ‘methodological relativism’ in this context.\(^{23}\) Given my views on religion in general such relativism becomes the only conceivable perspective in relation to statements on Islam in the texts to be studied. Constructed versions of Islam can be compared to other versions, in history and in the contemporary world. This entails a shift in focus from what such versions say – i.e. their cognitive content – to what they do. Such a perspective is useful regarding statements on ‘correct’ Islam in the contemporary Islamic discourse. While a statement of this kind may appear descriptive (for example, ‘Muslims do not drink alcohol’) its prime function is not to provide information on observable facts, but to establish a norm for what Muslims ought to believe in and act in accordance with. The process of constructing versions of Islam involves a conscious or unconscious selection from various sources. This choice concerns not only what is actually stated, but also what is left out.\(^{24}\) The selection that is made is not arbitrary, and may have to be justified.

While the focus is on texts and not on motives or intentions behind their production, I do postulate intent in one respect. The versions of Islam presented by the three exponents are constructed with the purpose of convincing others, hence the question regarding legitimacy and authority. This borders onto the field of rhetoric. In this respect I have found Potter’s book *Representing Reality. Discourse, Rhetoric and Social Construction* (1996) useful in providing some important focal points for inquiry. Potter asks how presentations of ‘facts’ in general are made to appear convincing and are defended against criticism (*epistemological orientation*). He also poses questions regarding the function of presentations of ‘facts’ in the construction of images of the social world (*action orientation*). Potter’s book provides inspiration in several respects. One example is that the self-presentation and presentations of motives and intentions made by the exponents in their texts can be analysed as important in enhancing their credibility or discrediting other actors. In the latter case Potter speaks of offen-

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\(^{23}\) Potter 1996:40, 98. See also Sahlin 1999:90. It should be noted that ‘methodological relativism’ is controversial. Some proponents of discourse analysis have stressed the need for such analysis to be ‘critical’, in the sense of viewing and criticising constructions of ‘reality’ in speech and texts as ideological attempts to mask power relations in society. Others have criticised this demand on the basis of inconsistency. There is no independent position outside discourse from which the relative truth of a particular statement on reality can be assessed (see Potter 1996:223–229).

\(^{24}\) The importance of omissions in constructions of ‘reality’ in speech and texts is discussed in Potter 1996:183–187. In relation to Islam Jan Hjärpe discusses the aspect of choice in terms of a metaphor of a ‘basket’ containing religious material. From this basket elements of a religious tradition relevant to a specific social situation can be chosen, for example for the purpose of mobilisation. Some material is relegated to the bottom of the basket, because of lack of relevance, but does not disappear (see Hjärpe 1996b).
sive rhetoric. Defensive rhetoric, on the other hand, denotes attempts made to counter undermining offensive rhetoric.\textsuperscript{25} I shall return to specific techniques noted by Potter when parallels can be identified in the texts of the exponents.

The terms ‘human rights’, ‘women’s human rights’, ‘gender’ and ‘globalisation’ have so far been used loosely. Here I want to elaborate further on how they will be used in the following.

\textit{Human rights and women’s human rights}

The meaning of the expression ‘human rights’ is not always clear when it appears in texts or conversation. In addition to the conceptual confusion, the expression ‘human rights’ has an emotive charge. It has become an international catchword. This makes it useful to invoke for other purposes than informative or descriptive ones, for example in order to rhetorically justify military aggression in inter-state conflicts. This positive emotive charge also makes it difficult for Muslim actors on the international arena to reject the notion out of hand.\textsuperscript{26} That the expression ‘human rights’ is filled with different content in different settings, and for different purposes, is an important hypothesis in this dissertation. This process is a part of what is to be studied. When in the following I use ‘human rights’ without further specification and outside the context of providing an account of any particular individual’s view, I refer to the content of international human rights documents formulated in the context of the UN. ‘Women’s human rights’ is similarly used to denote both the general principle of non-discrimination on the basis of gender and the rights that are presented as applying specifically to women in these schemes.\textsuperscript{27} The issue of women’s human rights will be discussed further in Chapter 1.

It should be noted the identification of ‘human rights’ with the content of international schemes is not intended as a statement on the validity of latter in any absolute sense, although I do support them wholeheartedly as a matter of personal preference.

Discussions on the philosophical basis for, the validity and universal character of, and the hierarchy between human rights – in the context of the debate on women’s human rights and Islam – become a topic for analysis. In order to perform such an analysis I here want to suggest a heuristic tool for organising statements on human rights, especially concerning their ontological status. This

\textsuperscript{25} Potter 1996:107–108

\textsuperscript{26} See, for example, Dwyer 1991:1; Hjärpe 1996a:68.

\textsuperscript{27} For example, rights in the context of pregnancy and childbirth in article 25 in UDHR and in article 10 in ICESCR, and several of the specific rights pertaining to women stipulated in the Women’s Convention. Legal studies scholar Katarina Tomasevski criticises this way of presenting rights that pertain specifically to women in terms of ‘motherhood’. Not all women are mothers, and such focus reproduces gender stereotypes. Tomasevski therefore prefers to speak of ‘women and human rights’ instead of ‘women’s rights’, and stresses the centrality of the principle of non-discrimination (see Tomasevski 1993:ix, 104).
tool will be used especially in Chapter 1. The tool is constructed on the basis of
general works on human rights and the history of the concept.\footnote{Especially worth mentioning in this context are Strzelewicz 1983; Renteln 1990 (esp. pp. 9, 45) and Donnelly
1993 (esp. pp. 21–24). The presentation of ideological conflicts during the preparatory phases of the UDHR in
Ruthström 1987 was an important eye-opener. For a useful and comprehensive collection of texts on interna-
tional human rights from different perspectives, see Steiner & Alston (eds) 1996.} The heuristic
tool proposes that statements in the international debate on women’s human
rights and Islam can be seen as relating to human rights mainly on one of three
analytically separable levels:

1) In statements relating to the \textit{ideological level}, human rights are treated as
something beyond and independent of a formal legislative process. This in-
cludes notions that human rights are rationally deducible from, inherent in \textit{or opposed to}, for example, human nature, a certain ideological or ethical stance,
a ‘natural law’ or a specific theology. Such notions often form the basis for as-
sertions on the normative or non-normative status of human rights in absolute
terms. Affirmation of human rights on this level is primarily one of \textit{moral}
rights, existing despite of being disregarded in practice.

2) Statements on human rights relating to the \textit{formal level} concern these rights
as a part of international or domestic law. The perspective is one of legal posi-
tivism. Affirmation or rejection of the existence of human rights are here re-
lated to their status as \textit{legal rights}, as a matter of observable formal legal rec-
ognition.\footnote{While in the case of human rights conventions this is a matter of state ratification, there is an ongoing dis-
cussion on whether human rights as expressed in the UDHR (as a whole or in parts) should be seen as international cus-
The dominating view among scholars on international law is that UDHR is an explication of the UN Charter and
as such legally binding for the member states (Renteln 1990:29).} The normative status of human rights is on this level related to a
formal process of legislation, and is as such independent of moral considera-
tions as to their validity in any absolute sense.

3) Statements relating to the \textit{factual level} concern observable practice. An in-
ternationally formulated human right may be part of the ‘law of the land’, but
still be disregarded or violated in practice, by the state or by other actors. On
this level of discussion, the ontological status of human rights depends on, for
example, whether or not they are respected in practice by a general public or
enforced locally through institutionalised legal machinery.

There is no \textit{logical} connection between statements concerning the ontological
status of human rights on any of these three levels and possible views on this
issue relating to any of the other two levels. A human right can be stated to be
non-existent on the formal or factual levels, but this does not of necessity entail
a rejection of its existence on the ideological level. The interplay between state-
ments in a discussion relating to the different levels is normative. An affirmation
of, for example, a moral right based on a notion of an inherent human dignity,
can be used as an argument to demand a corresponding legal right to be included in ‘the law of the land’ and enforced in practice.

**Gender**

The issue of gender is naturally important here. A basic difference between how distinctions are made between men and women in a specific social context and the norms appended to such a distinction is central. In this work it is mainly the latter that is in focus. The extent to which a distinction between men and women – on the basis of biological, hormonal or anatomical differences – is a ‘natural’ consequence of observation or a social construction in itself, is not a topic in this study, although an intriguing one in itself. It has consequences for terminology however. Since in the following I will not use the distinction between gender and sex as an analytical tool, the term ‘gender’ will be used throughout in expressions such as ‘gender-based discrimination’ and ‘gender equality’.

The basis for differentiation between men and women is thus of less importance for this dissertation than the conclusions drawn socially from this differentiation regarding what is ‘right’ or ‘good’. For example, there is no necessary or logical connection between the ‘fact’ that biologically only women can give birth and breastfeed and the norm that only women should give birth or breastfeed or that women’s main function in society is to give birth and breastfeed. To proceed from what is ‘natural’ – or more generally from what can be observed – to what is ‘right’ or ‘good’ constitutes ‘the naturalistic fallacy’. Especially important, given the focus of this study, are the ways in which versions of Islam are related to a basically social process of construction of meaning, values and norms in connection with gender. When such versions address the issue of women’s rights, they also take part in the construction of gender.

Gender is in this thesis not treated as a social variable with explanatory value in relation to the modes and motivations of the authors whose texts are studied. However, gender as one aspect of categorisation of human beings in social interaction, and the conclusions drawn from perceived gender differences, may be an important factor affecting the authority of the exponents in different contexts. The way they elaborate on their gender identity in relation to an anticipated audience is thus of importance.

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30 For an overview of this discussion, see Moi 1999:3–59. One of the more well-known critiques of the notion of a ‘natural’ distinction between men and women is philosopher Judith Butler’s *Gender Trouble: Feminism and the Subversion of Identity* (1990). An important contribution to the criticism of a two-sex model based on biology or anatomy from the viewpoint of the history of ideas is Thomas Laqueur’s *Making Sex: Body and Gender from the Greeks to Freud* (1990).

I also want to make some statements regarding the issue of feminism. Much of the discussion surrounding feminism, not least in a North American context since the 1980s has – influenced by post-structuralist thought – concentrated on difference. This includes not only difference between men and women, but also difference between women, especially on the basis of class and race/ethnicity. White middle-class heterosexual feminists have been criticised for bias, gender essentialism and for universalising their own experiences, experiences that do not correspond with those of, for example, third-world women, coloured women, lesbians or working-class women. The use of feminisms in the plural or the rejection of the terminology in toto points to the impact of this criticism. It has also generated a discussion on the possibility of local ‘non-Western’ forms of feminism, including ‘Islamic’ or ‘Muslim’ feminism, different from a dominating ‘Western’ feminism.

In this dissertation I do not aspire to provide any normative definition of ‘feminism’. The term will nevertheless be used to refer to activism directed at improving the situation of women in society towards social, economic and political equality. Furthermore, ‘feminist criticism’ will be used as a descriptive term to refer to a specific type of academic and political thought that takes gender as a starting point for criticism, noting it as a ‘blind spot’ in both politics and research. I view the fact that the term ‘feminism’ is an object of controversy as important for this study. Empirical research has shown that in many Muslim contexts, the word ‘feminism’ – or translations of the word into local languages – has negative connotations as being opposed to ‘cultural authenticity’ and representative of ‘Westernisation’. Muslim women activists are sometimes reluctant to use ‘feminist’ as a self-designation. This is important in relation to the texts analysed. Since, as has been noted above, others have identified at least Mernissi and Hassan as ‘feminists’, it is important and necessary to highlight how they themselves in their texts relate to this designation. The accusation of ‘cultural betrayal’ and ‘Westernisation’ is, furthermore, one that is often levelled also at Muslim human rights activists in general.

Globalisation
It becomes necessary to discuss the issue of globalisation given the orientation of this study. Globalisation is used here to denote a process whereby individuals and groups in different parts of the world become increasingly interconnected in

33 See, for example, articles in Basu (ed.) 1995 that was prepared for the UN conference in Beijing 1995. For examples of views in favour of a specific feminism for Muslim women, different from ‘Western’ feminism, see El-Guindi 1996; Majid 1998. For critical remarks on Majid 1998, see Moghissi 1999:91–92.
35 See, for example, Dwyer 1991:9; Mayer 1995a:12.
economic, political and social respects. To speak of interconnectedness is not the same as a positive evaluation of the consequences of such interconnectedness. Here, I do not consider issues such as the historical phases of globalisation, the driving forces behind the process or its possible future outcomes. It is evident that human rights – both as a moral notion that has spread globally and as a feature of international law dependent upon the globalisation of the nation-state as a political norm – can be dealt with from the perspective of globalisation. Sociologist Roland Robertson has argued that a notion of a ‘global humanity’ has been strengthened among individuals around the world as a consequence of the process of globalisation. ‘Humankind’ as a whole has become a reference point in individuals’ identity creation, which in turn makes a discussion on universal human rights more relevant. The prime focus in this thesis, however, is not on globalisation in relation to human rights or women’s human rights specifically. Rather, the focus is on the impact of cultural globalisation on religious beliefs and practices. I do not address the issue of the relationship between cultural globalisation and other forms of globalisation such as, for example, economic globalisation. Sociologist Göran Therborn presents the focus of discussions on cultural globalisation as one on ‘global or at least transnational cultural flows, on communications and encounters, and on their effects on symbolic forms, social images, cultural practices, on lifestyles and the deterritorialisation of culture’. The implicit definition of ‘culture’ here is wide and could include also religious beliefs, norms and practices. Increase in encounters between people of different backgrounds is an important aspect of globalisation, brought about by the rapid increase in communication as a result of modern communication technology. These encounters influence ‘culture’ and its symbols and practices.

An important consequence of globalisation in relation to religion that has been identified by commentators is that of relativisation. As a result of the shrinking – in a phenomenological sense – of the world, local ‘truths’ previously taken for granted by individuals and groups around the world become less self-evident, and are made into objects for reflection and choice. This process is promoted by the global spread of information on various local worldviews.

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36 Schreiter 1997:4–5
37 For an important counterweight to the positive evaluations of the world becoming ‘one place’, see Bauman 1998 where it is stated that while globalisation may be integrating for certain élite segments of the world population, it also generates new social divisions.
38 For an introduction to four different theories on globalisation in sociology, see Beyer 1994:14–41. See also Waters 1995:11–64 for an overview of ‘precursor’ and ‘recent’ theories.
40 Therborn 2000:152
value systems and religious beliefs. Political scientist James Piscatori and anthropologist Dale F. Eickelman discuss what they term as the ‘objectification’ of Islam, whereby ‘religion has become a self-contained system that its believers can describe, characterize and distinguish from other belief systems’. ‘Islam’ has increasingly become an ‘object’ to reflect upon for individuals, a process furthered by, for example, mass education and mass communication. This has led to increased activity among Muslim religious activists in systematising ‘correct’ versions of the religious tradition, but has also eroded the traditional authority of the ‘ulamā’, in favour of interpretations by the ‘laity’.

Sociologists have identified different responses to relativisation among religious activists in general. On the one hand globalisation appears to contribute to a process of secularisation, with lessened public influence of religion and erosion of the influence and authority of religious leaders in, for example, the political, legal and economic fields. On the other hand there are also signs of development in the opposite direction, signs of an increased public visibility for religion and religious leaders. Two ideal-typical responses among religious activists can be especially noted here, one ‘fundamentalist’ and one ‘ecumenic’. The ‘fundamentalist’ response claims the primacy of local versions of the ‘truth’ as universally valid, in the face of relativisation. ‘Ecumenism’ on the other hand entails an acceptance of global religious diversity and an acceptance of the inherent value of different belief systems. It also entails the search by activists of different religious affiliation for areas of commonality and co-operation.

Peter Beyer, a sociologist of religion, discusses the consequences of globalisation for religion in his book Religion and Globalization (1994). He takes as one of his starting points the notion of ‘privatisation’, i.e. that due to a modern functional differentiation in society, traditional religious forms are no longer relevant for collective action in relation to society as a whole. They may, however, still be important for its individual members and subgroups. This is then contrasted with the notion of ‘public influence’ of religion, in terms of establishing ‘collective obligation’ and making collective action legitimate. On the one hand globalisation furthers privatisation, but on the other hand it also provides ‘fertile ground’ for a renewed public influence of religion, mainly on the level of institutions and leadership. Influenced by the sociologist Niklas Luhmann, Beyer differentiates between religious function and religious per-

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41 See Hjärpe 1999:117; Robertson 1992:29; Turner 1994:17; Waters 1995:126. It can convincingly be argued that relativisation as a result of inter-personal contact and exchange of information is not new but an important part in religious change also historically (see Berger & Luckmann 1991:126). Still, given the increased exchange of information, the potentiality for such relativisation has increased.
42 Eickelman & Piscatori 1996:38
44 This presentation is inspired by Waters 1995:127–133; Gardell 1996.
45 Beyer 1994:70–71
formance. This rests upon a notion of a functional differentiation between relatively independent ‘sub-systems’ of communication in a global social system, for example an economic system, a political system and a scientific system. Religious function ‘refers to “pure” religious communication, variously called the aspect of devotion and worship, the cure for souls, the search for enlightenment or salvation’. This occurs within a specific religious sub-system. Religious performance ‘occurs when religion is “applied” to problems generated in other systems but not solved there, or simply not addressed elsewhere’. Religious performance is a way for religious leaders to claim a continuing public influence for religion. It is promoted by the globalisation of other functional sub-systems, and the problems this generates.46

Beyer presents two versions of religious performance, one ‘liberal’ and one ‘conservative’. The former is characterised by ecumenism, inclusivism and tolerance towards plurality regarding religious function, respecting the individual choice. The global system with its functional differentiation is endorsed, and religion is provided with a role as an ‘ethical’ guideline for solving social problems.47 The version of religious performance that is mostly associated with the claim that it is necessary for religion to have public influence is the conservative one. This entails attempts to promote ‘tradition’ in the face of the relativising consequences of globalisation. Beyer stresses that this option is not to be seen as merely a response to or a negation of globalisation, but also as a consequence of it. However, it conflicts with many trends within globalisation. Holism is, for example, stressed above pluralism and exclusion above inclusion. The public influence of religion becomes a solution to problems generated by globalisation, interpreted as results of the decline in such influence. Beyer identifies a difference between the conservative and the liberal options of religious performance in the demand from the former that religious norms should be enforced by law, and that their influence in society should be guaranteed irrespective of whether they demonstrate their usefulness. All other spheres of society should be placed below the paramount authority of one particular religious tradition. The existing examples of conservative performance makes Beyer conclude that it is usually, in practice, oriented towards the limited territory of the nation-state, and as such reinforces the globalisation of a specifically modern notion on territorial differentiation.48

Theologian Robert J. Schreiter adopts the notion of religious performance and globalisation, and addresses issues of specific relevance to this dissertation. He describes particular areas where liberal religious performance in Beyer’s terms can be identified. Schreiter speaks of ‘global theological flows’ that move

around the world across national and cultural boundaries, leaving traces and in-
stigating action among religious activists. Two such ‘flows’ identified by him may be noted: ‘feminist theologies’ and ‘theologies of human rights’. Schreiter views both as responses to the fact that the global system has not been able to live up to the expectations of equality and inclusion in society that it has itself generated worldwide. ‘Feminist theologies’ are presented as ‘resources for women’s identity’. In the case of ‘theologies of human rights’ Schreiter notes, as one example, attempts to construct a basic common global inter-religious ‘ethic’ as a basis for human rights.49

This – admittedly selective – discussion on the consequences of globalisation in relation to religion in general provides a framework for the study of texts by the three exponents, a discussion to which I will return to in the concluding part of this thesis.

The disposition of the thesis

The arrangement chosen for this study is related to the theoretical and meth-
odological considerations above. I want to provide a detailed analysis of texts by each of the exponents in turn, and make no attempt at creating any synthesis of an ‘accommodation-position’ from their texts. That could in my view obscure important differences. Chapter 1 has several aims. One is to provide a context in which to place the texts by the three exponents. Another aim is to expand and elaborate on some of the propositions made in this introduction concerning the international debate on women’s human rights and Islam, with the help of the suggested heuristic tool. A third aim is to give the reader some idea of the process that I have gone through in my attempts to grasp the topic of women’s human rights and interpretations of Islam.50

There is a difference in structure between Chapter 1 and the three following ones. In Chapter 1 descriptions of contemporary discussions are intertwined with my own comments. In contrast, each section of Chapters 2–4 contains a descriptive part followed by my comments. This division may give the impression that I consider the descriptive parts to be ‘objective’ accounts, devoid of my own subjective evaluations. While attempting as far as possible to be value-neutral in my description, I am well aware that both the structure and the choice of what is to be included in the description is dependent on what I find relevant for the overall aim.

In Chapters 2–4 the texts by the three exponents are approached through a set of themes that reoccur in all three chapters. The common thematic structure

50 For a collection of texts related to parts of the general discussion on women’s human rights in Chapter 1, see Steiner & Alston (eds) 1996:885–967. For a general introduction to the topic of women’s human rights that also addresses other aspects than the ones noted in this dissertation, see Tomasevski 1993.
will facilitate comparison. Since this study is not primarily an attempt to explain the specific statements made in the texts in terms of the past experience or personal motivation of the exponents, only very little biographical information is provided. On the other hand the public activities of the exponents receive more attention. An important feature of the information provided in the section ‘Fields of Activity’ is that it is publicly available and as such constitutes part of the public image of the exponents. In the following sections the focus is shifted to expressed views. Presentations of human rights in general and of the relationship between human rights and Islam are described. Under the generic headline ‘Women’s Human Rights’ the focus is on expressed views on the current situation of Muslim women around the world, the underlying causes for this state of affairs, the ideal situation and how this could be brought about. The next section on ‘Self-image’ concerns how the three exponents, in their texts, present themselves, their motives and their aspirations. I do not take a stand on the ‘truth’ of these presentations, but instead discuss their possible rhetorical function. In this section there are also descriptions of how the three exponents discuss rights to religious interpretation.

In the section ‘The Sources’, three main categories are included: the Qurʾān, the ahādīth (sing. ḥadīth) and ‘Islamic history’. The choice of these three rests upon the hypothesis that Hassan, Mernissi and an-Na’amān all favour ‘re-interpretation’, ijtihād, of the original sources as opposed to taqlīd, ‘imitation’ or acceptance of interpretations made by ‘ulamā’ of earlier times.51 The content of the Qurʾān is not discussed outside presentations of it made by the three exponents and others. I view the Qurʾān as a text invested with meaning in the context of social interaction, and not as carrying any inherent religious meaning independent of that context.52 To study how the exponents create such meaning is thus one of the aims of this section.

The status of the ḥadīth-literature as the main source for the sunna (the normative ‘custom’ of Muhammad, and to some extent the early Muslims), ac-

51 For a short historical introduction to the distinction between ‘modernist’ ijtihād and ‘traditional’ taqlīd relevant especially in a Sunnī context, see Kurzman (ed.) 1998:5–13. For a general introduction to reformist thought especially in the 19th and 20th centuries, see Merad 1978. It should be noted that the term ijtihād is not reserved for modern re-interpretation of the original sources. Historically it has been a technical term for interpretation within the context of Islamic law, subject to specific regulations, for example concerning who has the authority to perform it. For short presentations, see Hallaq 1995; Macdonald 1971a; Schacht 1971.

52 Muslim understandings of the Qurʾān, its nature, status and content have varied considerably throughout the ages. For examples interpretations of the Qurʾān in modern times, see Baljon 1961; Jansen 1974; Rippin 1993:85–97. It should be noted that I do hold that the Qurʾān can be studied regarding original meaning in relation to the society in which it was first codified. What I am objecting to are academic attempts to outline an essential meaning for all time to come. This is, in my view, basically the task of Muslims.
According to most Muslims, merits a separate study of how it is discussed and utilised by the exponents.\textsuperscript{53}

The use of the term ‘Islamic history’ is intended to reflect an additional normative source of ‘true’ Islam, that of narratives, especially about the earliest generations of Muslims as representing a religious ideal. Individuals and events in history are used in the contemporary Islamic discourse both to interpret features of the contemporary world, and to prescribe conduct. A well-known example is the use of the notion of a pre-Islamic period, 

\textit{al-jāhilīya}, as an anti-thesis to Islam, into which disliked features of contemporary society can be projected.\textsuperscript{54} The issue of historical facticity is not addressed in this dissertation. This is not to say that I view it as uninteresting or unimportant. On the contrary, I believe that source-critical research, for example on the life of Muhammad and the construction of the Qur’ānic text, is important, despite the controversies such research may invoke.\textsuperscript{55} However, I hold that the issue of correspondence between narratives of early history and historical facts may be separated from the issue of the former’s normative function in social interaction between Muslims. Versions of early history put forward by the exponents will be treated as \textit{constructions} of early history with a function in argumentation.

The last section in each of the three chapters 2–4 consists of examples of application. Here the focus is on how the exponent’s presentations of Islam and of interpretation relate to how they discuss specific issues highlighted in the international debate on women’s human rights and Islam. This section shows variations in thematic structure in accordance with the topics specifically addressed by each exponent.

\textsuperscript{53} The status of \textit{ahādīth} as revelation (\textit{waḥy}) has been a topic of discussion among Muslims since the earliest times of collection and codification. So have the issues of its authenticity, relative normative value and methods to determine the authenticity of individual \textit{ahādīth} or the literature as a whole. For a general introduction to the \textit{hadith}-literature, see Burton 1994. For discussions on authenticity and normative value especially in the 19\textsuperscript{th} and 20\textsuperscript{th} century Indian subcontinent and Egypt, see Brown 1996. See also Juynboll 1969.

\textsuperscript{54} Maybe the most well-known example here is that of the Egyptian ‘Islamist’ ideologue Sayyid Quṭb (d. 1966) and his development of the concept of \textit{al-jāhilīya} from that of his Indian counterpart Abū-l-A‘lā al-Mawdūdī (d. 1979). For short presentations, see Boullata 1990:58–59; Sivan 1990:23–24. For a more general discussion on the role of historiography, see Eickelman & Piscatori 1996:33–35.

\textsuperscript{55} There is an ongoing academic discussion regarding the value of the Muslim sources in assessing the history of the earliest period. The problem concerns the lack of primary sources before the year 750, and the late and tendentious character of the secondary sources. For a discussion on the sources and the problem of assessing historiographical facts, see Humphreys 1991:69–103. For interesting (and I would say consciously provocative) conclusions drawn from these difficulties, see Crone & Cook 1977. The main thesis here is summarised in Cook 1996:61–82. For a presentation of the views of John Wansbrough from which Crone and Cook take their starting point, see Rippin 1985. For a further presentation of the problem with the sources, and a criticism of radical scepticism, see Donner 1998:1–31. For the politically controversial nature of historical-critical research into the Qur’ān or the history of the early Muslim community, see Lester 1999.
The conclusion contains a comparison of the expressed views of the exponents. Significant similarities and differences will be discussed. It is also here that I return to the issue of globalisation.

It should be mentioned that I sent the descriptive parts of Chapters 2–4 to Hassan, Mernissi and an-Na'im in May 2000. Riffat Hassan was kind enough to send me her impressive *curriculum vitae* in October 2000, but otherwise I have received no comments. I regret this.

### Placing This Study in Context

This study of the three exponents’ texts extends into two main areas of academic inquiry. One concerns interpretations of Islam in relation to gender, and the other interpretations of Islam in relation to human rights. It is, however, distinguished from studies that address the issues of Muslim women’s situation or the human rights situation in terms of actual practice of individuals, groups or states, and the possible role of religion in this context. In both of these areas research has been done in, for example, the fields of anthropology, sociology and political science. Neither does this study address the issue of organised women’s activism, historical or contemporary, in Muslim societies.

The focus on the contemporary situation differentiates this study from works on the religious sources as historical documents or on subsequent interpretations in history. Diversity in constructions of gender in the contemporary Islamic

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56 An overview on what has been published generally on Muslim women and on gender and Islam in the English can be found in Kimball & von Schlegell 1996. Research overviews can be found in Fernea 1995:60–67; Hale 1996:29–45; Kandiyoti 1996:7–19. There are several works that contain collections of articles on ‘Islam and women’, geographically focused. Bodman & Tohidi (eds) 1998 and Haddad & Esposito (eds) 1998 are but two recent examples not included in Kimball & von Schlegell 1996. Organisations such as Amnesty International and Human Rights Watch publish reports on the human rights situation, including the situation of women’s human rights, in Muslim countries. For information on publications, see [www.amnesty.org](http://www.amnesty.org) and [www.hrw.org](http://www.hrw.org). Price 1999 is an attempt to question the relationship between Islam as a ‘political culture’ and the respect for human rights in different Muslims countries. The result suggested is that Islam is not a determining factor in this context. This conclusion is facilitated by the *non-inclusion* of women’s human rights in the analysis (Price 1999:161). For a study – partly with similar objectives – that does address also the issue of women’s human rights, primarily with focus on Turkey, Pakistan and Iran, see Monshipouri 1998. For a recent study of the human rights (including women’s human rights) situation in Pakistan and the role of NGO-activism, that furthermore addresses the issue of cultural globalisation, see Ahmed 2000.

57 For works on contemporary women’s activism in Muslim societies, see, for example, Chatty & Rabo (eds) 1997; Karram 1998. For an account of women’s activism in modern Egyptian history, see Badran 1995. See also Ahmed 1984; Badran 1994; Afshar 1998.

58 For an important work on gender in relation both to the sources and to interpretation in history, see Stowasser 1994. For a condensed presentation regarding the sources, see Stowasser 1984 and for a presentation of modern interpretations of the Qur’ân on gender issues, see Stowasser 1998. For discussions on Islamic historiography and women, see Roded 1994; Spellberg 1994. For anthologies containing extracts pertaining to women from the religious sources and subsequent elaboration, see Awde (ed.) 2000; Roded (ed.) 1999.
discourse has been the topic of some recent books. These all address the issue of ‘progressive’ interpretation of the religious sources towards gender equality without distinction. The theme of gender-egalitarian interpretations of Islam has attracted interest in academic circles and been discussed in terms such as ‘Islamic (or Muslim) feminism’. The attitude towards the phenomenon of ‘feminist’ interpretation of the religious sources in academic circles is mostly positive. One example of a critique, both of the phenomenon as such and of the positive response to it from academic circles, is sociologist Haideh Moghissi’s book *Feminism and Islamic Fundamentalism* (1999).

This work will hopefully contribute to ongoing research on interpretations of Islam that claim compatibility with gender equality without distinction. It here highlights issues that I consider have not received enough attention: namely, the specific content and methods of such interpretations and the strategies used to create credibility in relation to different audiences.

As in the case of gender, the intra-Muslim debate on the relationship between Islam and human rights and interpretations of the former in relation to the latter has received academic attention. Two books may be specifically mentioned here. The main part of *Islam and Human Rights* (1995) by legal studies scholar Ann Elizabeth Mayer is a critical study of ‘Islamic’ human rights schemes produced as alternatives to international human rights schemes. An accommodation-position is mentioned, but does not become a topic for analysis. In contrast, political scientist Katerina Dalacoura’s book *Islam, Liberalism and Human Rights* (1998) explicitly aims at showing that ‘the religion of Islam is not inherently illiberal and that it can be reconciled, at an abstract level of ideas, with the principles of human rights’. Here the author especially stresses the relevance of an accommodation-position. The main focus of her book, however, is on political and social prerequisites for the development of ‘liberal’ versions of

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59 See Afshar 1998; Mir-Hosseini 2000 that both focus on Iran. See also Karram 1998 that focuses on Egypt. A classic in this context is Moghadam 1993 that discusses the centrality of construction of gender in relation to political activism and ideology formation in Egypt, Iran and Afghanistan. For attempts in articles to map the contemporary debate on women and Islam, see Haddad & Smith 1996; Stowasser 1993.

60 The book *In Search of Islamic Feminism* (1998) by anthropologist Elizabeth Warnock Fernea’s has a promising title, but does not address in detail the content of such interpretations. The book *Feminism and Islam* (1996) edited by Mai Yamani contains some articles that both display and discuss interpretation. Most of the articles, however, concern the actual situation (political, legal and social) of women in Muslim societies.

61 One classic work in relation to this issue is anthropologist Kevin Dwyer’s book *Arab Voices* (1991) which contains interviews with Arab intellectuals (secular as well as religiously oriented) that address the issue of Islam and human rights. Jan Hjärpe discusses in two articles the relationship or clash between non-articulated premises of the UDHR and an Islamic legal tradition (Hjärpe 1988; Hjärpe 1996a). Different positions among Muslims within the contemporary debate on Islam and human rights in general have been discussed, for example, in Afshari 1994b; Bielefeldt 1995; Hedin 1996; Hemmingsson 1994; Tibi 1992; Tibi 1994.

62 Dalacoura 1998:41
Islam in general, drawing examples mainly from twentieth century Egypt and Tunisia.

Both these books discuss human rights in relation to Islam in general, and address the issue of women’s human rights as one problematic area. An important reference work on human rights and Islamic law especially relating to the contemporary period is the book *Les Musulmans face aux droits de l’homme* (1994) by legal studies scholar Sami A. Aldeeb Abu-Sahlieh. This is a thorough comparative study, focused on 20 Arab countries, on issues such as scriptural foundations for religious legal norms and contemporary political and legal practice. International human rights schemes function as reference points for evaluation. The work also includes assessments of suggestions for alternative human rights schemes proposed by international and regional organisations. Women’s human rights are given a separate section, but are discussed also in relation to other general topics.

Women’s human rights have received specific attention in the general human rights discussion, especially during the 1990s. The US-based organisation Sisterhood is Global Institute has published two books containing articles that address the current situation of women in Muslim societies in relation to international human rights standards, the intra-Muslim discussion on these standard and women’s human rights activism. While the existence of an accommodation-position is often alluded to – and presented in positive terms – in articles that discuss women’s human rights in Muslim societies, there has to my knowledge been no attempt at detailed analysis from the perspective suggested in this dissertation.

This is not to say, however, that the texts of the exponents have not been a subject for presentation, discussion and analysis. Dalacoura, for example, provides a short description of an-Na‘īm’s views. His *Toward an Islamic Reformation* has been the focus of a conference on ‘Human Rights and the Modern Application of Islamic Law’ in Oslo in February 14–15 1992. Several well-known scholars, including Ann Mayer and Islamic studies scholars Bassam Tibi and Mohammed Arkoun, participated in the discussions and commented on the book. The comments and the responses from an-Na‘īm were subsequently published in the volume *Islamic Law Reform and Human Rights* (1993). Reza Afshari, human rights and Iranian studies scholar, has voiced criticism of an-Na‘īm’s work – and of an accommodation-position in general – from a ‘rejec-

\[\text{63 Afkhami (ed.) 1995; Afkhami & Friedl (eds) 1997. Articles on women’s human rights in Muslim societies have also been published in editions on, for example, women’s human rights in general, women and women’s activism in Muslim societies, ‘feminism and Islam’ etc. (see Abdel Halim 1994; Connors 1996; Mayer 1995c; Simmons 2000).}

\[\text{64 See Dalacoura 1998:61–62.}\]
tionist’ view on the normative value of the Islamic sources. He does not, however, specifically discuss the methods of interpretation employed.\textsuperscript{65}

Parts of Riffat Hassan’s work have been summarised and commented on in academic contexts. Philosopher Rita Gross, for example, summarises one article by Hassan in the book \textit{Feminism and Religion} (1996) as an example of a ‘feminist’ demand for non-patriarchal interpretation of holy scriptures. Islamist Anne Sofie Roald has compared another of Hassan’s articles with Islamic studies scholar and Muslim religious activist Amina Wadud’s book \textit{Qur‘ān and Women}, focusing on methods employed, and compared both to trends within Christian feminist theology.\textsuperscript{66} In neither of these cases, however, are there any connections made to the issue of women’s human rights. I have in \textit{Muslimsk Feminism} discussed a few articles by Riffat Hassan and parts of Fatima Mernissi’s work as examples of ‘Muslim feminism’. In relation to that book this study is more thorough, with increased specificity and sensitivity to differences in approaches.

Fatima Mernissi’s works have been alluded to and discussed in many contexts. In connection with the interpretation of Islam, and especially of Islamic history, \textit{The Veil and the Male Elite} receives special attention. Islamic studies scholar Andrew Rippin, for example, notes it as a ‘feminist’ contribution to a bulk of modern biographies of Muhammad, provides a description of its content and views it as ‘perhaps […] an attempt to battle Fundamentalist elements […] on their own grounds – inter-Muslim apologetics’.\textsuperscript{67} Likewise, Arabist Barbara Freyer Stowasser summarises the content of the book and provides some critical remarks.\textsuperscript{68} It has been criticised on source-critical grounds,\textsuperscript{69} but it has also been used as a source for historical information.\textsuperscript{70} The dissertation \textit{Islamic Thought in the West: Sacred Texts, Islamic History, and Visions of Islam in a Transnational Age} was made publicly available recently (June 2000). In this work Jon Mehrdad Armajani, a historian of religion, compares the presentation of Islam provided by Fatima Mernissi with those of historian Leila Ahmed, Muhammad Arkoun and Islamic studies scholar Fazlur Rahman (d. 1988). The dissertation contains a thorough description of Mernissi’s work that in part overlaps with the one that will be given in this study, but, more importantly, complements it which will be noted in the following.

\textsuperscript{65} See Afshari 1994b:263–265.
\textsuperscript{67} See Rippin 1993:59–61. Quotation on p. 60.
\textsuperscript{69} For an example, see Booth 1991:22.
\textsuperscript{70} For an example, see Dahl 1997:109–112. See also Bodman 1998:8 for a judgement on the book as an example of historical research.
One important aspect of Mernissi’s work, not discussed by Armajani, needs to be highlighted already here in the Introduction. In *Muslimsk feminism* I noticed a difference between Mernissi’s writings on Islam and women in *Beyond the Veil* and in *The Veil and the Male Elite*. This difference was noticeable, for example, in her evaluation of the consequences of the emergence of Islam in relation to women’s situation in 7th century Arabia. While interpreted negatively in the former work, initial Islam was in the latter presented as a religion promoting gender equality in relation to a misogynistic situation in *al-jāhilıya*. I attributed this difference to a strategic change of vocabulary as a wider trend among feminist activists during the 1980s. In order partly to legitimise their activity, and partly to mobilise wider social support, feminists that had earlier taken an indifferent or even polemical position in relation to the religious tradition, had increasingly begun to actively make positive use of Islamic normative material.71

In the article ‘Egalitarian Islam and Misogynist Islamic Tradition: A Critique of the Feminist Reinterpretation of Islamic History and Heritage’ from 1994 Reza Afshari addresses the difference in Mernissi’s work in critical terms. What he terms as a ‘neo-feminist’ trend evident in both *The Veil and the Male Elite* and in Mernissi’s *Islam and Democracy* (1993) is characterised by an anachronistic, and problematic, projection of contemporary and modern ideals of gender equality into the Muslim past. Afshari sees this as a concession to a dominating religious discourse. ‘Neo-feminism’ is positioned against a ‘healthy’ secular critical feminism, characterised by the ‘iconoclasm’ evident in *Beyond the Veil*. It is merely another example of ‘Islamic reformism’, unable to solve contemporary problems. These problems are in need of a radical break with the past.72 The observation of a change between *Beyond the Veil* and *The Veil and the Male Elite* has been made also by others,73 and contributes to shaping the public image of Mernissi.

Thus, to conclude, there have been more or less extensive presentations of parts of the work of the three exponents, and some critical views have been voiced that need to be taken into consideration in the following. As far as I know, however, there has been no attempt at detailed and comparative analysis of their work in line with the one proposed in this dissertation. In a sense this study can be seen as a contribution to the more general academic inquiry into modern interpretations of Islam, focused on the specific issue of women’s human rights.

72 See Afshari 1994a. The change in Mernissi’s writing results in a loss of ‘liberating impact’. For the development from positive ‘iconoclastic’ secularism against patriarchy and Islam as a normative system, to an ‘unfortunate’ and ‘apologetic’ Islamic reformism, see Afshari 1994a:15–19, 32. For a similarly critical evaluation of what is perceived of as a larger trend, see Ghoussoub 1987:17–19.
73 See Mir-Hosseini 2000:5; Roald 1999:20; el-Sohl & Mabro 1994:18. Andrew Rippin notes a difference between the two books, but views it in terms of inconsistency rather change (Rippin 1993:60).
1. Women’s Human Rights and Islam – Outlining the Debate

The Women’s Convention. Formal History and Content

The UN General Assembly adopted the Women’s Convention on December 18, 1979, and it came into force on September 3, 1981, after being ratified by 20 member states, faster than any previous UN convention.¹ This convention was an explication of and an instrument for the implementation of the general principles regarding gender equality and specific rights pertaining to women, expressed in the Bill of Rights and further developed in the Declaration on the Elimination of Discrimination against Women of 1967. In a report from 1973, the Commission on the Status of Women had stated that earlier conventions on issues pertaining specifically to women’s status were inadequate.² The UN Conference on Women in Mexico City in 1975, and the Women’s Decade 1975–1985 declared by the UN, have been identified as especially important in the development of the Women’s Convention.³

The content of the Women’s Convention will not be discussed in detail here,⁴ but a few notes are appropriate.⁵ In the preamble references are made to the principle of non-discrimination without distinction in earlier human rights documents and to the principle that ‘all human beings are born free and equal in dignity and rights’. Furthermore it is stated that states that have ratified the two Covenants of 1966 have an obligation to ensure equal rights for men and women in the social, economic, cultural, civil and political fields.⁶

³ For information on the conferences during the Women’s Decade, the results of these conferences and the role of NGOs, journalists and scholars, see Harrison 1989. See also Friedman 1995:23–25.
⁴ For thorough presentations of the articles of the Women’s Convention, see Burrows 1985; Cook 1990.
⁵ The documents used the following discussion are all available from www.unhcr.ch/html/intlinst.htm.
⁶ Equal rights for men and women are mentioned in the preamble to the UDHR as an article of ‘faith’, and ‘sex’ is presented in article 2 as a non-valid ground for ‘distinction of any kind’ within the field of human rights. The enforcement of non-discrimination is presented in article 2 of both Covenants as an obligation of the states parties. The equal rights of men and women before the law are further stressed in article 26 of the ICCPR. ‘Men and women’ are distinguished from one another in the UDHR only in the first paragraph of article 16 concerning the right to marry and found a family. The second paragraph of article 23 in the ICCPR offers a parallel case.
In the preamble difference between ideal and practice is stated in the observation that in spite of international human rights instruments, ‘extensive discrimination against women continues to exist’. ‘Discrimination’ is defined in the first article of as:

any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

States that are parties to the Women’s Convention condemn discrimination and agree in articles 2 and 3 to initiate reforms for the realisation of the primary objectives of the convention, not only in state controlled institutions and in legal texts, but de facto as well, using ‘all appropriate means’. State responsibility includes to take ‘all appropriate measures to eliminate discrimination against women by any person, organization or enterprise’ (2e) and to take ‘all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women’ (2f). Governments are also called upon to take ‘all appropriate measures’:

to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles for men and women. [5a]

The Women’s Convention is a treaty between states, and the primary actor in the elimination of discrimination is identified as the sovereign state. The state is identified as a potential violator of women’s human rights, but at the same time as the protector of these rights and the principal director of necessary reforms. An underlying premise here is that the state has the ability to take ‘legislative and other measures’ to eradicate discrimination against women as defined in article 1.8

7 However, affirmative action in order to further de facto equality is presented as an acceptable temporary deviation from the principle of equality in article 4.

8 For judgement on the Women’s Convention as demanding progressive positive action from states parties, as well as identifying the state as a potential violator of women’s human rights, see Cook 1990:647–648.
The impact of feminist criticism

The impact of feminist criticism of human rights in general is evident in the Women’s Convention. Legal studies scholar Ewa Brems presents as a general feature of such criticism the view that ‘universal human rights’ is mainly a concept produced by men. As such it overlooks issues of specific importance to women. She identifies three types of criticism. From the viewpoint of ‘liberal feminists’ the existing human rights provisions suffice. They just have to be implemented in practice. ‘Cultural feminists’ stress the importance of difference between men and women rather than equality, a difference that has to be taken into account in a necessary reformation of human rights provisions, including the formulation of new rights specific to women. ‘Cultural feminists’ share with a third type, ‘radical feminists’, the basic criticism of a dichotomy between the ‘public’ and the ‘private’ that they view as a basic characteristic of the prevailing discussion on human rights. The basic notion is that traditional human rights mainly concern the relationship between the individual (male) citizen and the state in the public sphere. Oppression of women, on the other hand, largely takes place in sectors of civil society left out as a result of this, for example in the family, the local community and non-governmental associations and institutions. The slogan ‘the personal is political’ in feminist theory and activism challenges the dichotomization of ‘public’ and ‘private’ and suggests that power relations within the family, as well as gender stereotypes, are basic determining features in the production and the reproduction of a wider, hierarchical societal structure. The dichotomy of ‘public’ and ‘private’ is in itself gendered, and hierarchically structured. It forms a part of a patriarchal ideology that legitimises the general subordination of women. The issue of violence against women has been especially noted in this context. Critics have claimed, for example, that international law on human rights has been blind to the kind of violation of women’s human rights that takes the form of different types of gender-specific violence. In this category have, for example, domestic violence, rape (inside or outside marriage) and female genital mutilation, been included. It has been stated that certain human rights violations, for example slavery and torture, have been interpreted too narrowly because of a male bias. Equivalent violations affecting primarily women, i.e. forced marriage, forced prostitution and genital

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9 See Brems 1997:137–141.
10 For discussions on the distinction between public and private in relation to women’s human rights, see Binion 1995:515–520; Bunch 1995:13–15; Charlesworth 1994:63–71; Charlesworth & Chinkin 1993:69–74; Coomaraswamy 1994:47, 56; Romany 1994:92–96; Sullivan 1995:126–129. For a critique of the call for ‘equality’ and ‘non-discrimination’ as insufficient because of lack of consideration for the special attention and affirmative action needed to realise women’s human rights, see Kaufman & Lindquist 1995, which also contains a positive evaluation of the Women’s Convention from this perspective. For a discussion on the twin issues of ‘freedom from discrimination’ and ‘rights specific to women’ in the convention, see Burrows 1986:82–86.
mutilation, have traditionally not been identified as human rights violations.\textsuperscript{12} Although there has been general criticism levelled by feminist scholars and activists against human rights, this has not, according to Brems, amounted to a rejection of the concept as such. The general aim is rather ‘the inclusion of women in the human rights system’.\textsuperscript{13}

One of the more telling examples of the influence of feminist criticism on the Women’s Convention is the formulation ‘or any other field’ at the end of the definition of what constitutes discrimination against women. According to legal studies scholar Rebecca J. Cook, the definition used was modelled upon the definition of discrimination used in the Convention on the Elimination of All Forms of Racial Discrimination (1965).\textsuperscript{14} The latter ends with the formulation ‘in any other field of public life [my emphasis]’. The phrase ‘of public life’ is omitted in the Women’s Convention.

The provision concerning state responsibilities in relation to marriage and family relations are in article 16 more detailed than parallel provisions in ICCPR and ICESCR. In articles 11f and 12 the state is obliged to take measures ensuring equal rights to both family planning, and gender-specific protection in relation to women’s role in reproduction. Women’s role in ‘procreation’, and ‘the social significance’ of maternity are mentioned in the preamble of the Women’s Convention, together with the statement that this role ‘should not be a basis for discrimination’. This points to a separation between biological sex and socially and culturally constructed gender. The specific addressing of gender stereotypes in article 5 quoted above is particularly important, since it implies that gender roles are socially constructed and may contribute to the subordination of women.

Some commentators on the Women’s Convention have identified it as signalling a radical historical change in its attention to discrimination in the private sphere. Radhika Coomaraswamy, UN’s Special Rapporteur on Violence against Women since 1994, presents the convention as a part of a process that will eventually change the conception of human rights profoundly. She speaks of women’s human rights as a ‘fourth generation’ of rights, after the first (political

\textsuperscript{12} See, for instance, Okin 1998:2. That this criticism has gained influence can be noted in the Declaration on the Elimination of Violence against Women adopted by the UN General Assembly in December 1993. In this the above categories of violence pertaining especially to women are explicitly stressed in article 2. Here other potential violators of women’s human rights besides the state are mentioned. For a short discussion on this declaration and what it implies concerning state responsibility for violations of women’s human rights in the context of violence against women, see Sullivan 1995:131–132.

\textsuperscript{13} Brems 1997:141

\textsuperscript{14} Cook 1990:666–667. For a statement on the connection between the two conventions, see Burrows 1986:94.
and civil), second (economic and social) and third (collective/group) generations of rights.¹⁵

Two aspects of women’s human rights can be extracted from this discussion. On the one hand there is the negative right (freedom from discrimination), on the other hand there is the positive right to special attention on the basis of difference. On the ideological level the Women’s Convention, in the preamble, refers to the particular view of human beings mentioned as an article of ‘faith’ in the preambles to the UDHR and to the UN Charter of 1945. Every human person has an inherent ‘dignity and worth’. The principle of equality without distinction is stressed similarly in article 1 of the UDHR and in the preamble to the Women’s Convention as ‘all human beings are born free and equal in dignity and rights’, and that gender-based discrimination therefore is not permissible.

This is a normative statement of principle, going from facts to values, without regard to and above considerations of the ontological status of human rights on the formal and factual levels. The stress on states’ responsibilities concerning women’s human rights de jure as well as de facto, addresses the issue of women’s human rights on both the formal and the factual levels. It has often been noted, relating to the factual level, that there is a lack of institutions and machinery to make this aspiration a reality. Suggestions have been put forward on how to make states parties to the convention responsible for violations of women’s human rights in the private sphere, based on ideas of state complicity.¹⁶ The UN General Assembly adopted an Optional Protocol to the Women’s Convention on 10 December 1999. Upon ratification the protocol makes it possible for individuals and groups of individuals to file complaints to the UN against a state party to the Women’s Convention and to the Optional Protocol for violating women’s human rights. Earlier, only complaints from other states were allowed.¹⁷ An Optional Protocol has been an old demand from NGOs.¹⁸

One part of the strategy to facilitate implementation of the Women’s Convention on the factual level is presented in the convention itself. Part V concerns the establishment of a committee, The Committee on the Elimination of Discrimination against Women (CEDAW)¹⁹, with the role of supervising to ensure that states are taking appropriate measures to implement the objectives of the convention. Parties to the Women’s Convention should regularly, at least every

¹⁹ The acronym CEDAW is sometimes used for the committee and sometimes for the Women’s Convention. I use CEDAW for the committee and Women’s Convention for the convention (cf. Stamatopoulou 1995:38).
four years, report to the committee on measures taken. This aspiration has not been fulfilled generally. The committee is to collect these reports, and question states representatives, asking for clarifications and elaboration. Using the states’ reports as a basis, the committee is to prepare General Recommendations to be presented to the UN General Assembly, and Guidelines to the states parties on specific issues relating to the Women’s Convention. The states’ reports are (formally) the only source of information for CEDAW.20

Women’s Human Rights and Islam as a Problem

Specific problems concerning women’s human rights in relation to Muslim countries, with connections to interpretations of Islam, are noted in the international debate. These can be divided into two main categories relating to either the formal or the factual levels of the heuristic model. On the formal level a conflict is noted between domestic laws, especially pertaining to the area of family law, and the demands of women’s human rights. Exclusiveness in men’s rights to polygamy, unequal rights as regards marriage and divorce procedures, distinctions between men and women in relation to inter-religious marriages and legislation on marital obedience for women are examples of issues discussed in this context. Women’s legally determined lesser share of inheritance is also often noted. Laws on public veiling, segregation of men and women in public places and restrictions on political participation for women are deemed problematic in some cases. Absence of, or deficiencies in, legislation concerning, for example, child marriage, female genital mutilation, wife battering, intra-marital rape and ‘crimes of honour’ are also noted.21

In most Muslim countries the rules of family law that apply to an individual are determined by his or her formal religious affiliation. Religious communities are entitled to separate legal systems in this area derived from their respective religious traditions. Law is here personal and not territorial. The states’ legisla-

20 For descriptions of CEDAW and its activities, see Byrnes 1989; Tomasevski 1993:120–124. See also Stamatopoulou 1995:40–45 for the role of other UN institutions in relation to women’s human rights.
21 See Hjärpe 1988:28; Mayer 1995a:95–96; Mayer 1995c:177. For a thorough presentation of problematic issues, see Aldeeb Abu-Sahlieh 1994:42–57, 73–86, 159–213. For an ambitious project to map the situation regarding family law around the world, see www.emory.edu.ifl. The Internet-site provides country-specific information on family law concerning both content and administration. For overviews pertaining specifically to contemporary Arab countries, see Nasir 1990a; Nasir 1990b, and to South Asia (and Britain), see Pearl & Menski 1998. See also the collection of articles in Mallat & Connors (eds) 1990. For a classical presentation of Islamic law regarding the family and inheritance see Schacht 1982:161–174. A work often referred to in this connection is Esposito 1982 (a new edition is to be published in 2001). For detailed case studies that question a one-to-one relationship between existing formulations of family law and their practical and pragmatic application in courts in Iran and Morocco, see Mir-Hosseini 1993. For reforms in family law especially in the 20th century, see Esposito 1982:49–101. For modern law reform in Muslim countries in general, see Anderson 1976. Note here also that I am not suggesting that inequality before the law are peculiar to Muslim countries. For a comparative presentation in relation to women’s human rights, see Mertus 1995.
tive power is thus limited and religion becomes more than an issue of individual conscience. The latter is, however, a premise concerning the function of religion underlying international human rights schemes.\textsuperscript{22}

The relationship between state legislation and religious jurisprudence, *fiqh*, and the forms for administration of Muslim family law differ in different Muslim countries. There is generally, however, a basic connection made between what is perceived as divine revelation and the regulations to be adhered to in matters relating to, for example, marriage and divorce. International human rights – as formulated in UN declarations and conventions – are based on the premise of secular state legislation. ‘Law’ in the sense used in this context can be amended or abolished by human beings. ‘Law’ in the context of family law in most Muslim countries, on the other hand, has a connection with the notion of a divine will, eternal and unchangeable. God has once and for all decided upon the ‘divine law’, the *shari‘a*. The role of human beings is not to construct that law, but to discover and apply it. By its very nature it is superior to secular legislation. Information on the content of the *shari‘a* is ultimately to be gained from normative religious sources through specific techniques of interpretation.\textsuperscript{23} Legal dualism in the majority of Muslim countries, with one secular law applying to public life, and a family law related to interpretations of the religious sources is often presented as a rather modern phenomenon in Muslim countries. As a result of successive reforms from the 18\textsuperscript{th} century onwards, the function of religious laws was circumscribed, in the end restricting it mainly to family law.\textsuperscript{24} It should be noted that legal differentiation between men and women is problematic not only in relation to international human rights, but in some cases also in relation to constitutional provisions concerning equality between citizens, regardless of gender.\textsuperscript{25}

The issue of implementation of human rights norms, i.e. human rights on the factual level, involves both the will and the ability of states to change a current

\begin{footnotes}
\item[22] For this issue of difference in premises, see Hjärpe 1996a:56. The exception here is Turkey, where Swiss family law was introduced in 1926 as part of a state policy of secularism.
\item[23] For a discussion on the problem of the premises in the human rights schemes in relation to principles of traditional Islamic law, see Hjärpe 1996a:56–57, 59–60. A distinction between four (ideal-typical) ways of arranging the relations between *fiqh* and state laws can be found in Hjärpe 1996a:61–63. These range from a totally secular system of state legislation (for example in Turkey) to cases where one of the five *madhâhib* functions the judicial system of the state. For classical studies on Islamic law, see Coulson 1978; Schacht 1982. For a collection of classical academic articles on the topic, see Edge (ed.) 1993, which also contains an informative introductory chapter.
\item[24] See Anderson 1976:1–2; Esposito 1982:x; Mir-Hosseini 1993:12; Dahl 1997:61–62. For a short discussion on the historical question of the relationship between state power and religiously motivated legal pluralism, see Arjomand 1996. Here the view of a dual judicial system as specifically a modern phenomenon is questioned. This done with reference to the distinction between the *qanûn* (the temporal public law of the ruler/state) and the *shari‘a* in medieval and early modern Muslim societies (Arjomand 1996:331, 334).
\end{footnotes}
situation. An underlying assumption in the human rights schemes is that of state power. Islamologist Jan Hjärpe notes problems with this assumption in the context of Muslim states and here applies a distinction between ‘weak’ and ‘strong’ societies. The human rights schemes implicitly assumes a ‘strong’ society, with extensive state powers based on popular support, while the societies in most Muslim countries are ‘weak’. Loyalty towards the state is secondary to other loyalties. Thus, even when existing legislation is in line with international standards on women’s human rights, there may be a lack of political ability and will to implement this legislation.

Areas not connected with legal discrimination have also been identified as problematic in relation to women’s human rights. This involves, for example, social restrictions on women’s movement and social coercion concerning veiling as well popular attitudes and manners relating, for example, to sexuality, women’s work, reproduction, contraception and women’s education. Such areas become important given the feminist criticism of the distinction between the public and the private spheres in human rights law, and the demands of articles 2 and 5 of the Women’s Convention.

The Problem of Non-Ratification and Reservations

The considerations above regarding legal dualism and the issues of will and ability and of lacking state power are important in relation to reservations to the Women’s Convention made by Muslim states. The information provided below was last updated in 27 September 2000, but changes may have occurred since then. As of that date 166 out of a total of 188 member-states of the UN had ratified or acceded to the Women’s Convention. Eight states with a Muslim majority population are not yet parties. Apart from Yemen, Kuwait and Saudi Arabia (that became a party to the convention on September 7 2000), the UN

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27 For a heated discussion regarding this issue in the context of a ‘multicultural’ society, and a possible conflict between principles of freedom of religion and rights of minorities, see articles in Cohen, Howard & Nussbaum (eds) 1999.

28 Reservations in general to the Women’s Convention are presented and discussed in Cook 1990. See also Tomasevski 1993:116–120 for general remarks. See also Division for the Advancement of Women 1994 for a presentation from within the UN system.

29 All quotations and information on reservations and state objections are taken from a downloaded copy from the UN Internet-site untreaty.un.org:80/EENGLISH/bible/englishinternetbible/partII/chapterIV/treaty9.asp.
member states of the Arabian Peninsula have not joined, neither have Sudan, Brunei, Iran, Syria or Somalia.\footnote{In the case of Somalia it is at the time of writing difficult to see what could function as the equivalent of a state in relation to the UN. Similarly, although Afghanistan signed the Women’s Convention in 1980 the subsequent political development has not favoured ratification.}

Among Muslim states that have ratified the Women’s Convention, the majority have made reservations to specific articles or to the convention as a whole. Some of these reservations are interesting in relation to the contemporary debate on women’s human rights and Islam. Reservations to the whole or parts of article 16 have been made by, for example, Egypt, Iraq, the Maldives, Libya and Morocco who have all made explicit references to the shari‘a in this respect. Tunisia and Algeria have referred to the existing personal status codes, and Jordan, Lebanon and Kuwait have not provided any motive in their reservations to the article. Reservations have been made to the whole or parts of article 2 regarding the obligations of the state to implement the convention. Egypt and Morocco, for example, have made general reservations with reference to the shari‘a. In the Moroccan case there is an additional reference to the ‘Code of Personal Status’.

Reservations have also been made to article 7 regarding women’s public rights. In Kuwait’s case this is related to the fact that women are not allowed to vote. Malaysia’s reservation to 7b, regarding women’s rights to equal access to public office, is made with reference to the constitution and to the shari‘a. This was specified in 1998 as relating to the offices of ‘the Mufti, Syariah Court Judges, and the Imam’. Some states where Muslims form a large minority have made reservations against some of the above mentioned articles on the grounds of legal pluralism in family law.\footnote{This is the case with Israel, Singapore and India in reservations to article 16 and in the case of Singapore also in its reservations to article 2.} Finally, there are general reservations to the convention as a whole made by Pakistan (with reference to ‘the Constitution of the Islamic Republic of Pakistan), Libya (with reference to ‘the laws on personal status derived from the Islamic Shariah’), Malaysia (with reference to ‘the Islamic Sharia[=sic!] law’), the Maldives (with reference to ‘the Islamic Sharia’) and Saudi Arabia (with reference to ‘the norms of islamic[=sic!] law’).

Judging from these reservations the problem of the Women’s Convention from the viewpoint of Muslim states parties lies not in the fields of women’s political participation or employment in the public sphere – with the exception of Kuwait and Malaysia. The main obstacles relate to the private sphere, for example concerning marriage and its dissolution. This is noteworthy, given the feminist criticism of human rights and the influence of this criticism on the
Women’s Convention. Article 16 has been judged by commentators as constituting the very core of the convention, together with article 2.\(^{32}\)

While the references to the *shari‘a* or domestic family law in the reservations in most cases stand alone without any lengthy elaboration, some of the Muslim states’ representatives have obviously judged that there is need for further explanation in relation to the UN. Egypt makes the following statement in relation to article 16:

Reservation to the text of article 16 concerning the equality of men and women in all matters relating to marriage and family relations during the marriage and upon its dissolution, without prejudice to the Islamic Sharia’s provision whereby women are accorded rights equivalent to those of their spouses so as to ensure a just balance between them. This is out of respect for the sacrosanct nature of the firm religious beliefs which govern marital relations in Egypt and which may not be called in question and in view of the fact that one of the most important bases of these relations is an equivalency of rights and duties so as to ensure complementary [sic!] which guarantees true equality between the spouses. The provisions of the Sharia lay down that the husband shall pay bridal money to the wife and maintain her fully and shall also make a payment to her upon divorce, whereas the wife retains full rights over her property and is not obliged to spend anything on her keep. The Sharia therefore restricts the wife’s rights to divorce by making it contingent on a judge’s ruling, whereas no such restriction is laid down in the case of the husband.

In the case of Morocco a similar explanation is put forward. A potential conflict is noted between the provisions in the convention and provisions in the Moroccan family code, where the latter is rooted in ‘the Islamic Shariah, which strives, among its other objectives, to strike a balance between the spouses in order to preserve the coherence of family life’. Furthermore, Morocco states that the equality of the kind that is presented in article 16 is

considered incompatible with the Islamic Shariah, which guarantees to each of the spouses rights and responsibilities within a framework of equilibrium and complementary [sic!] in order to preserve the sacred bond of matrimony.

The provisions of the Islamic Shariah oblige the husband to provide a nuptial gift upon marriage and to support his family, while the wife is not re-

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quired by law to support the family.

Further, at dissolution of marriage, the husband is obliged to pay maintenance. In contrast, the wife enjoys complete freedom of disposition of her property during the marriage and upon its dissolution without supervision by the husband, the husband having no jurisdiction over his wife’s property.

For these reasons, the Islamic Shariah confers the right of divorce on a woman only by decision of a Shariah judge.

Iraq makes the following remark:

The reservation to the last-mentioned article [16] shall be without prejudice to the provisions of the Islamic Shariah according women rights equivalent to the rights of their spouses so as to ensure a just balance between them.

Legal studies scholar Jane Connors notes that already in the preparatory stages of the Women’s Convention there were attempts at re-formulation of the draft by representatives from Muslim states:

The representative of Morocco argued that the role of men and women ‘were not traditional’ but had arisen in the deep consciousness of the human race’ [sic!] and to provide for equality of rights for men and women would affect the ‘psychic and moral balance of children’.33

This lengthy presentation of reservations, with quotations, is justified in relation to the aims of this dissertation because they provide insight into parts of the international debate on women’s human rights and Islam on the top level of international politics. They also provide insight into the interplay between statements on the formal and the ideological levels. The references to existing family law codes in the reservations appear to position the conflict on the formal level, as one between international human rights norms and domestic law, related to the structural feature of dual legal systems. The limitations this structural feature imposes on secular legislation is illustrated by the reservations to the article 2.34 The references to the sharī‘a in the reservations can, however, be interpreted as a statement of a conflict on the ideological level. The reason given for rejecting

33 Connors 1996:359
34 Questions related to the sources for state legislation and the implicit premises of secularism in the UDHR are discussed in Hjärpe 1988:28–31 and in Hjärpe 1996a:59–60.
women’s human rights on the formal level, through the invocation of the sharī‘a, is that the former are not valid on an ideological level, but stand in contradiction to eternal, unchangeable and superior religious demands.

The explanations provided by Egypt, Iraq and Morocco also exemplify that outright rejection of international norms is problematic for states representatives. Both Egypt and Morocco put forward an alternative definition of equality to the one in the convention. Both spouses – the wording suggests a monogamous heterosexual marriage – have rights and duties, different but complementary. The positive state of social ‘balance’ is provided for by adherence to the provisions of the sharī‘a, but not by adherence to the demands of article 16 of the convention. The use of the adjuster word ‘true’ in the case of Egypt, serves to stress the pre-eminence of the alternative definition of equality over other definitions, i.e. that of the Women’s Convention.35 The use of the words ‘balance’, ‘just balance’ and ‘equilibrium’ to describe the effects of legal distinctions between men and women in rights is noteworthy. It can be related to commonplace notions in the contemporary Islamic discourse on ‘balance’ (mīzān) in the ideal Islamic society devoid of civil conflict (fitna) and characterised by justice (‘adl, qist). To create such a society is often presented as a religious duty based on Qur’ānic injunctions. The ideal society is the result of the implementation of the will of God.36 The words mīzān and qist appear together in verse 57:25 in the Qur’ān. The implicit claim put forward in the explanations is that implementation of the provisions of article 16 would upset a social balance ordained by God.

The attempts at justification of rejections of women’s human rights on the formal level are thus based on an elaboration on the ideological level, with reference to a transcendental, and by definition superior, norm for gender-relations. In this process the term ‘equality’, which has a positive emotive charge, is not rejected as such, but is appropriated and redefined.

The rationalisations provided in the explanations by Morocco and Egypt are noteworthy. When in the Moroccan case reference is made to a function of the sharī‘a in preserving the ‘sacred bond of matrimony’, there is implicitly a wider understanding of marriage than that of a social contract, a usual understanding in the context of Islamic law. In both Morocco’s and Egypt’s cases the differences in rights in connection with the dissolution of marriage are presented as rational outcomes of the financial arrangements between husband and wife in accordance with the rulings of the sharī‘a. The common feature here is that references to the sharī‘a in themselves are evidently not deemed sufficient in relation to the UN. Differences need to be justified by other considerations as well. Ra-

35 There was an earlier formulation appended to the sentence ending with ‘true equality between spouses’ with the polemic wording ‘not quasi-equality that renders the marriage a burden on the wife’ (quoted in Connors 1996:359).

tionalisations are a bid for acceptance of the legitimacy of adhering to the divine will, on the grounds of reason.

Comments on reservations and explanations

How then do commentators approach this issue of reservations, and the explanations put forward by Egypt, Morocco and Iraq? A few examples can suffice here. In her comprehensive article on the reservations to the Women’s Convention, Rebecca Cook notes the similarity between the explanations provided by Egypt, Morocco and Iraq and a ‘separate but equal’ argument against racial equality in South Africa during the time of apartheid, and also in the pre-civil rights US. She does, however, pose a general question as to whether the Women’s Convention aims at equal rights or identical rights, and opts for the former. According to her, notions of ‘equivalent rights’ and ‘just balance’ are in principle compatible with the convention at large. Still, Cook sees a problem in relation to article 5 in that explanations reflect a form of stereotyping based on a patriarchal model of men’s and women’s roles in the family and in society. Her general conclusion is that: ‘reservations providing exemption from article 16 commitments require rigorous scrutiny to insure that they are not interpreted in a way that denies the effectiveness of the object and purpose of the treaty’.

Jane Connors reaches a similar conclusion. By limiting Islamic law to the contents of the Qur’an and the hadith-literature she concludes that in relation to the family law in the majority of Muslim countries, the sharī‘a indeed contradicts the Women’s Convention. The reservations to article 16 are thus legitimate. She, however, expresses support for ‘those scholars who are seeking to discern norms of non-discrimination and equality in the Holy Qur’an, the Sunna and the early commentaries and challenge the traditional view that Islamic law is incapable of evolution’. Both these scholars within the field of international law thus accept the reservations as legitimate in principle, and as such concede the notion that the considerations on the ideological level justify the rejection on the formal level of women’s human rights. In contrast, Ann Mayer voices radical criticism. According to her, Cook is gullible. Egypt’s explanation for its reservations is nothing more than a presentation of an ideal that does not correspond with reality. The purpose is, in a hypocritical manner, to appear to accept the goals of the convention, but not the means to achieve these goals. The motive behind the explanations by Egypt and Morocco, in Mayer’s view, is a wish to continue to discriminate against women. They are ‘rhetorical strategies’ employed by state actors in order to justify deviation from international norms in practice, while at the same time appearing to accept women’s equality in principle. This holds true, according to her, both for the reservations by Muslim states,

the non-ratification of the Women’s Convention by the US and the comments from the Vatican (Holy See) on this issue.\textsuperscript{39}

The difference between these commentators partly concerns \textit{motives} behind reservations. Connors and Cooks apparently accept religious considerations as the prime motives, and also accept these as legitimate. Mayer on the other hand finds religious considerations to be secondary. I believe that Muslim states’ reservations to certain articles in Women’s Convention can also be understood in relation to a larger context of a public debate on women’s rights and Islam in the Muslim world. Partial secularisation – often connected with colonial history – and a perceived threat of general ‘Westernisation’ have led to a strong public association of religious and cultural ‘authenticity’ with family law in many Muslim countries. Among those who perceive themselves to be defenders of ‘authenticity’ there has been a strong resistance to reforms in this area. Such reform has at times been presented as an attack on Islam as such by its critics.\textsuperscript{40}

Legal change in the direction of gender equality and enhanced opportunities for women in public life have in this context been resisted as an import from ‘the West’, and as illegitimate innovations, \textit{bida’}, a word with strong negative religious connotations. The symbolic role of family law is evident not least in ‘Islamist’ activism. The term ‘Islamism’ is here used to denote a form of religious activism directed at transforming society in line with a perceived religious ideal that can be derived from the religious sources. This activism often includes political activism, violent or non-violent, with the object of pursuing the goals of ‘Islamisation’ from within the state apparatus. A common notion concerns the ideal \textit{function} of religion as an all-encompassing ‘way of life’, a social order (\textit{nizām}). The implementation of this social order is presented as a religious duty for believing Muslims. In this activism the notion of the \textit{shari‘a} as an objective reality, independent of human beings, plays an important part. The legal system applied in a ‘truly Islamic’ society should be this eternal and divine law.\textsuperscript{41}

It can be noted that 1979 was the year not only of the Women’s Convention, but also or the Iranian revolution. The impact of this successful revolution in the name of Islam, in terms of inspiration for Islamist activism, both Sunnī and Shi‘ī, in other Muslim countries has been noted.\textsuperscript{42} The ‘Woman question’ plays an important part as a symbol here. In the quest for an ‘Islamic’ state, under the

\textsuperscript{39} See Mayer 1995b. For the reference to Cook 1990, see p. 110. For a general warning against the formal ratification of the Women’s Convention as a ‘smokescreen for domestic inactivity’, see Burrows 1986:93.


\textsuperscript{41} I here opt for the term ‘Islamism’ instead of ‘Fundamentalism’. I find ‘Fundamentalism’ to be a useful term for comparative studies on different religious traditions, but the object here is not comparison. There is an abundance of scholarly works on ‘Islamism’ (see, for example, Esposito 1993; Hjärpe 1983; Kepel 1985; Roy 1994; Sivan 1990). For an ambitious comparative standard work on ‘Fundamentalism’, see Marty & Appelby (eds) 1991–. For other comparative works, see Westerlund (ed.) 1996; Kepel 1994.

\textsuperscript{42} See articles in Esposito (ed.) 1990.
rule of the shari‘a the idealised ‘pure, Islamic woman’, veiled and honourable is
set in contrast with the ‘perverted Western woman’ in a perceived eternal di-
chotomy of good and evil.\textsuperscript{43} It should be noted, however, that women also par-
take in Islamist activism and challenge existing social norms on gender-relations
from the perspective of a perceived Islamic ideal.\textsuperscript{44}

The content of the Women’s Convention and the means, i.e. secular legis-
lation, identified in the convention to achieve its goals, is potentially problematic
in this light. The convention can be perceived, or rhetorically presented, as a
threat to Islam, posed by ‘Western’ cultural and political influence.\textsuperscript{45} The non-
ratification of the convention is a clear statement of ‘difference’ and non-
compliance with ‘culturally imperialist’ orders from ‘the West’. It is noteworthy
that neither Sudan nor Iran have signed the convention. A domestic Islamist
policy is pursued in both countries.

I do not imply that the state-reservations to the Women’s Convention in gen-
eral are a part of any Islamist state policy. But within the borders of most of
these states that have made reservations there is an active Islamist political op-
position. Conforming openly to the Women’s Convention would open the way
for criticism. Some observations made by Mayer can be interpreted in this light.
She notes in the case of Tunisia that, although the family code is progressive,
and although changes in this code were enacted in 1993, there is still an implicit
reference to Islam, by way of references to the constitution where Islam is pre-

\textsuperscript{43} For a discussion on this in relation to Iran and Algeria, see Moghadam 1993:141–144. For a more general
presentation, see Haddad & Smith 1996:138–139. Eickelman & Piscatori conclude that the family, family legis-
lation and the role of women have become politicised, and that ideas concerning these areas become important in
structuring the difference between the ‘self’ and the ‘other’. The personal becomes political and part of the pub-
dic discourse. The private sphere becomes ideologically important, and ideologically charged, when Islam goes
political (Eickelman & Piscatori 1996:89–90, 93).

\textsuperscript{44} For descriptions of Islamist women’s activism in Egypt, see Badran 1994:211–215; Karram 1998:206–232.
Both present the views of Islamist activist and political scientist Hıba Ra‘uf, who has also participated in interna-
tional human rights discussions, see Lawyers Committee for Human Rights 1997.

\textsuperscript{45} Two recent examples, taken from the Internet, can be used as an illustration. Both are directed at the UN Gen-
eral Assembly’s special session entitled ‘Women 2000: Gender Equality, Development and Peace for the Twenty
First Century’, and nicknamed ‘Beijing +5’. The US-based Muslim religious activist organisation Soundvision
published a text entitled ‘Beijing Plus Five: The United Nation’s Advance on Islam’ on their Internet-site. UN
formulations of women’s human rights are here deemed ‘anti-religious’ and ‘secularism-based’, opposed to ‘the
balance of a just, healthy, society’. Attacks are also levelled against the ‘scant importance given to what it [the
preparatory document for the session] terms as “traditional” responsibilities, such as motherhood and responsi-
bilities within the home.’ UN-documents on women’s human rights are said to contain ‘anti-Islamic dictates’ in
the context of gay rights and rights of women to their sexuality (Soundvision 2000a). Khalid Baig, editor of the
‘ezine’ (electronic magazine) Albalagh, expresses similar views in an article from April 25 2000. The session is
described as ‘a coup of gigantic proportions against morality, decency and the Shar‘iah [sic!]’. The preparatory
document, for example, ‘introduce[s] a new crime: marital rape’ and the agenda it contains is described as ‘anti-
morality, anti-family, anti-decency [and] anti-Islamic’. On the whole ‘it is hard to imagine a more diabolic, dev-

ilish and wicked program to destroy Muslim societies from within’ (Baig 2000). For another example of similar
criticism against the Beijing Platform for Action, expressed in a less bombastic way, see Kausar 1999.
sented as the state religion. In the case of Morocco, she notes changes in the mudawwana, made shortly after the ratification of the convention (with reservations). Mayer interprets these observations as another example of hypocrisy whereby:

The various national formulas of shari’a law obviously only constitute an obstacle to legal reforms for as long as the men in power choose to retain them as the law of the land. Whenever governments decide that changes are in order, shari’a rules give way to government-sponsored initiatives […]

There is a possible alternative interpretation, given the function of references to Islam in relation to state legitimacy. The function of the reservations can be seen not only as a hypocritical masking of a wish to discriminate against women. Reservations can be interpreted as a rhetorical strategy directed inwards at internal political opposition in order to safeguard the legitimacy of the state. This is especially important when this legitimacy is expressed from official quarters as being based on religion.

The general debate

The focus so far has been on state reservations and explanations for reservations in the context of the UN. Views expressed in the explanations are however to be found also in a more general public debate on women’s rights and Islam in the contemporary Islamic discourse. Also here the conceptualisation of ‘equality’ is important. The most common assertion made by activists participating in this

46 Mayer 1995b:114
47 Mayer 1995b:113
48 Mayer 1995b:115
49 It should be noted that Muslim states also use the existence of Islamist political activism rhetorically. In relation to the international community the ‘problem’ of Islamism may be used to excuse the lack of democratic political reform and respect for such human rights as freedom of speech and assembly.
50 I want to stress that what I discuss here is the public presentations by activists, with a strong apologetic touch.

I do not attempt to discern the views among the majority of Muslims in the world. The presentation that follows is based on long familiarisation with different presentations of women’s rights, duties and roles by Muslim religious activists in books, pamphlets, articles, speeches etc. For illustrative examples in English, see Badawi 1991; Bilal Philips & Jones 1985; Doi 1989; Khan 1997; Lemu & Heeren 1978; Nazlee 1996. For an important Shi’i contribution ‘on-line’, see Ayatullah Murtaza Mutahheri’s Woman and Her Rights available from www.al-islam.org/WomanRights. It contains many examples of biological and psychological rationalisations. For other ‘on-line’ material, see Jamal Badawi’s Gender Equity in Islam available from www.soundvision.com/gender, and Women in Islam and Muslim Society by the Islamist leader of Sudanese National Islamic Front, Hasan at-Turábi, available from www.soundvision.com/women/turabi.shtml. There are of course differences in this literature, but a common feature is the presentation of a difference in (eternal) roles and duties for men and women as part of ‘true’ Islam. For further discussions, see Stowasser 1993; Haddad & Smith 1996. For a critical (and personal) presentation and analysis of different positions in the contemporary Egyptian debate, see Karram 1998:176–232. For a thorough presentation of a ‘gender balance’-perspective of ‘equality with distinction’ in contemporary Iran, see Mir-Hosseini 2000:81–209.
public debate is that Islam, expressed basically in the normative sources, provides women with rights and duties that differ from the rights and duties of men. Often this assertion is backed up by an essentialist presentation of a gendered human nature, in biological or psychological terms. This notion of difference in social roles and functions is often coupled with, and not posed against, assertions of a ‘spiritual’ equality before God. Such assertions do not usually touch upon gender differences concerning ritual status and ritual obligations. The discussion on difference has in some cases been formalised into a distinction between ‘equality’ and ‘equity’. ‘Equity’ is here mostly separated from ‘equality’ by means of describing women as essentially different from men. This essentialist difference is further related to functional gender-differentiation whereby women are ideally given a role in family and society that is, as in the case of the explanations provided by Egypt and Morocco, presented as ‘complementary’, but not inferior, to that of men. Women’s primary and ‘natural’, but not necessary exclusive, role is connected to reproduction and nurture within the context of the family.

It is noteworthy that the distinction between ‘equity’ and ‘equality’ has been put forward also in the context of the UN-engineered discussions on women’s human rights. The distinction was discussed during the conferences in Cairo 1994 and in Beijing 1995, and in the preparatory meetings before these conferences. ‘Equality’ and ‘equity’ were used interchangeably at the UN conference in Cairo in 1994, but the two terms were separated at the conference in Beijing, and ‘equity’ was not used at all in the final text. The latter fact points to a realisation that the conceptualisation of ‘equity’ may have the purpose of justifying deviance from an international human rights norm of equality, by a call for international recognition of an alternative but equally valid concept.

The discussion of ‘equality vs. equity’ in relation to women’s human rights provides an example of appropriation of terminology similar to the one found in the presentation of ‘Islamic alternatives’ in the debate on human rights in general. Here there is an expressed notion of specific ‘Islamic’ human rights, inherent in the religious sources and thus ordained by God, and eternal, that differ from international norms. This phenomenon has been analysed in detail by Ann Mayer. The texts analysed in Islam and Human Rights range from efforts by individuals (for example the Pakistani Islamist ideologue Abū ʻl-A‘lā Mawdūdi’s [d.1979] pamphlet Human Rights in Islam) and organisations, to the 1979 constitution of Iran. Mayer shows that although alternative, ‘Islamic’ formulations of human rights may in form and terminology resemble the UDHR, they contain important qualifications in some respects compared to international human

51 For discussions on the distinction, see Karram 1998:6; Coomaraswamy 1997:22. For an example of the use of the distinction, see Anonymous 2000.
This is evident in the context of women’s rights. Deviations in this context are in all cases but one – that of the conservative, rejectionist position of Sultanhussein Tabandeh – hidden by obscure formulations, vague references to women’s rights in the sharī‘a, and omissions of ‘sex’ in the enumeration of human characteristics on the basis of which discrimination is not allowed. Mayer states that the different authors, or collective of authors, ‘go out of their way to avoid expressly stating that in Islam women are assigned inferior status and therefore not entitled to the same rights as men’.

What can be termed as an ‘appropriation with qualification’-position in relation to human rights is an example of the interplay between the ideological and the formal level of discussion. Through elaboration on ‘Islamic’ human rights on the ideological level on the basis of perceived divine revelation, international human rights standards in certain areas can be rejected on a formal level. At the same time, however, there is an appropriation of an emotionally charged terminology. This appropriation serves to enhance the image of ‘Islam’ by associating it with ‘human rights’. The very fact that several ‘Islamic’ alternatives are modelled on the UDHR is evidence of the actual token status the latter has gained internationally.

The Impact of Cultural Relativist Criticism

Both an ‘appropriation with qualification’-position and a position of rejection of human rights and women’s human rights with reference to ‘Islam’ in general, or the sharī‘a in particular, conflict with the statements of universality of human rights on the ideological level. The universality expressed in international human rights documents has come under extensive criticism that stresses the importance of ‘cultural differences’. ‘Cultural relativism’ is here taken to mean the view that there exists a plurality of moral and legal systems in the world, connected to the judgement that no yardstick exists by which it would be possible to measure the relative value of these systems. One conclusion drawn from this in the context of human rights – on the basis of their formal and ideological history

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54 For general view and quotation, see Mayer 1995a:97–98. For the analysis of the views on women’s rights expressed by Sultanhussein Tabandeh, Mawdūdi, in the Universal Islamic Declaration of Human Rights, the Iranian constitution, the al-Azhar Draft Constitution and the Cairo Declaration, see Mayer 1995a:98–112, 113–116. See also Dalacoura 1998:49–58 for further examples.
55 For such a judgement, see Hjärpe 1988:26.
56 For the history of the notion of cultural relativism, as well as for different versions of cultural relativism, see Renteln 1990:61–72.
– is that the human rights can be considered ‘a Western construct with limited applicability’.57

The cultural relativist criticism of human rights can be related to the heuristic model. On the ideological level it can, for example, entail a denial of the existence of any single anthropology or basic common ethical system as the basis for any ‘universal’ formulation of human rights. When invoked in relation to the formal or the factual levels, however, cultural relativist criticism does not concern the ontological status of human rights, but instead the legitimacy of existence or non-existence. For example, the imposition of human rights on the part of political power, or a political élite’s formal ratification of international conventions, can be deemed illegitimate on the grounds that it stands in contradiction to a local culture and the values of a general public.58 There is thus an important distinction to make between meta-ethical cultural relativism as a moral-philosophical or epistemological stance relating to the ideological level, and normative cultural relativism based on considerations on the ideological level, but directed at the two other levels. When cultural relativism is used to criticise human rights on the formal or factual levels it is a matter of normative cultural relativism. Implicit here is the claim that people in different cultural settings should live according to different norms, and have different rights. This conclusion is not a logical consequence of the acceptance of cultural or moral differences, or the denial of value objectivism.59 Normative cultural relativism may also include one view – on the ideological level – of what should constitute ‘human rights’: rights are, and should be, relative to the cultural context. That the cultural relativist criticism has had an influence on the discussion on human rights can be seen both from the attempts to refute it,60 and from the often-stated need for taking claims to ‘the rights to difference’ seriously.61

The cultural relativist criticism of human rights in a Muslim context is as old as the UDHR itself. For example, the objections from the Saudi Arabian repre-

58 See Renteln 1990:9–10, 32, 38.
59 The distinction between normative and meta-ethical relativism rests upon Tesón 1985:886–888. A similar distinction can be found in Renteln 1990:71–72. Anthropologist Alison Dundes Renteln is careful to state that she does not make normative statements on the basis of cultural difference. Rather she claims that we all are ethnocentric in our value-judgements and that this is unavoidable. The point is to be conscious about one’s own ethnocentrism when criticising others (Renteln 1990:73–75). Human rights scholar Jack Donnelly differentiates between different degrees of relativism, radical, strong and weak (Donnelly 1984:401–410; Donnelly 1993:36).
60 For the moral-philosophical criticism of logical incoherence, see Tesón 1985:888–894. Regarding the moral accusation of nihilism and intellectual irresponsibility, see Renteln 1990:67. In the context of Muslim rejections of human rights, see also Dalacoura 1998:13–17; Mayer 1995a:8–18.
61 See Arzt 1996:400; Donnelly 1984:403. See Donnelly 1993:36–38 for an attempt to solve the problem by recourse to ‘weak relativism’, a form of limited normative cultural relativism focused on the interpretation of international human rights norms.
sentative to the UN in 1948 to the UDHR, and the abstention of Saudi Arabia in the final voting, have been highlighted as an example of an inherent ideological conflict of values.\textsuperscript{62} Normative cultural relativism has proved to be especially problematic when combined with anti-colonialist rhetoric, accusations of ‘Western’ cultural imperialism hypocrisy and ethnocentrism, appeals to the self-determination of nation-states and to the non-intervention principle in international law, and the notion of a hierarchy of different generations of human rights.\textsuperscript{63}

A number of Asian states adopted the ‘Bangkok Declaration’ at a regional preparatory meeting before the 1993 conference on human rights in Vienna. The view presented in this document was that the existing formulations of human rights in international documents were ethnocentric, since they were based on ideas originating in a ‘Western’ context. Therefore modifications of the existing human rights schemes were needed.\textsuperscript{64} Notions of specific ‘Islamic’ human rights were also put forward by Saudi Arabian and Iranian states representatives at the conference.\textsuperscript{65} The final declaration from the conference shows signs of ambivalence, affirming the universality of human rights, but at the same time acknowledging the significance of ‘national and regional particularities and various historical, cultural and religious backgrounds’.\textsuperscript{66}

Ewa Brems addresses a conflict between certain strands of feminist criticism and normative cultural relativism in the context of women’s human rights. She relates this to the rejection within the former of the dichotomy of the private and the public spheres. Local cultural practices have their basic stronghold within the context of the family, and calls for respect for cultural practices in the context of women’s human rights are a strengthening of the distinction between the public and the private. Brems exemplifies the problem with reference to ‘harmful cultural practices’ such as forced marriage, polygamy, veiling and – above all – female genital mutilation.\textsuperscript{67} According to her, the inclusion of feminist criticism in the discussion on human rights in international politics is parallel in time to a trend of excluding of cultural relativist criticism. This can be seen in

\begin{footnotesize}
\begin{enumerate}
\item See Lazreg 1979:34–35; Renteln 1990:30. For a discussion on the different views of the representatives of Saudi Arabia and Pakistan in this context, see Kelsay 1988:34–47.
\item See Pollis & Schwab 1979:9–11. For discussions on the hierarchy of rights, see Charlesworth 1994:71–75; Donnelly 1993:28, 35.
\item See Mayer 1995a:180–181.
\item Vienna Declaration and Programme of Action:§5. See also Kelsay & Twiss (eds) 1994:34; Steiner & Alston (eds) 1996:235.
\item Brems 1997:147–148. For a discussion on this problem in relation to ‘multiculturalism’ in the US, see Okin 1999.
\end{enumerate}
\end{footnotesize}
the development in the international discussion on human rights since the 1993 conference, where feminist lobbying abounded.\textsuperscript{68}

The stress on ‘the rights to difference’ and criticism of universalising tendencies were noted also in the Introduction as an important trend in post-structuralist feminist thought, criticising notions of a common agenda for the ‘women of the world’, and as a consequence also of the notion of women’s human rights. As is the case of normative cultural relativism, this type of feminist criticism can be used to challenge the legitimacy of women’s human rights on the formal and factual levels.\textsuperscript{69}

From a normative cultural relativist point of view the rejection of international human rights norms on the formal and factual levels with reference to Islam, the \textit{shari‘a} or Islamic law on the ideological level can be viewed as legitimate. Gender equality as expressed in international human rights schemes need not be accepted without qualification when there is an inherent ideological incompatibility.\textsuperscript{70} In this context it should, however, be noted that the ‘Islamic’ alternatives in the form of ‘equity’ and ‘Islamic’ human rights in themselves are implicit claims to universality. They refer to a certain divinely instituted norm for the relationship between human beings, and between humans and God that is presented as ‘real’ in a Platonic sense and thereby, by definition, universal. The constructions of counter-suggestions to international human rights schemes do not however necessarily mean that the proponents of such suggestions presuppose that the international community considers the Islamic sources or Islamic law to be normative in any absolute sense. Rather, it is an appeal to the ‘rights to difference’. In Mayer’s view, Muslim states parties to the Women’s Convention have been successful in this respect. According to her, ‘rhetorical strategies like Egypt’s [in its reservation to the Women’s Convention] do succeed in muddying the waters and confusing observers who are concerned to respect religious differences’.\textsuperscript{71}

**Rejections of the Religious Argument**

One article in the Women’s Convention makes reservations made by Muslim states problematic in relation to the convention itself. In article 28 it is stated that ‘a reservation incompatible with the object and purpose of the present Con-


\textsuperscript{70} For an example of this view, see Pollis & Schwab 1979:4.

\textsuperscript{71} Mayer 1995b:109–110
vention shall not be permitted’. The immediate issue is thus whether the reservations made by Muslim states regarding article 16 in particular should be seen in this way. Some scholars hold this view, and so do some states judging from their objections to the reservations.

The problem of reservations has been addressed several times by CEDAW, also at meetings with the states parties to the Women’s Convention, and at international UN conferences. The states representatives that have felt the finger is pointed at their country have accused the UN of cultural imperialism and cultural insensitivity. CEDAW has apparently not always been pleased with the degree of sensitivity employed by the UN General Assembly concerning the reservations to the Women’s Convention. In 1987 the committee proposed in a General Recommendation to the UN:

> to promote or undertake studies on the status of women under Islamic laws and customs and in particular on the status and equality of women in the family [...] taking into consideration the principle of El Ijtihad in Islam.  

This recommendation is interesting for several reasons. Merwat Tallawy, Egyptian ambassador to Japan, connects it with reports from three Muslim countries to CEDAW in 1987. Local practices problematic in relation to the Women’s Convention were defended in these reports through references to the *shari‘a*. A Muslim member of CEDAW criticised these references as misrepresentations of the religious tradition, and the experts of the commission stated the need for a reference guide. This was to be produced ‘in cooperation with a renowned religious Islamic authority, such as al-Azhar, and to be made available to CEDAW’s members, most of whom had no prior understanding of Islam’.  

This incident illustrates the complicated situation, where references to Islam and the *shari‘a* touch upon the sensitive issue of ‘respect for cultures’. The very fact that this was a recommendation to the General Assembly indicates the significance attributed to the expressed religious motive for non-compliance. The incident also shows how CEDAW representatives in 1987 apparently viewed the problem of reservations on the formal level as stemming from a conflict on the ideological level that had to be resolved. The reference to *ijtihād* is noteworthy. It implies that one way of resolving the dilemma is by recourse to interpretation within one of the conflicting ideological entities, that of Islam, producing a new

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72 See, for example, Peters & Wolper 1995:4; Mayer 1995c:178.
73 For examples from conferences, see Report of the Fourth World Conference on Women:§218, §230; Vienna Declaration and Programme of Action:II §5.
75 Quoted in Connors 1996:362.
understanding on the ideological level. CEDAW’s main task is to supervise the implementation of the Women’s Convention. In order to do that the committee asked not only for additional information, but also for a tool through which reservations against the convention could be rejected, avoiding the risk of being accused of ‘cultural imperialism’.

The reactions to CEDAW’s recommendation in 1987 were fierce from some Muslim states. The representatives of Egypt and Bangladesh objected to ‘cultural imperialism’. The Bangladesh representative warned against using the Women’s Convention for ‘attacks on Islam’. The criticism gained momentum and the recommendation was not accepted. However, CEDAW has continued to stress that it needs more information on Islam in order to combat reservations.\(^77\) The possibility of change in Islamic law through interpretation has also been stressed in the committee’s contacts with states representatives. In 1997, for example, when commenting on the country report of Morocco with regard to the reservation to article 2 in particular, the committee was ‘concerned that the combination of reservations to articles 2 and 15 leave no room for evolving concepts of Islamic law’. Furthermore, it ‘encouraged the Government to persevere in using ijtihad, which was the evolving interpretation of religious texts so as to give the necessary impetus to the improvement of the status of women and thus gradually change attitudes’.\(^78\)

Also in state objections to reservations there are examples of the issue being addressed on an ideological level. In Norway’s objection in 1990 to the reservation made by Libya it is concluded that:

A reservation by which a State Party limits its responsibilities under the Convention by invoking religious law (Shariah), which is subject to interpretation, modification, and selective application in different states adhering to Islamic principles, may create doubts about the commitments of the reserving state to the object and purpose of the Convention [my emphasis].

The Norwegian objection, as well as the recommendations and comments by CEDAW echo commonplace criticism of normative cultural relativism as involving a reification of cultures, making them static and uniform, whereas ‘in reality’ cultures are in constant change and are characterised by internal diver-

\(^{77}\) See Connors 1996:362–363. It should be noted that at the 1993 Vienna World Conference on Human Rights and in the final Vienna Declaration and Program of Action (§ 39) CEDAW is encouraged to seek solutions to the many reservations made to the Women’s Convention. In 1994, CEDAW gave Additional Guidelines for states who report on the status of the treaty. States were urged to periodically explain why their reservations are necessary, and whether the state has accepted other UN conventions without reservations. Furthermore states are urged to present plans to lessen the impact of specific reservations (see Connors 1996:363; Mayer 1995b:118).

Human rights scholars also have voiced this criticism against references to the shari‘a and Islam in general in rejections of women’s human rights. Ann Mayer is here one example. In her rejection of the reservations to the Women’s Convention she states that the notion of the immutable and unchangeable shari‘a is false, stressing that re-interpretations are constantly taking place. Underlying her criticism is a non-distinction of the results of fiqh and the shari‘a that is not self-evident in the contemporary Islamic discourse. The understanding of the shari‘a as the unchangeable will of God, and the results of fiqh as its (partial) manifestation in a particular setting also exists. In the latter understanding the shari‘a is immutable, while the results of fiqh are potentially faulty, given the intermediary human being acting as a faqīh, a jurisprudent. A distinction can thus be introduced here between when cases when the shari‘a is referred to as an existing corpus of laws and cases when it is referred to in an ideal sense. It is not evident which understanding is used in the reservations by Muslim states. Given this fact, and the fact that the words fiqh and shari‘a are often used interchangeably, Mayer’s non-differentiation is understandable. At the same time it is also clearly useful in criticising reservations.

In Norway’s objection, in CEDAW’s comments on Morocco’s state report and in Mayer’s criticism of reservations, there are thus underlying notions of diversity and change; of the ‘many Islams’. As was noted in the Introduction, statements on Muslim religious diversity have become commonplace in the contemporary academic context and rest upon empirical observations both synchronically and diachronically. When the notion of the ‘many Islams’ is used to criticise reservations against the Women’s Convention and rejections of women’s human rights on the formal level, however, it becomes a political statement on the ideological level regarding the legitimacy of these reservations and rejections. It is noteworthy that the function of religion as law per se is not explicitly questioned. Instead it is the content of that law that is relativised and as such is made possible to reject, in the face of possible accusations of disrespect for cultural and religious differences.

In the CEDAW comments on Morocco’s report there is an additional noteworthy feature. While religious law is perceived as possible to change through the process of state engineered ijtihād, such interpretation is also presented as possible to utilise in promoting acceptance among the general public of women’s human rights on a factual level. Both individuals and organisations have stated such a view in connection with women’s human rights activism.

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79 For the use of this argument in relation to women’s human rights, see, for instance, Mayer 1995c:180–182; Okin 1998:6; Rao 1995.
81 See Mir-Hosseini 1993:5. See also the distinction made in Roy 1994:38 between views on the shari‘a as a ‘corpus’ and as a ‘project’.
Religion in the Service of Women’s Human Rights

Referring generally to South Asia, Radhika Coomaraswamy presents the view that the two main barriers to the realisation of women’s human rights are resistance on an ideological level and the lack of machinery to implement these rights. She maintains that human rights in general, and women’s human rights in particular – since they relate particularly to the private sphere – cannot be considered merely a question of international relations and legislation. Radical changes in women’s lives can only take place when human rights are internalised on a grass-root level, and voluntarily accepted. Human rights must be ideologically legitimised in the local context. Thus, in her view, in order for human rights to be realised on the factual level, there is a need for justification on the ideological level.

Relating more specifically to a Muslim context, the international organisation Sisterhood is Global Institute (SIGI) – an NGO with consultative status with the United Nation Economic and Social Council since 1993 – has adopted a strategy that rests upon considerations similar to those of Coomaraswamy. In 1996 the organisation published a manual for the education of Muslim women on women’s human rights. Claiming Our Rights was written by Mahnaz Afkhami, minister for Women’s affairs in pre-revolution Iran and executive director of SIGI, and political scientist Haleh Vaziri. In a personal correspondence with Sonja Lichtenstein at SIGI, I was informed that:

the point of the manual is to convey and transmit principles of universal human rights – found in various international documents – in ways in which grassroots women can understand and/or utilize. The manual uses familiar indigenous cultural/religious material to convey these human rights principles.

A similar presentation is given in the introduction to the manual, and in an interview with Mahnaz Afkhami in The New York Times in 1996. The indige-

84 Unfortunately space does not permit me to give any lengthy introduction to this organisation here. Information about SIGI can be found on their home page on the Internet: www.feminist.com/sigi.htm. The publication Sisterhood is Global (Morgan [ed.] 1984) was the starting point for the organisation.
85 Afkhami & Vaziri 1996
86 E-mail correspondence 28 August 1997.
87 See Afkhami & Vaziri 1996:ii.
nous material to be used is specified as the Qur’ān, *ahādīth*, local proverbs and biographies of early Muslim ‘heroines’. Text excerpts from this material, relating to women ‘in both a positive and negative manner’, are included in appendices together with the Bill of Rights, the Women’s Convention, a list of women’s organisations in Muslim countries and a list of recommended reading.89 The manual has been tested in five Muslim countries, with women participants – both of Shi‘ī and Sunnī religious affiliation – selected consciously ‘to reflect a variety of educational, economic, and social backgrounds’.90 Translations are available in Arabic, Azeri, Bangla, Hindi, Malay, Persian, Russian, Urdu, and Uzbek.

The NGO Women Living Under Muslim Laws (WLUML) with headquarters in France was founded in 1986. It presents itself as ‘a network of women whose lives are shaped, conditioned or governed by laws, both written and unwritten, drawn from interpretations of the Koran, tied up with local traditions’. Its activities are described as both spreading information about Muslim women’s situation around the world and facilitating contact between progressive, feminist individuals or groups in Muslim countries or communities.91 In an article from 1997 one of the organisation’s spokespersons, Seema Kazi, (who is also a field co-ordinator for SIGI in India) states that research has shown ‘a tradition of male monopoly over religious (mis)interpretation in Muslim societies. Indeed, the question is no longer what Islam says or does not say but who has said what on behalf of Islam and for what purpose’.92 In describing WLUML’s project entitled ‘Women and Law’, Kazi stresses the importance of awareness of the fact of diversity in legal systems and practices in Muslim countries, against a false notion of homogeneity. WLUML has worked to further this awareness among Muslim women. There is no rejection of Islam as normative in the article. On the contrary, the project Women and Law is described as reclaiming ‘the centrality of women within the discourse on Islam and women’s rights’ that has been evident in history, and through its activities the WLUML ensures that women’s resistance – also evident from history – continues.93

On a regional level in North Africa the Collectif 95 Maghreb Egalité has drafted and published an alternative personal code that, according to the organisation, complies both with the *shari‘a* and with international human rights norms. It addresses issues such as divorce, polygamy and custody of children in

89 Afkhami & Vaziri 1996:xiii. For the appendices, see pp 67–148.
90 Afkhami & Vaziri 1996:x
91 WLUML 1992:2. See also Shaheed 1995:96 for a similar presentation.
92 Kazi 1997:142
93 Kazi 1997:143–146. Quotation on p. 145. For a presentation of the activities of WLUML in the context of religious interpretation, see Hélie-Lucas 1993:224–229. It should be noted that several NGOs have stressed the need for legal education of women worldwide in relation to human rights and the Women’s Convention (see Friedman 1995:24–25 that also mentions WLUML in this context).
a way that is in line with international norms, and at the same time backed up by interpretations of the religious sources.\textsuperscript{94} The organisation has had consultative status within the UN Economic and Social Council since 1997.

These are just three examples of NGO activity in the context of women’s human rights related to the situation in Muslim societies that put forward the possibility of utilising religious interpretation in activism.\textsuperscript{95} They are noteworthy examples, not only because two of them are integrated into the UN system, but also because they frequently occur as examples in academic literature on women’s human rights and Islam. Their expressed strategies and goals differ. In the case of SIGI the goal is to further acceptance of women’s human rights among Muslim women on a local, grass-root level by utilising the normative force of basic religious sources. The universality of human rights in general is not questioned, neither is their normative validity. WLUMUL focuses on creating awareness of an empirically discernible diversity in order to relativise Islamic law. In both cases the primary audience is presented as women in civil society. In the case of Collectif 95 there is a more direct orientation toward the state, and toward legislation. The common feature is the connection made between the discussion on human rights on the three different levels. Elaboration on the ideological level, involving interpretation of Islam, is considered important in order to promote women’s human rights on the formal and factual levels. By presenting a possibility to provide interpretations of Islam that are in line with international human rights, there is in the case of SIGI and Collectif 95 implicitly a rejection both of reservations by states and of statements on a non-resolvable conflict between the two. A certain understanding on the relationship between the content of the Islamic tradition and women’s human rights on the ideological level is of relevance for the discussion of women’s human rights on the formal and the factual levels.

A stress on a positive role for religion in promoting human rights in general is also evident in a larger international context. Examples can be found in some of the articles in the two-volume collection \textit{Religious Human Rights in a Global Perspective} (1996). In these there is a stress on the importance of taking the issue of religious beliefs seriously in the context of human rights. Theologian Martin E. Marty, for example, presents the heritage of the Enlightenment and of secularism in existing formulations of human rights as an obstacle in relation to claims to universality. It is also a problem in relation to the implementation of human rights in local contexts. The normative force of religious traditions in general must be taken into account and furthermore can be utilised to promote

\textsuperscript{94} For descriptions, see Afturd 2000[1999]; Simmons 2000:213–214; Ziai 1997:79–80. According to Ziai the name was changed to Collectif 2000 after the UN conference in Beijing, but the organisation is still registered as Collectif 95 with the ECOSOC.

\textsuperscript{95} For additional examples, see Simmons 2000:213–223.
acceptance of human rights. Legal studies scholar John Witte presents religion, and more specifically ‘theology’, as a necessary ally to human rights. The former can provide important legitimacy for the latter. This role of theology is further emphasised in an article by theologians Max Stackhouse and Stephen Healy. They maintain that only theology can provide a stable normative foundation for human rights, a foundation that cannot be established if human rights are viewed only in terms of international or domestic legislation.

Marty and Witte are mostly concerned with how religious material can be utilised in order to promote acceptance of human rights mainly on the factual level. They do not explicitly state that human rights as such are an inherent part of different religious traditions. Witte speaks of utilising religion, especially Islam, Judaism and Christianity and their legal and social systems and shared values in the contemporary debate on human rights. A similar approach is expressed, for example, in the publication Religion and Human Rights (1994) from the now finished independent Project on Religion and Human Rights based in New York. It is here stated that human rights might not be universal, in terms of being respected by everyone in all parts of the world, but that translation and integration into diverse cultural systems can universalise them, by making them a part of the moral psychology of individuals and communities. A dialogue across and within ‘cultures’ is proposed, with the objective of putting pressure on governments to conform to human rights standards. Conflicts of values should be examined and solutions should be sought, with the help of alternative interpretations of what is locally considered to be ‘authentic’. A ‘guide’ on how to utilise, for example, religious sources in the promotion of human rights is also presented.

The views presented here represent what can be termed an instrumentalist approach, corresponding to the approaches adopted by the NGOs and by Coomaraswamy noted above. Here the central notion is that religion can have a function in providing norms and structuring social action. This function is stable, but the actual content of a religious tradition may be changed in order to facilitate integration of human rights into the worldviews of individuals and groups in local contexts or into legal administration. For analytical purposes this instrumentalist approach can be separated from what can be termed an essentialist

96 See Marty 1996:1–2, 9, 15–16.
100 The project is described in the publication as an ‘independent initiative founded in 1993’. It received funding from several large foundations in the US.
102 See Kelsay & Twiss (eds) 1994:42–51.
103 See Kelsay & Twiss (eds) 1994:61–75.
approach to the issue of religion and human rights, presenting a notion of a specific content or essence within religious traditions that corresponds with international human rights schemes or underlying values in these.

Contemporary discussions on a ‘global ethic’ or ‘global ethics’ are not held exclusively in relation to human rights, but there is a connection. Theologian Hans Küng, at Tübingen University in Germany, presented a draft of such an ethic in 1993 at a meeting of the Parliament of the World’s Religions held in Chicago. Leonard Swidler, the editor of the Journal of Ecumenical Studies has presented another such draft. Both these suggestions contain references to the UDHR, express support for the norms contained therein and propose a ‘global ethic’ as a foundation for these norms. Swidler claims that the UDHR contains ‘middle ethical principles’, while his suggestion for a future global ethic aims at providing more basic principles. Similarly, Küng states that the main point of his suggestion for a global ethic is that it should function on a deeper, moral level in relation to human rights and thereby make real the rights stipulated in the UDHR. Küng’s basic postulation is that there exists an ethical core common to all religions, expressed in equivalents to ‘the golden rule’ of reciprocity. Four basic ethical requirements are furthermore presented as ‘ancient guidelines for human behaviour which are found in most of the religions of this world’: ‘non-violence/respect for life’; ‘solidarity and a just economic order’; ‘tolerance and a life in truthfulness’; ‘equal rights, and partnership between men and women’. Küng claims that his global ethic is not meant to be a new alternative religion, or a syncretistic mix of religions. The basic idea is to provide a minimal ethic, already shared by the religions of the world. Küng chooses to speak about the transcendental in general terms, but does not want faith in the transcendental to be necessary for acceptance of his suggestion.

Leonard Swidler frames his discussion on a global ethic with notions on the emergence of a global civilisation. This is a social change on a worldwide scale that affects the consciousness of human beings. We are becoming more and more aware of alternative cultural systems, and realise that our own truth is not exclusive. Given this global development, we as human beings are in need of a

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104 See Gerle 1995:15 where a connection is stated between the search for cross-cultural moral consensus in discussions on a global ethic, and the Project on Religion and Human Rights.

105 The two suggestions can be found on the Internet (Küng 1997a[1993]; Swidler 1997b[1995]). The former is also published in Küng & Kuschel (eds) 1993.

106 Swidler 1997a[1995]

107 Küng & Kuschel (eds) 1993:55. The view of the declaration as deepening and giving support to the UDHR is repeated in the formal document accepted in 1993. ‘Justice’ is not brought about by law, but by changing people, by internalisation of norms into people’s hearts. No global order is said to be possible without a global ethic (Küng 1997a[1993]).

108 Küng 1997a[1993]

109 Küng & Kuschel (eds) 1993:73

110 See Küng 1997b.
basic consensus on rights and wrongs, good and evil. This consensus is to be reached by ‘dialogue’ between scholars – religious and secular – in order to formulate a global ethic. A permanent global ethic research centre should be established. It should function as a consultative bureau for ethical problems. The authority of such a centre rests on the ‘collective wisdom and intellectual and spiritual insight’ of the involved scholars. The ‘golden rule’ of reciprocity also forms the core of Swidler’s suggestion for a global ethic. According to him, this rule is supported in diverse religious and secular traditions, providing an ethical minimum to be further expanded.\(^{111}\)

The essentialist approach to religion and human rights expressed here form the basis for claims to the existence – and thereby universality – of human rights on an ideological level. A ‘universal moral order’ or a ‘transcendental reality’, expressed differently in different religious traditions is to provide human rights with subjective validity. This resembles some versions of the notion of a ‘natural law’ inherent in human nature and shared by all human beings worldwide. The emphasis is here on the \textit{content} of religious traditions in which this law is expressed and from which it can be empirically discerned.\(^{112}\) It is important to note here the switch from \textit{empirical, descriptive} search for shared values, to a \textit{normative} demand that these values should be universally accepted.\(^{113}\)

On the other hand there is also a claim that one of the functions of religion in general is to provide secure and eternal moral guidance. It can be noted that an instrumentalist approach is present, but with the additional claim regarding the ontological status of human rights on the ideological level. The ‘common core’ thesis provides a basis for the notion of the universality of human rights, and is, as such, an implicit rejection of human rights as specifically ‘Western’ or ‘Christian’. Religions, in the sense of systems of belief, are in this discussion also provided with a necessary role in modern, global society. In this process the positive emotive charge of the expression ‘human rights’ is also transferred to the term ‘religion’. It can be noted that Schreiter specifically mentions Küng’s

\(^{111}\) See Swidler 1997a[1995].

\(^{112}\) The ideological notion of an existing ‘natural law’ (with or without foundations in a specific religious tradition) has also had an important impact on formulations of basic human rights, both in the UN context and in similar formulations that preceded it. For a short survey on how ‘natural law’ has been understood and criticised in history, see Castberg 1968.

\(^{113}\) Criticism of the view that human rights can be universalised in this way can be found in Donnelly 1982. Donnelly claims that there is a mix-up here between human rights and human dignity. The existence of ideas on human dignity in various religious traditions does not mean that human rights as we know them can be integrated into these traditions. See also Howard & Donnelly 1986. A search for ‘cross-cultural universals’ not directly connected to religion is proposed by Renteln. See the chapter entitled ‘A Cross-Cultural Approach to Validating International Human Rights’ in Renteln 1990:88–140. Renteln however concludes that a proposal for human rights reached in this way would vary considerably from the existing Bill of Rights.
suggestions for a global ethic as an example of a ‘global theological flow’ in the context of human rights and religious performance.\[^{114}\]

The discussion on a global ethic, as well as on ‘dialogue’ in connection with human rights has also been highlighted in the context of the UN. On a suggestion from Iran the UN General Assembly in 1998 adopted a resolution that made the year 2001 into the ‘United Nations Year of Dialogue among Civilizations’. In a comment by UNESCO, the identification of ‘shared values’ worldwide is clearly articulated as a goal of its activities in this context.\[^{115}\]

A different, but still essentialist, approach is evident in the book *Faith in Human Rights* (1991) by the Unitarian minister Robert Traer. The title is an allusion to the expression of ‘faith in human rights’ in the UDHR, but it is also, according to Traer, a statement on an empirical fact. According to him we today have a worldwide consensus, especially among leaders of religious communities and religious scholars, on the legitimacy of human rights.\[^{116}\] This is a global ‘faith in human rights’, transcending particularist articulations of religious traditions.\[^{117}\] It should not be confused with international law; it is more religious in character. It is based on ideas of human dignity and on a single unitary moral order in the universe.\[^{118}\] This assertion becomes problematic in relation to what has been discussed above on appropriations of the expression ‘human rights’. The existence of the expression of ‘human rights’ in discussions among religious scholars around the world does not imply that the meanings given to the expression are identical, or even similar.

Katerina Dalacoura makes a statement on the need for a unitary moral order and a ‘metaphysical’ basis for human rights through the revivification of the notion of a ‘natural law’. In opposition to Traer, she does not consider that there is any Muslim religious consensus on the legitimacy of human rights, and notes the ‘appropriation with qualification’-position. According to her, however, the accommodation-position in the debate on human rights and Islam can constitute the Muslim contribution to a necessary ‘metaphysical’ basis for human rights.\[^{119}\]

In conclusion, essentialist views may, but do not have to, accompany an instrumentalist approach. A ‘purely’ instrumentalist approach is conceivable, where a religious tradition and its normative sources are perceived as an important temporary ally in the promotion of human rights on the formal and factual levels, regardless of the objective validity of the religious tradition in ques-

\[^{114}\] Schreiter 1997:20  
\[^{115}\] UNESCO 2000  
\[^{116}\] Traer 1991:200  
\[^{117}\] Traer 1991:212  
\[^{118}\] Traer 1991:213, 216  
The instrumentalist approach when aimed at influencing people on a grass-root level – whether or not it rests on an essentialist basis – is however built upon certain assumptions. Firstly, there is the assumption that religion is one, if not the most, important determining factor for the social actions of individuals in their daily lives. Secondly, there is the assumption that at least some of the opposition to human rights is religiously motivated, and that a change in religious attitudes might change the way individuals perceive human rights.

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This short overview has provided some insight into the contemporary debate on women’s human rights and Islam. The issue of what constitutes ‘correct’ Islam in this context engages states, international governmental organisations, international NGOs and individuals. The debate is evidently integrated into broader discussions concerning the ideal social role and function of religion – not only Islam – in a globalising world. The heuristic tool proposed in the Introduction has proved useful. Those Muslim religious activists who reject human rights as normative within this debate make a strong connection between the ideological level on the one hand, and the formal and factual levels on the other. This, however, unites them with those who adopt an instrumentalist approach to the issue of women’s human rights and religion – with or without essentialist underpinnings – in order to promote the former. The chapter has also further highlighted the fact that terms and expressions such as ‘human rights’ and ‘equality’ have an emotive charge that makes them objects for appropriation and apologetic re-definition.

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120 See, for instance, the criticism levelled against the SIGI manual by Azizah al-Hibri in an interview with anthropologist Elizabeth Fernea. SIGI’s goals are presented in a pejorative way as ‘secular’, ‘adopting a religious discourse – including Qur’anic verses – as a tool to achieve secular goals’. Al-Hibri displays a negative attitude towards the use of religion ‘as a means’ in the context of women’s human rights (Fernea 1998:396).
2. Riffat Hassan

Riffat Hassan was born into an upper-class sayyid family in Lahore on July 29, 1943. She received what she herself terms as ‘a sound British education’.\(^1\) At the age of seventeen she left Pakistan for Great Britain and St. Mary’s College at the University of Durham. In 1968 she received a PhD in Arts. Her dissertation concerned the thought system of the Indian poet, philosopher and religious reformist Sir Muhammad Iqbal (d. 1938). She returned to Pakistan where she held a post as Assistant Professor at the University of Punjab between 1966–1967, and later on worked for the Pakistani authorities. Hassan left the country in 1972 and went to the US, where she also obtained citizenship. Her academic career in the US began in 1972 as a Visiting Lecturer at the Villanova University, Pennsylvania and continued with a similar post at the University of Pennsylvania 1973–1974. Between 1974–1976 she was a Visiting Assistant Professor at the Oklahoma State University. Since 1976 she has held her current position as Professor of Religious studies and Humanities at the University of Louisville, Kentucky, where she heads the university’s religious studies programme. Since 1976 she has also had other academic posts such as those of Visiting Lecturer/Research Associate at Harvard University 1986–1987 and Visiting Professor at Iliff School of Theology in Denver, Colorado in 1989. She has also been an Adjunct Professor at the Louisville Presbyterian Theological Seminary.

Fields of Activity

The philosophy, ideas and poetry of Muḥammad Iqbal, the ‘spiritual father’ of Pakistan, is a subject that has engaged Hassan academically also after her dissertation. She has, for example, written two books on these topics and contributed a chapter to the collection *Iqbal: Poet-Philosopher of Pakistan* (1971).\(^2\) In 1984 she was a consultant to the Iqbal Academy in Pakistan, and she is a member of the International Committee of Iqbal Scholars.\(^3\)

Hassan’s publications on the topics of Islam, human rights and women’s rights are all in the form of articles. These have appeared in general comparative works on human rights and religion and women and religion, where Hassan usually represents the ‘Islamic’ or ‘Muslim’ perspective.\(^4\) Articles by her on other topics have also been published in similar comparative contexts.\(^5\)

Hassan co-edited the volume *Women’s and Men’s Liberation* (1991) with philosophers Leonard Grob and Haim Gordon, and contributed a chapter to the volume *After Patriarchy* (1991). Both books are singled out by Rita Gross in

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\(^1\) Hassan 1991b:13
\(^2\) Hassan 1971
\(^3\) Hassan 1999c:50
\(^4\) See, for example, Hassan 1987a; Hassan 1990; Hassan 1991a; Hassan 1999b.
\(^5\) See, for example, Hassan 1987b; Hassan 1991c.
Feminism and Religion (1996) as the first anthologies of feminist interpretations of the world religions that were not only ‘information gathering exercises’, but also had an analytical orientation. Two more recent examples of her participation in activities of this kind are her articles in the edition Feminism and World Religions (1999) and in the volume Windows of Faith (2000). In the latter, two articles by Hassan are included. She has been a member of the International Advisory Board of The Journal of Feminist Studies in Religion since 1984.

Hassan is engaged in religious dialogue, particularly between representatives of the three ‘Abrahamic’ traditions, Judaism, Christianity and Islam. In this area she has worked with Leonard Swidler since 1979. Articles by Hassan have been published in two volumes edited by Swidler: Religious Liberty and Human Rights in Nations and Religions (1986) and Muslims in Dialogue (1992). The involvement in inter-religious dialogue is also evident from her participation in inter-faith conferences. Although there is a stress on the three ‘Abrahamic’ traditions, she has in at least one article considered the possibility of dialogue in relation to other religious traditions of the Indian subcontinent. Hassan is also involved in the discussions on a global ethic. Hans Küng mentions her participation in the drafting process of the 1993 ‘Declaration’. She herself mentions Küng as ‘one of the most eminent religious thinkers and scholars of our times’ and a person with whom she has worked in the context of inter-faith dialogue both in Tübingen, Germany, and in Pakistan.

On the issue of human rights articles by Hassan have been included in the publications Religious Human Rights in Global Perspective (1996) and Human Rights in China and Islam (1995). It should also be noted that several of Hassan’s articles on human rights and women’s rights have been published on the Internet. The publication Women’s Rights and Islam: From the I.C.P.D to Beijing (1995) consists of eight independent papers by Hassan, distributed before and at the NGO-conference in Beijing 1995. Most of the articles are presented as results of a project sponsored by the Ford Foundation. The title chosen indi-
icates the two UN conferences in 1994 and 1995 as important points of reference. Hassan actively participated in the NGO-conferences held in connection with both, by giving plenary speeches.\(^{15}\) On both occasions she acted as a representative for the NGO Religious Consultation on Population, Reproductive Health and Ethics (henceforth RCPRHE) where she became a member of the Board of Directors in 1995. She has also headed a project within the framework of the organisation, sponsored by the UN Population Fund, entitled ‘Muslim Women’s Empowerment and Self-Actualization. From I.C.P.D into the 21st Century’. Hassan’s contribution consisted of research carried out in India and Pakistan. The explicit aim was to develop resources in the form of ‘course materials, training materials and country-specific reports’ to be utilised in addressing the situation of Muslim women, primarily in India and Pakistan, and secondarily in other parts of Asia and in Africa.\(^{16}\) She is a member of the Women for Implementing the Beijing Platform for Action Group and Network at the University of Louisville.\(^{17}\)

Hassan is also engaged in NGO activities more specifically directed at the situation in Pakistan. For example, she founded – and now heads – The International Network for the Rights of the Female Victims of Violence in Pakistan (henceforth INRFVVP), where also Leonard Swidler is a member of the Board of Directors.\(^{18}\)

Hassan’s work has received attention also from activists in the field of women’s rights. Articles by her have been published by Women Living Under Muslim Laws mentioned in Chapter 1.\(^{19}\) Parts of Hassan’s work, together with parts of the works of Fatima Mernissi, were translated into Indonesian in 1996 and published as Setara di hadapan Allah (Equal before Allah).\(^{20}\) There is also a translation of a collection of articles into Arabic, published in Damascus in 1998, with the title al-Islam wa ḥuqūq an-nisā’ (Islam and Women’s Rights).

The public image provided by the information above is of Hassan as a successful Muslim academic primarily within a North American context. Religious dialogue and comparison are two important social contexts in which to place her welfare and the sustainability of the environment’. Loans and grants have so far amounted to a total of over $10 billion (Ford Foundation 2000). For more information, see www.fordfound.org.

15 For comments on her participation, see Anonymous 1994a:1; Boucher 1996:2.
17 Hassan 1999c:50
18 Hassan 1999c:51. According to information provided by the network it started after a BBC documentary on ‘honour killings’ in Pakistan, A Matter of Honour, had been aired in the US in February 1999. Riffat Hassan commented on the program on television, and afterwards received responses from viewers, which made her take the initiative to found the network (INRFVVP 1999).
19 See, for example, Hassan 1992. For statements on her participation in WLUML’s activities, see Hélie-Lucas 1993:218–219, 238–239 note 37.
20 Hassan 1999c:38
texts, contexts in which ‘religion’ is understood as a universal phenomenon in human interaction. Her interaction with international jet-set scholar-activists in the discussions on human rights and religion, and on a global ethic, forms another important social context. The expected audience of her texts is conversant in English, dialogue-oriented, and/or with an interest in human rights and women’s rights in the context of comparative religion. Those believing Muslims who do not accept her presentations of Islam can, of course, challenge the representative role that she is provided with in this context, which is a potential threat to her authority.

The academic image is coupled with that of the activist Riffat Hassan, engaged in human rights activism related to the UN system and oriented toward women’s situation in Muslim societies, mainly in South Asia and Pakistan. This enhances her image internationally. From a local context in North America, some of the texts are placed within the global flow of information, and again localised in Pakistan or Indonesia, for instance.

Hassan’s academic interest in and work on the thought system of Iqbal is not a topic that will be dealt with in the following. Iqbal is one of the most important Muslim reformist thinkers in modern times, especially in the South Asian context, and in relation to Pakistani nationalism.21

One characteristic of Riffat Hassan’s published texts should be mentioned already at this stage. Often one can find passages, sometimes of quite considerable length, that reappear in several articles with either identical or very similar wording. This ‘recycling’ of texts is one of the more striking aspects of Hassan’s literary production on women’s rights and human rights.

Human Rights

Hassan has stated her support for the UDHR,22 and the criticism she levels against human rights schemes is not directed at their content, which she presents as “‘religious’ in essence’, although “‘secular’ in terminology’,23 but at the lack of respect for them in practice. The UDHR does not, according to her, bring about ‘moral or social transformation of society or human beings’.24 She makes a distinction between different understandings of the expression ‘human rights’ and the universality of human rights similar to the differentiation in the heuristic model employed in Chapter 1. The importance of an international set of texts expressing human rights is played down with reference to a situation where im-

21 For a now classical presentation of Iqbal’s views on Islam, see Schimmel 1963. See also the presentation in Smith 1946:98–127.
23 Hassan 1992[1982]:448
24 Hassan 1998[1996]:11
plementation becomes secondary to more immediate concerns of governments. The core problem is identified as one of underlying premises. Primary among these is the premise of ‘secularism’, which according to Hassan is not universally accepted. According to her it is necessary – in order for human rights to be respected and conceived of as valuable around the world – to place the discussion within a religious framework. The rejection of ‘secularism’ and the affirmation of ‘religion’ by the international community would also facilitate campaigning in support of human rights. Hassan states that a shift – or a ‘paradigm shift’ – might be on the way. She points to the special mentioning of ‘religion, ethics and culture’ in the final document from the UN conference on population and development in Cairo 1994, and discussions on the role of religion at the NGO conference in Beijing 1995.

Hassan voices criticism of the suggestions for a global ethic by Leonard Swidler and Hans Küng. This criticism is expressed on the basis of a perceived ‘Western’, ‘post-Enlightenment’, and ‘Christian’ bias, which contradicts claims to a worldwide consensus. However, she commends the underlying aspirations of these suggestions, and states that the Qurʾān already contains ‘principles of global ethics’ or ‘fundamental human rights’. This latter statement has its counterpart in Hassan’s presentation of the relationship between Islam and human rights in general. She states in several connections that the Qurʾān contains certain ‘fundamental rights’ or ‘fundamental human rights’, and that many Muslims consider the Qurʾān to be ‘the Magna Carta of Human Rights’. In an article from 1996 the latter view is presented as her conviction on the basis of ‘research and reflection as well as my deepest faith’. In one article she explicitly states that ‘not regarding human rights as a human invention, I do not look for their origin or essence in books of law or history but in those books of scripture which contain God’s eternal message and guidance to humankind’. The close connection between the Qurʾān and ‘human rights’ is stressed in statements such as the following:

29 See Hassan 1998[1996]:4–7. The criticism, as well as positive remarks, was voiced during a conference in Amsterdam in 1996, where the topic of a ‘New Global Ethics’ was discussed.
30 Hassan 1998[1996]:12
32 Hassan 1996:370. For this statement on personal conviction, see also Hassan 1998[1996]:12.
33 Hassan 1992[1982]:450
A large part of its [the Qurʾān’s] concern is to free human beings from the bondage of traditionalism, authoritarianism (religious, political, economic, or any other), tribalism, racism, sexism, slavery, or anything else that prohibits or inhibits human beings from actualizing the Qurʾānic vision of human destiny embodied in the classic proclamation: ‘Towards Allah is thy limit’ (Qurʾān 53:42).34

The quotation from the Qurʾānic verse 53:42 in the last line is from a translation by Iqbāl. The specifically religious anthropology expressed in teleological terms in the quotation has counterparts in several of Hassan’s articles where ‘human rights’ or ‘fundamental human rights’ are presented as instrumental for the realisation of a ‘potential’ inherent in human beings.35 An assertion frequently made by Hassan is that ‘fundamental human rights’ are rights that ‘all human beings ought to possess because they are so deeply rooted in our humanness that their denial or violation is tantamount to a negation or degradation of that which makes us human.’ These rights are a divine creation simultaneous with the creation of the first human beings.36

When Hassan discusses the ‘potential’ inherent in human beings, the reference is often to verse 95:4 in the Qurʾān. On the basis of this verse she presents human beings as created by God ‘in the best of moulds’.37 At the core of the God-created human nature lies the knowledge of right and wrong and the ability to do either.38 ‘Aql, ‘reason’, is a gift from God that sets human beings apart from and above other creatures, and it is instrumental in the realisation of their inherent potential.39 Human beings have a ‘freedom of will’ that Hassan, with reference to verse 33:72, identifies with the amāna, ‘the trust’ accepted by the human being in a primordial state. The term khalīfa – when used by Hassan – has a double aspect. On the one hand the role of ‘God’s viceregent’ for the human being is presented as the actualisation of his/her inherent potential.40 Khalīfa is also presented as the human being’s actual status in relation to God, carrying with it certain obligations.41

In her discussion on human rights Hassan also uses the Arabic expressions ḥuqūq allāh and ḥuqūq al-ʿibād. They are rendered into English as ‘the rights of

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41 See Hassan 1995b:94.
God’ and the ‘rights of creatures’ respectively. Furthermore, they are presented as intimately connected and impossible to separate. Both are to be respected, as a religious ‘duty’. The aspect of religious duty in this context is elaborated upon in one article from 1987 with the help of the terms ‘ibādāt, ṣalāt and zakāt. The latter two are conceptualised as ‘remembrance of, and devotion to, God’ and ‘the sharing of one’s possessions with those in need’ respectively. ‘Ibādāt is conceptualised as acting in accordance with God’s will, which in turn will result in ‘peace’ in this world and in the hereafter. The notion of a divine plan or ‘natural order’ instituted by God is stressed also in other contexts, where Islam is presented as the ‘natural religion’.

Besides these general remarks on anthropology and its relation to God, Hassan provides lists of specific ‘fundamental human rights’ – to be found in the Qur’ān – in several articles. These lists are not identical, but all include ‘right to life’, ‘right to respect’, ‘right to justice’ and ‘right to freedom’. The longest list presents 12 such rights, and the shortest five. However, additional rights are addressed under the generic category ‘other rights’ that appears in some articles. Every ‘right’ is connected with the Qur’ān through quotations and references. As a whole, ‘right to freedom’ is provided with the most references, and ‘right to work’ with the least.

‘Justice’, is a key term in the context of ‘fundamental human rights’, mentioned, for example, in connection with ‘right to justice’. The following, mutatis mutandis, appears in several of Hassan’s writings:

God, who speaks through the Qur’ān, is characterized by justice, and it is stated clearly in the Qur’ān that God can never be guilty of ‘zulm’ (unfairness, tyranny, oppression, or wrongdoing). Hence, the Qur’ān, as God’s Word, cannot be made the source of human injustice [...]

Apart from the dichotomization of ‘justice’ and zulm apparent in this quotation, there is an evident tendency to tie divine ‘justice’ closely to the nature of God. In the description of the ‘right to justice’ as a ‘fundamental human right’ Hassan

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43 Hassan 1987b:97–98
In the description of the ‘right to justice’ as a ‘fundamental human right’ Hassan states that the Qurʾān uses two concepts to denote ‘justice’, ‘adl and ihsān. In the conceptualisation of these two terms she address the issue of equality. Both terms refer to ‘balance’, and the metaphor used in relation to ‘adl is that of a pair of scales. God in his justice treats human beings with rewards and punishments without regard to factors such as ‘lineage, sex, wealth, worldly success or religion’. As an example, reference is here made to verse 49:13. God distinguishes between human beings only on the basis of ‘righteousness’ and for the purpose of setting examples. The latter is exemplified by reference to verses 4:25 and 33:30 and to the Prophet’s wives as a specific class of women that receive double punishment upon committing a crime.

Ihsān is presented as complementary to ‘adl and as relating to the notion that humans are not all equal as a matter of fact, but that there are those who have a need for extra attention in order to enjoy equality. Ihsān is further connected with the term umma, understood by Hassan to denote an ideal society and not merely the sum total of the world’s Muslims. An etymological connection is made between umma and umm, ‘mother’, with a stress on a link between ‘motherly love and compassion’ and the need for affirmative action to realise equality in society. Such compassion is also connected to God by an etymological elaboration on ar-raḥmān, as one of His 99 names, and the Arabic word raḥm for ‘womb’.48

The notion of God’s justice appears also in the statement that everything he does is for a ‘just purpose’, or that his creation is for ‘just ends’. References given in this context are, for example, to verses 15:85 and 45:22. In these verses, however, the words used in the Qurʾān are neither ‘adl nor ihsān but instead the phrase bi al-ḥaqq, ‘with the truth’.49

Hassan’s statements on a discrepancy between human rights on the ideological and formal levels on the one hand and on the factual level on the other has a function in her criticism of ‘secularism’ as an ideological opposite to ‘religion’. The way in which she presents the problem of realising human rights positions ‘religion’ as a necessary factor to take into account, both now and in the future. There is a clear essentialist approach to the issue of human rights and religion. The postulation of ‘fundamental human rights’ plays down the role of human agents in formulating human rights. Through the association with Qurʾānic verses, with creation, with a divinely instituted anthropology and with a teleological view on the purpose of human existence, the validity of ‘fundamental human rights’ is enforced.

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human rights’ is presented as absolute. Universality rests on divine origin. This image is further enhanced by the use of the Arabic term *huqūq* that has connotations to ‘(absolute) truth’, *ḥaqq*, ‘(ultimate) reality’, *ḥaqīqa* and to *al-ḥaqq* as one of the 99 names of God. This connotation is inherent in the commonplace rendering of the expression ‘human rights’ into Arabic as *ḥuqūq al-insān*, but it is accentuated in Hassan’s presentation.\(^{50}\) Both the terms *huqūq allāh* and *huqūq al-ʿibād* (or *ḥuqūq al-ʿabd*) exist in traditional *fiqh*. They have been used to distinguish between cases where collective action – through the agency of the authorities – was mandatory upon transgression of the divine law (*ḥuqūq allāh*) and cases where such action was left to the discretion of the individual believers who had been wronged (*ḥuqūq al-ʿabd*).\(^{51}\) The use of *ḥuqūq al-ʿibād* has a potential for exclusion, since ʿibād is the plural of ʿabd, ‘servant/slave’ and a traditional designation for Muslims. However, the use of the inclusive word ‘creatures’ in the translation works against such an understanding. There is no indication that these rights should be reserved for those who ‘obey God’.

The concept of ‘fundamental human rights’ is provided with a role in relation to UN-formulated human rights similar to the role ascribed to a global ethic by its proponents. Hassan’s identification of the Qurʾān, not with the UDHR but with the Magna Carta, (a charter with symbolic status accepted by the English king John in 1215 providing certain liberties for his subjects) underlines this ‘foundational’ character.

The adjuster word ‘fundamental’ stresses the primacy of these rights. In terminology Hassan’s suggestions resemble those of Mawdūdi expressed in the pamphlet *Human Rights in Islam* (originally a speech delivered in 1975). He speaks of ‘rights’ provided by God that humans cannot amend or change, but only have to enforce, as a religious duty. Under the headline ‘Basic human rights’ Mawdūdi also provides a list of ‘rights’ and relates these to Qurʾānic verses and to *ḥādīth*. These rights include the rights to ‘justice’, ‘life’ and ‘freedom’.\(^{52}\) Ann Mayer notes that Mawdūdi avoids controversial issues in this pamphlet, but from his other writings and from his political activism she concludes that his notion of ‘human rights’ in several aspects contained a qualification of UN formulations of human rights, concerning, for example, rights of non-Muslims and women.\(^{53}\) Such qualification is lacking in Hassan’s presenta-
tion. In both cases, however, there is an attempt at appropriating an emotionally charged terminology.

The extensive use of religious terminology functions together with the large number of references to the Qur‘ān to enhance a ‘necessary’ connection between ‘Islam’ and ‘human rights’. The use of ‘ibādāt is here noteworthy. To respect ‘fundamental human rights’ becomes a matter of religious duty to God, on the same basic level as, for example, prayer, pilgrimage and fasting during the month of Ramadān. Human rights become a part of a natural order that human beings should act in accordance with, a ‘natural law’ in line with reason. ‘Fundamental human rights’ as a part of God’s creation, intimately connected to human nature, relates to the religious notion of the fiṭra, the original human nature, created by God and shared by all human beings. Islam here becomes dīn al-fiṭra, the ‘natural religion’.54

In general, there are several examples in the description above of what Jonathan Potter presents as a technique to make descriptions appear as facts through transferring the agency from author to phenomenon. Presented ‘facts’ are not the views of the author, but independent from him or her. The author becomes merely a vessel for presenting these facts.55 The objective existence of ‘fundamental human rights’ as ‘facts’ is in Hassan’s texts stressed through pointing to what ‘the Qur‘ān’ or ‘Islam’ says, as agents in themselves.

The extensive use of the terms khalīfa, ‘adl, umma and iḥsān, all Qur‘ānic and with a positive emotive charge, provides an image of ‘Islamicness’ to Hassan’s texts. The terms all appear frequently in normative Islamic literature in English. The anti-authoritarian and individualistic discussions on ‘aql, God’s justice, the free will of human beings connected to the amāna are all likewise commonplace in the contemporary Islamic discourse. The term khalīfa is useful because it touches upon the very purpose of human existence as part of a divine plan. It is used frequently in the contemporary Islamic discourse, for instance in discussions on ‘Islamic ecology’ and the ‘Islamisation of knowledge’, let alone discussions on the duty of Muslims to establish an ‘Islamic’ social order.56 Hassan’s discussion on umm and umma and ar-raḥmān and raḥm display a ‘realist’ view on language where etymological kinship implies a connection in ‘essence’. It also implicitly contains a construction of gender. Motherhood is not only a result of a biological process, but also carries with it certain inherent emotional obligations.

54 For fiṭra in the context of human rights and a ‘natural law’ in relation to ‘natural rights’, see Dalacoura 1998:44.
56 For examples of its use in discussions on women’s rights and Islam, see Barazangi 2000:22, 40; al-Faruqi 2000:78; Wadud 1999:x, xix; Wadud 2000:10, 21.
The lack of a clear distinction between ‘adl as social justice in terms of equal rights and obligations in the context of ‘fundamental human rights’, and ‘adl as a characteristic trait of God’s character, provides additional stress on the inherently ‘religious’ character of ‘fundamental human rights’. The notion of God being bound by his own ‘justice’ shows similarities with views usually ascribed to the 9th century religious ‘rationalist’ speculations of the Mu’tazila. The conceptualisation of the term iḥsān exhibits clearer connections to specifically human conditions. Iḥsān appears in the Qur’ān together with ‘adl in verse 16:90. It is used in the contemporary Islamic discourse, for example in a threefold characterisation of religiosity together with islām, ‘submission’, and īmān ‘belief’. This has a basis in a ḥadīth where Muhammad is questioned by the archangel Gabriel on his religion and its contents. In ṣūfī (mystic) contexts iḥsān has also been identified as the highest state for a Muslim. Commonplace renderings into English are ‘to do good’, ‘to act kindly’. It is noteworthy that her discussion on ‘adl and iḥsān reproduces the commonplace notion of the ideal society as a society characterised by ‘balance’ and harmony is further stressed by Hassan’s use of the Qur’ānic metaphor of a pair of scales (mīzān).

Women’s Human Rights

Hassan does not specifically mention the Women’s Convention or the reservations made against it by Muslim states. In her lists of ‘fundamental human rights’ she makes references to women’s rights. Women are identified as an underprivileged group in society who are to benefit from the practical application of the principle of iḥsān. Gender is explicitly stated as a factor that God ignores in his distribution of rewards and punishments, in accordance with his ‘adl expressed in verse 49:13. Equality between the sexes is stressed specifically in relation to the right to work, with references to verse 4:32. Generally, Hassan states that women partake equally with men in all of the listed ‘fundamental human rights’. Likewise, she explicitly states gender as a religiously non-valid ground for social discrimination, and states that women and men are ‘equal members of an egalitarian Islamic “ummah”’. Hassan also speaks of ‘gender justice’ in the context of ‘adl. She mentions the UN conferences in 1994 and

57 For example of such ṣūfī use, see Chittick 1995:104; Nasr 1994:133, 134.
58 For examples of the understanding of iḥsān as an ethical concept of ‘good’ actions or ‘kindness’, see Simmons 2000:202; Ahmad 1991:6. For a use of iḥsān in the contexts of a system of social justice, see Noor 2000:443–444.
62 See Hassan 2000a:2, 4. See also Hassan 1998a.
1995 in positive terms, and expresses criticism of ‘conservative’ Muslim women putting forward their views on women during the NGO meetings. 63 On the other hand, she also states that ‘anti-religious extremists’ have been allowed to ‘hi-jack’ the human rights discourse on women, with their views on the incompatibility between Islam and human rights. 64

*The current situation and its causes*

In several contexts Hassan singles out women as the prime targets of human rights violations in contemporary Muslim societies. She notes as important social phenomena, for example, the ascription of unequal values to boys and girls, inequality in marriage in general, the difficulty women have in obtaining divorce, polygamy, custody of children after divorce and inheritance. 65 ‘Honour killings’ is also addressed as a human rights issue, and is especially in focus in the texts published in the context of the INRFVVP. 66 Hassan admits that there have been improvements in women’s situation due to secular state legislation in fields such as education, work, legal and political rights, but she rejects such measures as insufficient. 67 She does not make any clear separation between gender inequality before the law and other forms of social discrimination or violations of women’s human rights. The *shari‘a* is discussed at length in one article. The term is used to denote a body of regulations based on interpretations of the sources, and the main criticism is directed at claims to its divine nature. Hassan here makes references to contradictory elements in the sources (except in the Qur‘ān), to differences between different schools of jurisprudence, *madhāhib*, and to history and ‘the sociological process whereby the “divine” Shari‘ah came to be codified’. Of all the various ‘sources’ of the *shari‘a* usually referred to by Muslims (she here mentions ‘the Qur’ān, the Sunnah and Hadith, Fiqh, various Schools of Law, customs and traditions’) only the Qur‘ān is divine. From the etymology of the word *shari‘a* she draws the conclusion that the concept ‘has the idea of fluidity and mobility as part of its very structure’ which contradicts views on its immutability. 68 Hassan states in this context that following a trodden path without reflection is not a part of being Muslim. It is instead opposite to the ‘duty’ of Muslims to ‘think and to choose’ and thus exercise the divine gift of free will. 69

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63 Hassan 1999[1997]:4–5
64 Hassan 2000b:2
66 In her open letter dated 25 February 2000 to General Pervez Musharraf (who took over the political power in Pakistan in a military coup on 25 October 1999) the issue of ‘honour’-killings and violence against women forms a central part (see Hassan 2000a).
68 Hassan 1992:10
69 Hassan 1992:12
Hassan’s presented religious ideal is that of women as autonomous individuals, responsible for their own lives and their own decisions.\textsuperscript{70} However, ‘Muslims, in general, consider it a self-evident truth that women are not equal to men’.\textsuperscript{71} Women are generally considered inferior and in need of external control, especially in the field of sexuality.\textsuperscript{72} These views are internalised by women themselves, which is a serious problem.\textsuperscript{73}

The issue of legal inequality is addressed in negative assessments of a change in the status of women’s rights due to a trend of ‘Islamization’. Hassan here notes what she terms as ‘anti-women laws’ being enacted in several Muslim countries. According to her ‘Islamization’ is characterised by the use of religion ‘an instrument of oppression, rather than as a means of liberation’.\textsuperscript{74} Women have become the ‘primary target of the “Islamization” process’. This is attributed to a fear among ‘caretakers of Muslim traditionalism’ of ‘Westernization’, as a result of a more general process of ‘Modernization’. The latter has resulted in the increasing visibility and participation of women in public life.\textsuperscript{75} The Islamisation policy of general Zia ul-Haqq following the coup d’état in Pakistan in 1977 here serves as an example. Hassan also states in this context that parallel to the change in state policy, other forms of ‘anti-women actions’ took place. The number of rape-incidents increased and misogynistic literature was spread.\textsuperscript{76}

Hassan explicitly rejects the use of the term ‘Fundamentalism’. She states that it should not be associated with ‘conservative forces’ or ‘Muslim conservatives’. Many Muslims consider such forces un-Islamic, but the term ‘Fundamentalism’ has positive connotations of returning to the fundamentals of religion. If used to denote the above-mentioned groups, the term provides them with undue legitimacy. She further notes that the term originated in a North American, protestant Christian context, which makes it unsuitable for an Islamic context.\textsuperscript{77} In one article Hassan speaks of ‘religious extremism’ and a ‘religious right’ in Pakistan, whose views diverge from the views of a ‘silent majority’. The ‘educated, rational, and open-minded Pakistanis’ have to stand up against ‘extremists’ both secular and religious.\textsuperscript{78}

\textsuperscript{74} Hassan 1995b:3. See also Hassan 1990:96; Hassan 1991d:42; Hassan 1999b:251.
\textsuperscript{76} Hassan 1991a:68–69. See also Hassan 1991d:42; Hassan 1999b:252.
\textsuperscript{77} Hassan 1991c:159–161, 171
\textsuperscript{78} Hassan 2000b:1–2
When outlining the ideal society Hassan does not present any ideal system of
government, but only makes general statements on ‘despotism’ not being a part
of a religious ideal. She presents participation in as many aspects of social life as
possible as a right and a duty of every Muslim. Reference made in this context
are to verses 3:159 and 42:38 in the Qurʾān, and to the term shūrā.79 The ideal
Islamic society is a society where ‘justice’ prevails and in which all members
can realise their potential.80 Social change is brought about mainly through
ideological reconstruction, important especially in relation to gender equality.
Legislation alone does not suffice in this case. Misogynistic myths and argu-
ments in Muslim societies have to be abolished. This fact has not been realised
in full by those who struggle against gender inequality.81 Only in an ideal Is-
lamic society would human rights be recognised and enforceable by law.82 Im-
plementation in society of ‘the core of Islam’ is also presented in 2000 as a
matter of safeguarding the relevance of religion for future generations that oth-
erwise may become alienated from their parents’ beliefs.83 She proposes the
construction of an Islamic ‘feminist theology’. Such a ‘theology’ would serve as
a means to liberate both men and women from oppressive social structures.84

The centrality of re-formulation of Islam is stressed in the context of the im-
plementation of women’s human rights. Since the majority of Muslim women
are poor and illiterate, references to the UDHR are not meaningful to them.
These references have to be either supplemented or exchanged by references to
religion, God or the Qurʾān, if they are to have any actual influence. She states:

If I as a person committed to women’s empowerment were to try to reach
one of these women living anywhere between Ankara and Jakarta, how
would I do it? Could I say to her, ‘I bring you liberation or empowerment in
the name of the Universal Declaration of Human Rights (1948)?’ This
statement would mean nothing to her. But if I were to say to her, ‘You be-
lieve in God and you know that God is just. Therefore, it cannot be the will
of God that you should live in sub-human conditions and be brutalized and
oppressed’. This makes instant sense to her because her religious beliefs
constitute the matrix in which her life is rooted. A light begins to shine in
her eyes as she realizes that she is not powerless… that the source of

80 See Hassan 1996:386; Hassan 1998[1996]:24–25. This point regarding the task of ‘God’s viceregents’ of es-
stablishing a ‘just’ society is stressed also in the open letter to General Musharraf (Hassan 2000b:1–2).
82 Hassan 1992[1982]:447
83 Hassan 2000b:2
empowerment lies within her since God, the universal creator and sustainer, is a just and merciful God who does not condone injustice in any way.85

This notion of the need for a religious foundation for the promotion of human rights has an equivalent in Hassan’s discussion on why, in her view, projects of family planning have generally failed in Muslim societies. According to her, this is a result of the generally ‘Western’ and ‘secularist’ basis for development programs. One has to realise the centrality of religion and should consider it as a ‘matrix’ on which all other activities ought to rest.86

According to Hassan, Muslim women in general, throughout history, have been unaware of their ‘Islamic’ rights and how these rights have been manipulated in a male-dominated society. This has been due to a general lack of opportunity for women within patriarchal Muslim society to develop knowledge of the religious tradition. Women who interpret Islam non-patriarchally however constitute a minority among activists. Moreover, not more than a handful of women are competent in this field. She provides no specific examples of such women, beside herself.87 Hassan sees a trend of women rising up to question the situation in Muslim societies.88 Those women human rights activists who reject religion, and take a secular standpoint, are negatively evaluated.89

In Hassan’s argumentation essentialist statements on women’s human rights as a part of religious ‘fundamental human rights’ are combined with instrumentalist considerations.90 The latter are also important as a criticism of ‘secularism’. There is no outright attempt at qualification in the general presentation, and ‘spiritual’ equality is inherently connected to social equality, a difference in relation to the commonplace separation among Muslim religious activists between the two noted in Chapter 1. The insertion of gender equality into the notion of God’s justice, in terms of ‘gender justice’, is used to provide the former with

85 Hassan 1998[1996]:11. See also Hassan 1996:366. A similar concern is voiced by Hassan in connection with ‘education for peace’: ‘before one can argue convincingly that Muslims should be educated for peace it is necessary to demonstrate that education and peace are of pivotal significance to the Islamic worldview’ (Hassan 1987b:91).
90 Such considerations are shared by the RCPRHE. In its self-presentation the organisation stress the ‘positive, renewable moral energies of [...] faith traditions’, and ‘recognizes the motivational power of religion’ in its attempts ‘to influence scholarship, policy making and popular opinion’ in relation to ‘issues of population, consumption/ecology, reproductive health and the empowerment of women’ (RCPRHE 1998a:1).
legitimacy in relation to a believing Muslim audience.\textsuperscript{91} The lack of a clear distinction between legal and social discrimination is in line with the feminist criticism of a distinction between the public and the private spheres in the context of human rights. It also corresponds with the stated view that secular legal measures are inadequate as a means to correct social evils.

The criticism of the \textit{shārī’a} implies that anything divine must be internally coherent and historically stable. Implicitly she rejects the traditional notion of religiously legitimate difference between legal schools, \textit{ikhtilāf}.\textsuperscript{92} It should also be observed that there is a definition of ‘Muslim’ when \textit{taqlīd}, ‘imitation [of earlier religious authorities]’ is rejected. Such a definition serves as a means for persuasion in relation to a Muslim audience.

The notion of ‘false consciousness’ among Muslim women strengthens her own role as bringing enlightenment through her interpretations of Islam. Since the social problem of gender discrimination is addressed as inherently religious (a misconception of the ideal) the religious solution suggested becomes natural and rational. A new interpretation of Islam is provided with an important and exclusive role in the modern world. It is consequently not the call for public influence for ‘Islam’ that is the problem in relation to Islamism, but the content of the Islam presented by Islamists. The negative image of Islamism is promoted and nourished by non-differentiation from general conservatism, and the invocation of and irrational ‘fear’ of ‘Westernization’. The rejection of the term ‘Fundamentalism’ on the basis of etymology and history is in line with contemporary academic questioning of its analytical value.\textsuperscript{93} The additional aspect of an attempt at appropriating the term, and of providing it with positive connotations, is noteworthy.

The use of the term \textit{shūrā} and the references to public participation as a right and a duty may imply some notion of democracy.\textsuperscript{94} Generally, however, the basis and limitation of state power and the role of legislation in an ideal society are vague. The role of religion, correctly understood, becomes positive and necessary in Hassan’s presentation. Religious change is instrumental in relation to social change, and not a result or an aspect of such change. The ‘feminist theology’ is justified in relation to a Muslim audience by the invocation of the principle of the ‘common good’, \textit{maṣlaḥa}, beneficial to both men and women. This

\textsuperscript{91} For other examples of the use of ‘gender justice’ connected to divine justice, see Barazangi 2000:23; Wadud 1999:x, xviii.


\textsuperscript{93} See, for example, Esposito 1993:7–8; Westerlund (ed.) 1996:4–8.

\textsuperscript{94} The invocation of the Qur’ānic term \textit{shūrā} in the context of democracy is commonplace in the contemporary intra-Muslim debate. See the different ‘liberal’ interpretations of the notion of \textit{shūrā} in Kurtzman (ed.) 1998:19–21, 79, 87. In the context of Islamism, see also Roy 1994:42–45; Sivan 1990:73; Stenberg 1996b. For critical remarks on ‘translation’ in making the Qur’ānic term correspond with a modern concept, see Azmeh 1993:56, 79, 80.
positive and necessary role is especially evident in the lengthy quotation concerning women’s human rights. Here the desired goal of realising the latter on a factual level is used to enhance the necessity of Hassan’s ‘feminist theology’. This is done by postulating the ‘fact’ of the centrality of religious beliefs for illiterate Muslim women. The use of the term ‘empowerment’, which has a positive emotive charge and also occurs in the title of her project under the RCPREH, here strengthens the positive role ascribed to religion.  

Criticism of ‘secularism’ for not ‘delivering the goods’ in the context of women’s human rights is combined with negative evaluations of ‘secularist’ women’s activism. Here she uses what Potter terms as ‘extrematization’ in her description of ‘extremist’ secularist proponents of women’s human rights having ‘hijacked’ the general discourse. In combination, these considerations on ‘secularism’ serve to produce an image of her ‘feminist theology’ as the most reasonable alternative. The presentation of this ‘feminist theology’ as both unique and (wrongfully) marginalised serves to enhance the positive image of and sympathies for her activities. An important aspect of Hassan’s ‘feminist theology’ explicitly stated is that of safeguarding the relevance of religion in society. This points to an apprehension that religious beliefs may be the object of choice for individuals, and that one goal of interpretation is to facilitate that choice. Amina Wadud expresses a similar goal for her interpretation of the Qurʾān. Women in the modern world have to be convinced that the content of the Qurʾān is relevant, and sensitive to their needs.  

It can be noted that the statement on male dominance in religious interpretation as an explanation for social inequality involves a gender construction with an essentialist touch. It presupposes a commonality of interest and basic views uniting men across time and space. The implicit suggestion is that if women had been allowed to participate in developing the religious tradition, this tradition would have been different, which is difficult to ascertain by empirical observation, but rhetorically useful.  

**Self-presentation**  

Hassan at times presents her own activities as being carried out on behalf of Muslim women worldwide. In a comment on her forthcoming book *Equal*...
before Allah she expresses hope that it ‘will give the activist feminists struggling against religious oppression and authoritarianism in Muslim societies something to fight with’.101 A similar hope is expressed in relation the collection of articles in Women’s Rights and Islam.102 In 1991 she stated that ‘so far as I know, […] I am the only Muslim woman ‘theologian’ who has been involved in a systematic theological exploration of women-related issues in the Islamic tradition’.103

Personal experience is important in Hassan’s elaboration on her motives. In an auto-biographical article published in 1991 she describes her childhood in dark terms. This is partly ascribed to a conflict between a mother belonging to ‘the category of radical feminists’, and a father with traditional views on gender relations. As a result, Hassan as child withdrew herself from ‘an outer to an inner reality’. She established a relationship with God, who ‘at all times seemed very close’. In time, she became convinced that God had a special purpose with her life, that He had chosen her to ‘be an instrument in implementing a plan’, a conviction that she still holds.104

Another important experience in relation to her activism was her marriage to an Egyptian member of the Islamist Muslim Brotherhood, Mahmoud:

Mahmoud called himself a man of God, but I learned very quickly that being a man of God had nothing to do with being kind and compassionate and loving. It meant only that Mahmoud could command me to do whatever he wished in the name of God and with the authority of God, and I had no right to refuse, since in Islamic culture refusal to do what is pleasing to the husband is tantamount to refusing to do what is pleasing to God.105

According to Hassan, her experiences in connection with this marriage eventually contributed to a wish to prevent other ‘men of God’ from exploiting Muslim women in the name of God, through the construction of a ‘feminist theology’.106

One specific event in 1974 is related in several articles. While she was an Assistant Professor at Oklahoma State University, she was asked to give a lecture on ‘Women in Islam’ to the local Muslim Student Association chapter. The audience consisted of ‘male Arabs from Saudi Arabia and Kuwait’ that constituted ‘a very patriarchal group’.107 They had invited her to speak only out of re-

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101 Hassan 1991b:25. This book has to my knowledge not yet been published.
102 See Hassan 1995b:iii.
103 Cooey, Eakin & McDaniel (eds) 1991:168
104 Hassan 1991b:13–15
105 Hassan 1991b:24
106 Hassan 1991b:25
107 Hassan 1994[1993]:113
spect for the university’s regulations, and the topic was not of her own choice.\textsuperscript{108} She delivered a lecture on women-related passages in the Qur\textsuperscript{\textasciitilde}ān, stressing the aspect of gender equality. This was contrary to the expectations of the all-male audience.\textsuperscript{109}

This event is presented as the starting point of her career as a ‘feminist theologian’ and she began to study the subject of women and Islam more carefully, especially in the context of inter-faith dialogue. A personal and merely theoretical interest turned into activism during a visit to Pakistan in 1983. Women activists opposed to the Islamist policy of the military regime approached her and asked her to develop an ideology with which they could counter it.\textsuperscript{110} At that time she realised that what she had viewed as a purely personal quest was also relevant for women in the field. In turning activist, she realised that she had at last met her destiny.\textsuperscript{111} In connecting her personal experiences with her activism she states that:

\begin{quote}
I pray for the dawning of the day when it will not be required of women like myself to spend their entire lifetime fighting for their freedom each day of their life, but I also pray for strength to continue the fight until there is justice and freedom, under God, for all my sisters.\textsuperscript{112}
\end{quote}

She, however, admits to a certain alienation from what she terms as ‘my people’, which has become apparent during visits to Pakistan. Still, she states a feeling of a bond of sisterhood between them and her.\textsuperscript{113} She points out her identity as a Muslim woman, and her solidarity with other Muslim women. There are common traits of the patriarchal society affecting them as well as her.\textsuperscript{114}

Hassan’s frequent use of the expression ‘feminist theologian’ in her self-presentations deserves some elaboration. There are hints in her articles – for example through the use of quotation-marks – that she finds the term ‘feminist’ problematic.\textsuperscript{115} Activism, in the form of active rejection of patriarchal society, appears to be an important part in her definition.\textsuperscript{116} There is no indication that

\begin{footnotes}
\item \textsuperscript{108} Her own (ironic) judgement is that the topic was chosen ‘because, in the opinion of the group, it would have been totally inappropriate to expect a Muslim woman [...] to be competent to speak on any other subject pertaining to Islam’ (Hassan 1995a:455).
\item \textsuperscript{109} For presentations of this event, see Hassan 1991a:65–66; Hassan 1994[1993]:113–114; Hassan 1995a:455.
\item \textsuperscript{111} See Hassan 1991b:12; Hassan 1994[1993]:116.
\item \textsuperscript{112} Hassan 1991b:18
\item \textsuperscript{113} See Hassan 1991b:11–12.
\item \textsuperscript{114} See Hassan 1991a:65–66.
\item \textsuperscript{115} For the use of quotation-marks, see Hassan 1991a:65, 68; Hassan 1991b:17.
\item \textsuperscript{116} This is evident in her description of the mother as a ‘radical feminist’ and of her own debut as a ‘feminist’ (see Hassan 1991b:16, 25).
\end{footnotes}
the term ‘theologian’ constitutes a problem. Hassan presents herself as a ‘theologian of Islam’ in her role of searching for ‘normative’ Islam,\(^{117}\) and ‘feminist theology’ is presented as a search within ‘normative Islam’ for statements of an ‘essential’ equality between men and women, ‘despite biological and other differences’. Hassan also states that she has benefited from the works of Christian and Jewish feminist theologians.\(^{118}\)

Hassan’s use of the term \(jihād\) should be noted. The title of her autobiographical account is ‘Jihād Fī Sabīl Allāh’. She presents herself as appointed by God to perform \(jihād\), which she conceptualises as ‘striving or exerting in and for the cause of God’. \(jihād\) is ‘a Qur’anic imperative for all Muslims’,\(^{119}\) according to Hassan, and also the ‘essence of being a Muslim’.\(^{120}\) She also explicitly refutes the military connotations of the term.\(^{121}\) To serve God is to strive in this world, not to turn away from it, and to be active is the best way to ‘reach’ God.\(^{122}\) Even if God is presented in the Qur’ān as ‘creator and sustainer’, human beings are thereby not relieved of the responsibility for their own survival.\(^{123}\)

The notion of ‘the West’ forms an important reference point for Hassan, and is at times placed in a dichotomous relationship to ‘Islam’. ‘Western’ is a general term used to criticise the UDHR as well as the drafts of a global ethic in terms of bias.\(^{124}\) She connects ‘the West’ with ‘Christianity’, ‘Secularism’, ‘Individualism’, ‘the Enlightenment’, ‘Colonialism’ and ‘Cultural Imperialism’. It is mainly an ideological concept, but there are also examples when ‘the West’ is conceptualised as a political entity.\(^{125}\) Some basic themes in Hassan’s criticism of ‘the West’ can be mentioned. A general negative image of Islam is supposed to prevail in ‘the West’, both in the present and in history. This has led to discrimination and violence against Muslims, and to religious, cultural or intellectual ‘imperialism’ by a ‘Western’ public, the media and scholars. In today’s world this negative image is evident, for example, in a ‘hypocritical’ concern for the situation of Muslim women, used politically to attack Muslims living in ‘the

\(^{117}\) Hassan 1987b:91

\(^{118}\) Hassan 1991a:69–70. See also Hassan 1995b:4; Hassan 1998a:1. Even though Hassan states that she has been studying the works of Jewish and Christian feminist theologians, there are no explicit references to individuals or texts.

\(^{119}\) Hassan 1991b:11 (footnote)

\(^{120}\) Hassan 1991b:24

\(^{121}\) See Hassan 1991c:158.


\(^{123}\) See Hassan 2000c:229. A general criticism of religious quietism and fatalism is evident. Hassan points to the well-known verse 13:11 in the Qur’ān, translated as ‘God will not change the condition of human beings until they change what is in themselves’. Furthermore, she refers to verses 52:21 and 74:38 stressing the notion that every human being is responsible for his or her actions, and that no one can carry the burden of another human being (see Hassan 1987b:100, 105–106).


\(^{125}\) See, for instance, when Hassan positions an ‘Islamic society’ against ‘Communism, Capitalism and Western democracy’ (Hassan 1996:386). See also the discussion on ‘neo-colonialism’ in Hassan 1998[1996]:26.
West’ (i.e. as a geographical entity). The ‘imperialist’ use of a non-Muslim terminology peculiar to ‘the West’ or to ‘Christianity’ in the description of Islam, results in a reductionist image of ‘the Other’, for example in the use of the term ‘Fundamentalism’.

Rights to interpretation

The right to individual interpretation of normative scriptures is stressed. An often-repeated assertion is that there can be no intermediary between God and the human being. That would amount to shirk, ‘polytheism’. References to Iqbal, and especially to his The Reconstruction of Religious Thought in Islam (a collection of six lectures held in 1929), are used to point out the legitimacy of ijtihaad as ‘independent reasoning’. Iqbal is posed against ‘conservative Muslims who are deeply fearful of any form of creative thinking’. The etymological connection between jihād and ijtihaad is also pointed out. With reference to Iqbal she also states that every generation of Muslims has a right to re-interpret the Qur’ān in the light of their own circumstances, but that it is a right that has to be taken. Fazlur Rahman is referred to – in his capacity as a religious reformist – when Hassan states that a double knowledge of both Islam and of modernity is necessary for contemporary religious reformers.

Hassan’s self-presentation addresses issues both of legitimacy of interpretation and representativity. The stress on personal experience of patriarchal oppression as a Muslim woman, provides credibility to her activist role and works to counter possible criticism based on her own privileged position as a Professor at a US university, distanced from the realities she addresses in her work. This is a form of ‘category entitlement’, identified by Potter as a way for authors or speakers to enhance the credibility of the claims they make. Hassan places herself within the category of ‘Muslim women’ who share certain experience and knowledge.

The related incident at Oklahoma State University enhances the image of Hassan as a religious activist in the field of women’s rights that stands up to pa-

131 Hassan 1994[1993]:121
triarchal society, despite opposition. The references to this incident, the incidents in Pakistan and the notion of a divine call also function as a means to counter accusations of personal vested interest, a form for defensive rhetoric.\textsuperscript{134}

The narrated childhood experiences of an otherworldly kind may strengthen her case in relation to an audience that accepts that communication between God and human beings is possible, and occurs in our time. Divine inspiration to individuals, \textit{ilhām}, as a result of personal experience of contact with God is an important feature of claims to religious authority, not least in Sufism.\textsuperscript{135} The note on experienced closeness to God can be interpreted in this light.\textsuperscript{136}

It can be noted that there is an implicit definition of ideal maleness in the description of Mahmoud. An ideal man of God is one who is ‘kind and compassionate and loving’. Mahmoud’s actions run counter to her overall statements on women’s rights to self-determination and their equal status in relation to the God. There is also in this connection an implicit criticism of \textit{shirk}, a major crime against God and opposed to \textit{tawḥīd}, the unity of God. To place an intermediary between the individual female believer and God, is to force her into \textit{shirk}. The negative emotive charge of the word is used also to justify disrespect for traditional religious authority in the context of rights to religious interpretation, and thus to enhance Hassan’s own activities as an interpreter of Islam. The religious legitimacy of her activities is strengthened by the use of the term \textit{jihād}. ‘Feminist theology’ becomes an individual religious obligation, \textit{fard al-‘ayn}.\textsuperscript{137} The connection with ‘the essence of being Muslim’ is an attempt at persuasion in relation to a believing Muslim audience. In relation to a non-Muslim audience, especially in the context of inter-faith dialogue, the playing down of the military connotations of the term is important. The transfer of the positive emotive charge in this case is from the activities of Hassan to the term \textit{jihād} and the function is apologetic.

Unlike ‘Fundamentalism’, ‘theology’ becomes a general concept applicable to all religious traditions. It has no explicit connection with any of the fields of

\textsuperscript{134} See Potter 1996:125–128.

\textsuperscript{135} See Macdonald 1971b.

\textsuperscript{136} One example that points to the notion of divine inspiration as important can be given here. In a reply to an e-mail invitation to a lecture by Hassan on March 29 2000 a Muhammad Naseer asked about her ‘credentials to interpret the Book of Allah’ and if she had any ‘‘ijazah’ (certificate guaranteeing adequate religious education) to perform \textit{tafsir} ‘exegesis’. In response to this, and in defence of Hassan, an Aeisha Muhammad al-Khayr stated that ‘knowledge of Islam is not restricted to academic credentials […][but] is a gift given by ALLAH to whomever HE pleases’ and she made references to Muhammad being illiterate. Furthermore she stated that ‘ALLAH has heard the cries of HIS female creation and HE has empowered many women who will serve to show you [gentlemen] the error of your ways’. The correspondence has been published on the INRFVVP Internet-site (INRFVVP 2000).

\textsuperscript{137} It can be noted in this context that the autobiographical article is one of those that have been translated into Indonesian (University of Louisville 1999). For a similar use of \textit{jihād} in the context of ‘feminist’ interpretation of the Qur‘ān, see Wadud 1999:x.
traditional Islamic ‘ulûm ad-dîn, such as ‘ilm al-kalâm (scholastic theology) or fiqh. The generic use of ‘theology’ rather points to the inter-faith, comparative context of Hassan’s literary production.138

The conceptualisation of ijtihâd in general terms is individualistic and progressive and differentiated from ijtihâd as a technical term within fiqh. The positioning of ijtihâd against taqlîd with the help of criticism of irrationality, obedience to authority and stagnation, is important in contexts where the opposites are virtues.

Selectivity in the presentation of Iqbâl should be noted. Islamic studies scholar Wilfred Cantwell Smith in his commentary on ‘Iqbâl the Reactionary’ concludes that he ‘was happier talking of innovation than about seeing innovation practised’.139 It has been noted that Iqbâl preached social taqlîd concerning women’s status. On this issue he was conservative or rather reactionary, even for his own time.140 Hassan’s selectivity construct a general positive image of Iqbâl.

Hassan’s criticism of and pejorative use of ‘the West’ involves a reification that is commonplace in the contemporary Islamic discourse. The Syrian philosopher Şâdîq al-‘Azm has written about this tendency in terms of ‘Orientalism in reverse’, which also points to the use that has been made of Edward Said’s work Orientalism (1978) in this context. The ontological essentialism concerning Arabs and Islam that Said has identified in the works of orientalists, has a counterpart, for instance in Arab nationalism and in ‘Islamic revivalism’. In ‘Orientalism in reverse’, just as in ‘Orientalism’, ‘Arab’ and ‘Islam’ are presented in an a-historical and mystified manner, and as essentially different from ‘the West’.141

The Sources

The Qur’ân

Hassan states the primacy of the Qur’ân for ‘normative Islam’. Its status is presented as undisputed by Muslims, and its authority is absolute. All other sources are relative to it.142 The unique character of the Qur’ân is further stressed by the

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138 It can be noted that her self-proclaimed start of her career as a ‘feminist theologian’ corresponds in time with a general interest in feminist theology in the US (Gross 1996:47–48). For Hassan’s work compared to Christian feminist theology, see Gross 1996:113–121; Roald 1999:18–20, 39–42.

139 Smith 1946:137


141 See al-‘Azm 1984.

qualitative distinction between ‘Islam’ in general and ‘Qur’anic Islam’, where the latter stands above and should function as a corrective to the former.143

According to Hassan, the Qur’an has original intentions and contains a basic ‘spirit’ or ‘ethos’,144 which is posed against an understanding of the text as a collection of laws and regulations. Instead of giving answers to every conceivable problem that occurs in life, it is a ‘book of wisdom’. Its main purpose is to provide guidance and an ‘ethical framework’ for important issues pertaining to the contemporary world. Further, the Qur’an has an instrumental role in providing for the realisation of the inherent potential of human beings as God’s khulafā’ (sing. khalīfa). Unfortunately, Muslims in general have lost sight of the primary purpose of the Qur’an, identified with the help of Iqbāl as ‘to awaken in man the higher consciousness of his relation with God and the universe’.145

In a speech delivered in 1993 Hassan presents a preferred methodology for interpreting the Qur’an. Firstly, she stresses the importance of ‘linguistic accuracy’, which rests on the view that the meaning of a particular word in the Qur’an has to be gained from the original context in which the text was revealed. Secondly, ‘philosophical consistency’ is important. This is because of the basic ‘fact’ that the Qur’an is internally consistent. There are no contradictions in the text. Therefore, in investigating a specific topic the interpreter must take into account all instances where that topic is addressed in the text. Similarly, in attempts to understand a particular word, all instances where the word is used in the Qur’an must be considered. Thirdly, Hassan presents what she terms as the ‘ethical criterion’. This means that the Qur’an must be interpreted in the light of God’s intentions, which are ultimately found in the Qur’an itself. Since God’s ‘adl is clearly stated in the Qur’an, all interpretations of the text that mirror ‘injustice’ are in consequence false. Furthermore, any specific passage in the text that seemingly condones ‘injustice’ has to be re-interpreted in a way that is consistent with this basic notion divine ‘justice’.146 The importance of the original context of the revelation is pointed out in an article from 1991, with reference to Fazlur Rahman’s book Islam and Modernity (1982). Hassan quotes Rahman on the issue of ‘universals’ of the Islamic message, relevant for the contemporary world, as separable from injunctions pertaining specifically to the historical social and cultural situation of 7th century Arabia.147 Hassan also states in other connections that the language of the Qur’an is ‘symbolic’ and that the Qur’an is ‘an open book’ concerning its interpretation.148

146 Hassan 1994[1993]:116
147 Hassan 1991c:166–168
In the speech in 1993 Hassan also gave a reason for her focus on the Qurʾān:

That [Muslims view the Qurʾānic text to be of basic importance] is the only reason I can do anything at all, because some people have profound contempt for me because I am a woman, I have been educated in Western institutions, and I live in the West. A lot of people do listen because I speak out of the Koran, which is the only claim I have to any kind of authority.  

When quoting the Qurʾān, which she does extensively, Hassan uses different English translations. Even in the same article different translations may be used, without any comments on the choice. The translations themselves are the subject of criticism only in a few cases (for examples, see below). Judging from a sample of 12 articles and the texts included in the collection *Women’s Rights in Islam*, the translation most often used is the well-known version by the Indian reformist Yusuf Ali (d. 1952), *The Meaning of the Holy Qurʾān* (originally published in Lahore in 1934). Approximately 60% of the quotations where the source is given are taken from this translation. The next largest bulk of quotations (approximately 10%) are from the translation by the Polish-Jewish convert to Islam Muhammad Asad (Leopold Weiss, d. 1992), *The Message of the Qurʾān* (1980). Hassan also presents her own translations of some verses. The translation of verse 53:42 by Iqbal appears in three articles. Translations by Mawdudi, Fazlur Rahman, the Ahmadiya Muslim Muhammad Ali (d. 1951) and the British convert to Islam Mohammad Marmaduke Pickthall (d. 1936) are also used in quotations, but to a much lesser extent.

**The ahādīth**

While the Qurʾān, according to Hassan, is non-contradictory the opposite is true for the bulk of what Muslims believe to be the ‘Islamic tradition’. One explanation for this is the influence of the *hadīth*-literature that at least in parts is presented as reflecting popular ideas in early centuries of Islam, in addition to containing pre-Islamic, Jewish and Christian material. She also points to an influence from this literature on the interpretation of the Qurʾān throughout history.  

Hassan stresses that she is neither alone, nor first, in being sceptical concerning the authenticity of the *ahādīth*. She here mentions Muslim authorities both in history, such as ash-Shāfiʿī (d. 820), and in modern times, such as the Indian religious reformists Ghulām Aḥmed Parvez (d.1986) and Chirāgh ˇAlī (d.

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149 Hassan 1994[1993]:121
1895) and Fazlur Rahman. She also mentions non-Muslim scholars, for example Islamic studies scholar Ignaz Goldziher (d.1921).¹⁵¹

The focus on the chain of transmitters (isnād) rather than the actual information transmitted (matn) in traditional methods of hadīth-criticism is noted. Examination of the isnād is however stated as an insufficient methodological tool for determining the authenticity of a specific hadīth. Hassan instead favours matn-criticism and here invokes the support of Ibn Khaldūn (d. 1406).¹⁵² A general view, expressed in several articles, is that if a hadīth contradicts the Qurʾān, in word, spirit or purpose, it should be regarded as false. This is in presented as something all Muslims agree upon, something that Muslim scholars agree upon or as something that is a part of an ‘Islamic theory’ of aḥādīth.¹⁵³ Muhammad, as the recipient of the Qurʾān, cannot have uttered anything in contradiction to it.¹⁵⁴ Conversely, aḥādīth that are in line with the ‘spirit’, ‘ethos’ or ‘specific teachings’ of the Qurʾān are, if not authentic, so at least compatible with views of Muhammad, his Companions and their successors, and as such normative.¹⁵⁵ Thus she does not consider the hadīth-literature to be generally of no value. She states that the importance of the hadīth-literature for the religious tradition as a whole, the historicity of the Qurʾān and the emotional life of Muslims in general cannot be ignored.¹⁵⁶ This is also indicated by her stated scepticism to views that the hadīth-literature should be discarded in toto. The Indian Tulūfi-i Islām movement founded by Parvez is cited as an example of this radical view.¹⁵⁷

Islamic history

References to early history are scarce in Hassan’s attempts to outline ‘normative’ Islam. Muhammad’s wives Ā’īsha and Khadija and the ṣūfī saint Rābi’ā al-‘Adawīya are a few exceptions. They are, however, only mentioned in passing as examples of women in early history taking part in the development of the Islamic tradition, in contrast to the women of later times.¹⁵⁸ Rābi’ā receives some attention as an example of an exceptional, holy woman in the history of

¹⁵⁴ Hassan 1991a:81
¹⁵⁵ See Hassan 1987b:94.
¹⁵⁷ See Hassan 1990:94; Hassan 1999b:249. Parvez appears as an authority also in other contexts, for example in connection with etymological discussions on Qur’ānic terminology (see Hassan 1987b:97; Hassan 1992:10; Hassan 1995b:37).
Islam.\textsuperscript{159} The notion of Muhammad’s wives and daughters as ideal models of Muslim women is present, but not elaborated upon.\textsuperscript{160}

The statement on the absolute authority of the Qurʾān is important, and it is strengthened by an implicit definition of who is a ‘Muslim’.\textsuperscript{161} The basic theme of logical coherence in revelation makes God bound by the rules of logic, which then are placed above revelation in authority. Hassan’s statements on the non-contradictory nature of the Qurʾān are not unique in the contemporary Islamic discourse.\textsuperscript{162} The hermeneutic consequences are clear: the importance of intra-Qurʾānic comparison and subordination of extra Qurʾānic sources in exegesis, tafsīr.\textsuperscript{163} Islamic studies scholar Daniel Brown has noted the importance of this way of viewing the Qurʾān, especially within modern Muslim reformist thought on the Indian subcontinent.\textsuperscript{164} The qualification of the purely intra-Qurʾānic method of interpretation provided by Hassan’s reference to ‘linguistic accuracy’, and to the methodologies of Rahman, is lessened by her stress on the importance of God’s ‘adl in interpretation. The ‘ethical criterion’, gives an overall impression of circularity.

It can be noted that Amina Wadud, in her book \textit{The Qurʾān and Woman} (1999), outlines a model for Qurʾānic interpretation that is very similar to Hassan’s. She also stresses the original context, grammar and what she terms as the ‘Weltanschauung’ of the text. Like Hassan, Wadud here refers to Fazlur Rahman, an important Muslim academic personality especially within a North American context.\textsuperscript{165}

Hassan’s subordination of the hadīth-literature as a normative source plays down the status of its content as wahy, ‘revelation’. This corresponds with a more general criticism of the hadīth-literature in modern reformist thought. The

\begin{footnotesize}
\begin{enumerate}
\item See Hassan 1995b:51.
\item For a similar presentation of the absolute authority of the Qurʾān, and a subsequent playing down of additional sources in the context of women’s rights and Islam, see Wadud 1999:xvii; Wadud 2000:16.
\item In an article on 20\textsuperscript{th} century views among Muslim religious scholars on the Qurʾānic chapters as coherent units, Islamic studies scholar Mustansir Mir makes the general statement that ‘the approach of traditional writers [to the subject of interpretation] […] is linear-atomistic, while the approach of modern writers […] is organic-holistic’. (Mir 1993:219).
\item For a general statement on this in relation to modern interpretations of the Qurʾān, see Mir 1993:218.
\item On the Indian subcontinent scepticism towards alḥādīth in favour of the Qurʾān has been stressed by the Indian Muslim religious reformist Sayyid Ahmad Khān (d. 1898), and followers of the Aligarh-school in the late 19\textsuperscript{th} and early 20\textsuperscript{th} centuries. It was an important theme in the Aḥl-i Qurʾān-movement, established in western Punjab in the early 20\textsuperscript{th} century. Here, the insistence on the primacy of the Qurʾān resulted in a rejection of all aid from additional sources in interpretation, and a tendency to view the Qurʾān as its own best commentary (see Brown 1996:44–45). For a presentation of an Egyptian view on the self-sufficiency of the Qurʾān in the works of Qurʾānic scholar Bint ash-Shāṭi (‘Āʾisha abd al-Rahmān), see Jansen 1974:66–69.
\item See Wadud 1999:xii–xiii, 2–4, 9, 54. See also Wadud 2000:15. For a thorough presentation of Rahman's views on interpretation, see 'his' chapter in Armajani 1999.
\end{enumerate}
\end{footnotesize}
religious reformers G. A. Parvez and Chiragh Ali invoked by Hassan in this context are both famous for their scepticism towards *ahādīth*. Hassan’s references to Muslim as well as non-Muslim authorities serve as justifications for scepticism. The references also serve as an important means of distancing her own person from the views she expresses concerning the issue of authenticity. \(^{167}\)

That Hassan still discusses the issue of isnād-criticism in spite of her statements on the exclusiveness of the Qurʾān and the playing down of the normative value of the hadīth-literature is noteworthy. The attempts to justify her position on the legitimacy of *matn*-criticism by reference to the authority of Ibn Khaldūn, shows that although it is used rather extensively in the contemporary Islamic discourse, it is not uncontroversial. The stress on the legitimacy of *matn* criticism, the subordination of the *ahādīth* to the Qurʾān (in both letter and spirit), and the emphasis on the role of rationality in interpretation works in favour of a rejection of traditional religious authority and learning. It side-steps the issue of lack of appropriate training. Traditional learning becomes subsidiary to a God given ability to logical reasoning. \(^{168}\)

The non-utilisation of normative history and models is understandable both in relation to expected audience and to more general statements on the core aspect of Islam. Stress on Islam as a universal religion, with a cognitive content relevant to the contemporary world, is important, for example in the context of inter-faith dialogue. Playing down the specific geographical, historical and social context of the Qurʾān enhances its eternal and universal importance. There is no need here to stress events in 7th century Arabia, since the normative value of early history may not be easily grasped by a non-Muslim audience.

Applications

**Gender equality**

In Hassan’s ‘feminist theology’ the Qurʾānic affirmation of equality between men and women is both implicit – in a liberating ‘basic idea’, ‘vision’ or ‘intent’ – and explicit in the text. The Qurʾān highlights and criticises the fact that

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\(^{166}\) Chiragh Ali was a follower of Sayyid Ahmad Khān and proposed a limitation of alleged utterances by Muhammad as conveying only the Prophet’s personal views, not intended as part of the revelation (see, for example, Smith 1946:29–30). Parvez’s journal *Tulā’i Islām*, established in 1938, put forward the views of the *Ahl-i Qurʾān*, stressing the conflicts within the hadīth-literature and between it and the Qurʾān. For information on the contemporary *Tulā’i-Islām* movement, see their homepage [www.toluislam.com](http://www.toluislam.com). See also Rippin 1993:72–75 for a short presentation of Parvez.

\(^{167}\) For the discussion on ‘footing’ as a way to handle the issue of accountability for ‘facts’ presented, see Potter 1996:142–147.

\(^{168}\) Such a strategy was explicit in, for example, the works of Sayyid Ahmad Khān, when making the *sunna* subordinate to the Qurʾān (see Brown 1996:44).
women have been discriminated against throughout history.\(^{169}\) Verses referred to or quoted to point at Qur'ānic equality are, for example, 3:195, 4:124, 9:71–72, 16:97 and 33:35.\(^{170}\) Verses 9:71 and 3:195 are at times combined to back up the statement on the absence of a gender hierarchy in the Qur'ān, presenting women and men as “members and protectors” of each other.\(^{171}\)

Hassan contrasts this ideal with other Muslims’ interpretations especially of verses 4:34 and 2:228.\(^{172}\) The criticism of the interpretations of verse 4:34 focuses on ‘misunderstandings’ of the Arabic original. The concept of men as women’s *qawwāmūn* is central. Here Hassan presents several alternative renderings of the word into English and states each as equally faulty. The translations of Mawdūdi and Yusuf Ali are singled out. In Mawdūdi’s translation men are presented as ‘the managers of the affairs of women’, and in Yusuf Ali’s as ‘protectors/And maintainers of women’. Hassan states, without references, that ‘linguistically, the word *qawwāmūn* means “breadwinners” or “those who provide a means of living”’. This is not a description, according to Hassan, but a divine prescription on a division of labour in the ideal Islamic society.\(^{173}\) In 1987 this division is stated as women having specific ‘family duties’, not further specified. In later discussions on the verse women are to be provided for when attending to ‘the burden that most women shoulder in childbearing and rearing’.\(^{174}\) Hassan rejects Mawdūdi’s and Ali’s translations of the next line of the verse: ‘because Allah has made the one superior to the other’ and ‘Because God has given/The one more [strength]/Than the other’, respectively. In a correct understanding God here presents the empirical fact that ‘some in relation to some’ are superior to others in their ability to serve as ‘breadwinners’, without specification regarding gender.\(^{175}\) The ‘most appropriate [interpretation] contextually’, however, would be that some men are better providers than other men are.\(^{176}\)

Mawdūdi’s and Yusuf Ali’s translations of the expression *fa aṣ-ṣāliḥāt qānitāt* as ‘Virtuous women are, therefore, obedient’ and ‘Therefore the righteous women/Are devoutly obedient’ respectively, is another case of misunderstanding. No alternative translation is given, but Hassan provides the following discussion on semantics and etymology in 1991:

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The word *salihat*, which is translated as ‘righteously obedient’, is related to the word *salahiat*, which means ‘capability’ or ‘potentiality’, and not obedience. Women’s special capability is to bear children. The word *qanitat*, which succeeds the word *salihat* and is also [sic!] translated as ‘obedient’ is related to a water bag in which water is carried from one place to another without spilling. The woman’s special function, then – according to this passage – is that, like the bag in which water is transported without loss to its destination, she carries and protects the fetus in her womb until it can be safely delivered.\textsuperscript{177}

In 1999 the etymological elaboration on *qānitāt* is missing and the passage after ‘bear children’ reads ‘and she carries and protects the fetus (which is hidden from the eye) in her womb until it can be safely delivered’.\textsuperscript{178} In neither case is there any reference to the source of this information.

In this case the Qur’ān thus, according to Hassan, describes a fact and does not prescribe social action. The differentiation between the descriptive and prescriptive aspects of the Qur’ānic text is important also in Hassan’s concluding remarks on this first part of verse 4:34. The first line of the verse is not descriptive but normative. Men *ought to be* ‘breadwinners’ or ‘providers’ of women. This obligation is however qualified by context. Women should be provided for by men *when pregnant and rearing children*, but not necessarily otherwise. She states:

> What is outlined in the first part of this passage is a functional division of labour necessary for maintaining balance in any society. Men who do not have to fulfill the responsibility of childbearing are assigned the function of being breadwinners. Women are exempted from the responsibility of being breadwinners in order that they may fulfill their function as child-bearers. The two functions are separate but complementary and neither is higher or lower than the other.\textsuperscript{179}

Verse 4:34 is addressed to the *umma* collectively and gender-inclusively, and does not primarily concern the relationship between a husband and a wife. The gender-specific duties are furthermore stated as conditioned by one another. Childbearing need to be fulfilled as a duty by women only when men function as providers.\textsuperscript{180} Hassan refers to this interpretation also in another context to sup-

\textsuperscript{177} Hassan 1991d:56. See also Hassan 1987a:103; Hassan 1990:111–112.
\textsuperscript{178} Hassan 1999b:264
\textsuperscript{179} Hassan 1991d:56; Hassan 1999b:265. See also (with some modification) Hassan 1987a:104; Hassan 1990:112.
port her view that the Qurʾān demands public economic support by all men, not only the husbands, for women who are ‘fulfilling their function’ in society.\footnote{Hassan 1995b:79–80}

Verse 2:228 does not receive equal attention. When quoted, it is the translation of Yusuf Ali that is used and the stress is on the last two lines: ‘But men have a degree/(of advantage) over them [women]’. According to Hassan, this has been wrongly understood by Muslims as referring to ontology in general and not to the specific and correct context of divorce and the ‘idda, the waiting period after divorce prescribed for women, but not for men. The ‘advantage’ concerns the right of the divorced husband to remarry immediately,\footnote{See Hassan 1990:113–114; Hassan 1991d:57–58; Hassan 1999b:266–267. See also Hassan 1995b:11.} an advantage that is thus accepted by Hassan.

Hassan stresses the importance of aḥādīth in promoting inequality, both as a source in themselves, and in relation to traditional interpretation of the Qurʾān.\footnote{See Hassan 1990:116; Hassan 1995b:11; Hassan 1998a:2, 6. See also Hassan 1987a:101; Hassan 1991a:70.} A few aḥādīth are singled out for criticism, especially the following:

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\text{[...]} \text{if it were [sic!] permitted for one human being to bow down (sajada) to another I would have ordered the woman to bow down to her husband when he enters into her, because of God’s grace on her [...]}\footnote{Hassan 1995b:11. See also Hassan 1991d:58; Hassan 1999b:267.}
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To attribute this utterance to Muhammad is presented as ‘utterly shocking’, because it seemingly expresses a wish on his behalf to commit shirk.\footnote{Hassan 1995b:11. See also Hassan 1991d:58–59; Hassan 1999b:267. A reference to shirk is used, in this and in other contexts, to oppose the view of man as woman’s ‘God in earthly form’, which according to Hassan is popularly held on the Indian subcontinent (see Hassan 1990:115–116; Hassan 1992[1982]:461; Hassan 2000c:236). See also Hassan 2000a:3.} There are, however, also instances where Hassan makes positive use of aḥādīth to support gender equality.\footnote{See, for instance, Hassan’s use of the story of Abraham and Hagar in Ṣaḥīḥ al-Bukhārī, where the Hagar is cited as an example of ‘Islamic’ egalitarianism, and of the ‘Islamic’ rejection of any distinction due to colour, race, class or sex (Hassan 1994:134–135).}

God’s creation of human beings is especially important in Hassan’s discussion on equality between men and women. She postulates three commonplace ‘theological’ assumptions among Muslims generally. The first one is deemed most important:

1) The creation of the first woman, Hawwa, was secondary to that of the first man, Adam. She was made from his ‘crooked’ rib.

2) The woman was responsible for the first couple’s expulsion from Paradise, tempting the man to go against God’s will.
3) The woman was created not only from the man, but also for him, making her existence instrumental. Hassan states that if men and women were indeed created unequal, as is commonly held, then inequality between the sexes would be religiously appropriate. If on the other hand they were created equal, subsequent inequality in Muslim societies is not in accordance with the divine will. The three assumptions presented above correspond, according to Hassan, with the story of creation in Genesis 2:18–24, but contradict the Qur’anic text. In the latter the first creation is that of a sexually undifferentiated humanity, a ‘single source’ from which the two anatomically differentiated sexes emerged later and simultaneously. This is why the Qur’ān uses generic, non-differentiating terms for humanity, such as an-nās, bashar or al-insān, in the context of creation. Hassan draws the conclusion that ‘God created all human beings in identical manner’ and that ‘in the context of creation there is absolutely no difference between men and women’. Specific reference is given to, for example, verses 16:72 and 42:11 in support of the claim that men and women were created by God ‘in like manner, of like substance’. Special attention is given to the expression nafs wāhida, used in the context of creation in, for instance, verses 4:1, 6:98, 7:189, 31:28 and 39:6. Hassan’s conclusion is that since the Arabic word nafs, ‘soul’, is grammatically feminine, the first creation may even be interpreted as female. The reason why translators in general have understood and translated this ‘soul’ to be male may be ‘preconceptions and psychological orientation’. The primary creation as female is not stated as a fact, at least ‘not yet’. But in some quotations of these verses, Hassan uses her own translation, for example of verse 4:1: ‘It is He (Allah) who originated (all of) you from one being (“nafs-in wahidatīn”) and made from her, her mate’. She also identifies nafs wāhida with the ‘single source’. According to Hassan, God in the Qur’ān deliberately uses both masculine and feminine grammatical gender in order to highlight ‘the creation of humanity from a single source’. She asserts that ‘the Qur’ānic state-

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190 Hassan 1995b:114–115
191 Hassan 1987a:100
193 Hassan 1991a:74. See also Hassan 1994[1993]:120.
194 Hassan 1994[1993]:120
195 Hassan 1995b:113. For Hassan’s own translation of verse 4:1, see also Hassan 1994[1993]:120. For her translation of verse 7:189, see Hassan 1995b:121. For additional identification of nafs wāhida with the ‘single source’, see Hassan 1990:98.
ments about human creation, diverse as they are, leave no doubt as to one point: both man and woman were made in the same manner, of the same substance, at the same time'.197

The claim that the first creation was undifferentiated is further substantiated by a discussion on the terms ad\textipa{m} and z\textipa{awj}, ‘mate’, in the Qur\texthta{\textdegree}ân. Ad\textipa{m} in most cases (twenty-one out of twenty-five according to Hassan) does not refer to a specific individual, i.e. the prophet Adam, but is a generic word for humanity as a whole.198 The ‘zaw\textipa{j} of Adam’ mentioned, for example, in verses 2:35, 7:19 and 20:117, is not to be identified with Hawwa (Eve). The reference is not to a specific female individual. Zaw\textipa{j} is grammatically masculine, and the feminine z\textipa{awja} is not used in the Qur\texthta{\textdegree}ân. Again the Qur\texthta{\textdegree}ân is deliberately unclear regarding both sex and number.199

In contrast to the Biblical account, the Qur\texthta{\textdegree}ân does not present the first woman as alone taking the active part in the events of the ‘Fall’. Satan, Shay\textipa{t}ân, leads both the man and the woman astray, and if anyone is responsible, it is Adam. But since the term ad\textipa{m}, according to Hassan, should be interpreted generically, the verses point to a joint disobedience. Furthermore, the ‘Fall’ from the heavenly paradise, al-\textipa{janna}, to earth should not be considered a punishment. God’s intent in creating the human being was for it to be God’s khalîfa on earth.200

In rejecting the third assumption of woman’s creation as instrumental in satisfying man’s needs, Hassan refers to her understanding of the purpose of the creation of the human being, regardless of sex, that is to serve God, to perform ‘\textipa{i}b\textipa{d}\textipa{t}.201

The Bible, or more loosely the ‘Christian’ or ‘Jewish’, traditions are thus posed against the Qur\texthta{\textdegree}ânic account in the context of creation.202 Hassan even presents the Bible as the original source of commonplace Muslim assumptions, not directly, but by way of the had\textipa{\textdegree}th-literature. Several examples are given.203 She asserts that these ah\textipa{\textdegree}d\textipa{\textdegree}th contain an implicit ‘theology of woman […] based upon generalizations about her ontology, biology, and psychology that are contrary to the letter and the spirit of the Qur\texthta{\textdegree}ân’. Therefore they ‘ought to be rejected on the basis of their content alone’.204 Hassan also states that:

197 Hassan 1991a:77
199 Hassan 1991a:72–73
204 Hassan 1991a:80; See also Hassan 1994[1993]:118–119.
We have thirty Koranic passages [in the context of creation] which confirm the equality of men and women. Then we have these *ahadith* which are contradictory to the Koran. In fact, in Muslim consciousness the rib story has superseded the Koranic text. We definitely have to discard the incorrect *ahadith*, in accordance with Islamic principles of scholarship.205

**Marriage and its dissolution**

The presented commonplace Muslim view on marriage is one where the husband is superior to the wife. She must obey him at all times.206 In contrast to this, Hassan outlines an ‘Islamic’ view on marriage, strongly affirmed by the Qurʾān and in *ahādīth*. In the latter case the issue of authenticity is explicitly stated as less relevant. An ‘Islamic’ positive orientation towards this world is posed against ideals of celibacy in other religious traditions, especially Christianity.207 The institution of marriage is presented as having a divine *purpose*, connected to creation. God created *azwāj*, ‘mates’, for men and women. The ideal marriage is to be characterised by closeness and equality, and absence of hierarchy.208 Anatomical differences between men and women are a part of creation, with a purpose of bringing husband and wife closer to one another, by means of sexual intercourse. An ‘Islamic’ positive view of heterosexual intercourse within the context of marriage is contrasted with the view in what she terms as ‘dualistic traditions’. Marriage and sexuality further form the basis for a ‘just’ and ‘moral’ society. It provides a religiously legitimate framework in which ‘sexual energies’ can be used constructively in relation to the wider society.209 The interconnectedness between marriage and the wider social structure is evident also in the presentation of the heterosexual family either as the basic unit in society, or as ‘a microcosm of the *umma*’. ‘Justice’ in society is dependent on ‘justice’ within marriage. This latter consideration explains the many regulations on marriage to be found in the Qurʾān.210

Hassan’s accepts the religious prohibition on Muslim women marrying non-Muslims and justifies it with reference to the notion that children inherit their father’s religion, which forms an ‘obvious reason’ for the ban.211 On the other

207 See Hassan 1995b:49–50. It should be noted that Hassan here also criticises what she presents to be a tendency among Muslims to over-stress the importance of marriage and motherhood. According to her, this results in a situation where unmarried women are considered an anomaly, and ignored when the status and role of women are discussed (see Hassan 1995b:151).
209 Hassan 1990:96–99
211 Hassan 1995b:49–50, 62 note 4
hand, she rejects child marriages, arranged and forced marriages on the grounds that marriage in Islam is a social contract, implying legal maturity, autonomy and consent of both parties. As a consequence Hassan also rejects the necessity of a wali, the male ‘guardian’ who negotiates the marriage contract on behalf of the woman. 212 The hadith ‘Of all the things permissible, the most displeasing to Allah is divorce’ is presented as the main reason behind the expressed general negative attitude to divorce in Muslim societies. The hadith is in need of critical examination regarding its ‘formal and material aspects’, but Hassan does not undertake this herself. 213 She presents ‘no-fault divorce’ as religiously legitimate, and here refers to verses 2:231 and 241. 214 However, at the same time she appears to accept the notion that ‘certain circumstances’ have to apply in order for women to obtain a divorce, with reference to verse 4:128. 215 Several verses of the Qur’an (2:231, 2:236–237, 2:241, 4:20, 33:49 and 65:6–7), are used to substantiate an assertion that ‘in the context of divorce [as in the context of marriage] the Qur’an recommends an attitude of fairness and kindness toward women’. She concludes that: ‘Surely the most “pro-feminist” court in the world cannot give a divorced woman more than is given to her by the Qur’anic decrees’. All the quoted verses are from the translation by Yusuf Ali, apart from 2:236–237 that is from Pickthall’s translation. 216

Hassan approves of legislative measures taken by Muslim states in attempts to restrict polygamy, 217 which is described as ‘the Sword of Damocles which keeps women under constant threat’. 218 Nevertheless, the institution is religiously legitimate according to verses 4:2–3, but only under ‘highly exceptional circumstances and with stringent conditions’. References are made to a shortage of men in Medina during the time of Muhammad, due to the wars with Mecca. The Qur’an recognised the problem, and allowed men to marry more than one wife, but only ‘in conditions of great social hardship and for humanitarian purposes’. 219 A polygamous man has to be ‘fair in all ways to all his wives’. There is no utilisation of verse 4:129 however, since, according to Hassan, it refers to a

212 Several Qur’anic verses are invoked in this context: 4:6, 17:34 and 6:153 (sic! should be 6:152). Hassan also questions the traditional view that Muhammad’s wife ‘Amiša’s was nine years old when the marriage was consummated, and instead choose to rely on ‘modern Muslim scholars [who] have painstakingly shown that history has been distorted […] and that actually she was either seventeen or nineteen’ (Hassan 1995b:53). See also Hassan 1995b:98; Hassan 1996:381; Hassan 1998a:8.

213 Hassan 1995b:55


different context than 4:3. She concludes that although Islam does not recommend polygamy, it might in some contexts be a preferred option to divorce, especially when the first wife is barren.

The veil and segregation

Hassan states in at least one context that the phenomenon of veiling pre-dates Islam and mirrors Jewish and Christian misogynist attitudes. She does not explicitly discard the phenomenon as non-Islamic. The stress on veiling in contemporary Muslim societies is related to ‘conservative’ reactions to the enhanced visibility of women in public life, in protection of women’s ‘chastity’.

Different types of veiling are noted. Hassan states that the headscarf, when worn as an act of free choice, does not restrict women in their public activities. Under some circumstances then, the veil can be viewed as ‘an emblem of their [women’s] political, economic and cultural emancipation and as a means of asserting their multifaceted identities’. However, when externally imposed, or in the form of ‘total veiling of the body’ the veil becomes ‘a serious deterrent to the full and healthy development of Muslim women’.

Verses 24:30–31 and 33:59 are discussed in this context. In the former Hassan identifies a gender-inclusive ‘principle of modesty’ or ‘law of modesty’, admittedly more extensive for women than for men. The historical context of revelation is stressed. It had the purpose of relieving women in 7th century Arabia from the burden of being seen first and foremost as sex objects. The Qur’anic dress code aimed at creating free, rational individuals. Verse 33:59 had the purpose of allowing women to move about freely. Believing women would be distinguished from other women through an ‘outer garment’, jilbab. Given this rationale, the ‘outer garment’ becomes superfluous in a society where there is no need for a distinction between believers and non-believers. There is furthermore no necessary connection between the ‘law of modesty’ and ‘the outer garment’. The former is absolute and the Qur’ānic in verse 24:60 states that the ‘outer garment’ is not required of women that are past the age in which they

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222 See Hassan 1995b:99. Reference is made to Fatima Mernissi’s book The Veil and the Male Elite that Hassan also uses to conclude that the historical context of the Qur’ānic prescriptions in relation to women’s dress has to be investigated further (Hassan 1995b:103 note 41). For a reference to the Bible in the context of veiling, see Hassan 1998a:9.
223 See Hassan 1995b:99; Hassan 1990:121; Hassan 1996:382. Hassan also notes a political dimension of the veil in the context of revolutionary Iran. Before the revolution the chador was a token of opposition against the shah and a symbol of equality, and after the revolution it became a token of loyalty towards the state (Hassan 1995b:67–68, 73).
224 Hassan 1990:122; Hassan 1999b:274. There are however indications that Hassan views the notion of a ‘free choice’ as problematic (Hassan 1995b:73).
are likely to be considered as sex objects. Instead of noting the rationale behind the ‘outer garment’, ‘conservative Muslims’ (or ‘ultra-conservative Muslims’) have used *aḥādīth* to compel women to cover themselves, either totally, or in dresses that cover everything except the hands and the face. This is not prescribed nor sanctioned by the Qurʾān. Hassan here also poses the rhetorical question, with reference to verse 24:30, that: ‘if the Qur’an intended for women to be completely veiled, why – then – did it command the men to “lower their gaze”? ’

**Sexuality, bodily integrity and violence**

In order to realise their individual autonomy women have to have control over their bodies, not having them controlled by state, the community or institutionalised religion. Family planning and birth control are important in this context. In 1990 Hassan states that the Qurʾān is silent on the topic of family planning and that the *ḥadīth*-literature and the views of ‘Muslim jurists’ are contradictory. The issue of legitimacy is thus open, and should be discussed ‘by the learned in the Muslim ummah’. On the other hand, in 1995 she discusses programs of family planning, and relates their efficiency both to the utilisation of religion in argumentation and to the abolishment of ‘incorrect’ religious understandings of women’s inferiority. Two trends in the contemporary Muslim debate on family planning are identified and criticised: a ‘conservative’ position, represented by Mawdūdī, and a ‘liberal’ or ‘progressive’ position, represented by Fazlur Rahman. The ‘conservatives’ hold, for example, that the Qurʾān forbids family planning by analogy since it condemns female infanticide. Hassan rejects the analogy, since the Qurʾānic condemnation concerns the killing during *al-jāhilīya* of children already born. Representatives of the ‘liberal’ position view family planning as legitimate since the Qurʾān is silent on the topic, which Hassan deems as an insufficient argument. Instead, the general ‘ethical framework’ of the Qurʾān has to be considered. From this it can be inferred that family planning is a ‘fundamental human right’. Illiteracy and poverty hinder the development of the ideal society, and can be reduced through family planning. In her search for more substantial support for birth control she notes, and quotes, perceived contradictions in the *ḥadīth*-literature concerning the issue of *azl*, i.e. *coitus interruptus*. Support for its legitimacy are to be found in al-Bukhārī’s and

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229 Hassan 1990:118–119
230 Hassan 1995b:42
231 See Hassan 1995b:35–38; Hassan 2000c:227–231. The view that family planning should be considered a ‘fundamental human right’ is also voiced in, for instance, Hassan 1990:117; Hassan 1995b:100; Hassan 1999b:271–272. Mawdūdī’s ‘conservative’ position is further highlighted by a quotation in Hassan 1990:120.
Muslim’s collections of ‘sound’ (ṣaḥīḥ) ahādīth. Opposite views are, according to Hassan, contained in ahādīth generally considered to be ‘weak’, daʿīf. She notes that azl is accepted in all five major madhāhib, and by the famous religious scholar and šūfī al-Ghazālī (d. 1111). In the case of abortion, she notes differences between the five (the Shiʿī jaʿfarī madhhab included) madhāhib, but does not herself take a clear stand on the issue.232

Hassan connects the resistance to family planning to the larger issue of women’s sexuality and a ‘desire to keep women tied to the homestead and in a state of perpetual dependency upon men’.233 Similar explanations are given also to honour-killings and female genital mutilation. The concept of honour and its connection to women’s bodies is presented as the underlying factor behind the practice of female infanticide during the jāhilīya. Concerning female genital mutilation, Hassan claims that its roots are not religious but ‘cultural’.234

Hassan objects to what she perceives as the commonplace interpretation of verse 2:223, of women as a ‘tilth’ which their husbands have the right to ‘approach’ at any time, used, for example, as a justification for intra-marital rape. It is stated that ‘the likening of a wife to life-containing soil has profound meaning but the average Muslim is not sensitive to the subtleties of the comparison’. These subtleties are not further elaborated upon. Instead Hassan rejects ahādīth that maintain it is duty of the wife always to comply with her husband’s sexual wishes. In practice, the result of these ahādīth has been one of ‘sexual intercourse becoming a mechanical performance which leaves both the man and the woman sexually unsatisfied’.235 Ideal ‘Islamic’ sexuality is described as ‘the divine instrument for creating man-woman relationships characterized by togetherness, tranquillity, love and mercy’.236 Intra-marital rape is forbidden in the Qurʾān, according to Hassan. Here she makes references to verse 4:19 and quotes the translation by Yusuf Ali: ‘O ye who believe! Ye are forbidden to inherit women against their will’. No further comment is given.237

Domestic violence is discussed in relation to the second part of verse 4:34. In 1987 Hassan quotes the translation of Yusuf Ali: ‘As to those women/On whose part ye fear/Disloyalty [nushāz] and ill-conduct/Admonish them (first)/(Next), refuse to share their beds, / (And last) beat them lightly [...]’. Thus she does not, like Ali, place the word ‘lightly’ between brackets.238 In other articles, the translation by Mawdūdī is quoted instead: ‘As for those women whose defiance

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233 Hassan 1990:120
235 Hassan 1990:119–120. See also Hassan 1999b:272–273. For a reference to the verse as often misinterpreted, see Hassan 2000c:236.
236 Hassan 1990:97
238 Hassan 1987a:102
you have cause to fear, admonish them and keep them apart from your beds and beat them." Both translations are deemed faulty.

Hassan’s interpretation relates the verse to an extraordinary – but to her evidently conceivable – future event. If women stage a mass-rebellion against their divinely prescribed social function of reproduction the verse prescribes how the umma should deal with the situation. Firstly, according to Hassan, there should be a council between the umma and the rebels. Secondly, if this first step fails, the rebels should be isolated. It is in this context that she criticises both translations above. The Qurʼān orders the umma collectively to ‘leave the women alone in their beds’ and not men individually to ‘keep them apart from your beds’ or ‘refuse to share their beds’. The translation of the word adribūhunna as ‘beat them’ is erroneous, according to Hassan. In legal contexts, such as this, the verb daraba, means ‘holding in confinement’ and thus the last step to be taken is that of holding the rebellious women in confinement for a longer period of time. A reference is given to the dictionary Taj al-fīrūs by az-Zabīdī (d. 1791). There is also a reference to the ‘confinement’ of unchaste women in verse 4:15, where neither the word daraba nor derivations thereof are used.

Despite general statements on the ‘ethical criterion’ and holism in her ‘feminist theology’, it thus turns out that its practical application is mainly a matter of details, where the status of the Qurʼān as revelation in its totality stands in the centre. The references provided to substantiate the claim that a basic equality is contained in the text are commonplace when ‘spiritual’ equality is stressed. They function as statements on the religious legitimacy for gender equality, but also as a means to apologetically enhance the image of the Qurʼān.

Hassan’s stress on Arabic, through etymology and grammar, corresponds with statements on the Qurʼān as a logical, coherent, perfect and above all divine text. The original context of revelation has no practical effect on the eternal validity of Qurʼānic rulings, although it functions as a means for rationalisation. The notion of an essential, eternal meaning, not evident at first sight, postulates that parts of God’s message have been hidden in history, and are revealed only in contemporary times when the modern notion of gender equality questions previous understandings.

The centrality in providing a ‘new’ understanding of verse 4:34 and the term qawwāmūn, is evident in many contemporary discussions on gender equality and Islam. It is often done in ways similar to those utilised by Hassan, for example stressing its ‘essential’ meaning, by way of etymology, linguistic specu-

242 For different interpretations of this verse especially in 20th century reformist thought, see Stowasser 1998.
lation or intra-Qur’anic comparison. All such attempts serve to enhance the image of the text as God’s word containing an eternally valid and relevant message.

The primacy Hassan attributes to the story of creation can be questioned, which is indicated by the use of the adjuster word ‘in fact’ in the quotation contrasting the Qur’anic and ‘incorrect’ āḥādīth. However, it often figures in attempts to state Qur’anic gender equality in the contemporary Islamic discourse, not least in comparisons with the Bible.244 Biblical narratives of how the first couple was created have been in focus in Christian and Jewish feminist theology as a basis for women’s subordination,245 and to address creation an inter-faith context is logical.

In a classic article from 1978 Old Testament scholar Phyllis Trible advanced the view that the creation of the human being was the creation of one, asexual or androgynous being from which the two sexes later on emerged. Concentrating on the Hebrew original of Genesis 2–3 she, like Hassan, stated that ādam is a generic term for humankind. The creation of the two sexes from an original, androgynous being was a subsequent and simultaneous act, the man and the woman were both responsible for the ‘Fall’.246 Even if Hassan were aware of this article, a reference to it would be of no use to her. It is more useful to be able to contrast a symbolic reading of the Qur’ān with a literal reading of the Bible. Here Hassan utilises the traditional notion of the Qur’ānic revelation as a corrective of earlier revelations that have been preserved in a corrupt form in the Bible. This becomes important in convincing a Muslim audience. It also enables her to further criticise the āḥādīth-literature, utilising a traditional notion of īsrāʾīlīyāt, āḥādīth containing information mainly from Jewish legends or religious scriptures. These āḥādīth can be rejected as illegitimate religious innovations, Ḏaʾ.247 Such a use of the notion of Islam as a ‘correction’ of earlier revelations can be noted also in Aldeeb Abu-Sahlieh’s discussion on human rights and Islam in general. His motive for including comparative religious material – mainly Jewish – when discussing human rights in relation to the Islamic sources is to facilitate the eradication of problematic material from the latter.248

The examples adduced in Hassan’s polemic against āḥādīth are well chosen. Also in this context she uses the strongly negative notion of shirk, posed against

245 See Craven 1996; McFague 1996.
246 See Trible 1973:34–39. See also Craven 1996. See also Gross 1996:116 where Trible’s work is presented in a chapter that also contains a presentation of the contents of Hassan 1991d.
247 Such āḥādīth have been a target for modern criticism of the authenticity of the āḥādīth-literature, although the attitude has not been one of total rejection (see Juynboll 1969:121–138; Brown 1996:37–38; Vajda 1978).
the ideal of *tawḥīd*. Hassan’s does not use *ahādīth* to facilitate interpretation of the Qurʾān, which is self-contained, but only to support the notion of a basic Qurʾānic egalitarian spirit. All *ahādīth* that do not fulfil that purpose are rejected in practice, if not in principle.

The reference in connection with the interpretation of 4:34 to a *collective* obligation, as an divinely ordained system of maternity leave, can be seen as corresponding to the attention given to such support for women in international human rights documents. It should however be noted that Hassan’s discussions on verse 4:34, on creation and on marriage, on divorce and sexuality all carry traits of gender essentialism. The eternal, divinely ordained functional division of labour between men and women, that corresponds with ‘natural’ biological differences is, as was noted in Chapter 1, common in the contemporary Islamic discourse, as are the references to ‘balance’, ‘complementarity’ and ‘equal value’. Specifying functional division of labour to childbirth and rearing is a limitation in relation to more conservative strands within this discourse. Not to be ‘breadwinners’ is presented by Hassan as a privilege, through the use of the word ‘exempted’. A parallel example to Hassan’s elaboration on 4:34 here can be found in Amina Wadud’s book *Qurʾān and Woman*. Wadud presents the Qurʾān in a general statement as on the one hand acknowledging the biological difference between men and women, but on the other hand not prescribing any eternal social roles along the lines of this difference, independent of social context. On the contrary the Qurʾān (and thus God) leaves the social construction of gender to human beings. At the same time however, women’s primary social function, and *religious duty*, is connected to childbearing. Here, as in the case of Hassan’s texts, there is a notion of men as providers, and the notion of an ideal society as ‘balanced’ and ‘just’ through gender-specific role fulfilment based on divine decree.

Hassan makes an implicit normative differentiation between religiously illicit and licit sexuality related to a divinely created institution of heterosexual (implicitly monogamous) marriage. This rules out both sex outside marriage and same sex marriages as possible to combine with ideal Islam. Furthermore, there is no notion of a right for women to freely express their sexuality, also outside wedlock. The institution of marriage, and intercourse within the framework of marriage is given a *telos* in relation to a view of society that is organic. Role fulfilment safeguards the harmony in society as a whole. There are no conflicts of interest in this ideal society, class-wise or gender-wise. Here there is an addi-

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249 For interpretations similar to that of Hassan, see al-Faruqi 2000:80–81; al-Hibri 2000:64.

250 See Wadud 1999:6, 8–9, 15, 21–22, 67.

251 Wadud 1999:64, 73. For an additional example of the notion of ‘complementarity’, see al-Faruqi 2000:97. For an example where the notion of ‘balance’ and role fulfilment in the family is used against the Beijing Platform for Action, see Kausar 1999:212–213.
tional understanding of ‘justice’. A ‘just’ society is not only one characterised by equality between its members (connected to the term ‘adl’) or by affirmative action in relation to those who are underprivileged (connected to the term ihsān). It is also a society that is characterised by stability, absence of conflict, and role fulfilment in correspondence with a divine plan. Women’s human rights are here not a matter of a state having certain obligations towards its citizens. The ideal society has no need for mechanisms of social control because it corresponds with a divine plan. Everyone shares a correct understanding of Islam and fulfils his or her social role in relation to it. This latter conception of ‘justice’, as social balance in line with a divine plan and dependent upon role fulfilment and absence of conflict, is stressed also by others who discuss women’s rights and Islam in ways similar to Hassan.\textsuperscript{252} Such an understanding of ‘justice’ shows similarities with what philosopher Karl Popper has identified, and negatively evaluated, as ‘totalitarian justice’, in connection, for example, with Plato’s notions of an ideal society.\textsuperscript{253}

It is clear that Hassan, in her interpretation of problematic Qur’ānic verses, comes to condone in principle several of the gender-specific religious regulations in family law that are criticised in the international debate. She shares this with several other participants in the international debate on women’s human rights and Islam who claim total ‘Islamic’ gender equality between men and women. Philosopher and Muslim religious activist Azizah al-Hibri, for example, deems the ban on marriage between a Muslim woman and a non-Muslim man religiously legitimate.\textsuperscript{254} Amina Wadud accepts the difference in divorce rights, on the basis of verse 2:228, and states that in this context (but only in this context) God has indeed given a privilege to men.\textsuperscript{255}

The fact that Hassan does not use the well-known argument against polygamy through contrasting verses 4:3 and 4:129 is in line with the basic notion of the Qurʾān as a non-contradictory text.\textsuperscript{256}

When Hassan sets the Qurʾān above ‘the most pro-Feminist court’ in the context of divorce, with the help of the adjuster word ‘surely’, she uses exaggeration in order to lessen the impact of Qurʾānic gender distinction in rights. The choice of Pickthall’s translation of verse 2:236 instead of Yusuf Ali’s in this context is noteworthy. The verse concerns responsibilities towards a divorced woman (in a case where the marriage has not been consummated). The word mattiʿūhunna in the verse is translated differently by the two. Ali translates the

\textsuperscript{253} See Popper 1966:86–119.
\textsuperscript{254} al-Hibri 2000:69
\textsuperscript{255} Wadud 1999:68. See also her defence of unequal distribution of inheritance in relation to verse 4:34 (Wadud 1999:69–74).
\textsuperscript{256} For such contrasting, see al-Hibri 2000:66; Wadud 1999:82–85.
word as ‘bestow on them’ and adds between brackets ‘(A suitable gift)’. Pickthall on the other hand writes ‘Provide for them’, which could be understood as a continuous obligation. The translation provides a better basis for Hassan’s general statement, and would be possible to pose against the understanding of alimony as due only during the ‘idda period.

Hassan’s rationalisations in the context of veiling are not used to disparage the practice as such, only to qualify it. A distinction between men and women regarding a ‘law of modesty’ is accepted.\(^{257}\) The arguments put forward serve as apologetics for the veil and for the Qur’anic injunctions on dress in relation to a sceptical audience, and as a criticism of some forms of ‘Islamic’ attire for women. The ambiguity displayed mirrors a general one in contemporary academic and activist discussions. Veiling is not a simple issue. On the one hand it can be seen as a token of separation and distinction, and of patriarchal control over women’s bodies. Against this stand empirical observations of, for example, its practical utility in providing access to the public sphere for women and its function in relation to self-chosen religious identity.\(^{258}\) Both types of considerations appear in the quotation given above. Veiling is criticised in general terms, by connecting it to the fear of ‘conservatives’ and rationalistic interpretations of the Qur’anic text, but there are signs of reluctance to stigmatise the individual woman who wears a headscarf.

In the context of women’s control over their bodies the results reached by interpretation are more in line with the general understanding internationally of women’s human rights. In rejecting the ‘liberal’ argument in relation to family planning Hassan provides a specific role for her interpretations. This is a rare instance where she invokes traditional religious authority and the madhhab for support, together with an implicit reference to the principle of maslaha as a legal source. She utilises all possible resources, without reference to their relative value. Instrumentalist considerations dominate and it is the religious legitimacy or non-legitimacy that stands in focus, not, for example, the issue of whether azl should be considered blameworthy (makruh), even if still allowed, or whether the analogy between azl and modern methods of contraception is legitimate.\(^{259}\) Hassan’s refutation of intra-marital rape is somewhat obscure. The reference to the Qur’ân may rest on a view that inheritance of women also implies the inheritance of the right to have sexual intercourse with them. Refutations of the second part of verse 4:34 by recourse to semantics and etymology or historical

\(^{257}\) For such an acceptance by Amina Wadud of a ‘law of modesty’ expressed differently in different periods of history, see Wadud 1999:10.

\(^{258}\) For examples of academic texts that try to qualify a simple explanation for veiling in terms of patriarchal control over women’s bodies, see El Guindi 1995; Macleod 1991; Zuhur 1992. For critical views on academic ‘defence’ of veiling in a North American context, see Moghissi 1999:42–47

\(^{259}\) For a detailed overview of different views among Muslim religious scholars on the issues of azl, family planning and abortion, see Omran 1992:73–237.
context are commonplace in the contemporary Islamic discourse. If the notion of
the husband’s right to chastise his wife is accepted there are often attempts to
minimise the degree of violence allowed.260 Such refutations and qualifications
serve above all as a defence of the Qurʾānic text in the face of negative evalua-
tions of domestic violence, important in the context of women’s human rights.
Hassan’s interpretation appears to stretch the limits to the utmost, but it is possible
to relate it to her general understanding of the Qurʾān. The separation be-
tween the specific and the general in interpreting the word nushiz as collective
action, reduces the practical implications of the verse, but safeguards the
integrity of the text. At the same time, however, the notion of a biologically
based division of labour as divinely prescribed is strengthened. The non-
bracketing of the word ‘lightly’, which does not occur in the original Arabic
text, in the quotation from Yusuf Ali’s translation, lessens to some extent the
negative image of the Qurʾān that the verse otherwise could promote.

*     *     *

Riffat Hassan’s approach to the issue of women’s human rights and Islam is one
where the former are firmly connected to the latter. The Qurʾān – as the non-
contradictory and eternally valid word of God – becomes both compatible with
women’s human rights in its essence, and necessary for the promotion of these
rights on a grass-root level. Believing Muslims – entrenched in misconceptions
of their own religious tradition – as well as non-Muslims sceptical to Islam must
be convinced of the inherently egalitarian ‘normative’ religious tradition. This is
a goal Hassan shares with other well-known participants in the discussion on
women and Islam, such as Amina Wadud and Azizah al-Hibri. Through detailed
interpretation of the Scripture – relegating additional sources to a secondary
place – Hassan makes attempts at solving a commonly perceived conflict be-
tween Islam and gender equality. Verses that at a first glance appear to condone
male superiority and privilege are given new interpretations that – at least to
some extent – accommodate international norms of women’s human rights. Ac-

260 See al-Faruqi 2000:89-95; Sisters in Islam 1991b. See Wadud 1999:74–78 for a statement that the verse does
not condone ‘uncontrolled violence’. For a presentation of an example from Iran, see Mir-Hosseini
3. Fatima Mernissi

Fatima Mernissi was born into a middle-class family in the Moroccan city of Fez in 1940. She received her primary education in a school established by the nationalist movement, and secondary level education in an all-girls school funded by the French protectorate. It has been pointed out, also by Mernissi, that she belonged to the generation of women in Morocco who benefited from the educational policies of the post-independence Moroccan nationalist government.¹ She did her undergraduate studies in political science at Muhammad V University in Rabat, Morocco, received a degree in 1965, and continued her education in Paris (at the Sorbonne), where she also worked for some time as a journalist. In 1973 she received her PhD in sociology at Brandeis University in Massachusetts on the dissertation *The Effects of Modernization on the Male-Female Dynamics in a Muslim Society*. She returned to work at the Muhammad V University and taught at the Faculté des Lettres between 1974 and 1981 on subjects such as methodology, family sociology and psychosociology. Mernissi holds an appointment as researcher at the Moroccan Institute Universitaire de Recherche Scientifique and is a professor of sociology at Muhammad V University.² Apart from this academic career in Morocco, France and the US, she has also held academic visiting posts outside Morocco.³

Fields of Activity

As a sociologist Mernissi has done fieldwork mainly in Morocco. On several occasions in the late 1970s and early 1980s she conducted interviews in order to map prevailing attitudes to women and work.⁴ She has done sociological research for UNESCO and ILO as well as for the Moroccan authorities.⁵

In the late 1970s and in the 1980s Mernissi contributed articles to periodicals and other publications on women in Morocco and women and Islam from a contemporary as well as from a historical perspective.⁶ Her contribution to the

² This information has been collected mainly from descriptions of the author in her different works and from Rassam 1995.
³ See Mernissi 1995a:45–46.
⁵ In 1978, for example, she produced a paper for UNESCO discussing population strategies in the light of Moroccan history. In 1978 and in 1981 she produced studies for UNESCO and ILO on historical and contemporary images of women in Morocco. In 1977 and in 1982 she supervised a state-sponsored study of the craft industry and performed a general survey in rural areas concerning attitudes toward an official census-questionnaire (See Mernissi 1985a:192; Mernissi 1985b:226. See also description of the author in Mernissi 1987).
⁶ Articles by her have been published, for example, in the journals *Signs: Journal of Women in Culture and Society, Women’s Studies International Forum* and *Feminist Issues*. 
anthology *Sisterhood is Global* (1984), edited by the American feminist activist Robin Morgan, can be mentioned in this connection.\(^7\)

Mernissi’s first monograph, *Beyond the Veil*, was published in 1975. A revised edition was published in Britain in 1985 and in the US in 1987.\(^8\) In the following, differences between the editions will be noted.\(^9\) *Beyond the Veil* has become a classic, especially in the fields of anthropology and sociology on women in the Arab World, the Mediterranean area or Muslim societies in general.\(^10\)

Mernissi sometimes refers to *La femme dans l’inconscient musulman* by Fatna Aït Sabbah, originally published in 1982 and translated into English as *Woman in the Muslim Unconscious* (1984).\(^11\) Aït Sabbah, a pseudonym for a ‘Muslim woman scholar’,\(^12\) analyses intertwined Muslim erotic (or rather pornographic) and legal discourses in a Foucauldian manner in order to ‘decode the messages that the Muslim cultural order has tattooed on the female body’ influencing the contemporary understanding of femininity.\(^13\) The book also contains references to *Beyond the Veil*.\(^14\) While Mernissi is silent on the topic, it has been suggested that Aït Sabbah is Mernissi.\(^15\) Brief statements in two articles on her forthcoming book *The Woman in the Muslim Unconscious* strengthens this.\(^16\)

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\(^7\) The anthology provides statistical information on women in 70 countries – arranged alphabetically – in most cases supplemented by articles of various lengths. Mernissi contributes an article appending the information on Morocco (Mernissi 1984). Mernissi is also mentioned in the acknowledgements as having been helpful in establishing contacts with local activists (Morgan 1984:ix). Robin Morgan is the founder of *Ms. Magazine* and a well-known representative of a radical feminist trend within women’s activism in the US.

\(^8\) Mernissi 1975; Mernissi 1985a

\(^9\) Some can be mentioned already here. The statistics provided in 1975 are partly updated in 1985. Several positive references to communist China have been taken away in the second edition (cf., for example, Mernissi 1975:xix, 99, 102, 104 and Mernissi 1985a:23, 165–166, 169, 171). The words ‘woman’, ‘the woman’, ‘man’ and ‘the man’ in 1975 are changed into their plural forms in 1985 (cf., for example, Mernissi 1975:xvi, 13, 34 and Mernissi 1985a:19, 44, 75).

\(^10\) In *Beyond the Veil* the situation in contemporary Morocco is outlined with the help of statistics, fieldwork and a study of jurisprudential opinions, *fatwā* (sing. *fatwā*), given on Moroccan state radio (or television, the information differs, cf. Mernissi 1975:47 and Mernissi 1985a:90). This information is discussed in the light of the contents of the first part of the book (1975:1–41). Here, views of women and sexuality primarily in the Muslim history of ideas are outlined. The starting point is the Arabian Peninsula before and during the life of Muhammad. For a presentation of Mernissi as an example of contemporary Arab thought on women’s issues, mainly focused on this work, with a short description of its content, see Boullata 1990:131–134. Here it is also stated that ‘she cannot be said to speak with a specialist’s expertise on the intricacies of Islamic law and ethics’ (p. 132).

\(^11\) See, for example, Mernissi 1986:88; Mernissi 1993b:181 note 8.

\(^12\) See back cover of Aït Sabbah 1984.

\(^13\) See Aït Sabbah 1984:3–5. Quotation on p. 3.

\(^14\) See, for example, Aït Sabbah 1984:121 note 18, 127 note 18.

\(^15\) See Afshar 1998:218; Afshari 1994a:17. While political scientist Haleh Afshar is cautious in stating clearly that Aït Sabbah is Mernissi, Reza Afshari is less so.

\(^16\) Mernissi 1982:183; Mernissi 1984:453
The monograph *Le harem politique* (1987) was translated into English in 1991. The US edition bears the title *The Veil and the Male Elite* and the UK edition bears the title *Women and Islam* (it will in the following be referred to as *The Veil and the Male Elite*). It was initially banned in Morocco.\(^{17}\) *Sultanes oubliées* (1990) was translated into English and published in 1993 as *The Forgotten Queens of Islam*.

Both of these books are historical in scope. The former relates mainly to the history of Muhammad, and the latter presents and discusses Muslim women in later history who have held political power, and mainly those whose sovereignty was officially recognised. History and Muslim historiography are also topics addressed in the book *La peur-modernité* (1992) translated into English as *Islam and Democracy* (1993). Historical information is here related to a more general discussion on the post-Gulf War situation in Muslim, mainly Arab, countries, and especially to issues of democracy, political power and civil society. Mernissi’s novel *The Harem Within* (1995) (*Dreams of Trespass* in the US edition) was well received.\(^{18}\) It was originally written in English, and is autobiographical in style. Mernissi has presented it as mainly a literary construction, an attempt to write a novel, inspired by, but not describing actual events and persons.\(^{19}\) The book *Women’s Rebellion and Islamic Memory*, published in 1996, is a collection of articles from 1977 and onwards. Here there is a possible reference to the change mentioned in the Introduction, but without any time-frame specification.\(^{20}\)

It should be mentioned already at this point that throughout her literary production Mernissi often uses the terms ‘Arab’ and ‘Muslim’ synonymously. She discusses this in a footnote in *Islam and Democracy* and explains it by the assertion that Islam was originally expressed in Arabic, and that Arabic still is the sacred language of Islam. This is why she concentrates on an Islamic terminology in Arabic in her attempts to map a ‘mental territory’ common to a larger Muslim civilisation.\(^{21}\) As a consequence of this feature in her work, I will in the following descriptions use ‘Arab/Muslim countries’, ‘Arab/Muslim societies’ and equivalents.

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\(^{17}\) Mernissi 1993b:184. It has been translated into Arabic and published in Syria.

\(^{18}\) See, for example, Booth 1995; Jeffery 1995. In the latter case a critical point is raised concerning its utility as a work of sociology, which appears a bit out of context.

\(^{19}\) Raaby 1995:19. At a lecture at Copenhagen University that I attended in 1996 Mernissi said that the childhood presented in the book was not the childhood that she had had, but rather the kind of childhood that she wished that she had had. In a footnote she also speaks of ‘the harem which *inspired the tales of this book* [my emphasis]’ (Mernissi 1995b:35 note 3).

\(^{20}\) Here she describes her early writings as ‘vitiolic’ but states that she eventually found that this was not a method conducive to change (Mernissi 1996:3).

All the books and most of the articles mentioned above have been published in Europe or in the US. There are, however, also publishing companies and feminist organisations in Muslim countries that have published Mernissi’s work.22

In relation to human rights activism it can be noted that Mernissi was one of the founding members of the Moroccan Organisation for Human Rights.23 In Kevin Dwyer’s book Arab Voices she is one of the Moroccan voices.24 She has been involved in the activities of the Sisterhood is Global Institute, and in both the initial discussion on and production of the manual Claiming Our Rights mentioned in Chapter 1.25 Her comments are also quoted on its back cover. The activities in connection with the institute also include her contribution to the volume Faith and Freedom (1995).26

Mernissi is a well-known – and much sought after – lecturer. She has participated in numerous international, regional or national conferences on issues such as women and Islam, women’s situation in Muslim societies, development, democracy, civil society, globalisation, North African immigration to Europe and literature.27 Her local activism in relation to women’s groups in North Africa has been noted.28

The public image of Mernissi has several aspects. On the one hand she is a sociologist specialised mainly in Moroccan conditions, with an expected audience of fellow academics and institutions who can make practical use of the results of her research. This aspect provides for some academic authority. However, her

22 In Pakistan, for example, the socialist-feminist ASR Resource Centre for Women, set up in 1983, has published a version of her The Forgotten Queens of Islam (ASR 1999:3). Also in Pakistan, the Simorgh Women’s Resource and Publication Centre, which describes itself as a feminist activist organisation formed in response to the rise of ‘Fundamentalism’, has published two texts by Mernissi. The Fundamentalist Obsession with Women (1987) and Can We Women Head a Muslim State (1991) (Simorgh 1999:1, 5–6). The former is a reprint of the introduction to the US second edition of Beyond the Veil from 1987. The selection of texts by Mernissi and Rifat Hassan translated into Indonesian has been mentioned in Chapter 2. The Indian feminist activist publishing house Kali for Women, set up in 1984, has published The Veil and the Male Elite (Kali for Women 1999). In Morocco, Éditions le Fennec, based in Casablanca, has published several works by Mernissi on women’s issues, particularly those with a focus on Morocco. It published Sultanes oubliées already in 1990 (see Mernissi 1996:90). Éditions le Fennec is mentioned by Mernissi referring to her activity in connection with research collectives in Morocco. The publisher Leila Chaouni is described as ‘committed to the struggle for human rights’ and her help in the production of books and collections from local research collectives is noted (Mernissi 1996:5).

25 See Afkhami & Vaziri 1996:i.
26 Mernissi 1995a
27 For examples of her own references to such activities, see Mernissi 1991b:193; Mernissi 1995a:45; Mernissi 1996:6.
academic activities extend beyond the field of sociology, and she has become a well-educated and versatile commentator on diverse issues of the day. In the latter capacity the expected audience consists of academics conversant with French or English, but also the general public.  

The image of an activist on behalf of women’s rights and human rights is strengthened by the use made of her literary production in local activism. The fact that she is academically localised to Morocco functions to strengthen her image as being an observer from the inside of the situation upon which she is commenting.

Since the differences in evaluation of religion between Beyond the Veil and The Veil and the Male Elite have been observed and commented upon by others, it forms a part of her public image. While Mernissi’s personal motives for this change are not included in my study, I believe that the difference in the expected audience for the two works should be noted. Beyond the Veil is an academic work, originally a dissertation, an attempt to discuss a current situation by recourse to an analysis of a religious discourse. The Veil and the Male Elite, on the other hand, is a ‘feminist’ contribution to that discourse. Since the authorship of Woman in the Muslim Unconscious is not generally known, and Mernissi has not officially acknowledged it, it becomes less important for her public image.

Human Rights

Mernissi often refers to human rights in general and also to specific articles of the UDHR. International formulations of human rights are presented as products of historical circumstances peculiar to ‘the West’, with a philosophical basis in the ideas of the Enlightenment, in liberal thought and in general trends connected with modernity. Certain principles are presented as inherent in the notion of human rights, for example parliamentary democracy, equal rights of citizens within the borders of a nation state, freedom of thought and speech, freedom of religion and secularism understood as the formal separation of religion and state. The most central underlying notion is the sovereign will of the

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29 The fact that Mernissi and her work are the subject of a separate article in The Oxford Encyclopedia of the Modern Islamic World is indicative of the status she is given internationally (Rassam 1995).

30 It can be noted, for example, that sociologist Haideh Moghissi in her book Feminism and Islamic Fundamentalism (1999) outlines ‘The Islamic Concept of Sexuality’ with the help of both Aït Sabbah’s book and Beyond the Veil. She does not name Mernissi as the author behind the pseudonym (Moghissi 1999:22–24). See also Wadud 1999:13.

31 See, for example, Mernissi 1975:ix–x; Mernissi 1988c:38; Mernissi 1991b:23; Mernissi 1993b:62, 63.

32 See Mernissi 1993b:73. In The Forgotten Queens of Islam the ‘Western’ origin and character of the UDHR is stated as common knowledge (Mernissi 1993a:23). In the second edition of Beyond the Veil human rights are presented as a part of a larger ‘Western’, liberal ‘symbolic capital’ (Mernissi 1985a:83, 84). This remark is lacking in the first edition.
Human rights in the context of international law are stressed in *Islam and Democracy* where UDHR and the United Nations Charter are described as ‘superlaws’ taking precedence over national laws and constitutions in authority.\(^{34}\)

Mernissi partly attributes the problem of implementation of international human rights schemes in Arab/Muslim countries to the circumstance that the latter were not accepted as a result of a general social transformation in line with modernity. Instead the acceptance was mainly a result of dictates by an élite, as a result of pressure on Arab/Muslim states from outside.\(^{35}\)

There is in Mernissi’s writings in general little elaboration on the issue of universality of human rights, nor on the relationship between the Islamic normative sources and international standards of human rights. In her contribution to the volume *Women of the Arab World* (1988)\(^{36}\) she postulates ‘a direct contradiction between Islam and human rights’, especially concerning the latter’s notions of ‘freedom of thought, expression and decision-making’.\(^{37}\) However, in *The Veil and the Male Elite* she writes in connection with a discussion on the piecemeal character of traditional *fiqh* that:

> We can imagine, or dream, that an elaboration of a system of fundamental principles [as opposed to the stress on particulars] would probably have allowed Islam as a civilization of the written word, to come logically to a sort of declaration of human rights, similar to the grand principles of the Universal Declaration of Human Rights, a universal declaration that still today is challenged as being alien to our culture and imported from the West.\(^{38}\)

There is no indication that Mernissi’s statement on the UDHR as universal should be understood as ironic, but the meaning is clearly not that it is universally accepted, as is evident from the statement on opposition voiced against it in cultural relativistic terms. Mernissi thus discusses human rights on the formal level, both in her identification of important human rights principles and the connection made to the UN Charter. The problems discussed on the factual level are closely bound up with lack of social transformation, and not directly with ideological opposition. In this she also stresses the need for the former. The

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\(^{34}\) Mernissi 1993b:60, 62


\(^{36}\) The volume was a result of a conference held in Cairo in 1986, arranged by the Egypt-based Arab Women’s Solidarity Organisation (AWSA).

\(^{37}\) Mernissi 1988c:40

\(^{38}\) Mernissi 1991b:128–129
‘Western’ origin of human rights is a fact, but this has no consequence as to the issue of universality, which is not particularly discussed as problematic.

Differences between the statement made in 1988 and the one in The Veil and the Male Elite on the relationship between Islam and human rights need not be interpreted as a contradiction. The assessment of a potential combination of Islam and UDHR in the latter is a rejection of inherent opposition on the ideological level, but it is not clearly an essentialist claim. It does not contradict the postulation of a conflict made in 1988. The principles of the UDHR are not presented as an inherent part of the religious tradition, or as simply deductible from the religious sources. The words ‘probably’, ‘sort of’ ‘similar’, and the notion of a choice that was never made, serve as qualifications in this respect. Through her criticism of the piecemeal methods of traditional fiqh Mernissi also positions herself within a larger trend of reformist thought, searching for the general beyond the particular.

Women’s Human Rights

In The Forgotten Queens of Islam Mernissi states that it is ‘obvious to fair minded people’ that there is a link between ‘Rights of man’ and the non-violation of those of women. The UDHR is presented in Islam and Democracy as instrumentally important for activists in criticising family law in Muslim countries. The Women’s Convention is also specifically addressed in the same work. Egypt’s reservation to article 16 is highlighted, and the explanation is quoted. The reference to the šarī‘a as ensuring a ‘just balance’ is rejected. Mernissi’s judgement on the explanation is that it represents ‘double-talk’ and lacks clarity. The purpose of such reservations is to reject the demands of human rights regarding freedom and equality, without appearing to do so. Mernissi presents this activity as ‘manipulation’ and ‘hypocrisy’, that nevertheless allows ‘Arab states’ to take part in international politics.

The current situation and its causes

Mernissi highlights gender-specific problems in areas such as work, education and law. She also specifically addresses the issue of veiling as state policy. The conflict between family law and international human rights norms is addressed in relation to the mudawwana, both in Beyond the Veil and in The Veil and the Male Elite. In the former, articles 16 and 29 of the UDHR are posed against inequality regarding rights and duties of the husband and wife within the marriage.
the necessity of a wali, and gender related restrictions on inter-faith marriages.43
In the latter, mudawwana’s stipulation of the husband as the director of the affa-
irs of the family is highlighted and contrasted against article 1 of UDHR.44
Mernissi furthermore presents an ‘Islamic’ principle of a wife’s ‘obedience’ to-
ward her husband as in conflict with articles 1, 16, 18 and 19 of the UDHR.45
The issue of ‘obedience’, ta‘a, reoccurs in several of Mernissi’s writings, and
forms a central part of the general discussion on politics in Islam and Demo-
cracy.46

In Beyond the Veil conflicts such as these are treated as a symptom of a
larger complex of problems. Moroccan family law mirrors and reproduces tradi-
tional – as opposed to modern – conceptions of gender, and these conceptions
are in conflict with actual changes brought about by modernisation in fields such
as education, employment and public life in general, as well as in patterns of
gender relations and the family. The result is a Durkheimian ‘anomie’, in the
sense of a ‘confusion of norms’ experienced mainly by the younger generation.
The discrepancy between experienced reality and social ideals creates social ten-
sion. This tension is further accentuated by state action, on the one hand pro-
moting modernisation and on the other hand upholding traditional values
through family law. Change in legislation is further impeded by the symbolic
charge of the notion of a divine law. Accepting state intervention in family law
matters would – in the view of the general public – be to position secular
authority over divine authority.47

The traditional social structure is characterised by a gendered and hierarchi-
cal separation of space, with boundaries the transgression of which is a threat to
society as a whole. Mernissi uses the notion of such a separation – and the ideals
on gender roles connected to it – to explain, for example, gender discrimination
in the workplace. Women’s paid employment challenges traditional ideals of a
gendered division of labour. According to those ideals the public space is the
area of production and the private space the area of consumption and reproduc-
tion. Men should serve as providers for women, expressed in the mudawwana as
men’s nafaqa in relation to women.48 Men and women are furthermore social-
ised to perceive one another as enemies. Their relationship is thoroughly sexual-
ised, which Mernissi poses against an ideal of ‘friendship and love’. Men as

43 Mernissi 1975:ix–x
44 Mernissi 1991b:23
47 See Mernissi 1975:xii, xvii, 41, 79, 91, 103; Mernissi 1985a:136, 148–150. For the use of Durkheim’s
concept of anomie, see Mernissi 1975:89.
48 See Mernissi 1975:103–104. See also Mernissi 1985b:215. For a discussion on a discrepancy between the
official ideal – mirrored in legislation and in the state controlled media – and the actual experience of women of
the economy of the household, see Mernissi 1988a:2–3.
well as women are trapped within these social structures and both suffer from them.\(^{49}\) The effects of the separation of the public and the private spheres are also discussed in later works. The failure of state sponsored programs in Morocco on reproductive rights is, for example, attributed to reluctance among the general public to accept state interference within the private sphere. Muslims generally perceive domestic violence and ‘honour killings’ as an issue involving only the private sphere, and men’s control over women’s bodies. This is mirrored in legislation.\(^{50}\) Mernissi presents women’s political rights as hampered because of this gendered separation of public and private,\(^{51}\) the importance of which is stressed in a fictional form in *The Harem Within*. Here Mernissi also points to the importance of the distinction being internalised by women, thus reducing the need for external control.\(^{52}\)

In *Beyond the Veil* both the origin and the endurance of the separation of public and private are connected ideologically to Islam. An important concept in this connection is that of the *umma*. The *umma* is male, egalitarian, united on the basis of common belief and characterised by homosocial love and political and religious power. It is the centre of public activity and opposed to the family, which is characterised by its femaleness, its sexuality, its inequality and its diversity. The members of the family are divided into two antagonistic categories defined by their genitals and related to one another in a hierarchical system of authority, subordination and female obedience.\(^{53}\) In later writings Mernissi stresses this basic notion of stability, coherence and consensus, \(ijmā‘\), within the *umma* as an ‘Islamic’ social ideal. Plurality and diverging views become threatening in this context.\(^{54}\)

Mernissi writes in *Beyond the Veil*: ‘In this book I want to demonstrate that there is a fundamental contradiction between Islam as interpreted in official policy and equality of the sexes.’\(^{55}\) In his criticism of the ‘change’ between *Beyond the Veil* and later works Reza Afshari gives a lengthy quotation from this section of the book, omitting the phrase ‘Islam as interpreted in official policy’.\(^{56}\) This phrase is important in connection with Mernissi’s presentation of a paradox: there is no ideological notion of female inferiority in Islam. Instead

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\(^{49}\) See, for example, Mernissi 1975:xvi-xvii. See also Mernissi 1975:94–97; Mernissi 1985a:135.

\(^{50}\) See Mernissi 1996:49–52. For ideological presuppositions on gender as hampering also in relation to state sponsored programmes of education for women, see Mernissi 1988a:6–7.

\(^{51}\) See Mernissi 1993a:4–5.


\(^{54}\) See Mernissi 1993b:127. This ideal is particularly stressed in Mernissi 1995a:35–36, 39, 42.

\(^{55}\) Mernissi 1975:xv. Certain ideological features are presented as important in this connection and elaborated later on in the book: heterosexual love is conceived as dangerous to the social order; male dominance in marriage is deemed necessary; women should be spatially confined to the private sphere and controlled because their sexuality is inherently dangerous. All these features are incompatible with gender equality.

\(^{56}\) Afshari 1994a:16
there is an affirmation of a ‘potential equality’ of the sexes. Mernissi furthermore states that ‘the democratic glorification of the human individual, regardless of sex, race or status, is the kernel of the Muslim message’. Inequality is a result of certain social institutions – albeit with a religious foundation – intended to control a perceived aggressive sexual power that is considered as a part of femininity itself: the power to induce zina, ‘fornication’.57

The separation of a basic Islamic notion of femininity, in line with gender equality, and Islamic social regulations characterised by inequality is not further elaborated, as is noted by Afshari. The focus is on the social institutions and practices of male dominance instrumental in controlling female destructive sexual power, connected to the notion of fitna translated as ‘disorder, chaos’.58

Another topic of discussion in Beyond the Veil is that of images of femininity, with a religious basis in the Qur’ān. The notion of powerful femininity is connected with the Qur’ānic term kayd, referring, in Mernissi’s understanding, to female intrigue and cunning, which the social system must curb.59 The additional element of illicit sexuality, zina, is appended in later works in the 1980s with reference to the story of Yusuf and Zulaikha and to sura 12 in the Qur’ān.60 Nushüz is another important term in this context, related to verse 4:34 in the Qur’ān and mentioned in works after Beyond the Veil. The term is conceptualised by Mernissi as a wife’s sexual ‘rebellion’ in a marital relationship, refusing to obey the husband’s sexual wishes and authority in general.61

In addition to controlling destructive female sexuality, Mernissi holds that ‘Islamic’ social institutions also have another important function. While Islam ideologically affirms sexuality, male as well as female, there is an inherent hostility to erotic love between the husband and the wife. God is jealous and demands the full attention (or libido) of the (male) believer. Specific features in family law – mainly polygamy and repudiation – are in Beyond the Veil presented as legal means to prevent the development of love, intimacy and affection in the man–woman relationship and to subjugate women to men. Polygamy increases the purely sexual nature of the marriage, humiliates the individual woman and increases male fear of women’s frustrated sexuality. Repudiation

57 Mernissi 1975:xv–xvi
58 Mernissi 1975:4. A theory of aggressive female sexuality is presented as ‘implicit’, in contradiction to an ‘explicit’ theory that presents women as passive. To substantiate the character of the implicit theory throughout the Muslim history of ideas, Mernissi uses mainly al-Ghazālī’s chapter on the issue of sexuality in the work Ihyā ‘ulūm ad-dīn (The Revivification of the Religious Sciences). Al-Ghazālī’s views are posed against a theory of passive sexuality associated with Sigmund Freud (see Mernissi 1975:6–11).
59 See Mernissi 1975:5.
61 Mernissi 1984:448. See also Mernissi 1986:88; Mernissi 1988c:39–40. In The Veil and the Male Elite this connection primarily with sexuality is presented as the view of the mufassirūn (interpreters of the Qur’ān) through the ages (Mernissi 1991b:156).
allows the husband to change the object of his sexuality when he pleases, and thus prevents sexual boredom, and by consequence socially destructive zinā’.  

According to Mernissi in *Beyond the Veil* the origin of the institutions and practices that are meant to control the powerful femininity and prevent love and affection within marriage is to be found in the historical situation of the emergence of Islam. Important here are injunctions in the Qurʾān, the basic social organisation of the first Muslim community – based on the patriarchal family – as well as the personal experiences of Muhammad. The institution of ‘idda is presented as instrumental in controlling paternity and – together with polygamy and repudiation – instrumental in restraining female sexuality, a restriction that was important in the emergence of Islam as a new social order in 7th century Arabia.  

The presentation in *Beyond the Veil* of the role of the religious sources and historical events in providing images of femininity and influencing social institutions up till contemporary times is qualified in later writings. Here the relationship is described as more complex. In the preface to the English edition of *The Veil and the Male Elite*, Mernissi asserts that the problem in connection with gender equality does not lie inherently in the religious sources, but in the fact that certain groups in society have powerful economic interests in the exploitation of women. She states that women’s ‘quest for dignity, democracy, and human rights, for full participation in the political and social affairs of our country, stems from no imported Western values, but is a true part of the Muslim tradition’. She further states that ‘if women’s rights are a problem for some modern Muslim men, it is neither because of the Koran nor the Prophet, nor the Islamic tradition, but simply because those rights conflict with the interests of a male elite’.  

In 1996, Mernissi writes the following, with reference to *The Veil and the Male Elite*:

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[62] See Mernissi 1975:15–18, 62–65. In Mernissi’s discussion on verse 4:3 in the Qurʾān the condition of ‘fear of injustice’ in connection with polygamy is seen as subjective and ethical, and without legal consequences. However, Mernissi accepts a notion of the historical origin of polygamy as a social responsibility system in a specific situation. After the battle of Uhud (625), there were many divorced, orphaned or widowed women who needed support. (Mernissi 1975:38–39). Also in *The Forgotten Queens of Islam* verse 4:3 in the Qurʾān is presented as the ‘unassailable foundation for polygyny as an institution’ (Mernissi 1993a:54). The theme of God’s jealousy and hostility to erotic love appears also in *Woman in the Muslim Unconscious* (see Aït Sabbah 1984:107, 109).

[63] On the role of Muhammad’s personal experiences, see Mernissi 1975:21, 41. The theme of Qurʾānic images of femininity is elaborated in later works. In 1985 the Qurʾān is presented as – in verses 2:228 and 4:34 – clearly defining gender roles in relation to the economic sphere and women’s work, and in prescribing male authority and female submission on the basis of these roles. The primarily sexual nature of femininity is evident in the Qurʾānic image of the ḥūr, the obedient eternal virgin of Paradise (Mernissi 1985b:219–221, 224).


[65] Mernissi 1991b:vi–ix. Quotation on pp. viii and ix. A reference is here also made to a general public religiosity coexisting with women’s enjoyment of human rights in Europe and in the US.
Why are there so many Muslim male politicians, I kept asking myself throughout the 1980s, screaming at us women in the name of ‘their understanding’ of religion and sacred tradition to throw veils over our hair, hide our bosoms in heavy chadors, and make us walk modestly with our eyes to the floor in trembling silence? Could they not, I wondered, if their aim was to bring us to Islam […] have stumbled on the beautiful Islam of the Prophet Mohammed […] as a defender of women’s dignity […] [who] opened the mosques to women on an equal footing with men? Why do these politicians-turned-Imams come up with an anti-dignity reading of Islam focussed on obedience? How come they do not see all the incredible wealth of woman-enhancing historical data they could draw on to build a human-rights nurtured Islam?66

Two features should be noted here in relation to the content of Beyond the Veil. Firstly, the distinction between different ‘Islams’ in the quotations above is not a matter of a paradox inherent in the sources – between an affirmation of powerful femininity and the need for social control of that femininity – but a matter of interpretation and selection.67 Secondly, there is a change in relation to Beyond the Veil from the notion of an inherent meaning in the sources, to a stress on extra-textual factors. Of particular interest is the shift in focus from structures to specific actors with an interest in the preservation of the status quo.

In writings after Beyond the Veil the opponents of gender-equality are thus loosely identified as, for example, a ‘male elite’, ‘Muslim male politicians’ or ‘politicians-turned-imams’.68 These are not always clearly differentiated or defined, but they share two common features: male gender and political and religious power. One group that receives some special attention is the ‘Fundamentalists’.69 From the mid-eighties and onwards Mernissi presents certain features within ‘Fundamentalism’, important in relation to women’s rights and in relation to Arab/Muslim societies in general. Besides rejecting secular legislation the ‘Fundamentalists’ oppose ‘Westernisation’, especially in relation to gender roles, but still make use of technology and material innovations that originated

66 Mernissi 1996:xi–xii
67 Such differentiation between ‘Islams’ is evident also when Mernissi uses expressions such as ‘petro-Islam’ to denote a version of religion associated primarily with Saudi Arabia and connected to financial wealth and oppressive, undemocratic state power (see, for example, Mernissi 1993b:37, 166; Mernissi 1996:xii).
68 A generic category of ‘Conservative Religious Arab Male Leaders’ in Mernissi’s contribution to the anthology Sisterhood is Global denotes opponents of feminism who produce the ideological basis for the patriarchal order through promoting models of female submission and passivity (Mernissi 1984:447–448).
from ‘the West’, hence adding to a general discrepancy of reality versus ideology. They stress religious asāla, ‘authenticity’, as a solution to contemporary problems; Muslim ‘Fundamentalist’ movements’ insistence on veiling and opposition to women’s rights are defensive reactions against individualism and democracy.70 In an article from 1988 Mernissi stresses the need for separating ‘Fundamentalism’ from general ‘conservatism’, in relation to gender roles based on female submission and non-participation in society. ‘Conservatism’ is a more widespread phenomenon shared by other actors besides ‘Fundamentalists’, including states.71

The motives behind different actors’ rejection of women’s rights are related to issues such as economy, state legitimacy, political power and preservation of patriarchal control. In the case of the ‘Fundamentalists’, however, Mernissi provides additional explanations in some contexts, akin to the discussions on ‘anomie’ in Beyond the Veil. The stress on asāla, with its implications on the issue of gender equality, is an attempt to put things back in order, a search for a stable identity in a rapidly changing world.72 In the 2nd edition of Beyond the Veil Mernissi anticipates ‘neurotic attempts to freeze traditional superstructures’ as a consequence of the situation of conflict between norms and social reality.73 The notions of ‘authenticity’ and of ‘heritage’ (turāth) are discussed in relation to human rights, and especially women’s rights, in 1988. Mernissi here presents an Arab ‘ahistoricity’ as a major obstacle to the realisation of human rights. Religious belief has its origin in the historical situation of the 7th century, and should not be placed alongside, or be compared with, notions of citizenship that became known only in the 20th century. Mernissi postulates a general unwillingness in the ‘Arab mind’ to place events in their proper historical contexts, and analyse them accordingly. She criticises ‘political and ideological forces’ for selectively choosing from historical material in order to create ‘an illusory version of the

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72 This analysis of the roots of ‘Fundamentalism’ can be found in the introduction to the 1987 edition of Beyond the Veil, reprinted in the pamphlet The Fundamentalist Obsession with Women. This text is an explicit attempt to dismiss simplified images of ‘Fundamentalism’ prevailing in ‘the West’ (Mernissi 1987:15). For a more general discussion, see Mernissi 1985b:225–226; Mernissi 1991b:15–19, 97–99. A less polemic attitude to ‘Fundamentalism’ is present in Islam and Democracy, when Mernissi refers in positive terms to women’s participation in ‘Fundamentalist’ movements. These women are not only passive recipients of an oppressive religious ideology, but are also active as interpreters of the religious sources and history (Mernissi 1993b:160–161). A conflict between ‘Fundamentalists’ and ‘feminists’ in an Arab/Muslim context is nevertheless noted. It is interpreted as a class conflict between two fractions within a post-colonial middle class: educated men originally from the countryside, and educated urban women from the middle or upper classes (see Mernissi 1987:8; Mernissi 1993b:160).

73 Mernissi 1985a:136
past’ and through that ‘place obstacles in the way of women’. The Moroccan philosopher Muḥammad Ṭāb al-Jābirī is presented as an important critic of this tendency. He is referred to also in both The Veil and the Male Elite and in Islam and Democracy.

The ideal and how to achieve it

Some aspects of the ideal society according to Fatima Mernissi can be inferred from her criticism of contemporary Arab/Muslim societies. Women’s full access to public life – implying the eradication of the public/private distinction – is important. Women should be regarded as full citizens, which includes equality before the law. Discrimination in fields such as work, education and health must be ended. ‘Democracy’ figures abundantly in positive terms in Mernissi’s discussions on women’s rights. The term is also used in the second edition of Beyond the Veil to describe an ideal situation within domestic space, a prerequisite for democracy in other areas. In The Harem Within, Mernissi lets the women of the harem voice criticism of the existing situation of inequality and seclusion, and dream of an alternative.

In an explanatory remark regarding how she uses the expression ‘we Muslims’ in describing the contemporary situation she writes:

The expression does not refer to Islam in terms of an individual choice, a personal option. I define being Muslim as belonging to a theocratic state. What the individual thinks is secondary for this definition. Being Marxist or Maoist or atheist does not keep one from obeying the national laws, those of the theocratic state, which define the crimes and set the punishments. Being Muslim is a civil matter, a national identity, a passport, a family code of laws, a code of public rights.

Here there is a distinction between religion as a personal belief and religious affiliation as having consequences for personal legal status.

In Islam and Democracy the rejection of religious influence in the fields of official policy and law is evident. Admirations is expressed for an ideology of ‘secular humanism’ – prevailing primarily in the US – where the autonomous individual stands in the centre, and no state interference in religious issues is

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74 Mernissi 1988c:41–42
76 Mernissi 1985a:95–96
77 See, for example, Mernissi 1995b:122.
78 Mernissi 1991b:20–21
79 Mernissi 1993b:65. Calls for state intervention to uphold Islamic values and laws in society are presented as ‘an insult to Islam’. A supposition that Islam would disappear in a secular context is countered by a reference to the role of Christianity and Judaism within civil society in Europe and the US.
allowed. Secularism also has positive consequences both for a general religiosity and the development of science and politics.\textsuperscript{80}

There is little mention in \textit{Beyond the Veil} of activism in order to bring about the perceived ideal. The stress is on an inevitable process of modernisation outside the control of individuals or the state. The driving forces are mainly economic, primarily the integration of Morocco into a capitalist world economy.\textsuperscript{81} Attempts at reforming Islamic law through \textit{ijtihād} are rejected on the basis that they legitimise a public role for religion.\textsuperscript{82} Feminist activism is more directly addressed in other works, as is the resistance against it. Mernissi notes a commonplace notion among Arabs/Muslims of feminist activism as an import from ‘the West’, an innovation, a violation of the ‘heritage’ and counter to \textit{aṣāla}.\textsuperscript{83} She mentions with respect activists such as the Egyptian feminist Nawāl as-Sa‘dāwī and the founder of the Egyptian Feminist Union Hudā Sha‘rāwī (d. 1947),\textsuperscript{84} and notes a change in contemporary feminist activism. What was previously a trend mainly among women of the upper classes now reaches out to women of other social classes, which in itself provokes reactions from ‘conservatives’.\textsuperscript{85}

An important theme in connection with activism is the need for models of femininity corresponding to the social changes that have occurred. A scarcity of such models is noted in \textit{Beyond the Veil}.\textsuperscript{86} In an article from 1985 Mernissi asks: ‘Why is our capacity as Arabs to produce operational models and concepts that better depict our reality and therefore help us to master it so inhibited when it comes to relations between the sexes?’ A search for models in Arab history is hampered by the limitations of \textit{aṣāla} to the pre-ninth century period. Models that could be used are to be found mainly in later historical periods.\textsuperscript{87}

In Mernissi’s later works the tone is different. The importance attributed to history and to \textit{aṣāla} in contemporary public discourse becomes the stated reason in \textit{The Veil and the Male Elite} why the examination of early Islamic history is important.\textsuperscript{88} In an article originally published in Morocco in 1990, Mernissi sug-

\textsuperscript{80} Mernissi 1993b:45–46
\textsuperscript{81} According to Mernissi in \textit{Beyond the Veil}, modernisation will inevitably lead to revolutionary reconstruction of society, partly concerning gender relations and sexual patterns (see Mernissi 1975:102, 107, 108).
\textsuperscript{82} See Mernissi 1975:xv.
\textsuperscript{84} See Mernissi 1986:97; Mernissi 1993b:160. In \textit{The Harem Within} Arab feminists of the first half of the 20th century become characters in plays staged in the harem. The narrative here also provides information on the life histories of these women (Mernissi 1995b:134–138).
\textsuperscript{85} Mernissi 1986:96
\textsuperscript{86} See Mernissi 1975:100.
\textsuperscript{87} Mernissi 1985b:224
\textsuperscript{88} See Mernissi 1991b:24.
gests ‘a reconciliation between the past and modernity’, human rights and gen-
der equality being a part of the latter.\textsuperscript{89} She states:

\begin{quote}
It is crucial for any great civilization like Islam, which has been in decline for centuries and today wishes to take its place once again within the comity of nations, analytically to examine and decipher its memory in order to be able to transcend it and use it as a force that carries it forward.\textsuperscript{90}
\end{quote}

Mernissi here utilises the commonplace rhetorical figure of past glory and present decline in order to legitimise suggestions for reform. In \textit{The Forgotten Queens of Islam} stress is laid on the notion of a hidden history of women that must be discovered and elaborated. An alternative women’s history needs to be written, and can be utilised politically. Such a history has never been a part of the official discourse.\textsuperscript{91}

A more comprehensive strategy – based on historiography – is presented in 1988. Since references to Islamic history are used to block women’s full participation in society and legal equality with men, a rewriting of that history is the only strategy that can be used in the struggle for ‘human rights, in general, and women’s rights in particular’.\textsuperscript{92} This ‘\textit{nissa’ist} [feminist] strategy’ involves the writing of a history that presents women as ‘full participants in society’ in a situation where she says: ‘[...] the discrimination against them [i.e. women] attains the status of a sanctified act’.\textsuperscript{93} The results of this activity are to be translated, published, disseminated, and put to use in the struggle for women’s rights.\textsuperscript{94} Mernissi also provides positive examples of publishing activity in line with this strategy.\textsuperscript{95} In 1996 the investigation into ‘the Muslim heritage’ and dissemination of information through various channels is presented as a way of ‘standing up to fundamentalism’, and of identifying ‘women’s autonomy [… as an endogenous phenomenon’ \textsuperscript{96}

\textsuperscript{89} Mernissi 1996:77
\textsuperscript{90} Mernissi 1996:89
\textsuperscript{91} Mernissi 1993a:84–85
\textsuperscript{92} Mernissi 1988b:338. This article from 1988 is in another context presented as the starting point of the investigations that culminated in \textit{The Veil and the Male Elite} (Mernissi 1996:xii).
\textsuperscript{93} Mernissi 1988b:342–343. In a footnote a further definition of this strategy is given as ‘the progressive current supporting women’s rights through historical scholarship’.
\textsuperscript{94} Mernissi 1988b:354–355. Although translation into the different languages in Muslim countries or in countries where Muslims form a large minority is presented as important, translation into English is viewed as primary. Translation into English facilitates further translation into other languages. In addition, the material will be available also to ‘Western readers’ if it is translated into English.
\textsuperscript{95} Mernissi 1988b:355. Specifically mentioned are the Association for Middle-East Women’s Studies in the US, AWSA in Egypt and the two publishers Simorgh and Éditions le Fennec.
\textsuperscript{96} Mernissi 1996:61
The rewriting of history includes the presentation of models of femininity, also from the period that was earlier deemed as non-useful in this respect. The importance of Muhammad and his Companions (aṣ-ṣaḥāba) in the contemporary debate on women’s rights and Islam is stressed in articles published after the first French edition of The Veil and the Male Elite.\(^\text{97}\) In line with her ‘nissa’ist strategy’ Mernissi states that the historical sources in themselves provide enough material to substantiate a claim that ‘women’s passivity, seclusion and their marginal place in Muslim society has nothing to do with Muslim tradition and is, on the contrary, a contemporary ideological production’.\(^\text{98}\) Alternative models of femininity can be provided by the historical sources. These models can in turn be used to confront accusations against feminists of importation of ‘Western models and ideas’.\(^\text{99}\) In this context it can be noted how Mernissi presents an educated female élite as a vanguard in the general aspirations for change. This élite has access to modern media, especially television, which is particularly important.\(^\text{100}\)

Women’s human rights are thus addressed both on the formal and the factual levels, and as an issue both of law and social practice. International documents have a value that is mainly instrumental in relation to domestic legislation. The authority of the former is not questioned. Mernissi’s criticism of reservations to the Women’s Convention, using the emotionally charged terms of ‘manipulation’ and ‘hypocrisy’ is in line with criticism put forward in the international debate, for example by Ann Mayer.

The discussion on family law in connection with international human rights documents strengthens the basically secularist approach adopted. The positive role attributed to religion in relation to public life is mainly restricted to its possibility to provide models in line with the ideals of modernity.

Beyond the Veil is a sociological analysis of the underlying causes of inequality in a present context, and not a suggestion for alternative religious understanding of gender. The non-elaboration on the lack of a notion of female inferiority is to be viewed in this light. Such an elaboration does not serve any function. The importance attributed to the separation of the public and the private spheres – and the perception of gender roles connected to it – sides with a radical feminist trend in identifying the main causes of discrimination against women. The identification of the roots of the problem also implies its solution. Eradicating the ‘traditional’ separation of public and private, and its inherent definitions of gender roles, is a necessary step on the way to achieving equality.

\(^{98}\) Mernissi 1988b:348  
\(^{99}\) Mernissi 1988b:349  
The distinction is provided with a religious dimension through the elaboration on the *umma* and the family. Mernissi’s presentation does not concern how these concepts are perceived generally by contemporary believing Muslims, but is a postulation of an underlying, structural feature of a general social order that serves as an explanation for the contemporary situation. This perspective also influences the discussion on *fitna*, *kayd*, *zinā’* and *nushūz* in relation to the Qur’ān.

It is in the sense of a clear connection between on the one hand primary religious concepts and ideals and on the other hand inequality as a social feature that there is a definite change between Mernissi’s earlier and later works. In the latter the notion of different ‘Islams’, related to interpretation, becomes important, as can be seen in the first quotation in this section. The alternatives presented are not normatively equal, as indicated by the use of emotionally charged terms. An ‘anti-dignity reading of Islam […] screamed’ at women by contemporary male politicians according to their own understanding is posed against a ‘human-rights nurtured’, ‘beautiful’ Islam sensitive to ‘women’s dignity’ and identified with the normative ideal of Muhammad. The presentation of the latter stresses the non-distinction of public and private, which then constitutes an aspect of continuity in relation to the analysis in *Beyond the Veil*, but with a religiously normative aspect appended.

The presented ideal of the separation of religion and public policy runs through all of Mernissi’s work. The definition of ‘Muslim’ in *The Veil and the Male Elite* makes a clear demarcation between different functions of religion. Secularism and the privatisation of religion is not a threat, but instead a positive outcome of modernisation. The reference to increased private piety here serves as a justification, for example in relation to a sceptical believing Muslim audience.

Mernissi’s discussion on *ašāla* and *turāth* places her within a contemporary debate among Arab intellectuals, and so does her reference to al-Jābīrī who is a prominent critic in this debate. ‘Fundamentalism’, in this context, becomes an example of a larger complex of problems, and is not singled out as unique.

The possible paradox between on the one hand criticism of the contemporary stress on history and on the other hand the suggestion that the past should be investigated in search for models is resolved by the reference to forward-looking instrumentalism. The strategy proposed is a positive utilisation of the notion of *ašāla*, but with a change in its content to provide justification for change and facilitate the incorporation into society of important traits of modernity. In this,

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102 For a presentation of al-Jābīrī and his views in relation to the discussion on *ašāla* and *turāth*, see Boullata 1990:45–55. See also Filali-Ansari 1998 for a general presentation.
the choice of terminology is important. In using the term nisāʾist Mernissi provides a touch of authenticity to ‘feminism’, a clearly expressed goal. The term nisāʾi is not an innovation by Mernissi, but has been used as a self-designation by women’s activists in Egypt, for example. It is, however, ambiguous, since it can also be understood as denoting specific ‘feminine’ characteristics.

The call for the utilisation of history – especially early normative history – rests upon the notion of an existing situation of social conflict of interests articulated in religious terms. It is not an evaluation of the normative value of this history in absolute terms. Afshari rightly sees this as an adaptation to a contemporary discourse, but it is an adoption of its structure and not necessarily of its content. The explicit goals are to legitimise activism, to mobilise women, and to facilitate change. The perspective is future-oriented. A search for a ‘women’s history’ is intertwined with activism, and not specifically presented as a means to rectify a bias in historical scholarship generally.

Self-presentation

Mernissi’s references to personal experiences are concentrated mainly to The Veil and the Male Elite and texts produced after 1987. Some of these experiences are connected to her childhood in Morocco. In Islam and Democracy she states that she was ‘born in a harem’, which made her realise at an early age the importance of boundaries (ḥudūd) essentially as a protection against fear of the outside world. This theme also forms a part of the introductory chapter of The Harem Within. Experiences connected to the Qurʾān-school are stressed in The Veil and the Male Elite, in Islam and Democracy and in The Harem Within. The negative image of this form of religious education – including repetition by heart of words not understood – is contrasted with positive presentations of a popular understanding of Islam shown by elderly female relatives, in some cases her grandmother, in other cases her aunts, whose illiteracy is stressed. Their comments on religious issues and contemporary society are not always correct measured by the standards of a dominant religious discourse, but they contain important information on women’s situation and their resistance to

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103 This kind of mixing of an Arabic word with a non-Arabic ending in a North African, French dominated context is noted in Stenberg 1996b:164 note 98.
105 It has been noted above that her novel The Harem Within is not an autobiography in the sense that it presents an accurate account of how Mernissi today perceives her childhood experiences. Still, since this is not generally known, it can be seen as important in presenting a preferred self-image.
106 Mernissi 1993b:6, 60–61. See also the introductory lines of The Harem Within (Mernissi 1995b:1).
107 Mernissi 1995b:1–3. Mernissi here lets her father voice the notion that the boundaries are respected through obedience and that the respect for boundaries results in social harmony.
patriarchy that needs to be decoded. In *The Harem Within* it is especially the mother who is given the role of commenting on an Islamic ideal of gender equality and criticising the existing situation through words and action.

Mernissi’s personal experience is also referred to in relation to the interpretation of religious texts. In the introduction to *The Veil and the Male Elite*, for example, scepticism towards the *hadith* ‘Those who entrust their affairs to a woman will never know prosperity’ is related to an incident at the local Moroccan grocer’s. It was uttered in response to Mernissi’s question on the legitimacy of a woman being head of state of a Muslim country. Mernissi ‘silenced, defeated and furious [...] felt the urgent need to inform [...] [herself] about this Hadith and to search out the texts where it is mentioned.’ Another incident, presented in *The Veil and the Male Elite*, took place 1984 in Malaysia. Her presentation of early Islamic history was opposed by ‘a Pakistani, editor of an Islamic journal in London’, (no further specification given) questioning her on the sources. She provided him with a list in Arabic, which he could not decipher due to his lack of language skills.

A future oriented, altruistic motive dominates the presentation of her activities in the field of historiography. In *The Forgotten Queens of Islam* the explicit objects are to ‘demystify history’, to provide information through extensive references and in general prevent misogynistic use of history in the contemporary world. A similar motive is presented more poetically in *The Veil and the Male Elite* as ‘lift[ing] the veils with which our contemporaries disguise the past in order to dim our present’ and finding a ‘fabulous wind that will swell our sails and send us gliding toward new worlds’.

Mernissi often uses inclusive expressions such as ‘we Muslims’ or ‘we Arabs’, and presents herself as a ‘Muslim woman’. The inclusive pronouns ‘we’ and ‘us’ are used abundantly in some contexts, but are lacking in others. Against this stands her admittance that she – and other highly educated women –

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109 See Mernissi 1995b:6, 9, 80, 125, 127–128.


111 Mernissi 1991b:193–194


113 Mernissi 1991b:11

114 Mernissi 1991b:10

115 It can be noted that there appears to have been some questioning as to Mernissi’s personal religious belief (see Tohidi 1998:294).


are, or rather are perceived by others to be, somewhat distanced from those they write and speak about.\textsuperscript{118} Considerations of class difference in relation to those she writes about are explicit, even though she maintains that such differences can be overcome.\textsuperscript{119}

In connection with an elaboration on the Arabic term \textit{nisa'î}, and various alternative renderings of the term ‘feminism’ into Arabic, Mernissi writes:

\begin{quote}
\textit{Nisa'i} is for me an adjective that designates any idea, project, programme, or hope that supports women’s rights to full-fledged participation in and contribution to remaking, changing and transforming society, as well as full realization of one’s own talents, needs, potentials, dreams and virtualities. And it is in this sense that I have always lived and defined women’s liberation, whatever the language – ‘feminism’ or \textit{nisa'ism}.\textsuperscript{120}
\end{quote}

This association made between feminism and activism is evident also in other works.\textsuperscript{121} In her contribution to the anthology \textit{Sisterhood is Global} she criticises ‘Provincial Western Feminists’ who claim that feminism among Arab women is imported, and in this reproduce a colonialist and imperialist ideology of superiority and inferiority. There is a need to understand how women’s resistance to patriarchy may be articulated in different ways in different cultures and classes.\textsuperscript{122}

\textit{Rights to interpretation}

Investigation into the past is in \textit{The Veil and the Male Elite} presented as a political act, and an object of social control and supervision. Women’s participation is controversial but not forbidden. Mernissi can engage in it without the help of any ‘guardian or guide’, and she refers to verse 96:1 of the Qur\textsuperscript{an} and the injunction to ‘read’, \textit{iqra’}.\textsuperscript{123} More specifically in relation to criticism of a particular \textit{hadith} she states that ‘nothing bans me, as a Muslim woman, from making a double investigation – historical and methodological – of this Hadith and its author, and especially of the conditions in which it was first put to use. Who uttered this Hadith, where, when, why and to whom?’\textsuperscript{124}

\begin{thebibliography}{99}
\bibitem{118} Mernissi 1993b:163
\bibitem{119} See Mernissi 1984:450.
\bibitem{120} Mernissi 1988b:341–342 note 10
\bibitem{121} See, for example, Mernissi 1986:96–98; Mernissi 1988b:351; Mernissi 1993b:160–161. That ‘feminism’ also implies a certain theoretical perspective is indicated by the subtitle of \textit{The Veil and the Male Elite} (lacking in the French original) but also in her overall perspective that gender is an important category in the analysis of social conditions and politics in contemporary Arab/Muslim societies.
\bibitem{122} See Mernissi 1984:447, 449–450.
\bibitem{123} See Mernissi 1991b:9–10. A reference to 96:1 as an injunction to inform oneself is also found on p. 28.
\bibitem{124} Mernissi 1991b:49
\end{thebibliography}
This anti-authoritarian, democratic and gender-neutral presentation of the access to interpretation stands in contrast to what Mernissi had written earlier. Gender exclusiveness is a characteristic of Muslim views on religious knowledge in 1986, based on the male ability of reason ‘aql, necessary to the decoding of Gods ‘signs’, āyāt. The often-repeated notion that there are no clergy in Islam does not exclude the notion of a gendered hierarchy of religious knowledge.125 When ‘aql is mentioned in The Veil and the Male Elite there is no hint of female exclusion. On the contrary, the intellect is said to make ‘the individual responsible and in fact master of himself/herself’.126

In her presentation of childhood experiences Mernissi implicitly criticises certain forms of religious practice that have an aspect of compulsion attached to them. The critical attitude displayed toward the traditional Qurān-school as being formalistic and providing little in terms of useful knowledge of the religious tradition has been commonplace in Muslim reformist thought. The positive contrast provided by the ‘unorthodox’ beliefs of female relatives promotes Mernissi’s basic stated view of the privatisation of religion as an ideal.

Mernissi’s presentation of personal experience as an explanation for her introduction to the study of hadith follows a pattern among religious reformists in late 19th and early 20th century India observed by Daniel Brown. An encounter with specific hadith that are perceived as shocking or repulsive becomes the stated motive for further investigations into the issue of authenticity.127 The related incident gives the impression of Mernissi as motivated in her study of the religious sources by a genuine wish for knowledge about the ‘truth’, and by strong emotions. It also implicitly presents her as accepting the religious authority of the hadith-literature in general.

The incident in Malaysia provides Mernissi with the opportunity to stress her competence in Arabic, important for a study of the sources, in order to enhance her own authority compared to that of the committed (male) religious activist that opposed her, and implicitly others like him.

125 See Mernissi 1986:92–93, 99–100. See also Mernissi 1985b:226–227 note 7 where, however, women’s demand for participation in interpretation is noted and stressed as an issue of democracy. In Beyond the Veil a principal democratic access to religious knowledge is qualified by reference to the role of fatāwa (see Mernissi 1975:47). References to an earlier situation of gender exclusiveness in access to and production of historical information are also made in Mernissi 1987:9.

126 Mernissi 1991b:187. The rejection of religious authority is not total in The Veil and the Male Elite. There is an acceptance of the superior religious knowledge of the ‘ulamā’, and advice is given to those interested in religious issues to contact a faqīh for help and instruction (Mernissi 1991b:3). A democratic and gender-inclusive view on the right to interpretation is also stressed in Islam and Democracy (see Mernissi 1993b:160–161). For a discussion on ‘aql, see also Mernissi 1995b:162.

Apart from the altruistic motive given in connection with historiography there are elements of offensive rhetoric directed at non-specified actors upholding a dominating historical tradition connected to political power. History is ‘mystified’ for a purpose, and that purpose is to conservatively protect the status quo, which then becomes opposed to her own progressive demand for change.

Armajani puts great emphasis in his dissertation on Mernissi’s use of the term nisāʾī (despite the fact that it is not frequent in her writing), and uses it as a designation for her activism in general. In his presentation nisāʾīsm becomes a specifically ‘Muslim feminism’, that is different from ‘Western’ feminism (at least in parts). He refers to Mernissi’s rejection of separatist tendencies in North American radical feminism, statements on possible male participation in activism and a stated need for a re-interpretation of Islamic history.\(^{128}\) In the definition of nisāʾīsm quoted above (which is also quoted by Armajani) it should, however, be noted that there is no claim to the existence of essentially different local ‘feminisms’, but rather an affirmation of a basic universal commonality. This accords well with Mernissi’s acceptance of the term ‘feminist’ as a self-designation. The criticism of ‘Provincial Western Feminists’ is not a rejection of the possibility of universal feminism. It is only an intimation of the problems that lie in the inability of some feminists to recognise feminism (in terms of resistance against patriarchy) when they see it.

The differences between The Veil and the Male Elite and earlier works regarding access to interpretation are in line with the change in her overall evaluation of the role that especially Islamic history can play in activism. The discussion on gendered hierarchies of interpretation – and on the connection made between maleness and ʿaql – have a function when Mernissi is describing and explaining features of inequality in contemporary Muslim societies. The object of The Veil and the Male Elite is explicitly different. Here there is a need to legitimise women’s, especially her own, activities in this field. The problem of women’s participation in interpretation becomes one of power relations in society, and not one inherent or essential to the religious tradition. The references to ʿaql as a general human capacity with a certain purpose related to individual responsibility, and to verse 96:1 are important in that connection. The reference to verse 96:1 is an implicit rejection of authority, because it is a reference to Muhammad’s claimed illiteracy and lack of religious knowledge at the time of the first revelation in 610.\(^{129}\) The rejection of (male) authority is also evident in the stated independence from any ‘guardian’ or ‘guide’. The chosen terminology

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129 References to 96:1 are commonplace in the contemporary Islamic discourse in asserting both the rights to individual reasoning and investigation on religious issues and the place of education in Islam in general (see Stenberg 1996a:187).
is interesting. ‘Guardian’ is a common English translation of walī. ‘Guide’ is often used as a translation of murshid, the spiritual guide of a ṣūfī apprentice.

The Sources

The Qur’ān
The shift noted from a focus on structures to an actor-oriented perspective is noticeable also in connection with descriptions of the Qur’ān. In *Beyond the Veil* a historical relationship between the text and the emergence of a Muslim social system – that has continued up till contemporary times – is stated. It is, however, not problematised in terms of interpretation. In *The Veil and the Male Elite*, on the other hand, this understanding of the Qur’ān is qualified: ‘Depending on how it is used, the sacred text can be a threshold for escape or an insurmountable barrier […] it all depends on the person who invokes it’.

In *The Forgotten Queens of Islam* specific verses of the Qur’ān are not generally used or referred to. There is, however, an allusion to the Qur’ān in the separation between two types of Islam in the introduction: ‘Islam without any other qualification’ is said to refer to ‘political Islam, to Islam as the practice of power, to the acts of people animated by passions and motivated by interest’. This is distinguished from ‘Islam Risala’ conceptualised as ‘the divine message, the ideal recorded in the Koran, the holy book’. ‘Islam Risala’ is further presented as a synonym to ‘spiritual Islam’.

Mernissi’s presentation of the Qur’ān in *Islam and Democracy* is again different. In focus stands its symbolism and contemporary significance. Qur’ānic words and phrases are emotionally charged, and can be, and have been, utilised to mobilise a general Muslim public.

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130 See Mernissi 1975:15–18, 23–24, 61, 83.
131 Mernissi 1991b:64
132 There is, however, a short discussion on the Queen of Sheba and sūra 27. In Mernissi’s view, the Queen’s history has been thwarted by Muslim historical scholarship, so entrapped in a patriarchal tradition that it had to question her humanity because of the unthinkable that a woman could possess political power. There is no indication that Mernissi considers the Qur’ānic account to be true in any historical sense (see Mernissi 1993a:141–144).
133 Mernissi 1993a:5. The differentiation between different ‘Islams’ is repeated later on in the book by the presentation of *risāla* as the ‘Islam of the Prophet’s message in the holy book, the Koran’ which has been subject to political manipulations by ‘politicians’, ‘caliphs’ and ‘qadis’ (Mernissi 1993a:157). *Risāla* also occurs in *The Veil and the Male Elite* as a positive concept. The *risāla* was the ‘usual message’ presented by Muhammad in 7th century Arabia (Mernissi 1991b:65). In *Islam and Democracy* *risāla* is specified as the written message of the Qur’ān and as being of importance in everyday life, in politics and in law (see Mernissi 1993b:29, 74, 79, 135).
134 The history of the text is, however, also sketched, and the Qur’ān is used as a historical source for information on *al-jāhilīya* and practices during that period (see Mernissi 1993b:120–121, 124–125, 127–128).
135 Mernissi 1993b:81–82, 105–107. The political use that can be, and has been, made of this phenomenon is limited by the elusiveness of the text itself, according to Mernissi. Terms can be conceptualised differently by
When the content and interpretation of the Qurʾān is addressed in *The Veil and the Male Elite* the historical framework becomes important. Mernissi stresses the difference between the chronological order of revelations and the arrangement of the final text (including a differentiation between Meccan and Medinan revelation). This has hermeneutic implications, which are outlined by reference to traditional *tafsīr*, to the principle of abrogation, *naskh wa mansūkh*, and to the literature on the ‘occasions/causes of revelation’ *ashāb an-nuzūl*, i.e. its historical context. Mernissi also makes an explicit separation between the person Muhammad and the Qurʾānic text. She criticises traditional *fiqh* for not striving after synthesis and establishment of principles in order to separate ‘the structural from the circumstantial’ in the interpretation of the Qurʾān. The learned men of the past feared subjectivity and only accumulated divergent opinions on the meaning of the Qurʾānic text. This opened the way for political ‘manipulation’ through choice among these opinions.

**The aḥādīth**

The ḥadīth-literature is used similarly to the Qurʾān in *Beyond the Veil*, as a historical source and as a source on ‘Islamic’ ideology concerning femininity and sexuality. There is no systematic discussion on authenticity, which stands in contrast to the main theme of chapters 2–4 of *The Veil and the Male Elite*. In the second chapter, ‘The Prophet and Hadith’, the origin of the literature and the forms of early criticism are outlined, with a focus on political manipulation and forgery. Some scholars fabricated aḥādīth on orders from the rulers, while others with greater integrity, such as al-Bukhārī (d. 870), tried to avoid association with political power and employed ‘scientific’ methods to separate the fabricated from the authentic. The inclusion of the misogynistic ḥadīth ‘three things bring bad luck: house, woman and horse’ in the ṣaḥīḥ-collection of al-

different actors in the political arena. Examples given in this context are the use of *al-ḥaqq* and *al-bāṭil* in the context of the Iranian revolution.

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137 Mernissi 1991b:93, 164–165, 217–220. Historian and religious scholar at-Ṭabarî (d. 923) stands as a representative of traditional *tafsīr* and is presented as ‘a scholar without equal – one of impeccable clarity and rigor’ (Mernissi 1991b:218). At-Ṭabarî’s *tafsīr* is used extensively (see, for example, pp. 68–69, 92–93, 118–120, 121–122, 147–148, 157–160).

138 Mernissi 1991b:29. The separation between Muhammad and the Qurʾān is made through the statement of revelation as divine grace, outside the Prophets control. This is a difference in relation to *Beyond the Veil* where such a separation is less clear (see, for example, 1975:28, 38–39). The separation is, however, not consistent throughout *The Veil and the Male Elite*. One example is the statement that the designation munāfīqūn, ‘hypocrites’, for some of the opponents in Medina was Muhammad’s and not God’s (Mernissi 1991b:105).

139 Mernissi 1991b:127–129. See also p. 147.

140 It is mainly the collections of Mālik ibn Anas (d. 795), al-Bukhārī (d. 870), Muslim (d. 875) and Tirmidhī (d. 892) that are used. As for providing images of femininity and gender roles, the ḥadīth-literature is treated on the same level of analytical value as general folklore and poetry (see Mernissi 1975:11–12, 31, 35–36).

141 See Mernissi 1991b:34–37, 43–48. See also p. 9.
Bukhārī, however, makes Mernissi conclude that ‘even the [generally perceived] authentic Hadith must be vigilantly examined with a magnifying glass’.

Concerning favoured methodology Mernissi writes: ‘[…] for each Hadith, it is necessary to check the identity of the Companion of the Prophet who uttered it, and in what circumstances and with what objective in mind, as well as the chain of people who passed it along’. She also states that ‘the believing reader has the right to have all the pertinent information about the source of the Hadith and the claim of its transmitters, so that he or she can continually judge whether they are worthy of credence or not’. In the third and fourth chapters two traditions of ‘misogyny’ included in al-Bukhārī’s sahih-collection are criticised: ‘Those who entrust their affairs to a woman will never know prosperity’ and ‘The dog, the ass, and woman interrupt prayer if they pass in front of the believer, interposing themselves between him and the qibla’. In both cases Mernissi focuses on the first transmitter, the Companions Abū Bakr and Abū Hurayra respectively. Concerning the former, Mernissi stresses his fear of political dissension within the community as the basic motive for not taking the side of Muhammad’s widow ĖĂ’’isha bint Abī Bakr in the conflict with the fourth caliph and Muhammad’s cousin and son-in-law ĖAli ibn Abī Ṭālib in 656. Abū Bakra defended this with reference to a fitting hadith. She notes ironically his ‘truly astonishing memory for politically opportune Hadith’. In addition, she mentions that he was punished by the second caliph, ĖUmar ibn al-Khaṭṭāb, for the hudūd-crime of qadhf (false accusation of adultery). He should thus be considered an unreliable transmitter, in line with evaluating techniques of traditional isnād-criticism.

The criticism of Abū Hurayra focuses on a claimed hatred of women, as a consequence of his problems with femininity in general. His contemporaries voiced scepticism as to the large amount of aḥādith he claimed to recall, and ĖUmar criticised his laziness. In addition, Mernissi relates opposition from

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142 Mernissi 1991b:76
143 Mernissi 1991b:3
144 Mernissi 1991b:35
145 Mernissi 1991b:49, 64. The importance of the first of these is stressed in the statement that it has been used as a ‘sledgehammer argument […] by those who want to exclude women from politics’ (Mernissi 1991b:4). The second hadith in question excludes women from the qibla and thereby from the sacred and from the political, since the qibla marks both Muslim and Arab ethnocentricity. Furthermore it, according to Mernissi, equates women with animals (see Mernissi 1991b:69–70).
146 See Mernissi 1991b:49–58.
147 Mernissi 1991b:58
149 See Mernissi 1991b:71–72. His ‘unmanly’ occupation in the household of the Prophet is pointed out, as is his origin in Southern Arabia where the position of women in society, according to Mernissi, was high.
ʻA’isha to misogynous *ahādīth* in general, and especially to those presented by Abū Hurayra.\textsuperscript{151}

The method for criticising *ahādīth* presented in these chapters of *The Veil and the Male Elite* are not applied in the rest of the book, or in Mernissi’s later works. The question of the authenticity is addressed once in *The Forgotten Queens of Islam*, but this time without any reference to *isnād*.\textsuperscript{152}

**Islamic history**

There is a primary distinction that runs through Fatima Mernissi’s literary production between history as events in the past, and the contemporary function of narratives of these events. An important term in relation to the latter aspect of history is ‘memory’ also in configurations such as ‘collective memory’ and ‘Muslim political memory’.\textsuperscript{153} The connection with the criticism of *aṣāla* is noticeable. The call for authenticity is a political use of elements in Muslim historiography by certain interest groups in society.\textsuperscript{154}

In the introduction to *The Veil and the Male Elite* there is a poetical elaboration using the terms ‘history’ (histoire), ‘memory’ (mémoire) and ‘recollection’ (souvenir), but the conceptualisations of these words are not clear.\textsuperscript{155} Mernissi states that the book is not a work of history, since history ‘is always the group’s language, the official narrative that is pressed between covers of gold and trotted out for ritual ceremonies of self-congratulation’. *The Veil and the Male Elite* is ‘intended to be a narrative of recollection, gliding toward the areas where memory breaks down, dates get mixed up, and events softly blur together, as in the dreams from which we draw our strength.’\textsuperscript{156}

Official history/memory is presented as selective and controlled by those in power and disseminated through state-controlled media.\textsuperscript{157} The observation of selectivity leads Mernissi to assert that a different memory can be chosen. This is combined with a view of a ‘hidden history’, disassociated from political and

\textsuperscript{151} See Mernissi 1991b:70, 72, 76, 78.

\textsuperscript{152} On the issue of women’s access to the mosque during Friday prayer, Mernissi points to *ahādīth* in al-Bukhārī’s and Nasā’ī’s (d. 915) collections that do not condone the exclusion of women. She contrasts these with other *ahādīth* that do. Her conclusion is that the latter are false and fabricated as a result of misogynistic attitudes (Mernissi 1993a:80–83).

\textsuperscript{153} See, for example, Mernissi 1993a:44, 83; Mernissi 1993b:115; Mernissi 1996:77–80. In the second edition of *Beyond the Veil* certain key terms, such as ‘collective memory’ and ‘the Muslim psyche’, are used to explain the importance of history in the contemporary Arab/Muslim world (Mernissi 1985a:85). This is lacking in the 1975 original. The importance of images of the past – at the expense of historical facts – is elaborated also in other contexts (see, for example, Mernissi 1985b:222; Mernissi 1988c:39).

\textsuperscript{154} See Mernissi 1985b:225.

\textsuperscript{155} Mernissi 1991b:9–11

\textsuperscript{156} Mernissi 1991b:10

\textsuperscript{157} See Mernissi 1988b:342; Mernissi 1988c:42; Mernissi 1996:77–78.
ideological power. In *The Forgotten Queens of Islam* history in the ‘official discourse’ is contrasted with the history of the ‘marginal’ and the ‘exceptions’, which includes the history of women.

The notion of ‘amnesia’ appears as a constitutive element in the relationship between ‘the Muslim man and time’. A connection made between ‘amnesia’, anxiety and fear in *The Forgotten Queens of Islam* is developed in *Islam and Democracy*. Modern phenomena, representative of ‘the West’, al-gharb – including that of women’s rights – are presented as frightening to Arabs/Muslims mainly because they are reminders of forgotten parts of the Arab/Muslim past. A more correct understanding of the past would reduce such fears. The exploration into the past is a necessary activity in order to discover the ‘unconscious heritage that kneads and moulds our present fears’. A connection is made between the Arabic words al-gharb (‘the West’, ‘the Occident’) and gharib (‘strange’, ‘foreign’, ‘stranger’, ‘foreigner’), and the notion of something frightening is appended to the latter term. Mernissi states that ‘the most incomprehensible stranger is that gharib who lives within us, buried in the deepest levels of our private selves’.

There is little systematic source-critical elaboration in Mernissi’s discussion on history/memory. She contrasts early Muslim historians with their contemporary counterparts, to the advantage of the former. Early historians did not hesitate to relate controversial aspects of Muhammad’s life, according to

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158 Mernissi 1996:79, 80
159 See Mernissi 1993a:84–85. For a discussion on the need for investigations into the history of the ‘silent groups in Arab history’, especially women, see also Mernissi 1988c:42–43 where this approach is deemed more ‘scientific’ than the historiography of political power.
161 Mernissi 1993a:116–118. The connection is made in relation to two queens belonging to the Sulayhī dynasty in Yemen. Remembering these two would mean remembering the fact that they belonged to the Shi’a, and that would in turn stir up issues on freedom of opinion, difference and democracy, provoking anxiety.
163 Mernissi 1993b:122
164 See Mernissi 1993b:13. The terms are used in several places in the book (see, for example, pp. 18–20, 82, 163).
165 Mernissi 1993b:18
166 In *Beyond the Veil* it is noted that facts on the life of Muhammad are not easily established due to the normative character of the sources, and a tendency to disguise embarrassing details (Mernissi 1975:18, 20). There is no qualitative distinction between, for example, The Qur’ān, ḥadīth, early Muslim secondary sources, and non-Muslim historical research (see, for example, Mernissi 1975:18–23, 32–41). In *The Veil and the Male Elite* a presentation and systematisation of sources is provided in an appendix, but with no source-critical evaluation or, as in the case of ahādīth, any discussion on methods for evaluation (Mernissi 1991b:217–222). On the contrary, the fabrication of inauthentic ahādīth is posed against detailed historical descriptions of Muhammad, that makes it ‘impossible to distort his personality’ (Mernissi 1991b:8). Ibn Hishām’s (d. 833) Sīra, Ibn Sa’d’s (d. 845) *Kitāb at-tabaqāt al-kabīr*, at-Ṭabarī’s *Ta’rīkh ar-rusul wa al-mulūk* and al-�示qalānī’s (d. 852) *al-Isāba* are the secondary sources mostly referred to in *The Veil and the Male Elite*. It should be noted that also the works of Islamic studies scholar W. M. Watt are used to some extent.
Mernissi in the second edition of Beyond the Veil. In The Veil and the Male Elite they are presented as being true to the message of Muhammad, and striving to represent this message as accurately as possible. They provided information that is deliberately withheld or forgotten in the contemporary world. Ibn Sa’d (d. 845) is here singled out as a favourite. In The Forgotten Queens of Islam this positive evaluation concerns especially the presence of women in early historiographic accounts, in contrast to their exclusion by later historians.

There are three aspects of the Qurʾān in focus in Mernissi’s texts as described above. Firstly, there is the view of the text as a religious document with a history having effects in history and in the contemporary world, not least in forming a collective imagination. In The Veil and the Male Elite the historicity of the text provides a hermeneutic framework. Secondly, there is the view of the function of the text in society. Thirdly, there is the presentation of the Qurʾān as containing an essential religious ‘truth’ that can be separated from historically conditioned and politically manipulated understandings of Islam. The essentialist distinction is strengthened by the use of the emotionally charged term risāla. It implies that Islam when involved in the political practice of power is different from the original divine message. The distinction makes it possible for Mernissi to criticise aspects of contemporary understandings of the religious tradition, without appearing to criticise the religion as such. The distinction is important both in relation to a believing Muslim audience, and in relation to a non-Muslim audience committed to respecting ‘religion’ (especially as personal conviction and spirituality) in general.

The reference to and stress on the importance of methods in traditional tafsīr in The Veil and the Male Elite provides the work with an aura of religious sincerity. It undermines criticism of her performing tafsīr bi al-ra’y, i.e. Qurʾānic interpretation based on one’s own opinion, as opposed to tafsīr utilising complementary information from other sources concerning, for example, the historical context of the revelation.

The criticism of aḥādīth uses offensive rhetoric with accusations of vested interests to cast suspicion on the authenticity of the saḥīḥ-collections. The ḥadīth singled out to legitimise investigation even into these collections is well chosen. It has echoes of irrationality and superstition and as such contradicts commonplace assertions on Islam as a rational religion within the contemporary Islamic

167 See Mernissi 1985a:65–66. This stands in contrast to the note on early historians’ tendency to disguise embarrassing details.
169 See Mernissi 1991b:212.
170 See Mernissi 1993a:42, 44, 50.
discourse. While it is thus the *matn* that serves as the rationale for investigation, it is the criticism of *isnād* that constitutes the method. By accepting the primacy of *isnād*-criticism Mernissi appears to place her investigation in line with traditionally legitimate ḥadīth-criticism. There are, however, slight modifications. Besides the potentially controversial issue of criticism of the collections traditionally viewed as ‘sound’, there is the additional controversial nature of doubting the sound moral character, *ʿadāla*, of the Companions as a collective. This is traditionally viewed as beyond suspicion. Daniel Brown has noted the centrality of this issue in modern attempts to criticise ahādīth. References to suspicion from and conflict with other Companions (ʿĀʾisha in the case of Mernissi), and to the practice of *ikthār al-ḥadīth* (transmitting a suspiciously large amount of ahādīth) has been important here. Abū Hurayra has been a frequent target for reformist criticism. Mernissi’s presentation of ḥadīth-criticism is individualistic, democratic and gender-inclusive, justifying her own activities. Implicitly she rejects authority on the basis of specific training in traditional ḥadīth-science, *ʿilm al-ḥadīth*. Her presentation of al-Bukhārī as an ideal rests not on his learning, but on his claimed disassociation from political power. It should be noted that there are no intermediate categorisations between authentic and false ahādīth in her presentation. Mernissi does not make a suggestion on how to evaluate the normative value of individual ahādīth in general, but rather on how to reject those that are problematic.

One theme runs through Mernissi’s presentations of the Qurʾān, the ahādīth and historiography, that of *power*. The interpretations of Islam that she turns against are those associated with political power, providing legitimacy for that power. In this there is also an implicit criticism of contemporary *ʿulamāʾ*. Her own suggestions for change are also suggestions involving a questioning of this power. In the context of history, it is clear that the issue of historical accuracy is secondary to that of historiography as the practice of power, involving a selective approach to the past.

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171 Particularly in 20th century reformist criticism of the *ṣaḥīḥ*-collections the pointing out of ‘irrational’, ‘unscientific’ or ‘offensive’ ahādīth has been important (see Juynboll 1969:139–149 on discussions on ahādīth relating to medicine and Brown 1996:95 on ‘vulgar’ ahādīth).

172 This is the judgement in, for instance, Stowasser 1994:133.

173 To use ʿĀʾisha as an example of learned women in Islamic history is commonplace, see, for example, Altorki 1995:325; Barazangi 2000:32. For the use of the theme of ʿĀʾisha as opposing men’s interpretation of Islam, see Kahf 2000:159.


175 This should be contrasted with the notion of three possible categorisations of an authentic ḥadīth, i.e. *ṣaḥīḥ* (sound), *ḥasan* (good, fair) and *daʿīf* (weak) (see, for example, Burton 1994:111).
There is also an aspect of a hidden history – especially connected with women’s history – that is noteworthy. Mernissi here positions herself as a proponent of a trend within historical research that has stressed the invisibility of women – or other underprivileged groups – in traditional scholarship, and the asserted need for academic research to correct this bias.\textsuperscript{176} In addition, the concept of ‘amnesia’ serves as a (collective) psychological explanation for this invisibility, and the invisibility of other elements in history. Both the terminology of ‘amnesia’ and the connection made with unconscious fears and anxiety provides Mernissi’s text with a psychoanalytical touch. In this sense she becomes a psychotherapist who writes history in order to cure a patient (Arab/Muslim societies) whose collective neurosis inhibits everyday life. The unearthing of the repressed memories of childhood (history) is an important part of the therapy. A note can also be made in this connection to the similarities with how author and psychoanalyst Julia Kristeva elaborates the connection between the frightening stranger and elements of our own unconscious in her \textit{Étrangers à nous mêmes} (1988).\textsuperscript{177} The references to early historians such as Ibn Sa’d works to provide Mernissi’s accounts of early history with legitimacy. Like them she aspires to present controversial parts of early history, parts that are forgotten or consciously hidden away.

\section*{Applications}

\textit{The (re)construction of Islamic history/memory and the production of models}

In this section I concentrate on Mernissi’s discussion of Muhammad’s life and the earliest period, leaving out, for example, her presentation of Muslim female heads of state in \textit{The Forgotten Queens of Islam}. This is based on space considerations as well as on considerations as to the primary religiously normative character of earliest period. Other discussions on events in history are left out because they do not specifically concern the issue of women’s rights.\textsuperscript{178}

\textsuperscript{176} For the perspective of ‘history from below’, see Sharpe 1991. For an overview of the academic discipline of ‘women’s history’ especially in the US, including the relationship to feminist political activism, see Scott 1991.

\textsuperscript{177} See especially the section on Freud and the \textit{unheimlich} in Kristeva 1991:182–192.

\textsuperscript{178} The \textit{Khawārij} for example, presented in historiography as a splinter group from the partisans of the caliph ‘Ali after the battle of Siffin 657, provide an example in \textit{The Forgotten Queens of Islam} of the struggle for democratic equality. Hence, such notions of such equality did not begin with the importation of UDHR (Mernissi 1993a:23). The \textit{Khawārij} is, however, also associated with ‘extremism’ and ‘terrorism’, a connection that is stressed in \textit{Islam and Democracy} through the identification of the \textit{Khawārij} with a larger ‘rebel’ trend throughout history (Mernissi 1993b:20–21, 27–30). See also Mernissi 1991b:41 for a similar evaluation of the \textit{Khawārij}. For another example of the use history, see the treatment of the \textit{Mu’tazila} and Sufism in \textit{Islam and Democracy} as examples of rationalism in Islamic history (Mernissi 1993a:32–41) For a discussion on Mernissi’s use of the \textit{Mu’tazila}, see Martin & Woodward 1997:206–210. Here it is contended that her ‘highly schematized’ presentation of early Islamic intellectual history is ‘selective and unconventional in places’ (p. 209). Her presentation of
Al-jāhiliya is in *Beyond the Veil* characterised mainly as period of female sexual self-determination where women were free to engage in and dissolve diverse heterosexual unions at will. Zinā’ did not exist as a crime. The Islamic social system changed this situation through introducing new legal and social institutions that restricted female sexuality. In *The Veil and the Male Elite* ‘sexual self-determination’ is changed to the pejorative terms ‘sexual licentiousness’ and ‘promiscuity’, and sexual liberty combined with a system of slavery-prostitution is said to have put all non-aristocratic women of 7th century Arabia in perpetual danger. The Islamic social system, in this context, sought to regulate not female independence, but a general social ethic characterised by a flock mentality, where women lacked inheritance rights and could themselves be inherited. The existence of misogynistic ahādīth is attributed to a general phobic and negative attitude to sexuality and the menstruating woman during al-jāhiliya.

The function of al-jāhiliya as a term with negative connotations, denoting an anti-thesis of Islam, is noted by Mernissi, and in *Beyond the Veil* ancestral fears of a pre-Islamic social chaos are used to explain contemporary Arab/Muslim resistance to women’s liberation. In the second edition a lengthy discussion on contemporary resistance to female self-determination uses such psychoanalytical terms as ‘neurotic reactions’, ‘hysterical attitude’ and a ‘collective memory […] projected forward’. Al-jāhiliya is presented as a ‘fundamental matrix of the Muslim psyche’. In *Islam and Democracy* Mernissi states that the memory of al-jāhiliya has been hidden away because it contradicts the ideal of an umma characterised by harmony and unity. Female self-determination in the contemporary world provokes anxiety because it serves as a reminder of a pre-Islamic chaos. ‘A reconciliation with the jahiliyya part of our past and its reintegration into our field of knowledge’ is presented as a pos-

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179 See Mernissi 1975:18–20, 24, 27–28, 34–41. Mernissi, however, states that some practices regarding means for women to instigate divorce survived the transition from al-jāhiliya to Islam. Here she mentions the techniques of *tamlik* (the right to initiate divorce delegated from the husband to his wife) and *khul* (where the wife ‘buys herself off’ from her husband (see Mernissi 1975:25–27). The theme of female sexual self-determination is further elaborated in the 2nd edition (see Mernissi 1985a:65–67).


181 See, for example, Mernissi 1993a:141. The dichotomization is here stressed in connection with the statement of the problem of using the Queen of Sheba in *sūra* 27 as a normative example because she lived during al-jāhiliya.

182 See Mernissi 1975:41, 100.

183 Mernissi 1985a:84–85

184 See Mernissi 1993b:114–121.
sible prerequisite for changing the relationship between Muslim men and women.  

In *The Veil and the Male Elite*, the focus in the presentation of Muhammad, his contemporaries and the situation in Medina during the time of the Prophet is on a limited period between the third and the eight years after the *hijra*. The main theme is that of dissension. Mernissi contrasts two images of the Prophet’s Medina. One is the ‘idyllic picture of Medina in our minds, a distortion fostered by the lessons in *tarbiya islamiiyya* (Islamic education) that we studied in primary school, which simplified for us the story of the Prophet.’ On the other hand:

> when you look at the city to which for ten years Muhammad strove to bring his enlightenment, you see the narrow streets of a city like any other, a city at war with progress and freedom, a city in which Muhammad suffered, as the history books written for adults tell us.

The dissension is a result of a group-conflict. Among the women of Medina there was a ‘veritable protest movement’, led by the Prophet’s wives, who approached Muhammad, asked questions on their status, and received answers in revelations. They were initially successful, which is shown by the very title of the fourth *sūra*, ‘The Women’. Against them stood the conservative male population, demanding a continuation of the practices of *al-jāhiliyya*, motivated by a fear for loss of economic privileges. According to the men, the relationship between men and women was to be kept outside the realm of religion, which was to have influence only in the public sphere. A third group of ‘hypocrites’, *munāfiqūn*, also contributed to the dissension, especially after the ‘Battle of the Trench (*al-khandaq*)’ in 627. They were ‘those Medinese who saw in him [Muhammad] a threat to their interests and the security of their city’. They were named such because ‘they rarely attacked directly but preferred to use slander, rumor, and other even more insidious tactics, such as following the Prophet’s

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185 Mernissi 1993b:119
186 Mernissi however provides a general (Sunni) account of the period from the birth of Muhammad up till the rise of the Umayyad dynasty to power on pp. 25–42. Here she points out a general Muslim understanding of the Medina period as an ideal to be imitated, and also notes that it was in Medina that the *shari‘a* was given substance.
188 See Mernissi 1991b:118–123, 126, 131, 142. Verses on inheritance and a ban on inheriting women of deceased relatives made it apparent to the male population that: ‘Muhammad and his God were not always acting with their interests in mind, and that the new religion represented not just the promise of conquests, but also an ethical system that imposed some sacrifices’ (Mernissi 1991b:125). On the male population’s attempts to counter reforms through interpretation of the Qur’ān, see p. 126.
wives in the street and harassing them.' Their motives for opposition were economic. The ‘hypocrite’ Abdallāh ibn Ubayy, for example, had an economic interest in the prostitution of slave girls, which was threatened by Islamic social reforms.

The Muhammad of *The Veil and the Male Elite* is a polite, shy, mild, calm and almost timid man, with a large amount of self-control. He is a realist and a pragmatist, building his decisions on careful considerations. Muhammad was a tactical, but not always successful military commander, and military failures combined with increased age produced a general weakness towards the end of his life. On top of this, believers constantly disturbed him, asking for his advice in diverse matters. Mernissi stresses love and sexuality in connection with Muhammad. He understood the importance of sex and affection, and was furthermore keen on not separating his public and private activities. Sexuality was never marginal to him and he spoke openly on sexuality and desire. Physical attraction is consequently not played down by Mernissi as a motive for Muhammad’s marriages, although there is an acceptance of additional political and military considerations. Noteworthy here is the stress on his marriage to Zaynab bint Ja‘sh as motivated by love at first sight, and the criticism directed against alternative motives (political and social reformist) provided by Islamic studies scholar W. M. Watt. This can be compared with what Mernissi writes in *Beyond the Veil*, where she instead points to a contradiction between high ideals and actual conduct. While playing down the role of physical beauty in his preaching, ‘many of his marriages were motivated solely by the woman’s

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189 Mernissi 1991b:105–106. For other negative character traits of the munāfiqūn, see pp. 109–110. With the help of at-Tabarī’s interpretation of 33:60 Mernissi identifies two categories within the ranks of the munāfiqūn, differentiated by the tactics used in opposing Muhammad. Some harassed the Prophet’s wives and other believing women in the streets, and others preferred to spread rumours about Muhammad and the wives, including intimate discussions on Muhammad’s lack of sexual potency (Mernissi 1991b:172–179).

190 Mernissi 1991b:181, 186. On the reforms in connection with slavery – and the threat this posed to certain economic interests – see also pp. 148–150.


192 Mernissi presents the battle of Uhud as a failure (see Mernissi 1991b:91). The battle of al-khadāq is not described directly as a military failure, but not as a success either. The important stress is here on the additional strain that it added to the internal conflict of Medina (see Mernissi 1991b:167–170). It can be noted that a reference to Muhammad as a successful statesman is made also in *Beyond the Veil* (see Mernissi 1975:18).


194 See Mernissi 1991b:104–105, 162, 172. This non-separation of the public and the private spheres was reflected in the architectonic arrangement of his wives’ dwellings – especially that of the wife ‘Ā’ishā – and the mosque. The spatial arrangements opened the way for the participation of Muhammad’s wives in politics (see Mernissi 1991b:107, 113–114).


196 See Mernissi 1991b:102–104, 204 note 4. It is, however, noted that the marriage to Zaynab provided fuel for attacks levelled against Muhammad from his opponents. His marriage to Šafiyya after the raid on Khaybar in 628 was also, according to Mernissi, a result primarily of physical attraction (see Mernissi 1991b:176–177).
beauty’. There are no traces of such an evaluation in *The Veil and the Male Elite*.

An interesting difference between the original French edition and the English translation of *The Veil and the Male Elite* can be noted. In Mernissi’s general overview of Muhammad’s life there is in the French original a mention of the event of the ‘Satanic Verses’ as important in the conflict between Muhammad and the Meccans. This is lacking in the English translation.

‘Umar ibn al-Khattāb, later the second caliph, is in many aspects Muhammad’s opposite, especially in his violent and fierce attitude toward women. This made him the leader of the male interest group in Medina. Like them, but unlike Muhammad, he wanted a separation between the public and the private spheres, and a restriction of influence of the new religion to the former. He was in the prime of his life when Muhammad was becoming weaker due to old age, and he was able to have an influence on the Prophet. Mernissi does, however, also provide a basic characterisation of ‘Umar in more positive terms concerning his honesty and sense of justice.

The female counterpart of ‘Umar – in his capacity as a leader – is Muhammad’s wife Umm Salama. Her beauty, intelligence and position within the Quraysh aristocracy are stressed. She, as well as the majority of the female population of Medina, took the message of Islam on equality seriously, and demanded change. She often acted in a way that suggests that she did not consider women’s proper place to be limited to the private sphere, and Mernissi stresses her critical attitude toward ‘Umar in particular. The role of the other wives during the lifetime of Muhammad is not much elaborated in *The Veil and the Male Elite*, and the theme in *Beyond the Veil* of women who offered them-

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197 Examples presented, and described in detail, in this connection are: the marriages to Șafiya, Juwayriya and Zaynab bint Jalsh; the taking of Rayhāna as a concubine or wife (differences in the sources are pointed out); the ‘scandal’ in connection with Māriya the Copt (Mernissi 1975:21–23).
199 See Mernissi 1991b:141–143.
200 See Mernissi 1991b:154, 163–164.
201 See Mernissi 1991b:141.
202 See Mernissi 1991b:141.
203 See Mernissi 1991b:115–116, 118–119. Together with ‘Ā’isha she is presented as an example of wives with whom Muhammad had an intellectual, besides a sexual, relationship, and to whom he turned for advice, also in military matters (See Mernissi 1991b:104).
205 See Mernissi 1991b:144.
206 ‘Ā’isha figures in the presentation of the affair of al-ifk, ‘the lie’ – when she was accused of adultery – which is connected to a larger campaign from the hypocrites to defame Muhammad, and to counteract his insistence on the non-separation of the public and the private (see Mernissi 1991b:177–178). Her youth at the time of marriage is noted but not further commented on. The jealousy that she expressed in relation to the other wives is pointed out but not elaborated (see Mernissi 1991b:103). Khadīja is mentioned as a ‘businesswoman’ who proposed marriage to Muhammad and is described as having total confidence in him. Her comforting and reassuring role
selves to Muhammad, and women who repudiated him, is lacking. The infamous Hind bint cUtba is given some attention. She – like Umm Salama – is described as an aristocratic Qurayshi woman active in public life, through her opposition to Muhammad and the new religion and especially through her role of spurring the soldiers in the battlefield. The latter activity is contrasted with ‘the image of the nurturing woman who bandages wounds and comforts the dying’. While given a minor role during the lifetime of Muhammad in *The Veil and the Male Elite*, cĀ’ishas’s actions after the death of her husband are noted and commented upon. Her participation in the first civil war is connected to later attempts, criticised by Mernissi, to bar women from the field of politics. The Islamic sources do not provide for such generalisation from cĀ’ishas’s case. Mernissi stresses cĀ’ishas involvement in politics as a result of a personal choice. She took control of an army, and actively sought support for her opposition against cAlī. In *The Forgotten Queens of Islam* the events of the first civil war are presented as the first example in Muslim history of a woman crossing the boundaries (ḥudūd) of public and private, a transgression that in itself provoked criticism from her contemporaries.

The theme of female rebellion against a patriarchal system is often repeated in Mernissi’s writings. Both her mother and her grandmother are described as ‘rebels’ in *The Harem Within*. In this work there is also a stress on female subversion, and of such subversion as a necessary strategy against power. In several of her works there is a mention of an inherent Arab/Muslim tradition of
female resistance and rebellion, often subtle and difficult to recognise, but stretching back to the earliest periods in history. This rebellion is connected to the Qur’anic term nushūz. Although often stated by Mernissi as signifying sexual rebellion within the framework of the family, it is also generalised to signify female rebellion against a larger oppressive social structure. In the latter sense, nushūz is also connected with individualism and bid‘a. The latter term is conceptualised as a ‘capacity of the individual to change his or her fate, life and thoughts about people and things, and to act critically in accordance with one’s own assessment of the situation’. Here nushūz becomes a threat to the unity of the umma, to order and to God. In early Islamic history Mernissi finds an example of such female rebellion mainly in Muhammad’s great granddaughter, al-Ḥusayn’s daughter, Sukayna. In *The Veil and the Male Elite* her rebellion consists of a rejection of the veil, opposition to ‘political, oppressive, despotic Islam and against everything that hinders the individual’s freedom’, and her refusal to obey her husbands and grant them rights to polygamy. In other works, both before and after *The Veil and the Male Elite*, Sukayna (here transliterated as ‘Sakina’), together with cĀ‘isha bint Ṭalḥa, the niece of Muhammad’s wife cĀ‘isha, are described as beautiful, intelligent, and aristocratic ‘feminists’ in early history. They both refused to obey their husbands, and as such rebelled against dominating models of Muslim femininity. The argument Mernissi had in Malaysia with the non-specified ‘editor of an Islamic journal in London’, related in *The Veil and the Male Elite*, concerned Sukayna. According to Mernissi her antagonist ‘interrupted me, shouting to the audience: “Sukayna died at the age of six!” Trying to snatch the microphone away from me in a vindictive rage, he kept repeating: “She died at Karbala with her father! She died at Karbala!”’. According to Mernissi:

that verbal aggression that I was subjected to and that attempt to obliterate the memory of Sukayna by a modern Muslim man who only accepts his

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215 See Mernissi 1986:89–92, 98. Quotation on pp. 90–91. In *The Forgotten Queens of Islam* nushūz is further connected directly with human rights. It is specified as a term used exclusively for women and a synonym of *fitna* and of ‘citizenship’ in the UDHR. A nāšiz is presented as a woman who asserts her individuality, and her free will (see Mernissi 1993a:177). See also Mernissi 1991b:22 for a similar connection between women’s human rights, individuality, bid‘a and nushūz. The gender exclusiveness of the term nushūz is stressed also in other connections (see Mernissi 1984:448; Mernissi 1986:88). The centrality of female ‘rebellion’ is marked by the title of the collection of articles from 1996.
217 See Mernissi 1986:94–95; Mernissi 1996:83. Sukayna is mentioned by her other name, Āmina (or Amina) already in *Beyond the Veil* (Mernissi 1975:32). For a source-critical presentation of Sukayna, that in several respects corresponds to Mernissi’s, also in designating her as a ‘feminist’, see Arazi 1997.
218 Mernissi 1991b:193
wife as veiled, crushed, and silent remains for me an incident that symbolizes the whole matter of the relationship of the Muslim man to time – of amnesia as memory.  

In the *The Veil and the Male Elite* the examples of Umm Salama, Muhammad’s wife Ā’ishā and Sukayna are posed against the image of the jāriya, the female slave, as a dominating symbol of the ‘Muslim eternal female’. In an article from 1985 the jāriya is identified as a secular, historical counterpart to the Qurʾānic ḥūr, the eternal virgin of paradise, and as a symbol of male power and glory. While the Qurʾānic counterpart is dropped in later discussions on the jāriya, a basic connection is upheld between her attractiveness to men in power and her subordinate slave status.

**Gender equality**

In *Islam and Democracy* Mernissi makes the following remark:

> At the beginning Islam tried to break with the fears and superstitions of the heathen Arabs. But very quickly the example of the Prophet, who insisted on the necessity of change, disappeared from people’s consciousness. The caliphs slid back toward the jahiliyya, locking women up and excluding them from the mosques. Women fell into ignorance and sank into silence.  

In the appending footnote she remarks:

> In *The Veil and the Male Elite* I explained that in the course of its egalitarian revolution Islam allowed women to emerge as subjects, whereas in the jahiliyya they had had the status of objects, inherited and passed on like live-

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219 Mernissi 1991b:194
220 Mernissi 1991b:195
221 See Mernissi 1985b:223. The connection made between men’s control over women and their political power in Arab/Muslim imagination becomes a topic of the stories of the illiterate women of her childhood harem in *The Harem Within* (Mernissi 1995b:45–47). In other works the Abbasid era is presented as important in this imagination combining the two features of male control over women and political greatness, evident, for example, in the stories of *Arabian Nights* (see Mernissi 1985a:149; Mernissi 1985b:221–222; Mernissi 1996:84).
222 Mernissi 1996:84–85. This connection between subordination and beauty is pointed out in earlier writings as an important feature of an ‘Islamic’ gender system, also with references to Aït Sabbah (see Mernissi 1986:98). The theme of slavery in history is discussed also in a more general sense than the enslavement of women as jawāri. In some contexts this theme is clearly connected to the issue of women’s rights. The discussion on slavery from a religious point of view might be a useful source for arguments in the struggle for women’s rights since slavery, although not outlawed in the Qurʾān, has been banned in all Muslim countries (see Mernissi 1988b:353). This argumentation is put into practice in *The Veil and the Male Elite* (see Mernissi 1991b:151–153) and in *The Harem Within* (see Mernissi 1995b:175–176).
223 Mernissi 1993b:113
stock. At the rise of Islam women were among the Companions of the Prophet and as such participated actively in community affairs, claiming their rights and sometimes succeeding in obtaining them. With the advent of the Umayyad despotism, however, women sank back into a slavelike status like that which they had had in the jahiliyya.

A reference given to the ban on *The Veil and the Male Elite* in Morocco is used to point out that her stated views in this matter are ‘apparently disputed’. The quotations point to how Mernissi in *Islam and Democracy* wanted her description of the early history in *The Veil and the Male Elite* to be perceived: as a statement on the deterioration from an originally egalitarian Islam after the death of the Prophet. This also corresponds with her description of an initial ‘Medina democracy’ in *The Forgotten Queens of Islam*. This democracy had its centre at the Medina mosque during the time of Muhammad. The mosque was a centre for communal decision-making where women were also present. This ideal situation could have developed into a system of parliamentary democracy, had it not been for the development of despotism during the reign of the Umayyads. This development also entailed the exclusion of female presence in the mosque, legitimised by false *ahādīth*.

The presentation in *Islam and Democracy*, however, corresponds only partly with the actual content of *The Veil and the Male Elite*. Here gender equality in rights is presented as a part of Muhammad’s dream and his project; a break with pre-Islamic customs, with a stress on individual freedom and internalisation of moral control, as opposed to external control. The object-to-subject change – stressed in the second quotation above – is connected with the assertion of women as free and responsible individuals. Women who entered the community of Muslims became *ṣaḥābīyāt*, a feminine counterpart of *ṣaḥāba*, which signified equal status.

The Qurʾān affirmed gender equality in verse 33:35 where ‘Allah spoke of the two sexes in terms of total equality as believers, that is, as members of the community’; a revolutionary break with *al-jāhiliyya*. Umm Salama, acting on be-

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224 Mernissi 1993b:183–184 note 11. For a similar contrasting of ‘epic years of Islam […] in which women became pre-eminent on the political stage as disciples of the Prophet’ and the Umayyad period, see Mernissi 1996:81.

225 See Mernissi 1993a:75–83. For a discussion on Mernissi’s presentation of an original democracy in Medina, see Armajani 1999:147–151.


227 See Mernissi 1991b:121.

228 The status of *ṣaḥābīyāt* entailed ‘the right to enter into the councils of the Muslim *ummah*, to speak freely to its Prophet-leader, to dispute with the men, to fight for their happiness, and to be involved in the management of military and political affairs’ (Mernissi 1991b:viii). For additional examples of the term *ṣaḥābīyāt* as a ‘proof’ of an early egalitarian Islamic message, see Mernissi 1993a:82; Mernissi 1996:81.
half of a female collective, had an important role in bringing this verse about through her question why women were not mentioned in the Qur’an. Mernissi also presents verse 4:7 (although the reference is to 4:37) on inheritance as a token of this original Islamic egalitarian spirit, and as a transformation of women from economic objects to economic subjects. This transformation sparked opposition from the male interest group. This group, with ‘Umar in the lead, eventually turned against Muhammad’s, and God’s, egalitarian project. Even though he loved the Prophet, ‘Umar could not understand Muhammad’s dreams and visions of women’s roles in society.

As a result of initial gains, women came to demand additional economic equality, especially the right to go to war and take booty. This was done in a politically precarious situation after the defeat at Uhud (625). Men were not prepared to make sacrifices in this area and both God and Muhammad realised the importance of the economic factor in mobilisation. Mernissi states that ‘if men had need of God, God also had need of men’. There could be no further concessions to the economic demands of women.

Thus, the demand for gender equality is not imported from abroad. Equality was once upon a time demanded by God and his Prophet, but rejected by those whose economic interests were threatened by it. Mernissi concludes: ‘As today, the men professed Islam, but openly rejected it when it supported equality between the sexes’.

**The veil and segregation**

The issue of segregation and veiling is central in Mernissi’s work, and closely connected to the issue of gender equality. The term *hijab* is used frequently, and often refers to a social system of gendered separation between the public and the private, and not merely a specific type of clothing. The terms *hijab* and ‘veil’ and derivations thereof are moreover used metaphorically. Beyond the Veil is – despite its title – not particularly concerned with women’s dress. Veiling is mentioned as a ritual of invisibility in a contemporary social situation where there is an ongoing process of desegregation in the relationship between the sexes. The veil hides the potentially destructive feminine element in society and makes it possible for women to transcend gendered social boundaries. Women moving around in male spaces commit an act of aggression by their very pres-

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229 Mernissi 1991b:118
230 See Mernissi 1991b:120.
234 Mernissi 1991b:129
235 For example, when Mernissi speaks of attempts to ‘veil’ historical facts or of herself attempting to lift the *hijab* from these hidden facts (see Mernissi 1991b:115; Mernissi 1993a:85, 118; Mernissi 1993b:119).
ence, and hence are met by male aggression and harassment. The veil lessens the tension. Verses 24:31 and 24:60 are used to point at this instrumental aspect of veiling.236

In 1982 the veil is presented as a symbol of a ‘collective fantasy’ of the invisible and controlled woman. This attitude is deemed ‘almost phobic’,237 an evaluation that occurs also in The Veil and the Male Elite.238 Here a semantic and etymological examination of the term hijāb stresses the aspects of hiding and spatial separation, and hijāb is given a further political dimension by reference to a ‘screen’, sitr, that separated Muslim rulers in history from their subjects. The Qur’an and ‘Sufism’ are invoked in order to provide the term hijāb with a negative emotive charge, as a separation from God. The aspect of protection is stressed when contemporary calls for the hijāb are presented as a part of an identity search in the face of modernity, where women’s bodies become symbolic representations of the community.239 The connection between the hijāb and politics is further elaborated in The Forgotten Queens of Islam and in Islam and Democracy.240 In the latter work veiling is also related to a ‘fear of the past’, of al-jāhiliya.241

The discussion on the political aspects of hijāb – where women symbolise difference – operates on a high level of theoretical abstraction. On the other hand, Mernissi also stresses a difference between the adoption of a particular piece of clothing as a personal choice and the veil adopted as a result of coercion, legal or other. In the introductory article to the collection Women’s Rebellion and Islamic Memory Mernissi explicitly states that her criticism of the ‘hijab’ does not concern the headscarf worn as a ‘cosmetic choice’.242

236 Mernissi 1975:51, 84–86. Verse 24:31 emphasises the importance of hiding the feminine from the eyes of the male believers, in fear of zinā’. Verse 24:60 permits the perceived sexually inactive elderly women to dispose of the veil (see Mernissi 1975:83–84).
237 Mernissi 1982:189. For the institution of veiling as a result of fear of women’s sexuality and social chaos, see Mernissi 1996:56–57.
238 Mernissi 1991b:81
240 In The Forgotten Queens of Islam the veil and ideal of seclusion becomes historically important in relation both to the issue of women in politics, and to the notion of democracy in general (see Mernissi 1993a:35, 62–63, 65, 176, 179–182). In Islam and Democracy the central element of separation/division of space and protection is highlighted in a discussion on the global importance of the dismantling of the ‘Iron Curtain’, which playfully is translated into Arabic as al-hijāb al-hadidi. Fixation on the veil, as clothing, is presented as an attempt to counter globalisation (see Mernissi 1993b:6–8).
242 Mernissi 1996:xi. Veiling as a state policy, for example in Iran and Saudi Arabia, is presented as part of a general suppression of personal opinion, self-expression and democracy. The primary target is not women, but the democratic process and civil society as a whole. By rejecting women’s access to the public sphere and influence within it, the male half of the population can also be kept outside. Furthermore, the stress upon veiling diverts attention from other, more pressing problems, such as unemployment and uncontrolled population growth (see Mernissi 1996:viii–ix).
In *The Veil and the Male Elite* the insistence on the ǧīb in contemporary Muslim societies is interpreted as a possible ‘expression of the persistence of the pre-Islamic mentality […] that Islam was supposed to annihilate’ characterised by a ‘phobic attitude’ toward women and ‘superstition’.\(^{243}\) The notion of the negative connotation of the term in the Qurʾān is contrasted with the contemporary claim of the ǧīb as ‘a symbol of Muslim identity, manna for the Muslim woman’.\(^{244}\) The Qurʾānic verse 33:53, in which the term ǧīb occurs, is presented as the starting point of a more general system of separation between the public and the private spheres.\(^{245}\) The original *sabab an-nuzūl* is presented as the wedding of Muhammad and Zaynab bint Jahsh in the year 627 where God intervened on behalf of his all too polite Prophet in order to disperse lingering wedding guests. Their presence prevented the consummation of the marriage. A wider context is, however, provided by the situation of social crisis in Medina.\(^{246}\) The ǧīb was ʿUmar’s solution to the problems of the day, and due to his weakness Muhammad could not successfully defend his vision.\(^{247}\) Regarding more specifically women’s clothing Mernissi discusses verse 33:59, and the instruction to believing women to wear their *jalābīb* in a particular way in order to separate them from other women. By a certain style in dress, ordinary women were to be separated from slave-prostitutes. The non-separation of social status had been used as an excuse by the *munāfiqūn* in their harassment of Muslim women in the streets. The social distinction introduced by verse 33:59 was an abandonment of an original Islamic policy of social equality, and a capitulation to the economic forces that gained from slave prostitution. As such, ‘the veil’ is a sign of the ‘hypocrites’’ victory over the vision of the Prophet.\(^{248}\)

**Sexuality, bodily integrity and violence**

In *The Veil and the Male Elite* the dissension in Medina is also related to topics of violence and sexual abuse. Verses 2:223 (on the sexual act) and 4:34 (on wife battering) are both interpreted as concessions to the demands of the male interest group. Verse 2:223 is presented as originally legitimising intercourse from behind solely on the basis of the husband’s wishes. ʿUlamāʾ in later times did, however, forget the original context, and discussed the verse in relation to sodomy, which – in Mernissi’s presentation – serves both as an example of male manipulation of the sacred and of the piecemeal treatment of important issues in traditional *fiqh*. Instead the sex act should, according to Mernissi, be discussed

\(^{243}\) Mernissi 1991b:81  
\(^{244}\) Mernissi 1991b:97  
\(^{246}\) See Mernissi 1991b:85–93, 163–164.  
\(^{247}\) See Mernissi 1991b:114, 164, 185–186, 188.  
in relation to the notion of equality of believers, and as dependent on two free wills, with different needs and desires. The crucial question is whether woman’s free will is to be accepted as a general principle, or whether it can be suspended in certain cases, a question that is not answered by traditional fiqh. The latter opinion dominated in pre-Islamic Arabian society, and it was integrated into Islam through this verse and its interpretations.249

Violence against women was commonplace during al-jāhilīya. The revelation of verse 4:34 was provoked by a Muslim woman in Medina who had been slapped by her husband and sought retaliation through the Prophet in his capacity as hākim, ‘arbiter’. In Mernissi’s view, injunctions in the verse concerning wife-battering exemplifies occasions where the will of Muhammad collided with the will of God, and where God decided against his Prophet, due to the precarious social and political situation. Later Muhammad stated on this issue that ‘I wanted one thing, and God wanted another’. The role and influence of ‘Umar is again stressed. Unlike the Prophet, he had no scruples concerning violence against women. Mernissi also presents verse 4:34 as being in contradiction with ‘Umm Salama’s verse’ 33:35.250 It can be noted that Mernissi in Beyond the Veil accepts an understanding of verse 4:34 where beating is seen as ‘a last resort’. Here she also states that Muhammad was kind to his wives and restricted the husband’s right to chastise the wife to “decent” proportions.251

Given the stress on negative aspects of religious/legal institutions and family law in Mernissi’s other works it is noteworthy that issues of, for example, polygamy, repudiation and ‘idda are peripheral or not discussed at all in The Veil and the Male Elite. It is noted that Muhammad was polygamous, but there are no hints at criticism or apologies.252 ‘Idda is discussed as important in relation to paternity, and as a restriction of earlier sexual practices in 7th century Arabia.253 Unlike in Beyond the Veil, however, it is presented as a restriction not on female but on male sexual conduct.254

The threefold evaluating periodisation presented in the quotation from Islam and Democracy above, where two negative historical periods, al-jāhilīya and the

250 See Mernissi 1991b:154–157. Mernissi holds that the ‘ulamā’ have not noted the difference between the two men, and no attempts at a synthesis have been made, which only shows that the interest of theologians and legal scholars have not been in egalitarian perspectives, but only in power.
251 Mernissi 1975:61
252 In Beyond the Veil Muhammad is presented as having an ambivalent attitude towards polygamy. While polygamous himself, he prevented ‘Ali from taking a second wife besides Fātima, whose homely appearance is noted. From this Mernissi concludes that Muhammad knew that polygamy was harmful to women (Mernissi 1975:31). This is not mentioned in The Veil and the Male Elite.
253 Mernissi 1991b:52–53
254 Mernissi 1991b:182
Umayyad caliphate are contrasted with a ‘Prophetic ideal’ converges with that of traditional historiography. The emotionally charged periodisation is used to justify gender equality without distinction. Despite Mernissi’s statement, the basic themes mentioned are not generally disputed. The object-to-subject change concerning women’s status in the Islam and al-jāhiliya dichotomy is often stressed in the contemporary Islamic discourse, just like the status of women as Companions and their active participation in the first Muslim society. Historian Leila Ahmed in her *Women and Gender in Islam* (mainly in Chapters 3–5) differentiates between the ‘ethical teaching Islam was above all established to articulate’ and a secondary ‘pragmatic perspective’ evident in social regulations contained in the sources. The ideal, ethical and spiritual part of the message concerning gender (evident in verse 33:35 of the Qurʾān) dominated mainly during the time of Muhammad. The ‘pragmatic’ aspect came to dominate after a transitional period of deterioration, and finally become consolidated in law during the Abbasid era (from 750). It is this presentation of an initial ideal, realised in a short period of time and subject to later deterioration that frequently serves to place Ahmed alongside Mernissi as an example of a ‘Muslim’ or ‘Islamic’ feminist.

Mernissi’s statement in *Islam and Democracy* lessens the potentially controversial nature of the content of *The Veil and the Male Elite*. Identifying the male Companions in general and as a collective (without distinctions) as the culprits that force God and Muhammad to face realities and abort an initial project of total gender equality is controversial. It stands in contrast with the commonplace notion among Muslims of these Companions as normative religious models to be emulated.

The stress on *dissension* is one aspect of the *subversive* character of *The Veil in the Male Elite*. This becomes evident when contrasted with what in Mernissi’s earlier and later writings is postulated as a dominating religious ideal among Muslims of an *umma* characterised by consensus, harmony and unity. To view Muhammad’s Medina as in line with this ideal is naive and in contradiction to the sources, an evaluation that also strengthens the overall presentation of Muslim historiography as politically manipulated and mystified. In social anthropologist Ziba Mir-Hosseini’s book *Islam and Gender* (2000) the theme of dissension appears in an interview with the Shiʿī cleric Hojjat ol-Eslam Saʿidzadeh. Mir-Hosseini also notes the similarities with Mernissi’s account. In

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256 For a thorough presentation of Leila Ahmed’s views on early Islam and subsequent historical developments, see Armajani 1999:193–213.
257 It is interesting to note that the Moroccan reformist thinker Muhammad Talbi in 1996 apparently suggested the same theme of internal dissension in Medina between ‘feminist’ and ‘anti-feminist’ forces as an ‘explanation’ of the existence of misogynistic elements in the Qurʾān (see Nettler 1998:132).
a book from 1994 Saïidzadeh claims that Muhammad’s initial egalitarian message formed the basis for women’s activism in Medina, but was countered by the male members of the first umma whose economic interests it threatened.\footnote{See Mir-Hosseini 2000:260–264. See also Kahf 2000:168–171 for the theme of women opposing men’s economic privileges during the time of Muhammad.} It should be noted, however, that the theme of dissension in the first Muslim community – and criticism of some of the Companions – is less controversial in Shi'ī historiography.

The motives ascribed to the dissenting groups in *The Veil and the Male Elite* are noteworthy. The ‘hypocrites’, a term with strong negative connotations, are distinguished from the rest of the male population of Medina concerning methods, but not concerning basic motives. The economic motive provides a Marxist flavour to Mernissi’s criticism, and serves as offensive rhetoric with accusations of vested interests. By not clearly separating these two groups from one another, there is a transfer of the negative emotive charge of the term munāfiqūn to the collective male opposition. The identification of a conflict between ʿUmar and Muhammad further enhances the scope of the dissension against the image of unity. It is noteworthy that the interest groups of Medina are presented as internally unified, each with one representative singled out. The lack of elaboration on internal conflicts, intrigues or alliances among Muhammad’s wives – a frequent theme in the secondary sources\footnote{See Stowasser 1994:108–113.} – constructs the image of shared interests with gendered boundaries. Women as a collective have common interests in dismantling the boundaries between the public and the private and men have a common interest in keeping boundaries of the patriarchal society intact.

Muhammad is, however, positioned outside this conflict. His gender identity is not clearly masculine or feminine. Parts of the presentation of his character correspond both with Muslim historiography, traditional as well as modern, and evaluations made by non-Muslim scholars in attempts to distance themselves from an old negative image of Christian polemics. That the story of the ‘Satanic verses’ is absent in 1991 is understandable. The ‘Rushdie Affair’ took off in 1989, and the topic has yet not ceased to be sensitive.

In relation to Muhammad’s sexuality there is a difference between *The Veil and the Male Elite* and many contemporary Muslim depictions of the Prophet. The sexual aspect of Muhammad’s marriages is often played down in the contemporary Islamic discourse, not least for apologetic reasons. The history of religious polemics exhibits many examples where sexual attraction and lust are used – for example by Christians polemicists – to discredit Muhammad, a fact that also influences modern non-Muslim biographers’ presentations of him.\footnote{For description of polemics in history, see Armstrong 1991:21–44; Bennett 1998:93–102; Daniel 1960.} In the face of this, Mernissi’s stress on Muhammad’s sexuality becomes subver-
sive. The Zaynab story is well chosen here. The polemics are not directed solely against W. M. Watt, but also implicitly against several other non-Muslim and Muslim accounts.261

To present Muhammad as an ideal is of course not controversial. Controversial, however, is the choice of the counter ideal. To present ʿUmar as a proponent of practices of al-jāhilīya is contradictory to his commonly assumed status within a Sunnī context as a close friend of Muhammad’s, a staunch proponent of Islam and a righteous Muslim. Here again, the subversive character of Mernissi’s account becomes evident. A selection from traditional sources is used and set against presented commonplace ideals in a contemporary debate regarding the relationship between men and women. While presenting ʿUmar as a negative example can be subversive in relation to a Sunnī traditional description (although there are examples of Sunnī criticism of him as well), this is less evident in a Shiʿī context. Here he is traditionally seen as one of the usurpers of political power that rightfully belonged to ʿAlī.262

Central in the construction of Umm Salama as a positive example is her involvement in the public sphere and in her active opposition against patriarchal society. The conflict between her and ʿUmar is a micro-example of a conflict between the active opposition of women and a ‘male elite’ evident also in contemporary society. Reference to 33:35 as ‘Umm Salama’s verse’ is an attempt to steer its interpretation in a certain direction. Since Umm Salama struggled against patriarchy and for social equality, the verse must be interpreted as favouring such equality, not only in ‘spiritual’ matters.

The presentation of Hind bint ʿUtba is an attempt at appropriation and positive evaluation of a person otherwise considered as a negative example of femininity, at least before her conversion to Islam. Setting her role on the battlefield against the commonplace assertion of a limited role of women in battle is directed against a gender stereotype of the ‘nurturing woman’.

The image constructed of ʿĀʾishah bint Abī Bakr is of a woman who self-consciously acts in accordance with Muhammad’s views on the non-separation of the public and the private spheres. The stress on intent is noteworthy. A traditional Sunnī position has otherwise been to present ʿĀʾishah as duped by others into opposing ʿAlī, as a way to solve the paradox of ‘the most beloved’ of Muhammad acting in an ‘unsuitable’ way. This is opposed to a traditional Shiʿī notion of ʿĀʾishah acting primarily on a personal dislike for ʿAlī.263 There are no

261 For a now classical example of an apologetic rejection of the Zayd/Zaynab story, see Haykal 1976[1935]:294–298. For more recent examples, see Salahi 1995:452–457; Zakaria 1991:49–50. See also Stowasser 1994:87–89, 123–124 for a short presentation on how the story has been discussed by Muslims throughout the ages.

262 Leila Ahmed, for example, also presents a clear misogynistic trait in ʿUmar’s character (see Ahmed 1992:60).

263 For the difference between traditional Sunnī and Shiʿī accounts, see Spellberg 1994:126–132.
attempts at apologies in Mernissi’s treatment of ā-‘ishā’s involvement in politics, and this corresponds with her construction of female gender in her other works, where crossing gendered social boundaries forms an important part. It is noteworthy that there is no mention of any criticism from Umm Salama against ā-‘ishā on the basis of verse 33:33 in the Qurʾān and the ideal of seclusion for Muhammad’s widows, as is presented in some sources.\textsuperscript{264} Mernissi here makes a choice in her presentation that safeguards both the image of Umm Salama as a model, and the notion of female solidarity.

The non-identification between the jāriya and the Qurʾānic ḥūr in The Veil and the Male Elite is in line with the general shift in relation to earlier writings, and has a counterpart in the presentation of Sukayna. She is rebelling against the same phenomena in the article from 1986 and in The Veil and the Male Elite, but is in the latter compared to ā-‘ishā and Umm Salama, a characteristic lacking in earlier writings. A religiously normative touch is thus added to her personality. Through the comparison, Mernissi transfers onto Sukayna the positive emotive charge connected with the wives of the Prophet as normative examples. Mernissi chooses not to relate the information in the sources on a rivalry between Sukayna and ā-‘ishā bint Ṭalḥa,\textsuperscript{265} a feature that could undermine the image of female solidarity. The narrative of the event in Malaysia becomes an example of how Muslim men hide away important historical information, and their hostile reaction when challenged. The gender construction implicit in the presentation of these women stands in opposition to the gender construction throughout Muslim history presented in earlier works, characterised by segregation, obedience and submission to male authority. The choice of normative examples is also noteworthy in relation to the Sunnī–Shīʿa divide. Both Sukayna (as a daughter of the third Shiʿī imām) and Umm Salama are positively evaluated in Shiʿī historiography. The latter is regarded positively not least \textit{because} of the opposition she displayed to ā-‘ishas involvement in the ‘Battle of the Camel’. Through her choice of examples, Mernissi thus provides normative models in line with her ideals for both Sunnī and Shiʿī women.

The utilisation of early Islamic history as a comment – with normative undertones – on the situation in contemporary Muslim societies is evident. The shift to a negative evaluation of al-jāhiliyya in The Veil and the Male Elite is an example of how Mernissi utilises the structure of Muslim religious historiography in order to criticise features of contemporary society. The latter become un-Islamic negative ‘survivals’ from a pre-Islamic period, and thus by definition not legitimate. The initial religious struggle, expressed by Muhammad, against a separation of the public and the private spheres, has a counterpart in contempo-


\textsuperscript{265} See Roded 1994:53.
rary struggles for women’s rights. Those who oppose reforms in family law today have their counterparts in the jāhiliya-oriented ‘male elite’ of Medina who refused similar reformation on the basis of a pre-Islamic separation between the private and the public spheres. As has been noted above, in Beyond the Veil the problems of the contemporary situation are attributed to such a separation. The normative use of a negative al-jāhiliya is again dropped in Islam and Democracy where the theme of historiography as psychotherapy dominates instead. Mernissi’s construction of a ‘Muhammadan’ vision in The Veil and the Male Elite is in line with what she has presented in earlier writings as the solution to the problems of women’s rights. The projection of the discussion on the public/private distinction into 7th century Medina is also a comment on the contemporary situation, and a call for change. Through presenting the conflict in Medina as rooted in the economic self-interest of a patriarchal society, and as opposed to Islam, Mernissi makes a comment on the structural counterpart of this conflict in contemporary Muslim societies. The resistance against the religious reforms in the 7th century is similar – if not identical – to conservative resistance to changes in women’s situation today, with reference to aßla.

A note can be made of Mernissi’s use of religious terminology. The term šaḥābīyāt is not a ‘Mernissian’ innovation but she conceptualises it as indicating gender equality without distinction as for rights and duties. The rhetoric manoeuvre is a transfer of the positive emotive charge of the term to her own definition of equality, including a rejection of the distinction between public and private. The connection to citizenship is relevant here. The notion of women as šaḥābīyāt goes against what she has stated in other connections concerning the exclusively male character of the umma. In the attempt to reverse the negative emotive charge of the terms nushûz and bid‘a there is a connection made to ideals that are endorsed also in the contemporary Islamic discourse. The appropriation and generalisation of nushûz points to the interconnectedness between the private and the public spheres; rebellion in the context of the family is connected to social rebellion, the personal is political.267

The ḥijāb is a point where Mernissi’s views on contemporary Arab and Muslim societies, the rights of women and criticism of political power converge. In the differentiation made between the veil adopted as a result of a personal

266 A difference between Mernissi’s use of al-jāhiliya and the use made of the term by Sayyid Qutb could be noted. While the latter presented al-jāhiliya as a state of affairs characterising modern society (see Sivan 1990:23–27) Mernissi’s presents it as a mentality characterised by opposition to the modern society. From Mernissi’s perspective then, Qutb displayed a jāhiliya-mentality.

267 The close identification between nushûz and femininity that she makes is not generally accepted. Since the term in verse 4:34 is often interpreted in relation to wife-battering, Amina Wadud, for example, provides it with a gender-inclusive character in order to reject its meaning as ‘female marital disobedience’, that the husband has a right to curb. She here points to its use in verse 4:128 (see, for example, Wadud 1999:75). Wadud uses the same argument in relation to the term kayd (Wadud 1999:99).
choice and the veil as a token of social structures or as a means to political ends, the former aspect becomes secondary. Stating it as (merely) a ‘cosmetic’ issue plays down possible religious motives behind this personal choice. Still the two aspects are not totally differentiated. Adoption of the veil constitutes an acceptance of the dominating power system. This also explains the religiously expressed polemic in *The Veil and the Male Elite*. The very system of segregation that distinctive clothing represents is, through the presentation of the historical context, shunned as representative not of Islam but of the mentality of anti-Islam, *al-jāhiliya*. Again, the interests of the ‘hypocrites’ and the male interest group in Medina converge to create a situation of discrimination on the basis of both gender and class, in contrast to an ideal of equality. That the perspective is directed at the notion of the veil as a token of separation, and not mainly as attire, is indicated by the absence of references to verse 24:31 in *The Veil and the Male Elite*. Armajani notes that Mernissi ‘gives very little attention to the varieties of dress and behaviour which surround veiling’. 268 Such differentiation would, however, work against the more general negative evaluation of the principle of segregation.

In the refutation of verses 2:223 and 4:34 the full artillery is used. The hermeneutics proposed are noteworthy, and are found also in connection with the issue of the *ḥijāb*. The meaning of the two verses is clear, but the verses in themselves are rejected as being incorrect representations of the essential, and eternal divine message, and the ideal of the Prophet. The Qur’ān is still the word of God, but relativised in relation to a historical context of dissension and pragmatism. Barbara Stowasser, while evaluating Mernissi’s approach to *aḥādīth* as ‘a very old one revived’, views this presentation of the relationship between the Qur’ānic text and historical circumstances as an extreme point where Mernissi ‘leaves most modernists behind’. 269

Armajani views verse 33:35 as central in Mernissi’s discussions both on Qur’ānic interpretation and on history in general. 270 While this may be an oversimplification of the diverse techniques used in Mernissi’s texts, it is clearly true in the rejection of verse 4:34 as normative. The general ideals projected back into original ‘Muhammadan’ Islam are those of sexual self-determination, rejection of violence against women, non-separation of the public and the private spheres, rejection of gender stereotypes and equality before the law. All are themes important in the contemporary debate on women’s human rights and Islam. Equality before the law is in line with the Prophet’s wishes, and the opposition against it is a token of *al-jāhiliya* mentality.

268 Armajani 1999:116
269 Stowasser 1994:134
270 See, for example, Armajani 1999:110–111, 124.
The possible choice among the ‘many Islams’, and especially among different ‘Islamic histories’ constitutes a foundation for Fatima Mernissi’s suggested instrumentalist strategies for promoting women’s human rights. The authority of the latter becomes absolute, and there are no concessions to normative cultural relativist criticism of human rights. The role of religion in public life necessitates an approach that affirms the normative value of early Islamic history, but utilises it to counteract contemporary notions on what constitutes aşâla in Arab/Muslim societies. Two important observations are made in this chapter. Firstly, Fatima Mernissi’s presentations of Medina under the authority of Muhammad in The Veil and the Male Elite are subversive in relation to, for example, a presented Muslim religious ideal of social stability and harmony. She not only proposes that there are elements of a religious ideal to be found in early history – containing, for example, female religious role models – but also challenges notions of the harmony of the Medina state. Secondly, the change that was alluded to in the introduction has now been confirmed. This change also involves shift from structures to actors in the explanation of problems in contemporary Arab/Muslim societies. At the same time, elements of continuity have also been noted, for example in the negative evaluation of a separation between the public and the private and the theme of female rebellion.
4. Abdullahi Ahmed an-Nafiim

Born in 1946, Abdullahi Ahmed an-Nafiim began his academic career at the University of Khartoum in the late 1960s, where he studied law and earned a Bachelor’s degree in 1970. He continued his studies in Great Britain, at the University of Cambridge, where he received a Masters degree both in Law and in Criminology in 1973. After receiving his PhD in Law from the University of Edinburgh in 1976, he returned to Sudan to work as an attorney. Between 1976 and 1985 he taught at the University of Khartoum and headed the Faculty of Law and the Department of Public law between 1979 and 1985. In 1981–1982 he was a Rockefeller Fellow in Human Rights at Colombia University, and in the summer of 1981 he attended the International Institute of Human Rights in Strasbourg. An-Nafiim left Sudan in 1985, and until 1987 he was a Visiting Professor of Law at the School of Law at the University of California, Los Angeles. Between 1987 and 1988 he was a Research Fellow at the Woodrow Wilson International Center for Scholars in Washington, D.C. He was at the University of Saskatchewan, Canada, as a Visiting Professor of Human Rights between 1988 and 1991. In 1991–1992 he was a Visiting Professor at Uppsala University in Sweden, at the Faculty of Law, on the Olof Palme Grant, and in 1992–1993 he was Scholar-in-Residence of The Ford Foundation Office for the Middle East and North Africa in Cairo. Since 1995 he has been Professor of Law and Fellow of the Law and Religion Program at Emory University, Atlanta. He teaches courses in Islamic law, comparative criminal law and Islam and politics.¹

Fields of Activity

An-Nafiim’s academic activity covers areas such as comparative law, criminal law, human rights, cross-cultural studies and Islamic law. Several of his articles have been published in journals of legal studies, international law or human rights law.²

There is an orientation toward Africa, and to Sudan in particular, in parts of his production. The situation in Sudan is often either the prime focus in the articles, or serves as an example in relation to more general discussions on topics such as human rights or democracy.³

In an-Nafiim’s works on human rights there is, apart from the legal aspects, a focus on the topics of universality, cultural relativism, and the relationship between human rights and religion.⁴ In 1992 he edited the volume Human Rights...

¹ For an extensive curriculum vitae covering an-Nafiim’s academic career, his publications, grants and fellowships, participation in conferences etc., see Emory University 2000.
² See, for example, an-Nafiim 1987b; an-Nafiim 1987c; an-Nafiim 1997a. An-Nafiim’s first monograph from 1985 (in Arabic) was on Sudanese criminal law.
³ See, for example, an-Nafiim 1984; an-Nafiim 1992c; an-Nafiim 1994a; an-Nafiim 1997b.
⁴ See, for example, an-Nafiim 1990a; an-Nafiim 1994b; an-Nafiim 1996a.
and Cross-Cultural Perspectives. The chapter ‘Universality vs. Relativism’ in the volume *Religion and Human Rights* (1994), mentioned in Chapter 1, is mainly attributed to an-Na‘īm and Ann Mayer.\(^5\) He co-edited the volume *Human Rights and Religious Values* (1995) and contributed an article to the anthology *Religious Human Rights in Global Perspectives* (1996). While women’s human rights are not the major theme in an-Na‘īm’s literary production, he has dealt specifically with the issue in some articles.\(^6\) It is noteworthy in this connection that an-Na‘īm is one of the scholars whose praises are printed on the back-cover of the manual *Claiming our Rights*, published by the Sisterhood is Global Institute and mentioned in Chapter 1.

*Toward an Islamic reformation* was originally written in English, but has been translated into, for example, Arabic in 1994 and Indonesian in 1995. It focuses on how to reconcile international law, human rights and constitutionalism with Islamic law through a re-formulation of the latter. The suggestions for re-formulation are based on the system of thought developed by the Sudanese civil engineer and religious reformist thinker Maḥmūd Muḥammad Ṭāḥā (charged with apostasy and executed by the Sudanese authorities in 1985). The thought system of Ṭāḥā is also a topic discussed in several of an-Na‘īm’s articles.\(^7\) An-Na‘īm translated Ṭāḥā’s major work *ar-Risāla ath-thāniya min al-islām* (The Second Message of Islam) (1967) into English in 1987. He provided the translation with a lengthy introduction on the life of Ṭāḥā and on his reformist group, the Republican Brothers (henceforth the Republicans). According to an-Na‘īm, the translation was made on the specific request of Ṭāḥā in 1980.\(^8\)

At Emory University an-Na‘īm has been active as a co-ordinator of research projects. Some have received large grants from the Ford Foundation.\(^9\) Two examples may be given here. A project with the title ‘Women and Land in Africa: A Human Rights Paradigm’ was initiated in 1996 and is part of the larger Law and Religion Program at Emory University, headed by John Witte.\(^10\) Another project initiated in 1998 aims at mapping the current status of ‘Islamic Family Law’ (IFL) around the world – and its effects on women’s situation – as well as

\(^{5}\) See Kelsay & Twiss (eds) 1994:30.

\(^{6}\) See, for example, an-Na‘īm 1987b; an-Na‘īm 1994c; an-Na‘īm 1995b; an-Na‘īm 1999.

\(^{7}\) See, for example, an-Na‘īm 1984; an-Na‘īm 1988; an-Na‘īm 1995a; an-Na‘īm 1997c.

\(^{8}\) an-Na‘īm 1987d:1. This was the first translation of Ṭāḥā’s work into English. The Arabist Einar Berg had made a translation into Norwegian already in 1984 (*Islams annet budskapp. En religiøs nyorientering*. Universitetsforlaget, Oslo). For short presentations of the Republicans, see Magnarella 1982; Magnarella 1995. For presentations and discussions on Ṭāḥā’s suggestions for religious reform, see Fogelström 1997; Mahmoud 1998.

\(^{9}\) An-Na‘īm’s translation of Ṭāḥā’s book was also partly sponsored by the Ford Foundation (an-Na‘īm 1987d:30).

\(^{10}\) This project received a grant of $318,000 from the Ford Foundation in 1996 and an additional $208,000 in 1999 (see Emory University 1999). For details on methods, goals and organisation, as well as a report on discussions held at Emory University and at a workshop in Cape Town, see an-Na‘īm, Madigan & Minkley 1997.
investigating possibilities for reform.\textsuperscript{11} A wish for a combination of empirical research and activism is openly articulated in connection with both of these projects. The goal is not only to describe, but also to initiate change.\textsuperscript{12}

An-Na‘īm’s activities in the field of human rights are generally recognised and have been internationally awarded.\textsuperscript{13} Between 1993 and 1995 he was Executive Director of the Human Rights Watch/Africa. He is also a participating scholar in the NGO Religious Consultation on Population, Reproductive Health and Ethics mentioned in Chapter 2.\textsuperscript{14}

An-Na‘īm’s involvement with the Republicans is well documented. He became a formal member in 1968 after having attended Tāhā’s lectures as a law student. In the early 1970s he became an active spokesman for the group. He was detained – without being charged – by the Sudanese authorities in May 1983 and released in December 1984. After the execution of Tāhā in 1985 the Republicans dispersed, and an-Na‘īm left Sudan.\textsuperscript{15} In an article on the Republicans from 1982 – published in The Muslim World – anthropologist Paul J. Magnarella describes an-Na‘īm as ‘one of the movement’s young and highly articulate spokesmen’ and as his main source of information.\textsuperscript{16} According to Islamic studies scholar John O. Voll, who wrote the foreword to Toward an Islamic Reformation, an-Na‘īm has taken it upon himself to develop and propagate Tāhā’s suggestions for religious reform in his own field of specialisation.\textsuperscript{17} An-Na‘īm describes himself as ‘one of [Tāhā’s] many close associates for several years’.\textsuperscript{18} When he refers to Tāhā he uses the title ustādh, translated as ‘revered master’ or ‘revered teacher’.\textsuperscript{19} He also refers to Tāhā as his ‘spiritual mentor’.\textsuperscript{20}

Two examples of an-Na‘īm’s participation in international conferences and workshops in connection with the more general issue of Islam and human rights can be mentioned.\textsuperscript{21} An-Na‘īm took active part in the discussions in Great Britain in May 7–9 1996 arranged by the Lawyers Committee for Human Rights

\textsuperscript{11}This project received a grant of $371,000 from the Ford Foundation in 1998 (see Emory University 1999). A homepage on the Internet has been constructed in order to publish the results (see \url{www.law.emory.edu/ifl}). This was mentioned already in Chapter 1.
\textsuperscript{13}See Emory University 1999.
\textsuperscript{14}RCPRHE 2000. An-Na‘īm has also been active in NGOs with a focus on international law in general, for example the Foundation for the Establishment of an International Criminal Court and the International Criminal Law Commission (an-Na‘īm 1988:1).
\textsuperscript{15}See Voll 1990:xi–xii.
\textsuperscript{16}Magnarella 1982:15
\textsuperscript{17}Voll 1990:xii
\textsuperscript{18}an-Na‘īm 1988:21. See also an-Na‘īm 1987d:18 note 28 for a statement on the close relationship.
\textsuperscript{19}See an-Na‘īm 1988:3, an-Na‘īm 1987d:1; an-Na‘īm 1990c:200 note 1. In the last of these references an-Na‘īm states that ustādh is a title used popularly in Sudan in references to Tāhā. There is no indication that this is to be understood as limited to Tāhā’s followers.
\textsuperscript{20}an-Na‘īm 1987d:29
\textsuperscript{21}For a list of recent participation in conferences, see Emory University 2000.
within the framework of a project with the title ‘Political Islam and Human Rights’. He participated in the conference in Oslo in 1992, mentioned in the Introduction, responding to the comments made on *Toward an Islamic Reformation*.

An important part of an-Na‘im’s public image is his academic training mainly in the fields of international law, criminology and human rights law. In these fields he is a renowned expert. There are no indications of any formal education in *fiqh*. The involvement in discussions on the universality of human rights, the cross-cultural search for consensus on human rights and cultural relativism within a comparative framework is also explicitly stated to be relevant to activism. He not only describes a current situation, but also desires to change it. In this he has a large economic backing. The scholarly and the activist sides of his public image thus converge. The image of an-Na‘im as a human rights activist gains strength from his involvement in Human Rights Watch and other NGOs, as well as from the international appreciation he has received.

An-Na‘im’s involvement with the Republicans, and the promotion of the thought system of Tāḥā, form another part of his public image. Although the specific views of Tāḥā or activities of the Republicans are not in focus in this chapter, the way these are presented, utilised and related to other issues by an-Na‘im is important to note. Already the choice of designations for the teacher implies that the relationship between the two was close.

The double role of an internationally renowned scholar-activist and a proponent of a specific reformist view on Islam need to be highlighted. In his first capacity as a scholar and human rights activist the prime expected audience of his work is fellow academics and activists. The translations of *Toward an Islamic Reformation* into ‘local’ languages in Muslim countries also points to a conception – in some quarters – of its relevance as not confined to a North American or European context.

### Human Rights

An-Na‘im often refers to and discusses specific human rights schemes as well as enforcement mechanisms. Furthermore, he stresses the need for expanding the latter. Existing formulations of human rights in international declarations and conventions are deemed at the same time valuable and problematic. They are valuable mainly for two reasons: as a point of reference, and (together with im-

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22 For the discussions on this conference, see Lawyers Committee for Human Rights 1997.

plementation mechanisms) as a protection for activists. International formulations may also have an actual impact on public attitudes and official policies, and function as a guarantee against conceptual confusion on the expression ‘human rights’, given its positive emotive charge.

The problematic aspect concerns a ‘paradox of human rights’: a discrepancy between stated universality and formal acceptance by states in the international context on the one hand, and non-implementation in practice on the other. While this ‘paradox’ is disturbing, it at least shows the rhetorical force of the expression ‘human rights’. Outright rejections are rare. The formal and ideological history of human rights schemes is part of the problem, according to an-Na‘im. The early UN formulations of human rights were a result of a culturally specific ‘Western’ experience and history, with limited participation of third world states in the initial process.

There is thus a genuine validity to cultural relativist criticism of human rights, which has to be taken into consideration by activists. The notion of ‘culture’ has a central place in an-Na‘im’s overall discussion on human rights. In cases where a definition is provided, it is wide, ranging from material production to general worldview, including religion. Cultural relativist criticism expresses respect for the important principle of self-determination in international law, and it offers a remedy to the dangers of ethnocentrism which are very real in the context of human rights. Even so, it is problematic. The questioning of universality on the basis of cultural specificity makes criticism of human rights violations difficult, if not impossible. Cultural relativist arguments used politically by states are deemed ‘cynical’ and are rejected.

27 an-Na‘im 1990a:33. See also an-Na‘im 1992b:1. An-Na‘im is sceptical to the notion of human rights as international customary law, and he holds that from the perspective of international law, human rights are a contractual issue dependent on the ratification of conventions by states parties (see an-Na‘im 1987b:502–504; an-Na‘im 1994c:167–170). Such formal acceptance, however, says nothing about actual implementation, nor does it reveal anything regarding public acceptance of international norms (see an-Na‘im 1987b:510). An-Na‘im also notes that although states are obligated to implement conventions that have been ratified, lack of will and/or ability, and of international enforcement mechanisms is a problem (see an-Na‘im 1994c:169–171).
33 an-Na‘im 1992b:3. See also an-Na‘im 1992d:28; an-Na‘im 1997b:85; an-Na‘im & Deng 1990a:xii. An-Na‘im states that in such cases it is nearly always the political élite, and not those affected by the violations, that determine the content and meaning of a particular culture (an-Na‘im & Deng 1990b:1).
Despite this acceptance in principle of cultural relativist criticism of human rights, an-Na‘īm does not deny their universality. He states that the origin of current formulations of human rights does not affect their validity in principle.\(^{34}\) Universality ‘in concept, scope and content as well as in application’ is stated to be inherent in the very definition of human rights, and thus impossible to separate from it.\(^{35}\) To an-Na‘īm, ‘universality’ means either universal application in practice, or universal validity in ‘major cultural, philosophical, and religious traditions’.\(^{36}\) Relating to universality in the latter sense, the statement that human rights as a concept apply to all human beings by virtue of their humanity appears in several connections.\(^{37}\) An-Na‘īm, however, also speaks of ‘genuine’ universality as primarily an issue of worldwide actual consensus on basic human rights norms.\(^{38}\)

The importance of ‘cultural legitimacy’ for human rights is stressed in several contexts. In 1994, an-Na‘īm states the following, premised on the view of ‘culture as a primary source of normative systems’:

> It is reasonable to assume that the prospects for practical implementation of a given regime of human rights as a normative system are related to the degree of its legitimacy in the context of the culture(s) where it is supposed to be interpreted and implemented in practice. Otherwise, how can people be expected to accept and effectively implement a system that they believe to be inconsistent with their own cultural values and institutions? Since the present system of internationally recognized standards of human rights is supposed to apply throughout the world, it should be accepted as legitimate in all the major cultural traditions of the world.\(^{39}\)

An-Na‘īm also addresses the question of to what extent a worldwide consensus can be said to exist as an empirically discernible fact. In *Toward an Islamic Reformation* a ‘golden rule’ of *reciprocity*, of doing to others what one wishes for oneself, is presented as a ‘common normative principle shared by all the major cultural traditions’, and as carrying a moral and logical force that can be accepted by everyone. In most contexts, however, the principle tends to be restricted to the members of a particular group, excluding whoever is identified as

\(^{34}\) See an-Na‘īm 1994b:122.

\(^{35}\) an-Na‘īm 1994b:120

\(^{36}\) an-Na‘īm 1997a:1


being an outsider.\textsuperscript{40} If the principle of reciprocity were to be ‘construed in an enlightened manner’ to include all human beings, it could provide a foundation for the universality of at least the notion of a set of human rights.\textsuperscript{41} The principle of reciprocity does not, however, provide information on the specific content of universal human rights or values. In Toward an Islamic Reformation an-Na‘īm states that ‘every cultural tradition’ provides its members, by virtue of their humanity, with rights corresponding to ‘the will to live’ and ‘the will to be free’. The former concerns material resources necessary to sustain life (i.e. rights to) and the latter combines the features of freedom from constraint, and freedom to individual self-realisation.\textsuperscript{42} These two fundamental notions are not stressed in his later writings.

Religion is specifically addressed in the context of legitimacy for human rights. Religion and human rights are said to ‘operate on the same moral plane of justification’ and ‘overlap and interact in content’. Believers will always make associations between the two. If human rights are seen as contradicting religious beliefs, believers are faced with a difficult choice. If, on the other hand, religious beliefs are perceived as compatible with human rights norms, great gains can be made in terms of voluntary compliance.\textsuperscript{43}

An-Na‘īm’s discussions on Islam, Islamic law and human rights are placed within this general framework of universality, cultural relativism and cultural legitimacy. A basic view he expresses is that most contemporary and historical understandings of Islam – and more specifically of Islamic law – contradict human rights.\textsuperscript{44} He rejects statements such as ‘Islam has always maintained human rights’ as unhistorical,\textsuperscript{45} but still postulates a ‘basic compatibility of Islam and contemporary universal standards of human rights’ and holds that ‘Islam itself can be consistent with and conducive to the achievement of […] the present universal standards’.\textsuperscript{46} Islam and human rights are ‘mutually supportive normative systems’,\textsuperscript{47} and Muslims have to be convinced that international standards are

\textsuperscript{40} an-Na‘īm 1990c:162–163. For the problem of restriction of reciprocity, see also an-Na‘īm 1995a:232–233; an-Na‘īm & Deng 1990b:4.
\textsuperscript{43} See an-Na‘īm 1996a:338–341. The same type of argument is used in relation to democracy in an-Na‘īm 1995c:132.
\textsuperscript{44} This is a basic theme in most of an-Na‘īm’s writings on the issue of Islam and human rights.
\textsuperscript{45} Lawyers Committee for Human Rights 1997:66.
\textsuperscript{46} an-Na‘īm 1984:75
\textsuperscript{47} an-Na‘īm 1996a:351
not alien to Islam, but instead, ‘in fact’, compatible with its ‘fundamental values’. The principle of reciprocity exists in Islam, according to an-Na‘īm, but is also in this case restricted.

The notion of correspondence between Islam ‘itself’ and international standards of human rights becomes problematic only in one respect, that of hudūd. In a discussion on amputation as a punishment for theft an-Na‘īm states that he cannot perceive any correct interpretation of Islam that does not condone it, but instead points to possibilities of interpretations that would restrict its application in practice. The context of this discussion concerns ‘cultural legitimacy for human rights’. The validity of cultural relativist criticism and the dangers of ethnocentrism are referred to. An-Na‘īm here presents the understanding of the phrase ‘cruel, inhuman or degrading treatment or punishment’ in article 5 in the UDHR and article 7 in ICCPR as a matter of interpretation. Muslims may not regard the punishment of amputation as ‘cruel, inhuman or degrading’, although it appears as such to outsiders. Mayer – who otherwise expresses support of an-Na‘īm’s suggestions for religious reform in the context of human rights – notes with regret this acceptance of hudūd. In his response to her criticism, an-Na‘īm speaks of limitations in application, and of a ‘humane application of hudūd based on human reason, while seeking to harmonize that policy with the texts of the Qur‘an’.

An-Na‘īm thus discusses human rights in a way that can be related to all three levels of the heuristic tool. The value ascribed to human rights on the formal level is mainly instrumental. It is noteworthy here that existing formulations of human rights are presented as guarantee against ‘appropriation with qualification’, which thus is perceived as a problem. The discussion on the ‘human rights paradox’ utilises all three levels, but primarily the formal and factual ones, to present a problem that has to be solved, and as such prepares the way for suggestions for a solution.

The discussion on the validity of cultural relativist criticism of human rights – including issues of representativity and the problem of power relations in in-
ternational politics – provides an image of an-Na‘im as sensitive and serious in his calls for universal acceptance of human rights. Normative cultural relativism is not rejected out of hand, which would be a possibility despite affirmations of relativism on a meta-ethical level. Instead, it is presented as providing a challenge to activists. The adjuster word ‘genuine’ in connection with universality has the function of contrasting the existing situation with a potential situation more in line with an ideal that is inherent in the concept of universality, a part of its ‘essence’. The stress on the importance of *reciprocity* as a principle common to all ‘cultural traditions’ points to a similarity between the presentations made by an-Na‘im and those made by the proponents of a global ethic. Acceptance – at least in *Toward an Islamic Reformation* – of the ‘common-core thesis’ concerning the contents of a perceived universal moral order points to another similarity.

The lack of universality of human rights on the factual level thus becomes the rationale for investigations into the ideological level. The search is for basic values and norms that could provide the foundation for ‘genuine’ universality in the form of moral consensus, affecting human rights also on the formal level. The discussion on ‘cultural legitimacy’ establishes a necessary normative connection between these levels. The reference to ‘the major cultural traditions of the world’ in the quotation concerning ‘cultural legitimacy’ provides an image of different worldviews and normative systems as distinct from one another. Formal adherence by individuals to a specific ‘culture’ provides for vertical social solidarity. Islam is here given the role of a distinct ‘cultural tradition’.

The inclusion of religion within the wider concept of ‘culture’, or as the core of a ‘cultural tradition’, is a weakness in relation to the contemporary Islamic discourse. To separate ideal ‘religion’ from empirically observable ‘Muslim culture’ and criticise the latter with the help of the former is commonplace here, for example in the context of female genital mutilation. It has often been used in reformist thought. This possibility is limited in an-Na‘im’s presentation.

It is noteworthy that an-Na‘im still singles out religion as especially important in the context of human rights. The statement on an overlap in content is an essentialist assertion on the ideological level. Religion is presented in a way that makes it a natural part of culture and a natural source for social values and norms. The underlying normative claim is here that religion therefore *should* be taken into consideration when attempting to change the conduct of individuals. There is no tendency to present the role of religion in this respect as diminishing.

Thus an-Na‘im on the one hand rejects Muslim religious appropriations of the expression ‘human rights’ as an essential part of the religious tradition, and at the same time explicitly states a compatibility between Islam ‘in itself’ and human rights norms. His general presentation of Islam in relation to human
rights implies that conflict with human rights norms is not necessarily a part of the ‘essence’ of the religious tradition, but a matter related to selection.

The acceptance of divinely prescribed punishments for certain crimes is a problem in relation to the inclusion of an-Na‘im within an accommodation-position in the debate on Islam and human rights.\(^\text{55}\) Strictly speaking, however, the issue of the *hudud*-punishments lies outside the focus of this dissertation. Since it constitutes an anomaly in relation to more general assertions made by an-Na‘im on Islam and human rights, it can nevertheless provide some information on general hermeneutics, and will be taken into account in the following.

**Women’s Human Rights**

An-Na‘im presents gender equality as inherent in the concept of human rights. Discrimination on the basis of gender contradicts the notion of rights applicable to all human beings by virtue of their humanity. He states that: ‘Differences in physical and spiritual abilities exist among men and among women as well as between men and women. Such differences, however, do not justify legal discrimination.’\(^\text{56}\) General statements on the rights of women in gender-neutral terms are complemented by an affirmation of specific rights pertaining to women, based on biological difference. The Women’s Convention is referred to as an authoritative text to be implemented.\(^\text{57}\) Although he deems himself incompetent to elaborate on the topic, he notes the feminist criticism of human rights formulations as reflecting a male norm, and presents this as similar to – and as valid as – cultural relativist criticism.\(^\text{58}\)

*The current situation and its causes*

Women’s rights are put forward as one of the main problematic human rights issues in contemporary Muslim societies. Although there is a stress on several factors contributing to the situation worldwide,\(^\text{59}\) the main problem addressed is that of religiously based legal discrimination, impossible to reconcile with the demands of human rights. Specific religious rulings within traditional Islamic law are mentioned: Women are disqualified from holding public office and having authority over men, resulting, for example, on the ban on female judges in the majority of *madhāhib*, and restrictions on women’s rights to appear and speak in public. The devaluation of women’s testimony and differences in relation to *diya* and inheritance are noted. In relation to marriage and its dissolution

\(^{55}\) For criticism of an-Na‘im’s discussion on *hudūd*, see also Afshari 1994b:264–265.

\(^{56}\) an-Na‘im 1990c:63


\(^{58}\) an-Na‘im 1994c:171–172

\(^{59}\) See an-Na‘im 1995d:204.
features such as polygamy, divorce procedures, gender-based restrictions on inter-religious marriages and the legitimacy of wife battering contradicts the principle of equality inherent in human rights. Rules on segregation and veiling are also mentioned. An-Na‘im, however, acknowledges that some religious rulings are in line with women’s human rights regarding, for example, financial independence.\textsuperscript{60}

The overall judgement on discrimination before the law is that it is both ‘morally repugnant and politically untenable today’.\textsuperscript{61} Discrimination against women is presented as an example of how the stated universal principle of reciprocity is restricted to Muslim men in traditional Islamic law.\textsuperscript{62} In these general presentations of discriminatory features of Islamic law there is no systematic differentiation between rules in different schools of law, or different periods in history.

An-Na‘im states that discrimination on the basis of gender has become increasingly problematic to uphold, due not least to changes in Muslim societies in the 19\textsuperscript{th} and 20\textsuperscript{th} centuries. These changes have included a gradual \textit{de facto} secularisation, in the sense of a diminishing public role for religion. Women’s status and rights in public life have been positively affected in this process,\textsuperscript{63} and a transformation of consciousness has occurred among Muslim women and men toward the notion of full gender equality.\textsuperscript{64} In addition, the inclusion of Muslim states in an international system of nation-states has resulted in an at least verbal acceptance of general principles of international law, and ratifications of international conventions on gender equality and human rights.\textsuperscript{65} The latter phenomenon, however, shows signs of ambivalence, given the persisting application of a domestic legal system that violates international norms. An-Na‘im here mentions Egypt’s reservations to the Women’s Convention and the reservations to article 16 in particular. The attempts at apologetics in the reservation show awareness of evident contradictions.\textsuperscript{66}

The situation of dual legal systems has negative influence on women’s human rights.\textsuperscript{67} The very notion of a body of religious regulations pertaining to women’s status furthermore has an influence on general attitudes in society.\textsuperscript{68}

\textsuperscript{60} See an-Na‘im 1984:81, 82; an-Na‘im 1987b:496; an-Na‘im 1990a:38; an-Na‘im 1990c:87–91, 171, 176–177; an-Na‘im 1994c:181–182. He further notes that even the limited rights of women are often denied them in local contexts (see an-Na‘im 201–202 where Sudan is put forward as an example). See also an-Na‘im 1987b:496.

\textsuperscript{61} an-Na‘im 1990c:177. See also an-Na‘im 1990c:59.


\textsuperscript{63} See an-Na‘im 1987b:498; an-Na‘im 1990c:8–9.

\textsuperscript{64} an-Na‘im 1987b:514

\textsuperscript{65} See an-Na‘im 1988:2–3.


and the public internalisation of gender stereotypes contributes to the perpetuation of discriminatory social – in addition to legal – practices.\(^69\)

An-Na\(^{c}\)im postulates a religious ‘fact’ important for his over-all discussion: rules on the relationship between the sexes, and especially male authority over women, are expressed clearly in the main religious sources, the Qur\(^\text{\textregistered}\)ān and the sunna.\(^70\) Furthermore, legal discrimination of women is an object for legal consensus, \(ijm\(^{c}\))\(^71\), among the existing \(madh\(^{\text{h}}\)hib\). As a consequence of this, gender discrimination should, according to an-Na\(^{c}\)im, be perceived as an inherent part of the \(shari\(^{c}\)a\). His conceptualisation of this term is noteworthy. In most cases \(shari\(^{c}\)a\) denotes a body of regulations without clear specifications regarding historical period or \(madhhab\).\(^72\) The \(shari\(^{c}\)a\) in this sense is incompatible with social and political features of modernity such as constitutionalism, international law, democracy and human rights in general.\(^73\) An-Na\(^{c}\)im rejects a differentiation between the \(shari\(^{c}\)a\) in an idealistic sense, and \(fiqh\) as its manifestation in the world of phenomena. Discrimination on the basis of gender is based on unambiguous rules in the basic religious sources, thus it cannot be considered as merely a matter of interpretation.\(^74\)

These critical remarks form the basis for an-Na\(^{c}\)im’s negative attitude to contemporary calls for – and attempts to – implement the \(shari\(^{c}\)a\) on all levels in society, mostly termed ‘Islamisation’. This tendency involves a faulty identification of Islam with the \(shari\(^{c}\)a\),\(^75\) and is a threat to advances made in modern societies.\(^76\) The term ‘Fundamentalism’ is also used, but is at least in some contexts presented as problematic due owing to etymology. According to an-Na\(^{c}\)im, ‘Fundamentalists’ could be used for all Muslims who are committed to the ‘fundamentals’ of Islam.\(^77\) In the introduction to the translation of The Second

\(^{69}\) See an-Na\(^{c}\)im 1995d:198, 202; an-Na\(^{c}\)im 1997b:90.
\(^{71}\) See an-Na\(^{c}\)im 1997c:1.
\(^{72}\) See Lawyers Committee for Human Rights 1997:105; an-Na\(^{c}\)im 1990c:12; an-Na\(^{c}\)im 1993a:135 note 1. It should be noted that such use of the term is not consistent. There is also a tendency, in an-Na\(^{c}\)im’s work, to a differentiation between a ‘traditional’ \(shari\(^{c}\)a\) and an alternative, ‘modern’ \(shari\(^{c}\)a\) as a result of redefinition and restructuring, and a revision of the rules of \(uss\(_{\text{ul}}\) al-fiqh\) (see an-Na\(^{c}\)im 1984:82; an-Na\(^{c}\)im 1992[1986]:508; an-Na\(^{c}\)im 1997c:1).
\(^{73}\) This is a basic theme in Toward an Islamic Reformation (see an-Na\(^{c}\)im 1990c:1–2, 8–9, 69–100, 137–160). For a similar judgement in other works, see an-Na\(^{c}\)im 1993b:104–107; an-Na\(^{c}\)im 1996a:346; an-Na\(^{c}\)im 1997c:1.
\(^{74}\) See an-Na\(^{c}\)im 1988:3; an-Na\(^{c}\)im 1990c:50; an-Na\(^{c}\)im 1995a:238–239. See also an-Na\(^{c}\)im 1987d:22–23; an-Na\(^{c}\)im 1988:12–13. Islamic studies scholar John L. Esposito is specifically mentioned as representative of this faulty separation (an-Na\(^{c}\)im 1990c:50). See also Lawyers Committee for Human Rights 1997:104.
\(^{75}\) See an-Na\(^{c}\)im 1997b:80.
\(^{76}\) See an-Na\(^{c}\)im 1990c:8–9.
\(^{77}\) an-Na\(^{c}\)im 1990c:3. See also an-Na\(^{c}\)im 1997b:79–80.
Message of the Islam there is also an attempt from the side of an-Na'īm at using the term ‘fundamentalists’ as a positive designation for the Republicans.78

Both post-revolutionary Iran and Pakistan under Zia ul-Haqq are mentioned in connection with Islamism,79 but it is Sudan after 1983 that serves as the prime example.80 The National Islamic Front – in power since the military coup in 1989 – and especially its prime ideologist, Ḥasan at-Turābī, are targets of an-Naʿīm’s criticism.81

The popularity of Islamism is attributed in part to the failure of post-independence secular nationalist policies, but more importantly to a growing demand among Muslims in general for cultural and religious self-determination. An-Naʿīm views Islamism as ‘modernist in form but extremely regressive and backward-looking in content’,82 Albeit the practical results in solving immediate problems have been meagre,83 Islamists have succeeded in setting the agenda for much of the public discussion on cultural authenticity and Islamic identity. They have erected a series of false dichotomies of ‘secularism’ vs. ‘Islam’ (or rather the sharī‘a), ‘communitarianism’ vs. ‘individualism’, ‘Islam’ vs. ‘the West’ with which the Muslim public is confronted and forced to choose sides.84 The public demand for the implementation of the shari‘a is a result of this situation. Muslims in general are, however, unaware of the problems that an Islamist public policy entails.85

The ideal and how to achieve It
Partly because of the current situation of public discourse there is a need for radical alternative formulations of Islam. These should challenge both the demands for implementation of the shari‘a, and – on a more basic level – the close

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78 See an-Naʿīm 1987d:8 note 11. See also 1987a:275 note 14 for a differentiation between ‘fundamentalism’ and ‘negative fundamentalism’.
81 At-Turābī is criticised as a prime representative of the ‘contemporary proponents of Sharī‘a’, not least because of his intellect and his political abilities. His views on the ‘Islamic state’ are deemed as vague and characterised by concealment/misrepresentation. An-Naʿīm accuses at-Turābī of deliberately discussing the sharī‘a in a simplified manner, without references to the scriptures or any particular school of law (see an-Naʿīm 1990c:39–42). See also Lawyers Committee for Human Rights 1997:105; an-Naʿīm 1993c; an-Naʿīm 1993d:107–110.
83 See an-Naʿīm 1984:76; an-Naʿīm 1990c:67. An-Naʿīm notes, however, that Islamists have been successful in spreading their views despite political oppression, and that their social service activities, in particular, have given them support among the general public (see an-Naʿīm 1996a:348).
84 See an-Naʿīm 1993b:115; an-Naʿīm 1994b:126; an-Naʿīm 1995b:55; an-Naʿīm 1996a:349–351. An-Naʿīm also stresses, in the context of Islamists’ construction of Muslim identity, that the erection of boundaries appears to be more important than the actual content of such an identity (see an-Naʿīm 1995b:56; an-Naʿīm 1996a:349).
85 See an-Naʿīm 1990c:185.
connection made between the *shari'a* and Islam.\(^{86}\) This is, however, not to be understood as a call for secularisation. An-Na‘im instead speaks of the need for an ‘alternative Islamization’,\(^{87}\) and for a political system where the benefits of secularisation are put in a religiously legitimate framework.\(^{88}\) According to him, the current situation of dual legal systems is ‘completely untenable from the Islamic point of view’, and there is a need for a comprehensive Islamic legal system.\(^{89}\) His views in this matter are based on two considerations: Firstly, there is a common, religiously legitimate view among Muslims that Islam is not just a matter of private belief, but also a system of regulations for everyday life and public policy. The public implementation of Islamic law is a religious duty. The religious foundations for this view are mainly presented as Qur'ānic.\(^{90}\) Specific references are given to verses 5:44–45 and 24:51,\(^{91}\) and to verses 4:59 and 33:36.\(^{92}\) Secondly, the basic principle of *self-determination* of peoples in international law provides Muslims with the *right* to implement Islam as *public policy* within the framework of a nation-state.\(^{93}\) This right is, however, qualified by the demands of international law, human rights and the universal principle of reciprocity.\(^{94}\)

The radical transformation, both methodological and substantive, of Islamic law that is desired by an-Na‘im is, according to him, to be differentiated from other attempts at religious legal reform in modern times. He provides examples in this case from the issue of women’s rights. State reforms in family law, mainly in the 20\(^{th}\) century, have allowed for some, but not sufficient modification of the *shari'a*. More importantly, they have not altered basic underlying principles, leaving room for reversions.\(^{95}\)

Elaboration by Muslim religious activists on the issue of Islam and human rights usually tends to overlook problematic areas, and the majority of such at-


\(^{87}\) an-Na‘im 1987b:500

\(^{88}\) an-Na‘im 1993b:106, 107

\(^{89}\) an-Na‘im 1984:87

\(^{90}\) See an-Na‘im 1987a:276 note 24

\(^{91}\) an-Na‘im 1987d:23 note 35


\(^{93}\) This is a basic premise and stated motivating factor for an-Na‘im’s call for religious reform (see an-Na‘im 1990c:1, 8, 161; an-Na‘im 1997c:1).

\(^{94}\) an-Na‘im 1990c:1, 168–170; an-Na‘im 1995c:129. The growth of and support for Islamism are presented by an-Na‘im as an expression of self-determination, but the demand for monopoly of interpretation of the content of culture from Islamist quarters defies that principle as such (see an-Na‘im 1994b:122; an-Na‘im 1995b:56).

\(^{95}\) an-Na‘im 1990c:44–46. For the problems of piecemeal reformation and the need for a more comprehensive reformation of the *shari'a*, see an-Na‘im 1990a:43–46.
tempts are ‘generally evasive’ concerning women’s rights. The main problem is a methodological deficiency in traditional *ijtihād*: it cannot be applied to explicit rulings in the Qurʾān or the *sunna*, which thus has repercussions on the issue of gender equality. Therefore, there is a need for a new methodology that would challenge traditional views on the *ūsūl al-fiqh*, the ‘sources’ of jurisprudence.

A new methodology should provide a ‘balance between modernism and Islamic legitimacy’, where the latter is dependent on a connection with the sources, the Qurʾān and the *sunna*. It should provide for a separation between the *sharī‘a* and Islam, and a refutation of the perceived divinity and eternal character of the former.

An-Na‘īm notes problems of human rights activism in Muslim societies related to a general hostile public attitude. One effect of an ‘alternative Islamization’ would be religious legitimacy for human rights. This is related to his general discussion on worldwide consensus on human rights, and the search for such consensus. A search for cross-cultural fundamental values is explicitly differentiated from searches for existing least common denominators that can serve as a basis for a set of international human rights. Such attempts are too limited, and the result will be too distanced in content from existing international standards. A more constructive approach is needed. This entails the acceptance of ‘the existing international standards while seeking to enhance their cultural legitimacy within the major traditions of the world […]’. A premise for this approach is the notions of diversity, change and interpretation. An-Na‘īm states that although the dominating cultural expressions within a society may contradict existing international formulations of human rights, there are usually alternative views that do not. The latter fact could, and should, be highlighted. Nor-

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96 an-Na‘īm 1990c:171. An article by Riffat Hassan (Hassan 1992[1982]) is specifically mentioned as ‘one of the better discussions’, but even that attempt suffers from the fact that important issues are avoided. For similar criticism of evasiveness in the context of inter-faith dialogue, see an-Na‘īm 1996c.


98 an-Na‘īm 1990c:33. The notion of ‘balance’ is also invoked by an-Na‘īm in the context of ‘achieving the necessary degree of reform without sacrificing the Islamic quality of the law’ (an-Na‘īm 1984:82).


100 an-Na‘īm 1995a:240. For criticism of Sudanese human rights activists for not taking women’s rights seriously as a result of cultural prejudices, see an-Na‘īm 1993a:143–144.

101 an-Na‘īm 1987b:514


103 an-Na‘īm 1992d:21. See also an-Na‘īm 1990b:361 where there is a stress on ‘enhancing the supportive elements and redressing the antithetical or problematic elements’ in relation to existing human rights formulations.
mative systems are always in a process of change, due to changing social circumstances and interests of diverse groups within society. 104

There are ongoing ‘internal discourses’ around the world where cultural – including religious symbols – are utilised. Human rights activists should participate in these ‘discourses’, 105 establishing ‘enlightened perceptions and interpretations within a culture’. 106 Besides this participation, an-Na‘īm suggests a ‘cross-cultural dialogue’ in order to establish consensus on basic values, despite different culturally specific justifications for these values. 107 The approach suggested by an-Na‘īm is presented both as a solution to the problem of relativism vs. universalism in the context of human rights, and as an ‘appropriate balance’ between the two. 108 Re-formulation of existing human rights standards as a result of these activities should be accepted as a possibility, but a full-scale revision is rejected. 109 Instead there is the expressed view that existing international formulations of human rights can be made legitimate ‘retrospectively’ through interpretation. 110

An existing Islamic ‘internal discourse’ on human rights is noted, and an-Na‘īm’s own suggestions for interpretation are explicitly placed within this context. 111 In connection with women’s human rights, an-Na‘īm notes that: ‘international standards are meaningless to Muslim women unless they are reflected in the concrete realities of the Muslim environment’, 112 which mirrors his general stated views on the need for ‘cultural legitimacy’ for human rights. In his contribution to the anthology Faith and Freedom he states that in the face of the characteristics of the contemporary public discourse in Muslim societies, activists for women’s human rights in societies have to ‘realize that they have no alternative but to engage in an Islamic discourse’. They have to challenge the notion of the divinity of the shari‘a, which entails making use of the religious sources to make a differentiation between the shari‘a and Islam. They should

106 an-Na‘īm 1992d:27
108 an-Na‘īm 1990b:361. See also an-Na‘īm 1987b:515; an-Na‘īm 1993b:114–115. An-Na‘īm also stresses that ‘internal’ criticism of human rights violations is bound to be more effective than criticism based on values seen as external, and should therefore be favoured (see an-Na‘īm 1990b:341; an-Na‘īm 1992d:26). An-Na‘īm presents his approach as a form of ‘human rights-oriented cultural engineering’ justified by the ‘sensitivity of its methods […] and the validity of its goals’ since it works from within, with respect for the integrity of a specific culture (an-Na‘īm 1990b:364).
112 an-Na‘īm 1987b:515
also seek to promote alternative versions of Islam that are supportive of women’s human rights. Women must further be encouraged to challenge existing perceptions of femininity and gender roles through alternative interpretations of Islam. External support for this activity must be sensitive and cautious in order not to invite criticism of dictation from outside.

It can be noted that an-Na‘īm has been criticised for viewing Islam as a driving force in change and for presupposing that ‘the Muslim mind is only moved by Islamic stimuli’. In response to this criticism, an-Na‘īm express reservations to the effect that he does not view religion as the only factor shaping the behaviour or perceptions of Muslims, or as the single cause for the current situation in Muslim societies.

An-Na‘īm states that he welcomes any suggestions for a reformation of Islamic law that fulfil the double criteria of Islamic legitimacy and compatibility with international norms. In practice, however, only one such suggestion is presented at length, namely that of his teacher M. M. Tāhā. A uniqueness in this suggestion is also stressed at times. Tāhā’s methodology is characterised by an-Na‘īm as both ‘revolutionary’ and/or ‘evolutionary’. It forms the basis for an ‘Islamic hermeneutics for human rights’, based on ‘scriptural evidence and logical argument’ and is a ‘selective and internally consistent theory’. Tāhā’s work is also said, in the 1980s, to provide a possible basis for an ideology for humanity as a whole. The views of Tāhā are summarised in several connections, containing the following basic points: Islam consists of two different messages, one put forward by Muhammad in Mecca and the other in Medina, related to differences in audience. There is also an intermediate period in which these two messages overlapped. The former message, revealed in Mecca, is the original and eternal message, characterised by equality (including

113 See an-Na‘īm 1995b:55–56, 58–59. Quotation on p.59. Fatima Mernissi is here singled out as a positive example. See also an-Na‘īm 1995d:201 where Mernissi again is mentioned. Her work is presented as examinations of history in order to relativise the interpretation of the Qur‘ān and investigate the possibility of alternative interpretations.
115 Ahmed 1993:74
120 an-Na‘īm 1995a:231
121 an-Na‘īm 1984:84. The thought system of Tāhā is furthermore presented as ‘Islamic’ – since it is founded on the eternal message of the Qur‘ān and the sunna (an-Na‘īm 1990c:100) – and ‘coherent’ (1994c:183).
gender equality), tolerance, respect and freedom of choice. The latter message, lacking these features, is time-bound. It was relevant and applicable only to pre-modern phases in history. In 7th century Arabia the time was not ripe for the implementation of the original and eternal message, which is evident from the resistance the early Muslims encountered in Mecca. It was postponed until circumstances changed. Throughout Islamic history the _shari‘a_ has been based on the time-bound Medina message, and it is not until modern times that circumstances have changed so that the original, but by implementation second, message of Islam, has become possible – and desirable – to implement as law. This aspect of law is also what differentiates the suggestions of Tāhā from more general distinctions made by other reformers between the moral thrust and the specific rulings of mainly the Qurʾān, placing the former normatively above the latter.

The stress on the legal aspects of equality between men and women can be connected to an-Na‘īm’s background as a legal studies scholar. The negative evaluation of legal discrimination based on gender exemplifies how an-Na‘īm places moral and political considerations as normatively outside and above traditional formulations of Islamic law and the explicit content of the sources, and as an evaluation of these sources. A similar role and position is given to the principle of reciprocity.

An-Na‘īm’s discussion on secularisation merits some comments. The positive assessment in relation to women’s human rights rests on an evaluation of the some of the consequences of diminished public influence of religion. The presentation of legal ambiguities, negative images of women and continued violation of human rights on the factual level serve an important function in refuting this diminishing of public influence as an ideal. Deficiencies regarding women’s human rights on the formal and factual levels here become the rationale for an-Na‘īm’s demands for religious reform. The main problem is threefold. Firstly, there is an expressed religiously justified public demand, which runs counter to the process of secularisation and privatisation of religion. The presented success of Islamisation in terms of influencing the general public and the connection to the principle of self-determination here serve an important rhetorical function in relation to a non-Muslim audience. The religious argument, including a stress on an inherent feature of Islam as a ‘comprehensive system’, is also interesting. The reference to religious duty is aimed at persuasion both in relation to a believing Muslim audience and to a non-Muslim audience commit-

ted to respecting the religious beliefs of others. No quotation is given in connection with the Qur’ānic references, but verses 5:44 and 5:45 both contain strong designations of those who ‘judgeth not by that which Allah hath revealed’ as ‘disbelievers’, al-kāfirūn, and ‘wrong-doers’, aẓ-ẓālimūn, respectively. There is a strong negative emotive charge in both these designations.125 Verse 24:51 presents ‘the believers’ as those who say ‘We hear and we obey’ to the judgement of God and his messenger, and 4:59 contains the well-known exhortation to ‘Obey Allah, and Obey the Messenger and those of you who are in authority’. There is a transfer from author to phenomenon here whereby an-Na‘īm displays distance.

Secondly, the process of worldwide modernisation and inclusion into an international political system of nation states becomes inevitable and non-reversible. International law, human rights and the principle of reciprocity are all presented in positive terms.

Thirdly, there is the problem of the shari‘a, as a problem inherent in the religious sources, and hence in revelation itself. This forms a controversial aspect of an-Na‘īm’s suggestions for religious reform. To separate the shari‘a and Islam, which is presented as a necessity in the contemporary situation, means not only a rejection of earlier interpretations of the sources, but also setting aside certain parts of the revelation contained in these sources. The presentation of these problematic parts of the sources as clear in meaning and impossible to reinterpret stresses the expressed need for a selective approach to what parts of the divine revelation are to be considered normative and be implemented as law within the framework of an ‘alternative Islamization’. It is worth noting that ijtihād in this context is conceptualised narrowly, and as such does not correspond entirely with a general conceptualisations of it as ‘re-interpretation’ within the contemporary Islamic discourse.

In the face of these considerations, an-Na‘īm’s call for reform appears rational, essentially religious and necessary. ‘Islam’ is to be implemented as law, albeit with a transformation of both content and scope in relation to traditional Islamic law. Islamists are criticised for the content of the Islamic law they want to implement, and the consequences, and not for the demand of implementation itself.

An-Na‘īm’s stress on the possibilities of ‘internal discourse’ to create a basis for ‘genuine’ universality provides suggestions for religious reform from ‘within’ – including his own – with a unique and primary function in discussions on the universality of human rights. His presentation of the current situation in Muslim societies regarding women’s human rights leaves little room for objec-

125 For a similar use of verse 5:44 by Tunisian Islamist Rachid Ghannouchi, see Ghannouchi 1998:90.
tion to his suggestions.\(^{126}\) Despite statements to the contrary, an-Na‘im’s approach in the search for worldwide moral consensus rests on a basic premise of a close connection between cultural or religious values endorsed by individuals and those individuals’ actions in a social context.

The discussion on the basic problems of the *shari‘a*, and in effect of the religious sources, narrows down the alternatives for adequate reform. In the face of these considerations, the only possible reform methodology would be one that both allows the eradication of parts of revelation that runs counter to international norms, and provides enough legal substance to enable the objectivation of religion as law. The short presentations of Tāhā’s system, made by an-Na‘im in different contexts, suggest that it does exactly this. It should be noted that Tāhā’s suggestions for religious reformation have been put forward also by others in the context of women’s human rights and Islam. Aldeeb Abu-Sahlieh, for example, includes a short description of Tāhā’s views at the end of a lengthy presentation on women’s human rights in relation to the religious sources and in relation to a contemporary situation in Arab countries.\(^{127}\)

**Self-presentation**

References to personal experiences and personal history are scarce in an-Na‘im’s writings. His involvement with the Republicans and his imprisonment, often noted by others, is not an issue that he dwells upon. When he refers to the group’s activities in Sudan, or to its leaders, he uses the third person plural.\(^{128}\) In 1988, on the other hand, an-Na‘im notes inactivity among the Republicans after the execution of Tāhā, and states that it is ‘imperative’ that someone takes on the responsibility to continue to spread the message.\(^{129}\) Since the article in question is a presentation both of the views of Tāhā and of his life, it can be assumed that an-Na‘im, at least in this context, shoulders that responsibility.\(^{130}\)

An-Na‘im points out the ‘exclusively internal Islamic’ character of Tāhā’s thought system, in opposition to accusations of ‘Western’ influence.\(^{131}\) There is a

\(^{126}\) His narrowing of possibilities in this connection is criticised in Moghissi 1999:136.

\(^{127}\) See Aldeeb Abu-Sahlieh 1994:214–215. See also Majid 1998:351–353 for another example of an appreciative view, in the context of women’s rights, on both Tāhā’s suggestions for reform and an-Na‘im’s presentation of these.


\(^{129}\) an-Na‘im 1988:19

\(^{130}\) There are hints also in other contexts at such an understanding of his role. In the introduction to *The Second Message of Islam*, for example, an-Na‘im presents the translation as important for the global spread of Tāhā’s ideas (an-Na‘im 1987d:28).

\(^{131}\) an-Na‘im 1993b:98
general mystical tone in an-Na‘ıım’s descriptions of his teacher. In Toward an Islamic Reformation Ėdhā is presented as ‘a modern mystic’ and as having ‘a strong mystic orientation’, which is combined with a general assessment of an Islamic ‘mystical mode’. The latter is characterised by a view of the ‘universal-ity of religious experience’ directed at cultural ‘synthesis’.132

Mystical experience is presented as a motive behind Ėdhā’s suggestions for religious reform. The teacher’s two-year imprisonment between 1946 and 1948 was followed by a period of ‘self-imposed religious seclusion’, khalwa, (1948–1951) including a ‘rigorous program of prayer, fasting and meditation’ and resulting in ‘insights into the meaning of the Qurˇān and the role of Islamic law’.133 There is a similarity between the teacher and the ‘Islamic Sufi masters’ concerning lifestyle, sincerity of religious conviction and insistence on the close connection between personal, religious ideals and actual conduct. Ėdhā’s monist views on God as the sole actor in the universe, and his conviction that everything that occurs in life is willed by God, is, according to an-Na‘ıım, also connected to Sufism. The teacher lived in accordance with the normative ideal of adab al-waqt, ‘discipline of the immediate moment’,134 connected to the basic view of ḥukm al-waqt, ‘the dictates of the times’. The latter was central in explaining the difference between the Meccan and Medinan verses in the Qurˇān, and in judgements on the correct interpretation of Islam in the contemporary world.135

˚dhā’s submission to the will of God was, according to an-Na‘ıım, exemplified by the way he faced his fate with ease when executed in 1985.136 In a footnote, albeit with caution, he credits Ėdhā with the power of predicting future events. Ėdhā left instructions during his seclusion that upon his death he was to be buried in the clothes that he was wearing, without the usual burial rituals and in an unmarked grave. An-Na‘ıım connects this with how Ėdhā’s body was handled by the Sudanese authorities after the execution.137 Still, an-Na‘ıım stresses that although Ėdhā cited divine inspiration as a source for his views, he never laid claims to receiving revelations or to being a prophet.138

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132 an-Na‘ıım 1990c:47. In an-Na‘ıım 1984:83 Ėdhā is characterised as an ‘engineer with Sufi training’ and in an-Na‘ıım 1993b:98 as a ‘civil engineer in training and sufı or mystic in orientation’. His thought system is in an-Na‘ıım 1987d:24 described as a ‘combination of spirituality and rationality’.
134 an-Na‘ıım 1988:11–12. See also 1987d:5.
135 See an-Na‘ıım 1988:17. See also an-Na‘ıım 1990c:53. In the translation of The Second Message of Islam the expression appears both as the Arabic ḥukm al-waqt and as the English ‘the dictates of the time’. A definition is given by an-Na’ıım in a footnote to Ėdhā’s text: ‘The author is referring to the notion of ḥukm al-waqt, the directives of the times, religion’s response to concrete social and economic circumstances, which is central to the author’s own thesis for the evolution of Islamic law’ (Taha 1987:125 note 3).
136 See an-Na‘ıım 1987d:17, 18–19.
When an-Na‘īm presents the social and religious movement of the Republicans, he points to it as a consequence of the mystical experiences of Ţāhā, with the goal of realising his visions of the ideal society on a small scale and living in accordance with the principle of adab al-waqt. Furthermore, he points to organisational similarities with traditional ṣūfī-fraternities. An-Na‘īm makes specific mention of the female Republicans. They took active part in making public propaganda, and an-Na‘īm describes how an ideal of equality in marriage was realised on a small scale among the members. Women were, for example, given rights to unilateral divorce through a clause in the marriage contract. The ‘moral and intellectual transformation of female Republicans’ was an important immediate consequence of Ţāhā’s activities, and one of the best reflections of his legacy. His message is also described as especially appealing to young and educated women. Ţāhā’s imprisonment by the British colonial authorities in 1946 is noteworthy in this connection. This was one of the outcomes of a mass protest organised by the Republican party (the forerunner to the Republicans) against the colonial ban on ‘Faraonic’ female genital mutilation. An-Na‘īm stresses that Ţāhā’s opposition was not motivated by an approval of the practice as such.

In relation to his own activism an-Na‘īm speaks of personal experience of the hardships Muslim human rights activists often encounter, since they constitute a threat to ‘powerful interest-groups’ in society. In some connections an-Na‘īm points to – but does not particularly stress – a religious conviction as a basis for his views and activities. He expresses hope in Toward an Islamic Reformation that the book will serve as a ‘catalyst for change’, especially for a younger generation of Muslims. At the same time, he is self-critically sceptical to its immediate impact. In another context he notes that his views are radical, and likely to be perceived even as ‘too radical’ by contemporary Muslims.

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139 An-Na‘īm connects the transformation that the earlier political Republican party underwent with the ban on political parties after a coup d’état in 1969. Furthermore he notes that, due to the change, some of the members of the earlier Republican party left the movement (see an-Na‘īm 1987d:5; an-Na‘īm 1988:10).

140 See an-Na‘īm 1988:10–12. See also an-Na‘īm 1987d:4–5. A short presentation of the activities of the Republicans in an article published in 1984, stresses the connection between what is preached and what is practised with reference to verses 61:2–3 in the Qur‘ān. The account, written before the execution of Ţāhā, breathes optimism. The Republicans are presented as providing a ‘prototype of a modern Islamic state’ (an-Na‘īm 1984:88).

141 See an-Na‘īm 1987d:5–7. An-Na‘īm here also points out that mahr was reduced to a minimum, although not abolished, and the marriage ceremony was conducted in an atmosphere of simplicity.

142 an-Na‘īm 1987d:25. See also p. 27, 28.

143 an-Na‘īm 1987d:3–4. Motives ascribed to Ţāhā are instead anti-colonialist sentiments and views on a ban as premature and inefficient in practice.

144 See an-Na‘īm 1992b:5. See also an-Na‘īm 1994c:184.


147 an-Na‘īm 1995a:239
also states in 1994 that even if his attempts to construct a ‘modern version of sharia’ should fail, his ideas may be useful in the development of a ‘modernist Islamic moral philosophy’, that can legitimise an ‘open secularism’.  

His representativity is addressed in general terms. An-Na‘īm states the important role that an educated élite can have in the creation of legitimacy for human rights. A higher ‘Western’ education does not in itself exclude commitment to another ‘cultural tradition’. He also addresses the issue of his own gender when mentioning the role that his – and Tāhā’s – suggestions for religious reformation can have in the context of women’s human rights. Although there is no substitute, in activism, for women’s experience of human rights abuses, an-Na‘īm still claims that there is room for the support of male activists. He suggests a gender-transcending partnership on this issue.

Rights to interpretation

A human agent, positioned in time and space, is a necessary condition in all interpretation of religion. This results in a diversity that on the one hand makes identification of true Islam difficult, but on the other hand opens the way for religious change. In 1996, an-Na‘īm states that ‘it may sound heretical, but […] how can Islam and its precepts be other than partly divine and partly human?’ This is followed by the claim that God’s essence is beyond human comprehension. An-Na‘īm in another context rejects the existence of any ‘Islam in the abstract’ that can be reached in full through human understanding, and claims that ‘Islam is only what Muslims believe’. He stresses the dependence in interpretation on extra-scriptural economic, social and political factors. He speaks of:

an ‘antropological approach’ to the Qur’an and to Islam in general [...] premised on an organic, dynamic relationship between the Qur’an and Islam on the one hand, and the nature of human beings (that is, their comprehension, imagination, judgment, behaviour, experience, and so forth) on the other.

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148 an-Na‘īm 1994c:126–127
149 an-Na‘īm 1990b:352
150 an-Na‘īm 1995b:51. This issue is also addressed in an-Na‘īm 1995d:203. Also in this context there is a note of the lack of gender-specific experience on his behalf.
153 an-Na‘īm 1996b:126
154 Lawyers Committee for Human Rights 1997:66
156 an-Na‘īm 1995a:236
The legitimacy for re-interpretation of the religious sources is partly based on his generally critical views on traditional notions of religious authority. He pos-
tulates a Sunnī non-distinction between “‘lay’ Muslims’ and ‘clergy’, and
claims that special respect for the ‘ulamā’ lacks religious justification.\(^{157}\) References are also made to the Qur’ān as addressing Muslim individuals and the Muslim community without any intermediary. Furthermore, the earliest histori-
cal sources do not mention that \textit{ijtihād} – here translated as ‘human reasoning’–
was reserved for any élite of religious experts. Neither did the founders of the early madhāhib claim any exclusive rights in this respect. Such claims are pre-
sented as a consequence of the ‘closing of the gates of \textit{ijtihād}’ in the tenth cen-
tury, and the stress on \textit{taqlīd} that followed.\(^ {158}\) Traditional demands on a \textit{mujtahīd}, concerning skills in the Arabic language, knowing the Qur’ān by heart and extensive knowledge of the \textit{sunna}, have to be rethought today. Current avail-
ability of sources – even in computerised form – makes such traditional re-
quirements obsolete.\(^ {159}\) The identity of the interpreter, gender- or status-wise,
cannot be considered a factor influencing the validity of his or her interpretation. Important factors are internal ‘coherence and rationality, and the commitment of
its [the interpretation’s] author to the values articulated’.\(^ {160}\)

What consequences does this individualised, anti-authoritarian, dynamic and
democratic view of interpretation then have for the implementation of Islam as
public law? The ultimate decision on which interpretation – made by any Mus-
lim – should be implemented as law lies with the Muslim community at large.\(^ {161}\)

\begin{flushright}
\textit{In Toward an Islamic Reformation} there is a notion of a possible ‘democratic’
community consensus, \textit{ijmā’}, within the framework of the nation-state that could
replace an allegedly binding earlier \textit{ijmā’} of the ‘ulamā’.\(^ {162}\) An-Na‘īm’s stated
views on the concept of \textit{umma} can be noted in this connection. The notion of the
\textit{umma} as a \textit{collective} representative of the divine will may be useful in the con-
text of a democratic nation-state, but only through a redefinition of the concept.
The \textit{umma} must be understood to include all segments of society on the basis of
equality, regardless of gender and religious affiliation.\(^ {163}\) An-Na‘īm’s discussion
on \textit{ḥudūd} can be noted in this context. In \textit{Toward an Islamic Reformation} he
\end{flushright}

\(^{157}\) \textit{an-Na‘īm} 1990c:61
\(^{158}\) \textit{an-Na‘īm} 1995a:235. \textit{See also an-Na‘īm} 1988:17; \textit{an-Na‘īm} 1995b:53. For critical remarks on reserving inter-
pretation for an élite, and a stress especially on women’s rights to interpretation, see \textit{an-Na‘īm} 1995d:201.
\(^{159}\) \textit{See an-Na‘īm} 1988:7–8.
\(^{160}\) \textit{an-Na‘īm} 1995b:54
\(^{161}\) This is presented as a principle common to all major religious traditions during their initial phase (see \textit{an-Na‘īm} 1995a:235). \textit{See also an-Na‘īm} 1994b:125; \textit{an-Na‘īm} 1995b:53; \textit{an-Na‘īm} 1996a:355. This notion of
popular decision on the interpretation of Islam is connected to the issue of freedom of speech. In order for this
ideal to be realised must be a situation in which Muslims with different views on Islam can present these in
\(^{163}\) \textit{See an-Na‘īm} 1990c:85.
holds that *hudūd*-punishments cannot be enforced in a religiously plural society without the support of both secularist Muslims and non-Muslim segments of the population. These groups have to be convinced of the usefulness of the punishments by a rational argumentation in non-religious terms. He does not consider it likely that non-Muslims and secularist Muslims will ever accept *hudūd*, which thus is an important argument against them being included in the legal system of a nation-state characterised by religious pluralism.  

The message on religious reform that an-Naʿīm propounds receives its legitimacy not primarily as a result of characteristics connected with his own person, but because of the personality of its initial formulator, for whose views an-Naʿīm is merely a messenger. The image of Tāhā he has created enhances the credibility of the message. The consequence-orientated, altruistic character of an-Naʿīm’s own motives – when he presents them – works against possible accusations of missionary activity in relation to Tāhā’s thought system.

An-Naʿīm’s presentation of Tāhā utilises a narrow definition of Sufism that stress certain aspects above others, mainly individual spirituality, *tawakkul* (reliance on God), sincere religious conviction and theosophical inclusivism, above hierarchy and authoritarianism as organisational features of many of the traditional *turuq*. This corresponds with positive evaluations of ‘gentle’ spiritual Sufism that has been made in academic and popular circles internationally, as opposed to ‘harsh’ exclusivist and *shariʿa*-oriented Islamism.

A relationship between an-Naʿīm and Tāhā similar to that of a *murīd*, ‘disciple’ and a *murshid*, ‘spiritual guide’, is conceivable, but it is not elaborated upon or utilised. References to mystical inspiration and religious experience as a basis and a motive for Tāhā’s suggestions for reform serve both as a defence against accusations of personal interests, and as a claim to authority. Tāhā lacked formal religious education, and divine inspiration (*ilḥām*) given by God to individuals has in a historical context at times been accepted as a legitimate source for religious knowledge, albeit not necessarily as a substitute for formal training. An-Naʿīm’s reference to Tāhā’s burial is a suggestion of a status of martyr for the teacher, by divine decree. The statement that Tāhā never laid claims to prophethood should be seen as an important defensive remark in relation to a

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165 Islamic studies scholar Mohamed Mahmoud has noted an affinity between the Sufism of Tāhā and a ‘philosophical-esoteric tradition of Muḥyī al-Dīn Ibn al-ʿArabī (1165–1240)’ (Mahmoud 1998:124). Ibn ʿArabī functions as a saint (*waḷī*) in many strands of ṣūfī thought, and the notion of *wahdāt al-wujūd* ‘the unity of being’, primarily associated with him, can open the way for religious inclusivism.
166 See Macdonald 1971b. One famous examples of *ilḥām* used in claims to authority is to be found in al-Ghazālī’s ‘autobiography’ *al-Munqidh min ad-ḍalāl* (That which Delivers from Error). For a lengthy translated excerpt from this work, see MacNeill & Waldman (eds) 1973:207–239.
167 See Kohlberg 1997:204 concerning burial rituals for martyrs.
believing Muslim audience. In the article on the Qurʾān in The Oxford Encyclopedia of the Modern Islamic World (where The Second Message of Islam is also described as a ‘journey to the outer limits of Qurʾānic exegesis’)\(^{168}\) it is observed that Tāhā claimed to be a ‘messenger’, rasūl.\(^{169}\) The reference is to a passage in The Second Message of Islam where the ‘messenger’ of ‘the second message’ is described as ‘one whom God granted understanding from the Qurʾān and authorized to speak’. This passage is, however, appended to a discussion on the differences between a messenger and a prophet (nābi). The latter receives revelation from God, the former teaches people about that revelation. Tāhā – in an-Naʿīm’s translation – claims that the termination of prophethood provides for direct contact between individuals and God. This contact is established without the help any intermediary and by means of ritual exercises. Through it a transfer of knowledge on the correct understanding of the Qurʾān is made.\(^{170}\) It should be noted that the differentiation between a rasūl and a nābi is not clear in classical Muslim religious thought.\(^{171}\)

The references to women’s role within the movement of the Republicans, and the elaboration of Tāhā’s resistance to the ban on genital mutilation, can be noted. The former has been presented also by others as a significant feature of the Republicans,\(^{172}\) and provides a positive image in relation to an international audience committed to women’s human rights. The latter, however, could work the opposite way, which explains the need for elaboration on Tāhā’s motives.

What is not mentioned by an-Naʿīm is, however, also important. Tāhā expressed essentialist views on the feminine nature and on the necessity for a gendered division of labour in society where the ideal role of women is identified with – or rather reduced to – motherhood.\(^{173}\) This becomes problematic in relation to an-Naʿīm’s view on such gender stereotypes as a basic problem in relation to women’s human rights in Muslim societies.

The references to diversity of interpretation and the ‘anthropological approach’ to the Qurʾān are noteworthy because they utilise the empirical observation of the ‘many Islams’, normatively. Diversity becomes the basis for interpretation, and in this there is an implicit claim for the legitimacy of an-Naʿīm’s

\(^{168}\) Cornell 1995:394

\(^{169}\) Cornell 1995:393

\(^{170}\) Taha 1987:41–42

\(^{171}\) See Wensinck 1995.


\(^{173}\) See Taha 1987:162–163. Mohamed Mahmoud notes that the ‘feminism’ of Tāhā is a blend of ‘modern and traditional elements’ and also entails an ontological distinction and an establishment of a hierarchy. He points out that ‘Tāhā’s feminism does not invest women with their own autonomy, but rather aspires to entrench them within their traditional “maternal” role’ (Mahmoud 1998:123).
own interpretations, despite their stated heretical character in relation to dominant views among contemporary Muslims.\footnote{174}{For references to diachronic diversity, and the notion of Islam being adaptable to changing circumstances, used to state the legitimacy of interpretation in favour of gender equality, see Wadud 1999:xx; Wadud 2000:11, 13–14.}

Scriptural reference, reference to the historical legal tradition and to an observation of \textit{de facto} democratisation concerning the availability of the sources, are important in rejecting the authority of the ‘\textit{ulamā’} and enhancing his own authority as an interpreter.\footnote{175}{An interesting example of an evaluation concerning the availability of the sources contrary to that of an-Na‘īm can be found appended to the ‘Warning: (especially for Muslims)’ of the search engines for \textit{ahadīth} and the Qur’ān on the University of Southern California Muslim Student Organisation’s Internet-site. For \textit{ahadīth}: Warning (especially for Muslims): There are many early hadith scholars and teachers to whom we are indebted for introducing the critical science of collecting and evaluating ahadeeth. […] They did not allow students to quote from their collections until the students had actually come to them and learnt from them directly. Today, the situation is different. The collections of ahadeeth have for the most part stabilized, and with the advent of the printing press, the collections are easily mass-produced. There is a blessing in all this of course, but there is a real danger that Muslims will fall under the impression that owning a book or having a database is equivalent to being a scholar of ahadeeth. This is a great fallacy. Therefore, we would like to warn you that this database is merely a tool, and not a substitute for learning, much less scholarship in Islam. A similar warning, to some degree overlapping in wording, is issued concerning the Qur’ān. See \url{www.usc.edu/dept/MSA/reference/searchhadith.html} and \url{www.usc.edu/dept/MSA/reference/searchquran.html}. The important conclusion that can be drawn from this, however, is that despite such warnings, the availability of the sources \textit{does} pose a threat to the authority of the ‘\textit{ulamā’}. Otherwise there would be no need for a warning. For a discussion on this, see Hjärpe 1999:116.}

The references to history postulate the authority of the ‘\textit{ulamā’} as a religiously illegitimate ‘innovation’ (\textit{bida’}), in conflict with the original (i.e. authentic) religious tradition.\footnote{176}{To stress that the early ‘\textit{ulamā’} themselves did not aspire to the status as authorities that they gained later on in history is a useful argument. For an example from the discussion on women’s rights and interpretation of Islam, see al-Faruqi 2000:100.}

It is noteworthy that divine inspiration is not mentioned as a means to gain knowledge of Islam in this context.

The discussion on \textit{ijmā’} is an example of how an-Na‘īm uses a concept of traditional \textit{fiqh}, expands it and turns it around in order to challenge traditional religious authority.\footnote{177}{The view of \textit{ijmā’} as denoting the consensus of all Muslims as a source for ‘correct’ Islam is not an innovation. It is part of a traditional understanding based on a \textit{hadīth}. In the context of Islamic law it came to be qualified by Muslim legal scholars to the consensus of the ‘\textit{ulamā’} as a source of validation of legal reasoning (see Coulson 1978:77–79; Bernard 1971).}

The wide definition of \textit{umma} corresponds with an-Na‘īm’s stress on the principle of reciprocity, and the need for its expansion. An-Na‘īm’s use of the term to denote a nation-state (even one of pluralism in religious affiliation) is in line with its contemporary secular use.\footnote{178}{For the secular and religious uses of the term \textit{umma}, and tensions between them, see Dallal 1995.}
The Sources

*The Qurʾān*

An-Naʿīm does not question the integrity of the existing text of the Qurʾān as divine revelation and postulates early codification as a reason for this. The Qurʾān is presented as the prime source of Islamic law, but at the same time also as containing little in terms of positive legislation. The main message of the text is a moral one, and aims at reformation of the individual. In this sense the Qurʾān can be said to contain a basic ‘Islamic religious ethic’. This moral and ‘religious’ aspect of the message dominates in the verses revealed in Mecca, while ‘specific political and legal norms’ are presented as a part of the context-bound message delivered in Medina. The text is not internally coherent and Tāhā’s suggestions for reformation are presented as a solution to contradictions. An-Naʿīm holds that contradictions are problematic since a correct understanding of Islam, according to the majority of Muslims, demands consistency with ‘totality of the Qurʾān and the Sunna’.

The ‘anthropological approach’ to the Qurʾān is based on perceived injunctions in the text itself. Its message is directed to humankind as a whole in all times, stressed in verses 21:107 and 25:1, and through the use of the inclusive phrases yā ayyuhā an-nās, ‘O, Humankind’ (for example in verse 2:168) and yā bani adam, ‘O, Children of Adam’ (for example in verse 7:31). That human beings should reflect upon the content of the Qurʾān is, according to an-Naʿīm, pointed out in verses 12:2 and 43:3 for example. The specific notion of a postponement of the original message is based on Tāhā’s reading of verse 2:106, which then amounts to the ‘scriptural evidence’ presented by an-Naʿīm for his teacher’s suggestions. Pickthall renders the verse into English as: ‘Such of Our revelations as We abrogate or cause to be forgotten, We bring (in place) one better or the like thereof’. The italicised part is a translation of the Arabic word nunsihā, derived from the verb nasiya ‘to forget’. Tāhā – and with him an-Naʿīm – instead opts to read the original Arabic word as nunsiʾā from the verb nasaʾa. This provides for an-Naʿīm’s translation of the relevant part of the verse as ‘When We abrogate any verse (ayah) or postpone it (nunsiʾa), We bring a better verse, or a similar one’. In a footnote in the translation of *The

184 The verse in question is not always referred to. In an-Naʿīm 1993b:101, for example, an-Naʿīm states only in passing that his suggestion is ‘premised on the text of the Qurʾān’.
185 an-Naʿīm 1990c:59. See also an-Naʿīm 1988:16.
Second Message of Islam, an-Nafi’im states that ‘Some translators’ – mentioning Yusuf Ali – choose to translate the word in the same way as Pickthall.\(^{186}\)

Verse 2:106 is traditionally seen as a justification of the principle of abrogation, *naskh wa mansūkh*, in the context of fiqh.\(^{187}\) This is also how it is utilised by an-Na‘im and Tāhā, but with an important modification. An-Na‘im presents the view on abrogation in cases of contradiction within the text of the Qurʾān as religiously legitimate. He rejects attempts at disqualifying it on the basis of an ideal of a non-contradictory revelation. However, the traditional view that it is chronologically later rulings that abrogate earlier ones is faulty. Instead, it is the original, *postponed* Meccan verses that – as a result of changed circumstances – abrogate the time-bound Medinan verses as a source of Islamic law.\(^{188}\) The aspect of ritual is heeded when the issue of the status of the abrogated Medinan verses is addressed. Tāhā did not intend to undermine the divine status of parts of the Qurʾān. The abrogated verses were to be kept for all except legal purposes.\(^{189}\)

The specific religious justifications given by an-Na‘im for Tāhā’s reading of verse 2:106 differ. In 1988 the justifications are intra-Qurʾānic, stating that ‘the text of the Qurʾān is secured by God against being forgotten and lost’ with reference to verse 15:9.\(^{190}\) In *Toward an Islamic Reformation* the reference is instead to the legitimacy of divergent readings of the original Arabic text, and a chain of early interpreters supporting Tāhā’s version is given.\(^{191}\)

The adjuster word ‘in fact’ is used in 1988 when it is stated that Qurʾānic verses can be classified as either Meccan or Medinan in the way suggested by Tāhā. No explanation is given, however, as to how this is to be done practically.\(^{192}\) The lack of specificity in an-Na‘im’s writings concerning which verses are to be considered Medinan or Meccan respectively has been pointed out.\(^{193}\) In response to this, an-Na‘im has stated that his intention is to point at a general principle, and not to substantiate that principle. The latter is a task for ‘various

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\(^{186}\) Taha 1987:40 note 9. See also an-Na‘im 1988:16 note 35.

\(^{187}\) For a comprehensive study of theories on *naskh wa mansūkh*, see Burton 1990. For a more accessible presentation, see Burton 1993.


\(^{190}\) an-Na‘im 1988:16 note 35. See also Taha 1987:40 note 9.

\(^{191}\) These authorities include the second caliph `Umar ibn al-Khaṭṭāb and Muhammad’s cousin Ibn ʿAbbās (an-Na‘im 1990c:205 note 82). An-Na‘im also attempts to forestall criticism based on the notion of God as omniscient, and as such ought to have known that the Meccan message was to be rejected in 7th century Arabia. The reason why God revealed the Meccan message at all was partly because the Qurʾān is God’s last message to humankind and as such has to contain everything, for all time to come. Furthermore, the Meccan message had an educational purpose. Through its inapplicability, the truth of the applicable Medina message became obvious to the first Muslims (an-Na‘im 1990c:53).

\(^{192}\) an-Na‘im 1988:17

\(^{193}\) See Ahmed 1993:68.
Islamic communities [...] each in its own context and in light of its own circumstances’.\textsuperscript{194} In addressing a critical remark that certain verses traditionally viewed as Meccan contain examples of religious intolerance, an-Na‘īm refers to the transitional or overlapping period. These verses ‘in effect’ belong to the Medina stage. A reference is given, without further elaboration, to \textit{The Second Message of Islam}.\textsuperscript{195} In an-Na‘īm’s translation Tāhā’s distinction is based both on formal criteria and on content. An important role is ascribed to the differentiation between \textit{al-muslimūn} and \textit{al-mu‘minūn} as two levels of religious status for human beings, where the former is positioned above the latter and about to emerge in his own time. The message of Medina was addressed to the \textit{mu‘minūn}. The parts of the Qurʾān using that designation are therefore to be considered Medinan (with the exception of \textit{sūra} 22). All verses that make reference to the \textit{al-munāfiqūn}, ‘the hypocrites’, and to jihād also belong to the Medina period. The message of Mecca is contained in chapters that mention prostration (\textit{sujūd}) or open with the ‘mysterious letters’. Chapters that contain phrases such as ‘O, mankind’ or ‘O children of Adam’ are also Meccan. The exceptions to these general rules are related to the overlapping period.\textsuperscript{196}

The issue of hudūd is used by an-Na‘īm to point at the limits of Tāhā’s methodology. In \textit{Toward an Islamic Reformation} he states that unlike in the case of other problematic provisions in the Qurʾān, there is no Qurʾānic authority for abolishing the hudūd. There are no Meccan verses that contradict the Medinan justifications for these punishments.\textsuperscript{197}

\textbf{The aḥādīth}

An-Na‘īm discusses the hadīth-literature mainly in terms of the sunna as a source for the sharī‘a. The term sunna is also used more or less as a synonym for hadīth in some contexts.\textsuperscript{198} References to individual aḥādīth are used to provide religious justification for specific claims.\textsuperscript{199} The sunna is mentioned as a necessary source to take into consideration when elaborating a new understanding of Islamic law. It is primarily an explanation of and an elaboration on the content of the Qurʾān. As such, it is related to the historical circumstances in the same way as the Qurʾān is. The sunna could – and should – be subjected to the

\begin{footnotes}
\footnote{194}{an-Na‘īm 1993b:104}
\footnote{195}{an-Na‘īm 1993b:105}
\footnote{196}{See Taha 1987:125. An-Na‘īm also mentions ‘O mankind’ and ‘O Children of Adam’ as distinguishing features of the Meccan revelations (an-Na‘īm 1990c:55).}
\footnote{198}{See, for example, an-Na‘īm 1987d:23 note 34; an-Na‘īm 1990c:156.}
\footnote{199}{See an-Na‘īm 1984:88 note 2; an-Na‘īm 1990c:156.}
\end{footnotes}
reversal of *naskh wa mansūkh*. The problem of chronology is, however, larger in the case of the *sunna* than in the case of the Qurʼan.

The usefulness of the *sunna* as a religious source is qualified by reference to both the late date of scriptural recording of *ahādīth*, and the problem of authenticity. Traditional methods of ḥadīth-criticism are deemed insufficient and in general an-Naʻīm holds that ‘any attempt to sift the genuine from the false, or to reinstate previously discredited reports of Sunna, is a hopeless task to undertake today’. In the case of ḥudūd, an-Naʻīm places the normative value of the *sunna* below that of the Qurʼān, in the context of determining offences in detail. On the other hand, in the context of *zina*, he presents the punishment of stoning to death – which is not part of the Qurʼānic text – as legitimate. The issue at hand here is not one of determining a crime, that is already done in the Qurʼān, but that of ‘imposing a harsher punishment under certain specified aggravating circumstances’.

**Islamic history**

There is a brief, and (from a Sunnī perspective) generally uncontroversial presentation of Muhammad’s life and the period of the first four caliphs in *Toward an Islamic Reformation*. It provides the framework for an alleged shift in ‘the subject matter and content of the message’ after the hijra, the emigration to Medina. Muhammad in Mecca was a messenger instructed by God to peacefully spread a universal message of ‘the fundamental values of justice and the equality and inherent dignity of all human beings’. Muhammad was fully aware of the change in the relation to the revelations in Medina, and he was continuously instructed by God to adapt his teachings to the existing audience and circumstances.

In all, references Muhammad’s life and to his contemporaries are scarce. Few of the Companions are mentioned, and then only to justify claims deemed controversial. There is an explicit judgement that Medina under the authority
of Muhammad and the first four caliphs does not constitute an ideal for the contemporary world:

In my view, the failure of subsequent generations of Muslims to appreciate the peculiar and special nature of the Prophet’s role and their attempt to confer the same role on his successors, the caliphs, are the causes of much of the confusion and many of the problems of Islamic political theory.209

Medina under Muhammad’s leadership represents a historical exception,210 and the rejection of Medina as a model for political organisation is also attributed to Ṭāhā:

The historical conception of the Shari’a state was developed during the Medina period, since the Muslims were not a political community and did not establish a state during the Mecca period. If we are to take the Medina model as one that was dictated by the political and social realities in the seventh century in accordance with the suggestion of Ustadh Mahmoud, we would not be bound to implement it under radically different modern conditions.211

Historical change in the Islamic legal tradition up till the 10th century is important in an-Na‘īm’s criticism of the shari‘a. The ‘psychological barrier’ among Muslims created by the close connection between the shari‘a and Islam can be challenged by references to such change.212 In Toward an Islamic Reformation works by non-Muslim scholars of Islamic law are used to stress the development and construction of the shari‘a. Although it was based on the Qur‘ānic text and the sunna, it was a result of ‘intellectual, social, and political processes of Muslim history’ that culminated in the Abbasid era. In this process, local customs that

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Qur‘ānic text. This forms a ‘clear and strong precedent from the earliest times of Islam that policy considerations may justify applying a rule derived through ijtihad even if that required overriding clear and definite texts of the Qur‘an and Sunna’ (an-Na‘īm 1990c:28). See also an-Na‘īm 1990c:60; an-Na‘īm 1995a:239. An utterance ascribed to ʿAlī is used in a similar way. It is invoked to justify the assertion of the necessity of a human agent in interpretation of the scriptures (an-Na‘īm 1990c:48; an-Na‘īm 1995a:236–237).

209 an-Na‘īm 1990c:77
210 See an-Na‘īm 1990c:75–86. It is noteworthy that an-Na‘īm rejects the use of the term shūrā in the context of democracy as unhistorical and without Qur‘ānic foundation (an-Na‘īm 1990c:78–79).
211 an-Na‘īm 1990c:99
212 This is stressed in Toward an Islamic Reformation (see Na‘īm 1990c:xiv, 10–12, 67–68, 185).
predated Islam were incorporated into the overall system, and the fuqahā’ simply responded to the surrounding environment.

It is important to note that an-Na’īm presents historical versions of Islamic law as religiously justified in relation to the period in which they were originally formulated. This holds true both for the original revelation contained in the Qur’an and the *sunna*, and for subsequent interpretations of this revelation. Muslims today have to do what fuqahā’ have done earlier, that is to heed the contemporary situation and the demands of human rights and equality in their interpretation of the sources. The forces of modernity and globalisation condition the contemporary society, and this should influence hermeneutics. The basis for a reformation of Islamic law must always be the sources, but the historical context provides the framework for interpretation.

In 1984, An-Na’īm speaks of the right of contemporary Muslims to ‘draw from the totality of human experience’ in constructing a modern version of Islamic law. References to the Qur’an are given in the appending footnote to substantiate a suggestion that ‘prevailing custom’ that corresponds with ‘the basic purpose of religion’ is a traditionally legitimate source of law.

The importance of historical contingency is connected to the thought system of Tāhā by the notion of *ḥukm al-waqt*, important in determining the correct understanding of the religious sources. An-Na’īm points to Tāhā’s view that the postponement of the original Meccan message had come to an end in his own time, and that the time was ripe for its implementation. Several signs pointed to this fact, including the notions of international human rights and advances in technology. An-Na’īm tends to be more restrictive on this issue. Whether a specific interpretation of Islam corresponds to the actual historical circumstances is a matter only possible to judge in retrospect, which is connected with the notion of popular choice.

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218 See an-Na’īm 1990c:143–144.
219 The connection between the specific references and the general claim is not clear. Several of the verses express the ideal of *hisba*, i.e. *amr bi al-ma‘rif wa nahi ‘an al-munkar*, ‘to enjoin the right and forbid the wrong’ or equivalents (for example, 9:67, 71, 112; 3:104, 110). The others contain rulings on, for example, divorce (for example, 2:228–34, 2:236) (an-Na’īm 1984:86, 89 note 20).
220 an-Na’īm 1988:17. For Tāhā’s view on *ḥukm al-waqt* as the explanation for the postponement of the Meccan message, see Taha 1987:37.
221 See an-Na’īm 1988:18; an-Na’īm 1990c:60.
222 See an-Na’īm 1995a:235–236.
Behind the apparent relativisation of the Qurʾān in relation to a social and historical context – and the stress on contradictions – there is thus a basic notion of the integrity of the text as divine revelation. Coherence is an ideal, and interpretation is a means to reach such coherence. In view of an-Naʿīm’s stress on the need for ‘alternative Islamization’ and the application of Islamic Law, it is noteworthy that he judges the legal content of the relevant parts of the Qurʾān as minor in relation to a general ‘ethics’. To sift out details of a reformed Islamic law from the Qurʾān would in the face of this be a difficult task. On the other hand, it is an implicit justification for any form of legislation that does not contradict this ethic.

In order to justify Ṭāhā’s reading of verse 2:106, an-Naʿīm uses both intra-Qurʾānic references and the pronouncements of famous authorities in early history. This double justification indicates the overall importance of this reading for Ṭāhā’s suggestions for reformation, and also points to its potentially controversial nature. The use of the adjuster word ‘in fact’ serves a similar purpose. The controversial nature of the reading is lessened by the claim that ‘some’ translations differ from his own, while a more correct statement would be that the majority of translations of the Qurʾān into English use the word ‘forgotten’ or equivalents.223 Ṭāhā’s reading is, however, not unique,224 and exemplifies how the ‘defectiveness’ of the original Qurʾānic text opens the way for alternative readings that may be useful in interpretations.225

While there is an insistence on the traditional legitimacy of naskh wa mansūkh, there is a redefinition of the concept that leaves little untouched besides the general notion of abrogation. The extensive elaboration by ʿulamāʾ in history on which verses should be considered abrogated becomes irrelevant. It is the legitimacy of the principle as such in classical legal theory that is connected with an-Naʿīm’s concrete suggestions for reformation.

There is an evident weakness in the overall argumentation, given an-Naʿīm’s unwillingness to present specific criteria for distinguishing Meccan and Medinan revelations. This unwillingness may be related to potential audiences. Ṭāhā’s criteria are not that convincing. The reference to the terms muslimūn and muʾminūn as well as to the ‘mysterious letters’ are, for example, problematic in relation to text-critical research on the Qurʾān.226 As is clear in an-Naʿīm’s dis-

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224 See Burton 1985:460.
225 For this aspect of the Qurʾānic text, see Paret 1986; Watt & Bell 1970:47–50.
226 Richard Bell, and with him W. M. Watt view the terms muslim, islām and the verb aslama as not appearing in the Qurʾān before the ‘break with the Jews’ in Medina 624 (see Watt & Bell 1970:119). While the ‘mysterious letters’ are indeed still a mystery, there is no identification of them as being peculiar to Meccan verses (see Watt & Bell 1970:61–65).
discussion on verses of ‘intolerance’ the risk of circular argumentation is acute when the notion of the two messages is applied to specific issues.

The justification provided by an-Na‘īm for the acceptance of the ḥudūd is also interesting in relation to what Ṭāhā writes in The Second Message of Islam. While in an-Na‘īm’s case this acceptance is presented as a rational result of the basic methodology, the divine rationale behind the punishments is the argument used by Ṭāhā. The ḥudūd are in the latter case presented as a means to correct faulty and socially harmful behaviour among individuals. Qur’ānic justification is not an issue. An-Na‘īm thus chooses not to rely on Ṭāhā’s argumentation in this context, but keeps the connection to the views of the teacher with references to deficient methodology.

Establishing the chronology of the Qur’ānic text is thus not explicitly addressed as problematic, which makes the Qur’ān different from the sunna. The acceptance in principle of the sunna as a source is qualified by this assertion, and its practical use is reduced. Additional references to the scriptural recording of ahādīth and the issue of authenticity serve to further lessen the normative value of the sunna for an-Na‘īm’s reformation of Islam. However, in the use of individual ahādīth to strengthen arguments, the issue of authenticity is not touched upon. Furthermore, the few attempts at religious legitimisation by recourse to ahādīth and early history offers an exception within an-Na‘īm overall framework, which exhibits a general lack of constructive use of early history for normative purposes.

An-Na‘īm’s rejection of a call for a return to the Medina-ideal appears to be based on an evolutionary notion of historical change only in one direction. His destructive use of later history in relation to the shari‘a rests on the same notion. Islam is a tradition constantly evolving into higher stages and forms, and has been so since the beginning. This evolution – and not stability – is furthermore religiously legitimate, and should form the basis for interpretation. References to diversity and change in the works of the fuqahā’ serve to strengthen this basic view. The reference to ‘custom’ in 1984 utilises the notion of ‘urf as a source of Islamic law, but generalises it to apply not only locally but also globally, in relation to a world civilisation. The process of worldwide historical evolution also functions to justify an eternal message in the Qur’ān that becomes visible only in the contemporary world.

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227 Taha 1987:74. Mahmoud views Ṭāhā’s treatment of the ḥudūd as ‘a traditional and psychologically mecha-nistic defence of the shari‘a’s penal code’. The argument of social re-education is furthermore faulty in logic when applied to the punishment of stoning in the case of zinā’ (Mahmoud 1998:112).

228 See Coulson 1978:143–144 on ‘urf as a (limited) legal source within the Mālikī madhhab.

229 Mahmoud has noted a similarity between Ṭāhā’s evolutionism, inspired by ṣūfi notions of God as an agent of change and a Hegelian notion of the Weltgeist (Mahmoud 1998:122).
Applications

Just as the issue of women’s human rights is important as an exemplification of the problematic areas concerning Islamic law and human rights, it also becomes an area for application of an-Na‘īm’s version of Ṭāhā’s thought system. The basis for a restriction of women’s full membership of the umma is to be found in notions of male superiority, ultimately contained in the religious sources themselves. Verse 2:228 in the Qurʾān, according to an-Na‘īm, holds that anatomical sex differences should result in legal inequality. While such inequality has been justified in earlier periods in history, it is untenable in the modern world.230

There are several examples where an-Na‘īm presents notions that are commonplace in contemporary religious apologetics. He stresses the positive effects on women’s situation brought about by new Islamic regulations in 7th century Arabia, in relation to the jāhilīya. In this context he mentions, for example, rulings on women’s rights to hold property, restrictions on polygamy, rights to inheritance, rights to divorce (albeit limited) and rights to decent treatment in general. In relation to the situation in which these regulations were revealed and implemented, they constituted a significant improvement. References are also made to an ‘international’ context in which the rights of women in the shari‘a compared well with the situation in other legal systems in the world up till recently. Still, unlike many other apologetic presentations of this kind, an-Na‘īm’s does not allow these historical ‘facts’ to overshadow his overall negative evaluation of the contemporary situation.231 The relativisation of the shari‘a with reference to diversity and historical contingency is also used in the context of women’s human rights, for example when an-Na‘īm points out that the early jurists that created the shari‘a were male.232

While verse 2:228 is noted in the context of gender hierarchy it is verse 4:34 that is the main target of criticism of the shari‘a, and ultimately of the Qurʾān. The overall centrality of this verse is stressed in Toward an Islamic Reforma-
tion. The problem is the presentation of men as qawwāmūn over women. According to an-Na‘īm, the meaning and implication is clear. The verse establishes both men’s superiority and their legitimate control over women. It serves as the prime basis for a general principle of male authority over women elaborated later on in Islamic law. The result has been the general legal discrimination of women.233 Besides the clarity of the verse itself, there has been a general ijmāʿ among the fuqahāʾ since earliest times on its implications. These two considera-

230 an-Na‘īm 1990c:63
232 See an-Na‘īm 1994c:182.
tions make traditional *ijtihād* insufficient, in accordance with the generally stated view on the inadequacy of traditional *fiqh*.  

Ṭāhāʾ’s notion of the two messages of the Qurʾān becomes a solution to the inadequacy of *ijtihād* and the view that men as *qawwāmūn* over women is an untenable notion in the modern world. The removal of ‘every feature of inequality of women, or discrimination against them, as a matter of Islamic law’ is presented as an essential part of Ṭāhāʾ’s suggestion for religious reformation.  

In his elaboration from this perspective, an-Naʿīm points out that there is a condition appended to the principle of male superiority in verse 4:34. Men are *qawwāmūn* over women because women are dependent on men for sustenance and protection. This was the case in the original context of the revelation, in 7th century Medina. In this light the inequality enshrined in the verse is historically justified. The main argument is, however, that in the contemporary context the circumstances have changed. Since women have now gained access to education and paid work they are no longer dependent on men for their survival. Thus, the rationale behind the verse no longer exists. Men’s role as *qawwāmūn* over women would have no function in a modern version of Islamic law, such as suggested by an-Naʿīm. After establishing this, the focus is instead turned towards the eternal, but postponed, message revealed in Mecca. Here, according to an-Naʿīm, there is a basic principle of equality expressed. In line with his general suggestions for reformation, it is this original message of equality that should be enforced as law in the contemporary situation. The conclusion reached is thus that the principle of men as women’s *qawwāmūn*, and the legal derivations from this principle, can be abolished without violating the essential message of Islam.  

By the elevation of the original message to the status of law discrimination against women can furthermore be made religiously illegal.  

Since the notion of male guardianship and authority is the one basic feature of the *shariʿa* that influences the legal status of women, the rejection of verse 4:34 as normative has repercussions in other problematic areas. An-Naʿīm presents the ban on inter-faith marriages between a non-Muslim man and a Muslim woman as, at least partly, a logical consequence of this notion. The husband has a higher status than his wife based on gender. At the same time a Muslim’s status is by definition superior to that of a non-Muslim. In inter-faith marriages of this kind there is thus an inherent contradiction, according to the *shariʿa*. Both cases of difference in status are abolished by the application of the ‘second message of Islam’, the problem is solved and legal change is made possible.

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234 an-Naʿīm 1988:13  
235 an-Naʿīm 1994c:183  
On the issue of polygamy an-Na‘īm distances himself from a position whereby the moral obligation to treat women equally is used to discourage the utilisation of a nevertheless legitimate male privilege. The stated reason is the view on the need for legal reform, whereby earlier rulings elaborated in the historical shārī‘a are replaced by new legal content. In the same line of thinking, an-Na‘īm further rejects the use of verse 4:129 in contrast to verse 4:3 in efforts to restrict polygamy. Both verses legitimise polygamy in principle. It is the status of these verses as a basis for a legal system that has to be abolished. The arguments against polygamy are similar to the argument against men as qawwāmūn over women. In the context of 7th century Medina, where there was a shortage of men due to the war with Mecca, polygamy was justifiable for social and economic reasons. This situation no longer exists, and thus the institution no longer has any rationale and can be legally abolished in line with the eternal principle of equality before the law of men and women.\textsuperscript{239}

The argument used in both these cases runs through most of the discussion on problematic issues in relation to women’s human rights in Muslim societies. Traditionally, the shārī‘a discriminates against women in areas such as required clothing, inheritance, divorce and testimony, as well as it provides a right of men to scourge their wives. Although discrimination has been justified in another historical context, it has ceased to be so in the contemporary world. This opens the way for legal reform, whereby a current legal system – especially in the area of family law – built on transitory Qur’ānic verses and likewise transitory parts of the sunna is abolished. It is replaced by new legislation built on the principle of total gender equality of the Meccan revelation and the affiliated sunna.\textsuperscript{240}

In these examples of application it is legal reform that dominates the discussion. There are no corresponding attempts at interpretation in an-Na‘īm’s discussion on popular attitudes, stereotypes and general views on proper gender roles, not directly connected to the legal sphere but nevertheless accorded importance in an-Na‘īm’s overall assessment of the contemporary situation. So, for example, female genital mutilation is addressed as a ‘custom’, the abolishment of which is dependent on changes in conceptions of femininity and female sexuality. No concrete arguments or suggestions for change of such conceptions are given however.\textsuperscript{241}

Concerning the positive content of the original and eternal Meccan message in relation to gender equality there is little elaboration in an-Na‘īm’s writings. References are made in a general way to the content of the eternal Meccan mes-

\textsuperscript{239} See an-Na‘īm 1990c:62–63.
\textsuperscript{241} See an-Na‘īm 1994c:177. It can be noted, however, that although the issue of female genital mutilation is not addressed in \textit{Toward an Islamic Reformation} the book appears in the suggested reading list of the Sudanese physician Nahid Toubia’s book \textit{Female Genital Mutilation} (Toubia 1993).
sage as providing for gender equality without distinction. A reference to verse 49:13 is made explicitly in *Toward an Islamic reformation*, and implicitly in 1995 when pointing out contradictions on gender-related issues in the Qurʾān. Besides containing clearly discriminating verses the Qurʾān is said to:

set men and women at absolutely the same level of moral and religious responsibility. Moreover, the Qurʾān also states that God created all human beings into men and women, and made them into different peoples and tribes, so that they would get to know each other and co-operate.

In 1988 reference is made to verses 6:164, 40:17 and 38:38 as expressing gender equality and as belonging to the Meccan period. There is no indication, however, as to which specific parts or wordings of these verses are considered relevant.

Reference made in 1984 to verses 9:5 and 9:29 as expressing the basic gender equality of the Meccan message are probably a mistake. Verses 5:9 and 29:9, on the other hand, state in similar wordings divine reward for ‘those who believe and do good works’. An-Naʿīm does not refer to verse 33:35 to substantiate his claims, a verse often put forward in the context of gender equality. The verse appears in a chapter in the Qurʾān that traditionally has been seen as revealed in Medina. This is also the view of an-Naʿīm, which is evident in his discussion on veiling and women’s appearance in public as problematic in relation to the *shariʿa*. In this case verses 33:33, 33:53 and 33:59 are referred to. Neither does an-Naʿīm mention verse 9:71 or verse 4:1 as expressing gender equality, verses that likewise are commonly referred to in contemporary statements on a Qurʾānic ‘spirit’ of gender equality. In *Toward an Islamic Reformation sūra 9* as a whole is identified as one of the last to have been revealed, and one in which legitimisation of hostile actions against non-Muslims is given, contrary to

242 See an-Naʿīm 1987b:501 note 38; an-Naʿīm 1990a:47; an-Naʿīm 1992c:32; an-Naʿīm 1993c:1. In an-Naʿīm 1990b:360 there is a reference to an article by Riffat Hassan (Hassan 1992[1982]) where a list is provided of ‘general texts [in the Qurʾān and the *ḥadīth*-collections that] seem to emphasize the inherent dignity and integrity of the human person, and stress the equality of all human beings in the sight of God’.

243 an-Naʿīm 1990c:54

244 an-Naʿīm 1995d:199–200

245 an-Naʿīm 1988:16 note 33. The reference to the first two verses may be a reference to individual responsibility before God. The reference to 38:38, ‘And others linked together in chains’, however, is obscure and may be an error.

246 an-Naʿīm 1984:89 note 19

the eternal message. Likewise, *sūra* 4 as a whole is presented as belonging to the Medina period.²⁴⁸

The accommodation of Islamic law to women’s human rights in an-Naʿīm’s presentation thus boils down to one simple formula: legal equality without distinction between men and women is a basic demand of the eternal message of Islam, but contrary to historical versions of the *shariʿa*, ultimately based on time-bound Medinan injunctions in the sources. Presented in this way, Ṭāḥā’s suggestion for a reformation appears rational. In connection with what an-Naʿīm states on the importance of the *shariʿa* in influencing popular perceptions of gender roles, there is an implicit view that general reformation of Islamic law – and the application of a new version of it – can be a remedy also in this context. The reference to the gender of the *fuqahāʾ* is noteworthy since it suggests in a gender-essentialist manner that if women had had a say in the historical formulations of the *shariʿa* its character of inequality would have been less evident. This argument is, however, of less importance in the overall discussion, given the focus on the problem as one inherent in the sources, and not mainly one of how these sources have been interpreted in history. Its main function is to contribute to the general criticism of the divinity of the *shariʿa*.

Rationalisations of injunctions in the Qurʾān concerning women through reference to an original context of the revelation are commonplace in the contemporary Islamic discourse. While the purpose is often apologetic, there are also examples where – explicitly or implicitly – the relevance of the original rulings for the contemporary situation are questioned.²⁴⁹ An-Naʿīm’s stress on the historical justification for inequality safeguards the character of the Qurʾān as the word of God in its totality. It is also an attempt to justify change concerning its normative status in detail. An-Naʿīm’s references to a pre-Islamic situation, and ‘international’ comparisons, add to the positive image of the Qurʾān. When the explicit Qurʾānic text is relativised, it is done in relation to a superior source of norms, i.e. the modern society, that makes the Qurʾān’s rulings ‘untenable’.

The lack of elaboration on the content of the eternal Meccan message concerning gender equality is noteworthy. The Qurʾānic references made (with the exception of verse 38:38) stress a basic ‘spiritual’ equality and an equality of moral responsibility in relation to God. An-Naʿīm’s discussion on gender equal-

²⁴⁸ See an-Naʿīm 1990c:54, 146.
²⁴⁹ One example of this is Amina Wadad’s separation between ‘generals’ and ‘particulars’ in the Qurʾānic text inspired by the works of Fazlur Rahman. She also deems an-Naʿīm’s separation between Meccan and Medinan verses in this context too rigid (Wadud 1999:30). See also discussions on testimony in Sisters in Islam 1991a. For an example from South Africa, see Esack 1993. See also the distinction made by the Bohora Muslim reformist thinker Ali Asghar Engineer between ‘normative’ and ‘contextual’ aspects of the message, where the latter are time-bound (see Engineer 1992:1–20).
ity is mainly one of presenting a principle in contradiction to specific regulations, which the latter are untenable in a contemporary situation. The contemporary debate on women’s human rights and Islam outlined in Chapter 1 illustrates that acceptance of ‘spiritual’ equality does not necessarily entail acceptance of social or legal equality in line with international human rights documents. Many participants in the contemporary Islamic discourse thus do not accept an-Na‘im’s postulation of an evident contradiction between on the one hand ‘spiritual equality’ and on the other hand legal or social distinction.

The Qur’ānic references used by an-Na‘im to substantiate claims concerning the original Meccan message provides nothing in terms of affirmative action. They do, however, provide additional material for the appeal for legitimacy for Ṭāhā’s thought system, and for the call for application of the reversed naskh wa mansūkh. The non-mention of verses in the Qur’ān often cited as stressing equality can be also be noted in this context. While useful in support of a principle of equality, their position in the chronology of revelation makes them difficult to integrate in Ṭāhā’s system. Given the general character of the verses invoked in support of equality, it is also noteworthy that an-Na‘im claims to be unable to find any corresponding general Qur’ānic statement that abrogates the Medinan revelations concerning ḥudūd.

It can be noted that although an-Na‘im states that he is presenting the views of Ṭāhā on polygamy there are certain differences between the two. In an-Na‘im’s translation of Ṭāhā’s The Second Message of Islam there is both a presentation of verses 4:3 and 4:129 as being in contradiction to one another, and an acceptance of polygamy as religiously justified, albeit only under specific circumstances. Similarly, in the case of divorce, an-Na‘im does not mention Ṭāhā’s expressed view that the phenomenon of divorce is transitory. In the ideal society there will be no need for divorce, and it can be banned altogether, in line with an eternal message of Islam.²⁵⁰

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The close interconnectedness between an-Na‘im’s two roles, as a scholar in the field of human rights and as a religious activist promoting the thought system of Ṭāhā – as it is selectively presented by an-Na‘im – is most evident in his works up till, and including, Toward an Islamic Reformation. His role as a human rights activist provides him with a positive image internationally, as do his academic credentials. It is not always easy to distinguish when an-Na‘im is describing a contemporary or historical situation, and when he is prescribing what is ‘Islamic’. The fact of synchronic and diachronic diversity in religious interpretation, for example, becomes the basis for the religious legitimacy of ijtihād

²⁵⁰ See Taha 1987:140–143.
in the general sense of ‘re-interpretation’ by individual Muslims. Although women’s human rights form an important example of what is wrong with contemporary Muslim societies, there is little elaboration on what could constitute the positive content of the ‘second message of Islam’ in this context. The issue of the universality of human rights is not mainly an academic, but an activist one. Elaboration on the partial legitimacy of cultural relativism provides backing for the role of Islam as a ‘culture’ in promoting human rights, also those of women, in the contemporary world. The main argument used by an-Na‘im in favour of the specifically religious claims is that his interpretations of Islam now – as well as in the future – accommodate necessary social change.
Conclusions

The set of questions posed in the Introduction has to a large extent been dealt with in the commentary sections of Chapters 2–4. In this concluding part I recapitulate some of the main points made there within a comparative framework. I also add some further considerations of a more general character. Lastly, I return to the specific discussion on cultural globalisation and religious performance taken up in the Introduction.

Placing the Texts in Context

Chapter 1 revealed that the international debate on women’s human rights and Islam engages both Muslims and non-Muslims. This is also true for interpretations of Islam in line with women’s human rights. Suggestions put forward from an accommodation-position receive attention. Hassan, Mernissi and an-Na‘im are for many participants in this debate the Muslim ‘good guys’ when they suggest that women’s human rights can be reconciled with a ‘correct’ interpretation of Islam. All three are global actors, in more than one way. Although born into Muslim societies, they have pursued academic careers also outside their country of origin. They are ‘academic globetrotters’¹ – to borrow a term from Zygmunt Bauman – who travel around the world, take part in international academic discussions and present their versions of Islam to a potentially global audience. They are easily integrated into such discussions because they possess the necessary linguistic and theoretical skills, have reached high posts in an academic setting and know the rules of the game. In the case of Mernissi, the implicitly and explicitly displayed familiarity with important trends within contemporary intellectual debates further guarantees that her texts will be treated seriously by other intellectuals. These three exponents have access to channels that distribute their interpretations of Islam to wide and diverse audiences. While, in their texts, all three relate specifically to their countries of origin, i.e. Pakistan, Morocco and Sudan, the ‘Muslim world’ in general is also an important focal point.

That there is a market in the international debate for their interpretations has become evident from the discussion in Chapter 1. In this context it possible to distinguish two main potential uses of interpretations formulated within an accommodation-position in general.

On the one hand, such interpretations can be used negatively to counter Muslim rejections of women’s human rights on the basis of incompatibility with religious teachings, rejections that constitute a problem internationally. Wishes

¹ Bauman 1998:90
to respect cultural or religious difference and sensitivity to accusations of ‘cultural imperialism’ add to the problematic situation. The existence of alternative interpretations of Islam is an attractive way out of this deadlock. Versions of Islam opposed to women’s human rights can be criticised, without ‘Islam as such’ being criticised. The alternative interpretations become attractive, not because of their content, but because they challenge, through their very existence, ‘monolithic’ conceptions and presentations of Islam. They make it possible for actors in the international debate to simultaneously display respect for ‘Islam’ and criticise Muslim beliefs and religiously motivated social action. To what extent the world’s Muslims are likely to endorse these interpretations become a secondary issue here. In this negative use of alternative interpretations there is an implicit acceptance of the validity of the religious argument in relation to women’s human rights. Implicitly, the rejection of religion by means of religion states that Muslim rejections of women’s human rights on religious grounds would have been legitimate, had there been no alternative interpretations. In accepting alternative interpretations of Islam as valid, and in presenting them in an international debate, non-Muslim actors also contribute to the participation of these interpretations within the contemporary Islamic discourse. Muslims who oppose women’s human rights on religious grounds have to relate to such interpretations because of the attention they receive internationally. Excluding them from discourse through ignoring them becomes less of an alternative in a globalising world.

Apart from the potential negative use that can be made of interpretations put forward from an accommodation-position, there may also be potential positive uses. The content of the interpretations also has its consumers. In attempts among scholars or religious leaders to identify or construct a ‘global ethic’ or a ‘cross-cultural moral consensus’ on basic values supporting women’s human rights – and human rights in general – there is a need for ‘Islamic’ input. Interpretations of Islam that sift out an essence of values affirming human rights from the Islamic sources become attractive.

A perceived inherent close affinity between the religious belief of individuals, their moral evaluations and their social actions underlies views voiced in the international debate on a potential role for religion in promoting the global acceptance of women’s human rights. An instrumentalist approach to women’s human rights and Islam proposes that interpretations from an accommodation-position can be used to persuade believing Muslims of the religious legitimacy of gender equality without distinction.

Both the negative and the positive potential uses are important in relation to the texts studied in this dissertation. The major attractiveness of the exponents’ interpretations lies in the distinction they all make between a religious ‘essence’ – in line with women’s human rights – and expressed beliefs and observable
social action among Muslims. They become examples of the ‘many Isams’, and can be used to counter views on Islam as an essentially misogynistic religion, besides being used to counter Muslim rejections of women’s human rights. Has-san’s ‘fundamental human rights’, inherent in the Qurʾān, can be accepted as a Muslim contribution to a globally shared moral basis for international human rights schemes. The same goes for an-Naʿim’s presentations of basic ‘Islamic’ values. An audience sympathetic towards the notion of a global ethic is likely to be sensitive to Hassan’s accusations regarding bias, and this criticism paves the way for the acceptance of her ‘fundamental human rights’ as an ‘Islamic’ contribution to this discussion. The fact that the exponents’ texts have been published and spread in local activist settings is a token that not only the existence, but also the content of their interpretations are deemed useful also outside a strictly academic context.

The Sources and Their Interpretation

All three exponents display a ‘back to the sources’ attitude in their search for the ‘essence’ of Islam. They thus favour ḫaḍ, if this is understood broadly as ‘re-interpretation’. In this, they also reject the validity of previous interpretations, especially those of the ‘ulamāʾ of earlier times. An-Naʿim’s rejection, in some contexts, of ḫaḍ as inadequate relates to a narrower understanding of the term. Here ḫaḍ denotes formalised ‘interpretation’ according to the rules of traditional fiqh. His criticism of ḫaḍ in this sense has the important function of stressing the irrelevance of traditional fiqh in solving the contradiction between the content of traditional Islamic law and the demands of international law and human rights. Through this, the relevance of Ṭāhā’s allegedly unique and unprecedented methodology for constructing a reformed Islamic law is enhanced.

The Qurʾānic text – as God’s word – plays a central part when the ‘essence’ of Islam is outlined. All three exponents find in it a general eternal ‘spirit’ or ‘ethic’ that is positioned normatively above particulars in the text. They share this way of perceiving the Qurʾān with many other ‘liberal’ interpreters in the contemporary Islamic discourse. Their own interpretations are hence posed against ‘literal’ approaches, characterised by a piecemeal search for explicit rules of religiously appropriate everyday conduct. The stress on a ‘spirit’ or ‘ethic’ is an important way to handle both Qurʾānic verses whose commonplace interpretations are problematic in relation to women’s human rights, and to reject perceived misogynistic information in other sources. It is also an implicit statement on the continuing relevance of the Qurʾān in the face of changing social circumstances. While explicit rulings in the sources may be judged as out of touch with reality, the ‘spirit’ or ‘ethic’ contains ‘truths’ that are relevant for
both the present and the future. Gender equality is an important part of this ‘spirit’ or ‘ethic’. All three exponents present a connection between stated gender equality of believers before God and social equality in rights and duties as self-evident (citing verses in the Qurʾān such as 33:35 and 49:13). That this connection may not be that self-evident for all Muslims was noted in Chapter 1. In no case is there any explicit rejection of the Qurʾān as divine revelation. This is understandable since acceptance of the text as God’s word can be seen as a prerequisite for participation in the contemporary Islamic discourse. Important differences between the three writers should, however, be noted.

Riffat Hassan provides the clearest example of a perspective where the Qurʾān becomes in all its parts relevant and normative in the contemporary world. The extensive use of etymology and grammar in interpretation of the text, and extensive use of Qurʾānic terminology and references, serves to strengthen this view. The Qurʾān is made to confirm values cherished as self-evidently good and worth striving for in a contemporary debate on women’s human rights. At the same time, the Qurʾān, as God’s eternal word, cannot contradict what is generally perceived as good and worth striving for. When the understanding of particular verses are subjected to a Qurʾānic ‘spirit’ or ‘ethic’ in line with contemporary ideals, the latter in effect become the yardstick against which the relative ‘truth’ of different interpretations can be evaluated. The image of the Qurʾān as God’s word relevant for all time to come is threatened by a discrepancy between contemporary ideals and traditional interpretation of the text. It is also contemporary ideals on gender equality that help to identify verses in need of re-interpretation.

Hassan’s discovery of ‘fundamental human rights’ in the Qurʾān has many counterparts in the contemporary Islamic discourse. Evolutionary theory, nuclear physics, parliamentary democracy and environmental care, for example, have all been read into verses in the Qurʾān. While one of the functions of this may be to convince other Muslims of the religious legitimacy of these and other features of the modern world, another important function is to prove the divine character of the text. Muslim religious activists often state that in the Qurʾān we find ‘facts’, values and institutions that did not became generally acknowledged in the world until the modern age. A feature that is shared by all such claims is that they are a response to the challenge posed to religion by social change. If the Qurʾān is the eternal word of God, the ‘truth’, it cannot contradict what is perceived to be the ‘truth’ in contemporary society. Interpretations of the Scripture that confirm existing ‘truths’ in society may, however, become problematic when such ‘truths’ change as a result of social change.

The non-contradictory character of the Qurʾān is important in Hassan’s presentation of it as the word of God. Contradictions within the text, and between the text and ideals of gender equality are on the other hand accepted by both an-
Naʻim and Mernissi, and furthermore form the very basis for their interpretations (in Mernissi’s case mainly in *The Veil and the Male Elite*). The revelation’s original context partly detaches it from the will of God. As opposed to Hassan’s stated view, there is in the opinion of the other two exponents no hidden meaning behind the surface of problematic verses. Misogyny is an inherent feature of the Qurʾān, if judged by modern standards. This, however, does not necessarily mean that God is a misogynist. He was bound to adapt his message to the social circumstances in 7th century Arabia, a notion which is problematic to combine with that of an almighty God. It, however, becomes the basic premise for an-Naʻim’s and Mernissi’s partial rejection of the normative character of the Scripture. An-Naʻim utilises the notion of a reversed abrogation (*naskh wa mansūkh*) explicitly, and Mernissi does so implicitly. The problem they share with other ‘liberal’ interpreters of Islam who adopt this separation between temporal and eternal parts of the text, is how to establish a method for sifting out God’s ‘real’ intentions from His historically specific word. At first glance, an-Naʻim appears to provide such a method. When examined closer, Ṭāhā’s distinction between Meccan and Medinan verses becomes difficult to apply in practice. The characteristics of Medinan and Meccan verses put forward by Ṭāhā’s are less than convincing in relation to an audience that is familiar with, for example, historical scholarship on the Qurʾān. It appears as if this aspect of Ṭāhā’s system – basic for an-Naʻim’s overall argumentation – is not based on rational considerations, but maybe on divine inspiration providing exclusive insight into the correct understanding of the Qurʾān. This makes it difficult for an-Naʻim to justify his argumentrationally, especially in relation to an audience that does not accept the possibility – or the authoritative character – of such inspiration. The problem of providing the ‘second message of Islam’ with content is immediate for an-Naʻim, given his stated view that this message should be implemented as a reformed Islamic law. A suggestion for a democratic *ijmāʿ* within the framework of a nation-state becomes an important way out of this deadlock; a substitute for the differentiation between Meccan and Medinan verses.

Mernissi’s presentation in *The Veil and the Male Elite* likewise displays a lack of specificity concerning how to separate an Islamic ‘essence’ from historically contingent revelation. In line with her presentation, all verses that contradict gender equality without distinction can be perceived as results of – and normatively bound by – historical circumstances. This argumentation is circular, but nevertheless used in the contemporary Islamic discourse. There is an important difference between her relativisations of the Qurʾān and those of an-Naʻim. In an-Naʻim’s texts, the provisions in the Qurʾān were religiously *legitimate* at the time they were revealed (and also for some time to come). The status of the text as a whole as an expression of God’s will is safeguarded. Mernissi, on the
other hand, sows doubts even as to the legitimacy of the revelation in its original context. Her description of the conflict-ridden Medina lays it open to question whether the Qur’anic text really corresponded with God’s original intentions and wishes. In parts, revelation surely did not correspond with the visions of Muhammad, the exemplary Muslim for all times to come. Accepting the notion of a gendered conflict in Medina, where God’s and Muhammad’s preference for equality has to give way to political expedience, becomes useful in relation to other misogynistic traits in the Qur’ân and also in other sources. At the same time it is a rejection both of God’s omnipotence, Muhammad’s character as a strong political leader, the unity of the first umma and also of the text of the Qur’ân as eternally valid in all parts. Parts of the holy text become a reproduction of a mentality characteristic not of Islam but of the negative al-jâhiliya. 

While the three exponents do not question the authenticity of the Qur’ân as divine revelation, the opposite is true for their discussions on ahâdîth. The way this literature is handled points to the constraint put on argumentation by the contemporary Islamic discourse. There is a limited positive use of ahâdîth in all three cases. The sunna, however, is a too important concept to be side-stepped in silence. Disregard for ahâdîth has to be defended, and the problem of determining authenticity, also regarding the commonly accepted sahîh-collections, becomes useful. The focus on the issue of authenticity nevertheless constitutes an acceptance in principle of the normative status of ahâdîth. A hadîth becomes binding if it can be determined as authentic (or in an-Na’îm’s case as belonging to the Mecca period). While both Hassan and Mernissi stress the primacy of isnâd criticism – which serves to display awareness of the traditional form for the evaluation of ahâdîth – it is the matn that either disqualifies ahâdîth as inauthentic (Hassan), or singles them out for further criticism (Mernissi). In Hassan’s case the presentation of ahâdîth and methods for evaluating them makes it impossible in practice to use them to question her interpretations of ‘normative’ Islam.

The role of Islamic history in the contemporary Islamic discourse echoes in the texts of all three exponents. When Hassan cites ‘Â’ishah, Khadija and Râbi’â these women serve as tokens and not primarily as models for detailed emulation. Mentioning them is a form of ‘name-dropping’ in order to justify her own activities and those of other women in the field of religious interpretation. An-Na’îm in a few cases refers to individuals in early history to justify radical propositions in the context of interpretation, despite his insistence that the early period does not constitute a religious ideal. It is, however, only Mernissi who utilises the early history to any greater extent. The description of Medina and its inhabitants during the time of Muhammad in The Veil and the Male Elite fulfils different functions. As has been noted, it functions as a basis for the questioning of the normative value of parts of the Qur’ân. Problematic verses are merely
concessions to a Medinan ‘male elite’. The ‘male elite’ furthermore become anti-models for ‘correct’ Islam, influenced by a despicable jāhilīya-mentality. They have obvious counterparts in the contemporary world. The presentation also contains models for ideal Islamic conduct: Muhammad and the women of Medina. Mernissi’s postulation of a jāhilīya-mentality differentiates her use of pre-Islam from that of Hassan and an-Nafi‘im. For the latter two, the use is limited to al-jāhilīya as a historical period that, when contrasted with rulings in the Qurʾān, enhances the positive image of the latter.

As in her discussions on the Qurʾān, Mernissi’s discussions on ‘history’ and ‘memory’ are characterised by a high level of reflexivity. ‘History’ and ‘memory’ are always constructed in the present through a choice from available material, which forms the basis for historiography as a means both to persuade believing Muslims and to challenge dominant views on Arab or Islamic ‘authenticity’. An evaluation of The Veil and the Male Elite from a source-critical perspective, or a use of it as an academic work of history, appear less relevant in this light. The notion of history as ‘facts’ in opposition to an a-historical view on asāla is, however, also present in her work. This integrates her into a contemporary Arab intellectual discussion.

Mernissi’s presentation of historiography as psychoanalytic therapy, and the search for a ‘hidden history’ is less a matter of constructing normative religious models than a subversive activity directed against contemporary visions of the past that are presented as having problematic repercussions in the present. Historiography is a means to exercise feminist ‘counter-power’. Rewriting history here becomes a political and subversive act, an attempt to deconstruct an official and hegemonic ‘grand narrative’, taking the form of oppressive ideology. There is evidently a tendency of post-structuralist criticism of historiography here.

The use of a ‘sacred terminology’ is most evident in Riffat Hassan’s texts. Religious terms, especially with a Qurʾānic origin, become connected to ideals cherished in contemporary debate on human rights in general and women’s human rights in particular. In this, there is a transfer of emotive charge in both directions. Terms with a religiously positive emotive charge provide human rights and gender equality with religious legitimacy, important in persuading a believing Muslim audience. On the other hand, the ‘discovery’ of Qurʾānic concepts affirming both human rights in general and women’s human rights serves to enhance a general positive image of Islam and especially of the Qurʾān. The positive emotive charge of the expression ‘human rights’ in the international context is transferred to Islam and the Qurʾān.

An-Nafi‘im’s use of terms related to classical Islamic jurisprudence provides his controversial suggestions for legal reform with an aura of religious legitimacy. The invocation of the principle of naskh wa mansūkh is an example of how an-Nafi‘im (and Ṭāhā) while rejecting traditional fiqh is still bound by its
terminology. The choice of addressing the issue of a reformation of Islamic law in these terms is a bid for legitimacy in the face of traditional Islamic legal scholarship. Reversed *naskh wa mansūkh* becomes not ‘really’ an innovation, but only a rethinking of traditional *fiqh*. The ambiguity of the term *umma* in its secular and religious uses is also utilised. In an-Na’im’s suggestion to a new understanding of the term, the aspect of shared religious affiliation is lacking. At the same time the term *umma* is used to provide the nation-state with a touch of religious legitimacy, just as an-Na’im’s conceptualisation of *ijmāʿ* serves as a foundation for democratic popular choice.

Mernissi’s use of ‘sacred terminology’ has several aspects. Firstly, she utilises the positive emotive charge of, for example, the term *ṣaḥābiyāt*. There are not many Muslim religious activists taking part in the contemporary Islamic discourse who would question the existence of female Companions of Muhammad, or their role as normative examples for women today. This is what is utilised by Mernissi. As is the case with verse 33:35 the notion of men and women as equal before God is transferred to the notion of social gender equality through this conceptualisation. Secondly, Mernissi refers to religious terms with a negative emotive charge (for example *nushūz*, *bidaʿ*, *shirk*, *kayd*) to explain resistance among contemporary Arabs/Muslims to modern phenomena among which female self-determination is most important. Thirdly, however, there is also an attempt from her part at changing the negative charge of parts of the religious terminology. *Bidaʿ*, for example, becomes connected with the positive notion of individual choice. This serves to lessen its potential use for discrediting new social phenomena as religiously ‘illegitimate’. The emotive charge of the term becomes ambiguous. The most evident example of Mernissi’s attempt to appropriate – and re-evaluate – religious terminology is her use of the term *nushūz*. Women’s rebellion against patriarchy, against the separation of the public and the private spheres, and most basically against the misrepresentation of ‘true’ Islam, is provided with religious legitimacy in *The Veil and the Male Elite*. The association of *nushūz* with the exemplary women Umm Salama and ʿĀʾisha becomes instrumental in this respect. *Nushūz* is put forward as a religious ideal, and is deprived of its negative emotive charge through the presentation of verse 4:34 as a concession to the demands of the male elite, characterised by a *jāhiliya*-mentality.

**The Exponents’ Versions of Islam**

The ways in which the three exponents present the current situation in Muslim societies are well suited for the versions of Islam that they put forward. Basically, they all present Islam as a religious tradition with a social function in the
contemporary world. The details and the evaluation of that function vary however.

A basic common feature is that the contemporary world, with its perceived needs and ideals, both implicitly and explicitly serves as a yardstick in the evaluation of interpretations. Progressive social change, individual autonomy and freedom of choice, freedom from constraint, absence of hierarchies, gender-neutral equality and inclusion are parts of the ‘essential’ Islamic message. All interpretations of Islam that do not correspond to these parts of the message are rejected as ‘incorrect’. It should be noted that the differentiation between ‘correct’ and ‘incorrect’ interpretations of Islam is normative and not descriptive; its main function is persuasion. In Mernissi’s case the separation between ‘correct’ and ‘incorrect’ Islam is an aspect of the change in her work. Islam as a hindrance to healthy modernisation is an important theme in *Beyond the Veil*. This is qualified in later texts by stating the important role of *interpretation*.

In an-Naṣīm’s texts it is possible to trace a notion that the contemporary world also constitutes a *legitimate* source for religious knowledge. This can be connected to presentations of Tāhā’s views on God as the sole agent in historical change. The *hukm al-waqt* is of divine origin, and not geographically limited. God works through history and through human civilisation. The universal evolution of human civilisation becomes a primary and legitimate source for the evaluation of ‘correct’ Islam. ‘Correct’ Islam changes in relation to different historical periods. Other sources become secondary, and function mainly to support a *fait accompli*. International human rights are in themselves parts of God’s continuous revelation.

All three exponents are in agreement that there is something fundamentally wrong with the contemporary world. Interpretations of the religious sources are mainly justified by their anticipated positive consequences. Altruism is explicitly mentioned.

Islamism forms an important reference point for all three. In thought and action Islamists display versions of Islam that are conservative or even reactionary. The negative assessments of Islamism – mainly in terms of its consequences – serve to position the exponents’ own versions of Islam as belonging to the internationally much appreciated ‘liberal’ trend in the contemporary Islamic discourse. This is especially important for Hassan and an-Naṣīm. An-Naṣīm’s call for the implementation of Islamic law has counterparts in contemporary Islamist demands. Hassan’s postulation of a divine order to which the social reality should correspond is similar to Islamist presentations of Islam as a ‘comprehensive system’ to be implemented in society. For all three exponents the rejection of Islamism is also necessary in order to counter criticism from secularist Muslims who are sceptical or hostile to the accommodation-position in the context of human rights. Hassan’s and an-Naṣīm’s attempts to appropriate the term ‘Fun-
damentalism’ and make it denote faithfulness to the sources in general, serves to lessen its pejorative potential, and disarm its use against themselves and their interpretations of Islam.

The texts by the three exponents display elements that can be related to the consequences of cultural globalisation discussed in the Introduction. Riffat Hassan’s texts can in one respect be perceived as a possible ‘fundamentalist’ response in this context. A particularist interpretation of Islam becomes the only universally valid ‘truth’, both in relation to alternative interpretations of Islam and in relation mainly to Christianity and Judaism. This image of ‘fundamentalism’ is qualified by her involvement in inter-faith dialogue, which would then rather be in line with a ‘ecumenist’ response.

Exclusiveness in the results of interpretation is less clearly expressed in an-Na‘im’s texts, although it is sometimes implied in the presentations of Tāhā’s suggestions for religious reform. The ‘ecumenist’ response is in his case clear in the notion of shared values in different religious (cultural) traditions, and the possibility of establishing global consensus. The statements on ‘internal discourse’ as primary in the search for consensus limit this ‘ecumenism’ to a certain extent. Although there might be ‘truly’ universal values, these must be found or constructed within each ‘culture’ first, and only in a later phase be included in a common, universal moral system.

An-Na‘im’s statements on the impossibility of determining the absolute validity of different interpretations of Islam point to the importance of relativisation. However, it seemingly contradicts his statements on an Islamic ‘essence’ in line with human rights, the references in support of statements on ‘correct’ Islam in general and the basic separation between Meccan and Medinan revelations. Relativisation is noticeable also in Mernissi’s texts, mainly in the change in social analysis from ‘structures’ to ‘actors’ between Beyond the Veil and The Veil and the Male Elite. The notion of one, inherently ‘Islamic’ social structure, ideologically justified by religion, as impeding change is substituted for the notion of the ‘many Islams’, utilised by actors with different interests in mind. This is an important shift, because it makes possible the use of offensive rhetoric – with accusations of vested interests – against actual and potential opponents of women’s human rights. Accusations of vested interests serve to discredit demands for unequal treatment of men and women. Claims to religious motives are made suspicious by recourse to a Marxist interpretation of ideology as a mystification of economic interests.

Reflexivity is articulated in all three cases. Islam is not a self-evident ‘truth’. Religious belief and action is a matter of choice, not only between different religious traditions, but also between multiple alternatives within these traditions, between different ‘Islams’. Islam is further objectified, a ‘thing’ that can be discussed both in terms of content and in terms of actual and ideal function in soci-
ety. This is another aspect of reflexivity that is evident in all three cases. Muslims’ choices of which Islam to adopt are important in relation to social change. To influence this choice is one of the main aims articulated in the texts.

All three exponents display an instrumentalist approach to the issue of women’s human rights and Islam. They put forward the positive use that can be made of their interpretations in this context. The instrumentalist approach is related to their presentations of the actual role of religion in Muslim societies. The ‘fact’ of religious influence on beliefs, values and conduct among Muslims becomes a stated motive behind interpretation of the sources in order to accommodate women’s human rights. In the descriptions of contemporary Muslim societies, there are, however, also implicit and explicit statements on the ideal role of religion. Subtle, but important differences should be noted in this context. In both Hassan’s and an-Na‘im’s texts the influence of religion on the social actions of Muslims is presented as ‘natural’, necessary and even desirable. Religion has, and will continue to have, a positive role to play in Muslim societies. It is not least a means for social integration, through functioning as ‘social cement’. An-Na‘im’s identification of religion with ‘culture’ in a general sense promotes this image. It is, given his presentation, difficult to conceive of any society that lacks a ‘culture’ shared vertically by all members. In the postulation of Islam as a culture – or at least as a central part of culture – the ‘natural’ role of religion becomes more than an issue of individual belief, experience or ritual. The instrumentalist, goal-oriented notion of the role of Islam as a ‘culture’ in the discussion on ‘cultural legitimacy’ for human rights provides an additional positive and necessary public role for religion in relation to an audience committed to the implementation of women’s human rights on a factual level.

Similarly, Islam provides society with necessary telos in Hassan’s texts. She postulates a divine plan that, if implemented, leads to aspired social harmony. Religious ‘truths’ have an important and non-receding role in structuring the relationship between human beings in accordance with this plan. Placing ‘fundamental human rights’ in the context of a divine plan, in accordance with a ‘natural law’ and reason, is both an attempt at justifying the notion of ‘human rights’, and a claim for the relevance of the notion of a divine law.

To implement God’s will in society becomes in both an-Na‘im’s and Hassan’s texts a matter of a religious duty, connected to Qur’ānic decrees. The term khalīfa is here central in Hassan’s case. This corresponds with the centrality the term has in the contemporary Islamic discourse. Connecting a necessary public influence of Islam to the Qur’ān serves as a means to persuade a believing Muslim audience. The public influence of religion becomes not only a fact but also a religious norm. An-Na‘im’s and Hassan’s references to the Qur’ān in this context also serve to establish a distance between themselves as individuals and the ideal social role for religion they put forward.
In Mernissi’s texts the ‘fact’ of public influence of religion is a problem. The view of religion as ‘social cement’ is here presented as an ideological construct that both masks underlying, non-religious conflicts of interest and contributes to the perpetuation of unequal power relations, not least between men and women. This evaluation forms one of the important aspects of continuity in her work. It stands in stark contrast especially to Riffat Hassan’s presentation of the ideal *umma*. One of the results emerging from the present study is that Mernissi’s presentation of Medina, the often-presented archetype for the ‘Islamic’ society, becomes subversive in *The Veil and the Male Elite*. Dissension and conflict are posed against an image of social harmony and stability based on role fulfilment. The presentation of *rebellion* among female normative models, the construction of anti-models characterised by a *jāhilīya*-mentality and the criticism of Muhammad’s Companions in the context of *ahādīth* all contribute to undermining the religious ideal of social cohesion. The theme of dissension in Medina explains why an original intent of Islam was not realised, but it also undermines the notion of the Medina state as a political and social ideal. Ideal Islam reached a high point, but was never fully realised, in the early years. The goal cannot therefore be return. While there are moral ideals and exemplary models for individual emulation to be found in early Islamic history, the Medina society as a whole definitely does not provide a blueprint for a social ideal today. The lack of identification in detail between an Islamic ideal realised in a historical situation and an aspired contemporary situation characterised by secularism, democracy and respect for human rights marginalises a possible role for religion in modern society. The religious sources do not constitute a possible source for positive legislation. The ideal social role that Mernissi gives religion is instead characterised by privatisation. A basic secularist view is another aspect of continuity in Mernissi’s work from 1975 up till 1996.

It should be noted, however, that an-Na‘im’s suggestions for a reformed Islamic law are not all that different from Mernissi’s secularist call for separation of ‘church’ and ‘state’. His interpretations are mainly to provide legitimacy for a ‘religious’ legal system, the content of which is to be determined by popular and democratic choice, with due respect shown to a constitution in line with international human rights. He also acknowledges this when proposing that his interpretations can be used to legitimise an ‘open secularism’. One part an-Na‘im conceptualisation of a reformed Islamic law concerns a transformation of its boundaries in relation to traditional Islamic law, from religious affiliation to territory. This makes Islamic law equal to secular legal systems.

The strategic concern voiced by all three exponents in relation to women’s human rights serves to legitimise their activities with reference to possible positive consequences. The *necessity* of including religion in activism is in Hassan’s and an-Na‘im’s cases given additional credibility by their postulating a close
affinity between religious belief, values and social action. On one level, interpretations of Islam are presented as having an instrumental value in promoting of women’s human rights. On another level the problem of women’s human rights in contemporary Muslim societies functions instrumentally to point at the need for the continuing influence of religion also outside the realm of private belief. This is important, not least in relation to an audience that is sceptical to the necessity of including religion in human rights activism. The expressed wishes to establish ‘real’ universality for human rights serves to justify religious interpretation in relation to an audience that views such universality as a goal worth striving for. The end here justifies the means. An-Na‘īm’s and Hassan’s acceptance in principle of normative cultural relativist criticism of human rights serves further to enhance the credibility of their suggestions.

The issue of women’s human rights and Islam is, in the three exponents’ texts, primarily a matter of women’s freedom from discrimination, domestic violence and subordination to men. The interpretations provided are to be perceived mainly as alternatives to understandings of Islam that legitimise legal, political and social discrimination. It is only in Riffat Hassan’s texts that Islam is provided with a role in relation to positive gender-specific rights to. This is displayed, for example, in the conceptualisation of the term *iḥsān*. When filling the term with content Hassan connects the notions of ‘affirmative action’ and ‘positive’ rights in a contemporary human rights discussion closely with Islam and the Qur’an. A similar connection is made in the discussions on birth control, and in the interpretation of verse 4:34 as providing rights to paid maternity leave. In these cases the use of the Qur’an and its terminology functions both to justify women’s human rights religiously, and to provide an impression of Islam as a religious tradition in touch with the issues of the day. The term *iḥsān* is made to incorporate gender-specific rights into a religious framework. A positive image of Islam as relevant in a contemporary discussion on women’s human rights is also created in relation especially to a non-Muslim audience.

Hassan’s presentation of the ‘Qur’anic’ view on women’s rights, however, poses problems. Her general statement on compatibility with international human rights is partly qualified in application. She accepts certain aspects of gender discrimination with a basis in the Qur’an, and apologetically defends them. Hence the general impression she gives is that the Islamic eternal ‘essence’ provides for a (limited) distinction between men and women in terms of duties and rights, and a continuing application of certain aspects of religious family law. While some of the injunctions in the Qur’an are thus to be accepted as they stand, others need to be interpreted. She does not state clear principles for selection in this context.

In Mernissi’s *The Veil and the Male Elite* and in An-Na‘īm’s texts the task of handling problematic verses becomes easier. The ‘literal’ reading of these verses
(not least verse 4:34) does not have to be questioned, but instead their normative value can be rejected. To forbid what God has once allowed, an otherwise thorny issue in Muslim reformist thought, becomes possible, and even imperative, in an-Na‘im’s reformed Islamic law. The demand in the Women’s Convention for affirmative state action to end discrimination can be accepted on religious grounds. An-Na‘im presents civilisational evolution in a positivist manner. The process is irreversible, and there is no discussion on a possible future development whereby changes in society will again justify gender discrimination. Neither is there any consideration concerning legitimacy of discrimination being relative to different social contexts at the same moment in history. Given the historical justification provided by an-Na‘im for the principle of qawwāma it could be assumed that in social contexts where women are dependent on men, legal discrimination is justified. An-Na‘im’s perspective is, however, solely diachronic. It is in this case historical change, and not contemporary diversity, that relativises God’s message to humankind. At the same time, An-Na‘im’s statements that discriminatory features both in the Qurʾān, the sunna and subsequent legal elaboration can be justified in relation to their original social context opens the way for criticism. Does he mean that certain social circumstances also justify, for example, domestic violence or female genital mutilation? Probably not, but such a question is a logical conclusion that can be drawn from his presentation.

As was noted in Chapter 1, conceptualisation of the sharī‘a as a ‘corpus’ in the debate on women’s human rights and Islam makes it possible to question claims to its divine nature on the basis of historical and contemporary diversity. To question the divine nature of the sharī‘a is an explicit goal in an-Na‘im’s texts and it is evident also in the case of Riffat Hassan, despite her concession to an ‘essential’ meaning that can be reached through the etymology of the term. An-Na‘im’s expressed wish to separate the sharī‘a from Islam – and the stress on the historical contingency – utilises the notion of the sharī‘a as a ‘corpus’ to play down the controversial aspects of his suggestions. Given the basic connection stated between parts of the sharī‘a and the religious sources, the wish for separation also concerns separating ‘Islam’ from the Qurʾān and the sunna. The lack of discussion on the sharī‘a and topics directly associated with family law in Mernissi’s The Veil and the Male Elite is attributable both to its character as a rewriting of ‘memory’, and the expressed views on the ideal function of religion in society. The text undermines the notion of a politically and legally ideal society in Medina, as a model to be implemented in contemporary society. A detailed discussion on personal status laws would implicitly amount to an acceptance of the function of religion as law, which is not in line with her expressed preferences.
All three exponents address the issue of gender stereotypes in their texts. The alternatives suggested for expressed commonplace Muslim understandings of femininity display noteworthy differences. In an-Na‘īm’s texts, distinctions between men and women are a matter of biology and anatomy. These differences should be irrelevant for the construction of legal norms within a reformed Islamic law. Gender norms in the religious sources, and in subsequent legal elaboration, here become relative to a past social and historical context. Hence, the sources are deprived of any function in determining eternal gender roles. In Hassan’s presentations there are on the one hand general statements on the Qurʾān as distinguishing between biological ‘sex’ and socially constructed ‘gender’. This may function to justify that distinction in relation to a believing Muslim audience, but it may also function as an apology for the Qurʾān in relation to certain strands of North American feminist thought where this division has been central.2 On the other hand, the more specific discussions establish a close relationship between ‘sex’ and ‘gender’.

The clearest example is provided by the discussions on verse 4:34, and on sexuality. The ‘fact’ of biological and anatomical differences is connected to the divine plan; differences have a specific purpose. The divine plan also determines social roles and responsibilities. It contains a blueprint for social institutions – such as the heterosexual, monogamous marriage – that hence are eternal and independent on human volition. ‘Justice’, in terms of stability, harmony and ‘balance’, will be the outcome of a social arrangement that corresponds with the divine blueprint. These are basic presuppositions that are commonplace within the contemporary Islamic discourse. Hassan’s biological determinism (admittedly mild) functions as a means to rationalise, apologise for and lessen the impact of gender differentiation in the Qurʾān. Biology and revelation are made to correspond with one another, which enhances the status of the latter as a ‘correct’ representation of reality. What is presented as ‘good’ and ‘normal’ by the Qurʾān is confirmed by ‘nature’. Just like ‘nature’, the basic arrangement of men’s and women’s duties expressed in the Qurʾān cannot be changed. Here Hassan’s presentation becomes problematic. It is an easy target for criticism of ‘sex role stereotyping’.

There is an important basic differentiation to be made in connection with Mernissi’s texts. On the one hand there are texts in which she describes and analyses the role of the religious sources in influencing historical and contemporary Muslim views on gender roles. On the other hand there are texts in which she uses the religious sources to put forward an ideal ‘Islamic’ femininity. Here the notion of a disobedient, rebellious and socially destructive feminine nature constitutes an aspect of continuity. The existence of such a notion among Mus-

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2 For the importance of the distinction in feminist thought, see Moi 1999:3–10, 21–30.
lims serves to explain religiously legitimised legal and social institutions in some texts. Muslim conceptions of femininity are, however, also transformed into ‘Islamic’ ideals for femininity, especially in The Veil and the Male Elite. The way in which this is done is enlightening. Inherently normative model-women in history, Ā‘īsha, Umm Salama and Sukayna are made to embody these ideals. Through a selection from and an arrangement of available historical material, Mernissi constructs a version of ideal ‘Islamic’ femininity. This construction does not necessarily rest on the discovery of new historical ‘facts’. It can also rest on a change in the evaluation of existing ‘facts’. The example of Ā‘īsha shows this with clarity. She is often used as a negative example of the consequences of women’s participation in warfare, politics and public life in general. Mernissi (and others with her), however, use her example to state the religious legitimacy of such participation. While the historical ‘fact’ of participation is the same, the evaluation differs.

The expressed negative view of religious rulings on, for example, marital obedience, veiling, violence against women and spatial segregation, and on restrictions on women’s sexual self-determination runs through Mernissi’s work. In The Veil and the Male Elite they do not – as in Beyond the Veil – become ‘Islamic’ attempts to restrict women, but remnants of al-jāhilīya forced upon God and the Qur’ān by social and historical circumstances. Resistance against them hence becomes ‘Islamic’ by definition. When Mernissi constructs an ‘Islamic’ ideal femininity in The Veil and the Male Elite, she can be said to utilise the ‘kernel of the Muslim message’ she identified already in Beyond the Veil. The positioning of ‘essential’ gender equality against social institutions, not utilised in Beyond the Veil, comes to the forefront in The Veil and the Male Elite. A reversal is, however, noticeable in Islam and Democracy. Al-jāhilīya again becomes a period of female self-determination that is forgotten or hidden away, a fact that explains anxieties in relation to women’s liberation in contemporary Arab/Muslim countries.

Biology and anatomy are disregarded in Mernissi’s construction of ideal ‘Islamic’ femininity. Gender becomes a matter of what women, and men, do and not of what they essentially are. The ideal Muslim women presented through normative historical examples gain their femininity not by conforming to the demands of the patriarchal society, but by their rebellious activities in relation to that society. Barbara Stowasser makes a distinction between Muhammad’s wives in Muslim religious literature as models for, and models of femininity. On the one hand they are perceived as normative examples for Muslim women to emulate for all times to come, on the other hand they also embody eternal and essential feminine (mainly negative) characteristics such as a ‘natural’ inclina-
tion towards conspiracy and jealousy. In Mernissi’s presentation of models both aspects are present. One the one hand Umm Salama, Ā‘isha and Sukayna are exemplary models for emulation in their resistance to patriarchal power. On the other hand they embody a feminine characteristic of rebelliousness, albeit here positively evaluated. It is the performance of model women in history that determines their gender, not their biology. If anything, it is rebellion, disobedience and subversion in relation to prevailing gender norms that is an eternal characteristic of femininity.

Authority and Legitimacy of Interpretation

The issue of the legitimacy of the exponents’ interpretations is closely tied to the issue of their authority as interpreters. In an-Na‘īm’s case there is the additional issue of the authority of Țâhâ, and the religious legitimacy of his suggestions for reform. When discussing the techniques the exponents use in their texts to handle these issues, it is important to heed the fact that the texts have several potential audiences and that these audiences have different concerns.

Those who perceive reconciliation between women’s human rights and Islam to be both possible and desirable are not the main targets for techniques to enhance legitimacy and authority. The exponents’ texts here confirm the hopes, wishes and needs of the audience. There is already from the start a willingness to accept the interpretations put forward. For believing Muslims who endorse equality without distinction, but are challenged in their religious faith by widespread perceptions of an inherent conflict with God’s will, the exponents’ interpretations become important on the level of personal belief. They show that God is in tune with reality, and that his eternal and sacred word, the Qur’ān, is still worthy of belief and reverence. Mernissi’s and an-Na‘īm’s interpretations may in this context be less attractive than Riffat Hassan’s. The latter both safeguards the integrity of the Scripture and confirms its superiority over Christian and Jewish religious scriptures, for example in the context of creation. This serves to enhance religious self-esteem, not least among Muslims living in Europe and in the US.

Both the negative and the positive potential uses noted above are important for a non-Muslim audience disturbed by Muslim opposition to women’s human rights on claimed religious grounds. The issue of the religious legitimacy for the exponents’ interpretations of Islam becomes secondary to the use that can possibly be made of them. Neither is legitimacy necessarily an issue for audience who hold a basic positive view of ‘religion’ in general as something inherently good and worth defending. Such a view is also challenged by ‘misogynistic’ in-

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interpretations of Islam. The exponents’ interpretations, excluding some of Mernissi’s work, contribute to a positive image of ‘Islam’ – as opposed to empirically observable Muslim ‘culture’ – and hence of ‘religion’ in general.

Also in relation to these positively inclined audiences, however, there are aspects in the exponents’ interpretations that are potentially problematic. Hassan’s interpretations may at times appear strained, far-fetched and generally unconvincing in the face of a ‘literal’ reading of the Qur’ānic text. More importantly, however, her basic acceptance of a distinction in rights and duties, and her gender essentialism are problematic features in relation to an audience that favours feminist ‘constructivism’. An-Na’īm’s acceptance in principle of hudūd as religiously legitimate even today, can become a disturbing fact for an audience concerned with human rights violations in Muslim societies. At the same time, however, his discussions on hudūd may also provide an image of methodological sincerity. It apparently distinguishes his suggestions as not just another arbitrary selection from the sources in support of an already pre-determined ideal. The change in Mernissi’s work is a potentially problematic feature. Her sincerity may be questioned.

The main problems of authority and legitimacy, however, occur in relation to audiences that are indifferent, sceptical or even hostile to the activities of the exponents. To convince sceptical or indifferent believing Muslim women and men of the compatibility between God’s will and women’s human rights is an explicit goal in the texts themselves. In order to succeed, the exponents have to make their interpretations appear as representations of ‘true’ Islam, and at the same time counter possible undermining criticism.

One way to make interpretations appear valid is of course to make them appear as if they are not interpretations at all, but only representations of the will of God, clearly expressed in the sources. In a quotation in Chapter 2 Riffat Hassan self-reflexively stated that the reason for her focus on the Qur’ān is a lack of religious authority, given her gender and personal history. This shows the link between the issue of Hassan’s authority as an interpreter, and her statements on the sources. Through concentrating on the Qur’ān, and providing extensive references and quotations, she becomes merely as vessel for transmitting a ‘correct’ understanding of Islam that is there in the Qur’ān, available to everyone. There are several examples in the exponents’ texts of ‘Islam’ and the Qur’ān being put forward as actors in themselves, actors that make statements and demand action from Muslims. In such presentations of what ‘Islam says’ or the ‘Qur’ān demands’ the interpretations put forward by the exponents are detached from their own persons. Qur’ānic quotations or references, references to historical ‘facts’ or useful aḥādīth, use of Islamic terminology and presentations of controversial assertions as self-evident utilise this strategy of a transfer of agency from the author to the phenomenon. The way equality of believers before God is pre-
presented as self-evidently implying ideal social gender equality, noted above, is just one example of where the role of the interpreter is passed over in silence.

It is also important for the exponents to play down their own motives, for example through clearly expressing altruism. All three implicitly utilise the notion of *maṣlaḥa* when they refer to problems in contemporary Muslim societies, and the need for religious reform. The interpretations they provide are religiously legitimate because the basic intent behind them – apart from unearthing ‘true’ Islam – is to further a healthy social development, both for men and women.

One basic strategy used as a defence against offensive rhetoric with accusations of vested interests is the presentation of the instigating spark for activities of interpretation as being located outside the exponents’ own volition. Mernissi’s *hadīth*-criticism is motivated by personal distrust of misogynistic *aḥādīth* encountered when she was going about her daily business. God himself, aided by Pakistani activists, become the driving force behind Hassan’s activism. Through the presentation of important external facts that led her into activism, the aspect of personal choice, and thus of underlying motives, is played down.

Mystical calling becomes important in an-Naṣīr’s presentation of Ṭāhā. An-Naṣīr’s role as a disciple of Ṭāhā, and as involved in the activities of the Republicans can also be used in undermining criticism of personal vested interests in promoting the teacher’s version of Islam. In the texts, the display of distance both to Ṭāhā’s specific suggestion for reform and to the Republicans serves to counter such criticism. An-Naṣīr’s presentations of the thought-system of Ṭāhā as merely one possible solution to the current problematic situation, and his declared openness to other suggestions, are important in this connection. His playing down of his own personal history in relation to Ṭāhā and the Republicans is an example of creating distance as a defensive rhetoric.

There are certain ‘facts’ about the exponents that can be used to undermine their authority as interpreters, and as a consequence the legitimacy of their interpretations. Their education, academic careers and current academic positions can be used by Muslim opponents in accusations of ‘Westernisation’; of the exponents as being cultural traitors. Their personal religious sincerity can also be challenged. All three also present their social position as a problem. This problem may be more pressing for an-Naṣīr and Hassan who both reside and work in the US. It should be noted, however, that success within a secular academic setting is not necessarily discrediting. It may also enhance the image of the exponents, especially among those believing Muslims who aspire to similar careers. Nevertheless, it is important to counter potential criticism that utilises these ‘facts’. Here the need to express Muslim identity and personal piety is understandable. In an-Naṣīr’s case it is also important to stress Ṭāhā’s religious sincerity and piety, as well as the inherently ‘non-Western’ character of the latter’s suggestions for reform. Hassan’s auto-biographical account of personal re-
igious experience in childhood, and the stated view of herself as an instrument for the implementation God’s will are important forms of defensive rhetoric against accusations of opportunism when suggesting instrumentalist use of interpretations of Islam in relation to women’s human rights. Though she is a citizen of the US and a university professor, her activism has its basis in sincere religious conviction. The conceptualisation and use of the term *jihād*, the explicit rejection of ‘secularist’ activism and criticism of ‘the West’ gives her activism an ‘indigenous’, ‘non-Western’ and ‘Islamic’ flavour. Through criticising an essentialised ‘West’ Hassan protects herself from accusations of being ‘Westernised’. The identification of her own position as ‘non-Western’ is also important in the context of, for example, religious dialogue and discussions on a global ethic and the universality of human rights. Her role here is precisely to represent the ‘non-Western’ perspective. If at the same time she presents this perspective in a way that corresponds at large with the ideological preferences of the audience in these contexts, the gain is even greater.

The self-image constructed by Mernissi is used against potential undermining criticism based on class difference. The use of inclusive pronouns positions her as an Arab and Muslim woman who herself is a part of, or has experienced, the aspects of the contemporary Arab/Muslim society that she criticises. In this situation, part of the criticism levelled against contemporary Arab/Muslim societies becomes mild self-criticism, which is rhetorically useful and enhances the image of its ‘internal’ character as opposed to criticism from outside.

Hassan and Mernissi both have to handle the problem of the pejorative use of term ‘feminism’ in the contemporary Islamic discourse. Both are described internationally as feminists, and have to counter the undermining potential this may have on their interpretations and their activism. For Hassan, the solution is to present ‘feminist theology’ as just another search for the ‘true’ Islam. To be a ‘feminist’ when interpreting the sources is only to discover gender equality already inherent in them. ‘Feminist theology’ is no different from ‘good theology’ in general. Its object is to serve both men and women, and above all to serve God in presenting Muslims with his ‘real’ intentions.

Mernissi, on the other hand, utilises mainly two techniques in her attempts to make ‘feminism’ indigenous in contemporary Arab/Muslim societies. On the one hand the conceptualisation of *nisā’ism* serves to give legitimacy to an expressed universal phenomenon of women’s demand for equality and resistance to patriarchy. On the other hand, Arab and Islamic history provide *models* of ‘feminists’ to be used to counter accusations of ‘importation’. To justify contemporary feminist activism as ‘authentic’ is presented as important in connection with the proposed *nisā’ist* strategy. The ‘feminists’ Sukayna, Ā’isha and Umm Salama provide cultural authenticity to women’s activism in their opposition to male social dominance and to the separation of the public and the private
spheres. The ‘women’s movement’ in Medina provides religious legitimacy for its contemporary counterparts. The presentation of Umm Salama may also have another interesting function. She becomes a personal, religiously normative example for the individual feminist activist. The note on her status as an ‘aristocrat’ acting on behalf of a female collective provides an analogy to a contemporary educated élite acting on behalf of women at large who neither have the means, nor the courage, to face opposition. As such, Umm Salama is a 7th century equivalent of Fatima Mernissi, which then serves to religiously justify the latter’s own activity.

The social class-difference between the exponents and the Muslim women whose human rights they demand is a potentially undermining factor also in non-Muslim context. Their representative role can be challenged. The narratives of personal experience become important here also. Hassan and Mernissi both refer to their experiences as Muslim women, which is a form of category entitlement. This is not a strategy that is open for an-Na‘im, due to the inconvenient fact that he is male. Hence, there is the additional necessity from his side to stress the possibility for gender-transcending solidarity in activism. The presented views that educated, culturally sensitive Muslim intellectuals can serve as an ‘inside’ vanguard serve to legitimise the exponents’ own roles and to display awareness of the basic problem of representativity.

None of the exponents can lay claims to religious authority on the basis of traditional religious education. Also in this context they utilise certain techniques to counter potential criticism. All three state as self-evident the possibility and the legitimacy for any believing individual to interpret the sources, and especially the Qur‘ān. An individualistic, gender-inclusive right to interpretation is presented as a self-evident ‘fact’. The change in Mernissi’s texts here displays with clarity this method of presenting controversial issues as self-evident ‘facts’.

That every individual Muslim’s right to interpret the sources is not that self-evident is, however, shown by some of the defensive strategies used. The conceptualisation of *ijtihād* as ‘individual reasoning’ appears in both Hassan’s and an-Na‘im’s texts. Both pose – implicitly and explicitly – the notion of direct relation, without any intermediary between the individual and God against adherence to the interpretations by religious authorities, present and past. When an-Na‘im refers to the availability of the sources as a reason why traditional prerequisites for interpretation can be disregarded, this constitutes deriving a controversial norm from a commonly known ‘fact’. It becomes useful in enhancing the legitimacy of his role as an interpreter, but is still possible to dispute. The notion of God’s true essence as unreachable is used by an-Na‘im to disqualify all absolute statements on the divine will, but also to make all such statements, including his own, equally legitimate.
The focus on the Qur'ān as the prime – if not the only – source of ‘correct’ Islam, and the stress on a ‘spirit’ or ‘ethic’ instead of a ‘piecemeal approach’ is a further example of how the exponents handle their lack of traditional religious learning. Traditional authority in interpretation rests to a large extent on knowledge of the *sunna*, and of commentaries and interpretations made by religious scholars earlier in history. The Qur'ān is after all limited in its content. The disregard for *aḥādīth* in general as a source for information on ‘correct’ Islam becomes a means to circumvent the lack of formal religious education. Mernissi’s criticism of *aḥādīth* in *The Veil and the Male Elite* may on the other hand also provide an image of methodological sincerity and careful examination of the sources, important in relation to the use of Muslim secondary sources in the rest of the book. That this strategy has been successful can be illustrated by the following statement from a Swedish Islamic studies scholar, after having described Mernissi’s discussion on *aḥādīth*: ‘It should be added that Fatima Mernissi with great emphasis shows her respect for the texts and their normative character. No one can accuse her of not knowing them or lack in her respect for them [my translation].’

The notion of direct contact with God, and a direct transfer of absolute knowledge due to this contact can strengthen the authority of both Riffat Hassan’s interpretations, and Ṭāhā’s suggestions for reform as these are presented by an-Na‘īm. This, however, depends on the audience viewing such communication as possible. Neither Hassan nor an-Na‘īm, in his presentation of Ṭāhā, stress divine inspiration as a source for information on correct Islam; they only hint at it.

**Religious Performance and the Accommodation-Position**

Two consequences of cultural globalisation mentioned in the Introduction, i.e. relativisation and reflexivity, have already been discussed. In conclusion, I want to return to the views of Peter Beyer and Robert Schreiter on religious performance. As was noted in the Introduction, Schreiter has identified the phenomena of both ‘theologies of human rights’ (including the search for a global ethic) and ‘feminist theologies’ as examples of liberal religious performance. The basic view put forward is that globalisation furthers the modern values of inclusion and equality for all among individuals around the world. At the same time the failure of the global system to live up to these values creates dissatisfaction and opens the way for religious performance as a perceived solution. For Beyer, religious performance – of both a liberal and a conservative kind – is a way for religious leaders and institutions to claim the necessity for public influence of

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4 Hedin 1996:55
religion. This claim stands in opposition to a process of privatisation, a process also furthered by globalisation.

In this light, it is possible to ask if Hassan’s, Mernissi’s and an-Na‘im’s texts can be viewed as examples of liberal religious performance. In a sense, they are all parts of the two global theological ‘flows’ identified by Schreiter. An-Na‘im and Hassan both take part in international, inter-faith or inter-cultural ‘dialogue’, on the issues of gender equality and human rights. Their texts are also published in such settings. They here take on – and are also given by their audience – the role of representatives of ‘liberal Islam’. As a consequence of this, they become religious leaders, albeit other Muslims may very well question this role. Both state the necessity for a new interpretation of the religious sources in order to further women’s human rights, and to establish ‘real’ or ‘genuine’ universality, as opposed to universality stated without empirical foundation. The role ascribed to religion is a dual one. On the one hand religion can provide a stable moral foundation for women’s human rights, and on the other hand it can serve as an instrument in convincing believing Muslims of the religious legitimacy of these rights. This corresponds with the role ascribed to religious traditions in searches for a ‘global ethic’, and may hence be viewed as one form of liberal religious performance.

Beyer has identified the demand that public influence of religion should be secured by means of law as a characteristic of conservative religious performance. Such a demand is clearly articulated in an-Na‘im’s texts, with a claimed foundation in the Qur’an. A reformed Islamic law should be implemented within the framework of Muslim nation-states, as a matter of a religious duty. Does this make an-Na‘im’s texts into an example of conservative religious performance? The endorsement of international human rights schemes, and the notion that the content of a reformed Islamic law should be determined by democratic choice would make such a positioning inappropriate. In his presentation, the religious sources do not contain a clear set of rules to be implemented in society at any cost, against the will of the public or without regard for possible consequences. Rather, the impression is that – apart for hudūd – there is very little substantive legal content in the ‘second message of Islam’.

In contrast to an-Na‘im and Hassan, Mernissi does not participate in ‘ecumenical’ activities or cross-cultural searches for shared values. This is not the same as to say that her texts may not be used or referred to in such contexts. Mernissi does not address the universality of human rights as a problem, but as a self-evident fact. The authority of international declarations and conventions is explicitly set above that of religious sources. The lack of moral-philosophical or religious elaboration on human rights on her part is implicitly a presentation of them as naturally valid, good and worthy of respect, and a rejection of normative cultural relativism. Her insistence on the privatisation of religion as an ideal, and
the public influence of religion as a problem, further makes a characterisation of her texts as examples of liberal religious performance problematic. Mernissi’s texts here point to a problem in applying Beyer’s notions of religious performance – without modification – to an instrumentalist approach in the international debate on women’s human rights and Islam. Beyer’s characterisation of religious performance takes as its starting point a social situation where the public influence of religious leaders, institutions and discourse in general has declined. Such influence has been relegated to the sphere of individual conscience or group identity. Religious performance is directed against a process of social marginalisation of religion and its public representatives. As such, it is a counter trend to the privatisation of religion. When considering women’s human rights in most Muslim countries, one can note that this situation does not exist. Religious leaders and religious institutions here have public influence, for example in legal administration and in the general public debate. In the area of family law, religious affiliation is more than a matter of private choice for individuals or a matter of group identity. This public influence of religion is internationally identified as a problem in connection with women’s human rights.

The instrumentalist approach displayed in Fatima Mernissi’s texts is one directed against this form of public influence of religion. While the interpretations – especially of Islamic history – are indeed given a function in promoting women’s human rights, this function is mainly temporary. It is determined not by any inherent character of the religious sources, but by the current social situation, which by no means is an ideal situation. The issues of the ultimate validity of – or values inherent in – the sources are relegated to a secondary place compared to the strategic use that can be made of them. More than stressing the need for public influence of religion, Mernissi’s texts challenge the religious foundations for such influence in other areas than in relation to Muslims’ private beliefs and private morals.

The possibility of ‘pure’ instrumentalism was hinted at in Chapter 1. It is doubtful whether such instrumentalism can be described as religious performance in Beyer’s terms. If Beyer’s views on liberal religious performance are to be applicable to the accommodation-position in the debate on women’s human rights and Islam, they cannot be said to cover every form of instrumentalist approach. To identify interpretations of Islam accommodating women’s human rights as religious performance, there is additional need for these interpretations to contain claims that a religious essence can provide something unique and necessary for the promotion of these rights. Such a notion clearly exists in both an-Na‘īm’s and Hassan’s texts, but is less articulated in Mernissi’s texts.

In view of the above – and as a general conclusion – I want to present an additional understanding of the function of interpretations of Islam, and of any religious tradition, in support of women’s human rights or human rights in gen-
eral. To provide a stable moral foundation and to convince individual believers are two major functions of religion often put forward in this context. There is no reason to question that the promotion of women’s human rights or human rights in general is an important motive for those engaged, for example, in the search for a global ethic or cross-cultural (or cross-religious) consensus. An implicit premise here is that the existing international formulations of human rights need a more stable foundation, and hence that they do not in themselves have the normative force necessary for their realisation on a factual level. In contrast to ‘religion’ they do not form a stable source for individuals’ and groups’ norms.

It may be true that personal religious belief can function as a source for norms, or at least be used by individuals and groups to explain to others and to themselves why they think and act in certain ways. As I stated in the introduction, I do not share the view of necessary correlations between stated religious affiliation, religious beliefs, moral evaluations and social action. Individuals may share formal religious affiliation, and may agree on the basic ‘fundamentals’ of faith and what it entails in terms of moral obligations, but still act socially in diverse ways. The notion of religious sources as stable foundations for norms can be questioned from the viewpoint that norms are not inherent in the sources, but rather are ‘discovered’ or created in a basically social process of interpretation. Human beings positioned in a specific social context, consciously or unconsciously make selective readings from these sources, readings that are above all relevant to the contemporary situation.

To state that human rights must be founded on religious beliefs is only necessary if such a view is challenged. A basic theme in this study has been that expressions such as ‘human rights’ and ‘equality’ – regardless of conceptualisations – have a positive emotive charge that makes it difficult to reject them in international communication. A noticeable feature in the contemporary world is that references to ‘human rights’ and ‘equality’ function in a similar rhetorical way in such communication as do references to, for example, ‘God’s will’ within a specific – theistic – religious community. A set of international human rights, formulated in the context of the UN, also functions as a rallying point for some NGO activism or co-operation that transcends boundaries of national, cultural or religious affiliation. The international human rights schemes that have been created by human beings in a historical process, mainly from the 1940s onwards, are being used also to morally evaluate political and social action in diverse localities in the world. The ultimate validity of these schemes is not necessarily an issue of concern. Instead they may come to form, in some people’s consciousness, a self-referential system of norms without need of further justification on an ideological level.

It is in this context that international human rights schemes also constitute a challenge to the authority of religious traditions as sources for norms. This
challenge is a parallel to the challenges that have been posed especially during the 19th and 20th centuries by, for example, evolutionary theory in biology, anthropology and historical research. As religious traditions have increasingly lost their function as explanations for phenomena in the social or natural world, some religious leaders have stressed their continuing role in providing norms and guidelines for social action. This is the role that is threatened, to some extent, by international human rights schemes. This is not to say, however, that human rights schemes pose a threat to individuals’ religious beliefs, the comforting function such belief may have on a personal level, or the function of religious rituals and festivities as important breaks from the constraints of everyday strife.

The search for a common ‘religious’ basis for human rights may be interpreted as an attempt on the part of its proponents to safeguard the role of religious traditions generally and worldwide as source for norms. It is reasonable to assume that the international human rights schemes here form one of the yardsticks for evaluating what interpretations of the religious sources are to be agreed upon as ‘correct’, but also for deciding who is to be included in ‘dialogue’ and who is to be excluded. To present a ‘true’ religious ethic that contradicts international human rights schemes would in this context be self-destructive.

The processes of cultural and social globalisation may work in favour of international human rights schemes as a self-referential system of norms. As was noted in the Introduction, Roland Robertson holds that globalisation facilitates thinking among human beings along the lines of themselves as parts of a single humanity, regardless of differences in religious affiliation, sex, class, status or ethnicity. Furthermore, it is a general view among those who discuss the consequences of globalisation that it challenges local ‘truths’ through relativisation. While holding on to such local ‘truths’ as universally valid is still an option – albeit increasingly a matter of a conscious choice – there is also the alternative possibility in the rejection of local ‘truths’ as historically and socially contingent human constructions, much like the existing human rights schemes.

Albeit in a minority position at the moment, suggestions for a reconciliation of women’s human rights and Islam form part of a growing trend in the contemporary Islamic discourse. Women’s human rights have become an important topic on the international human rights agenda, especially since 1993. Whether those who take on the role as interpreters of the religious sources endorse or reject women’s human rights, they have to relate to them.

Other important issues are waiting around the corner. These will similarly force religious leaders – including Muslim religious leaders – to take a stand. The field of genetic engineering, for example, is expanding and religious leaders have already displayed a willingness to contribute comments on what constitutes
its possible legitimate uses and also its misuses. Hence, they stress the continuing relevance of ‘religion’ in providing answers to contemporary issues, and the relevance of their own role in this context.

The field of human rights is also expanding. Here, the emergence of a Muslim accommodation-position on gay and lesbian rights in the international debate is not only a possibility, but also a probability.

All in all, the results presented in this concluding part of the dissertation, and in the study as a whole, lend additional credibility to the basic presupposition presented in the Introduction: religion cannot be isolated from the social context in which it is expressed, and religious change is an aspect of general social change.
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Abbreviations
HRQ: Human Rights Quarterly

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