

# The Testimony of Women in Islamic Law

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The only verse in the entire Qur'an to equate the testimony of two women to that of one man is the so-called verse of debt (*āyat al dayn*), which occurs in Qur'an 2:282. This verse contains a significant amount of material that later jurists categorized variously as recommended or merely instructional (*irshād*) and without legal import. However, a very few jurists opined that the recording of debts, witnessing, and all other matters dealt with in the verse may be categorized as obligatory (*wājib*).

Whether we agree or disagree with a particular school, there is near unanimity among all jurists that the Qur'an's mention of testimony in relation to transactions was revealed to advise Muslims on how they might reduce the possibility of misunderstandings arising among themselves. Therefore, the entire matter of testimony was revealed to humanity by way of instruction. Obviously, instruction is one thing, while binding legal precepts are another matter entirely.

The verse of debt, moreover, may be seen as connecting testimony, the taking of witnesses, the agreement of both parties to the contract at the time of its ratification, and the judge's (*qāḍī*) acceptance of testimony given by the witnesses, as follows:

and call upon two of your men to act as witnesses; and if two men are not available, then a man and two women from among such as are acceptable to you as witnesses . . . (2:282)

The verse goes on to explain the reason for seeking testimony from two women in place of the testimony of one man, by saying “. . . so that if one of them should make a mistake, the other could remind her” (2:282).

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Thus, the verse indicates clearly that there are differences in the ability of women to serve, under the prevailing social conditions, as competent witnesses and givers of testimony in cases involving financial transactions. The relevant wording implies that, in general, transactions were not often matters of concern to women at that time. It also indicates that the actual witness would be one woman, even though her testimony might require the support of another woman, who would “remind” her if necessary. Thus, one woman acts as a guarantor for the accuracy of the other’s testimony.

Obviously, then, the two are not on the same level, for one witness is supposed to be knowledgeable and aware of that to which she is testifying. As such, her testimony is legally acceptable. The other witness is considered merely a guarantor, for the basis of all legal testimony is that it should aid the judge in reviewing the case as if he/she had been an actual witness thereof. Moreover, testimony is considered a legal responsibility so as to instill within the witness a heightened sense of his/her awareness of God and of the importance of the undertaking, so that he/she will not be careless with the testimony or swayed by emotions or personal feelings. If the verse were understood in this way, it is likely that many of the past and present disputes surrounding it could be avoided, for the main cause of such disputes has been the belief that the verse has binding and legal significance.

Furthermore, classical scholars appended another matter to the verse’s guidelines concerning testimony, one that had absolutely nothing to do with the distribution of responsibilities addressed in the verse: their assumption that the verse pointed to women’s natural inferiority, especially in terms of their mental and physical abilities, despite its clear reference to women living at the time of revelation—a time when there were few or no opportunities for women to receive an education, to occupy positions of responsibility in society, or to undertake work that would increase their experience in ways that would make “being reminded” unnecessary. However, once society passes beyond that stage and women are allowed to participate more fully in its affairs, and in transactions in particular, there should no longer be a need for such arrangements.

The question for consideration is whether or not, on the basis of the verse’s circumstantial context (*illah*), the testimony of one woman may be accepted even when the teaching of the verse is that two women should testify. Before dealing with this question, however, and before examining whether or not it is legitimate or whether it may be answered in the affirmative or the negative, we must reflect on several different issues.

## The First Issue

The Qur’an, as discourse, was directed toward a people who, before its revelation, had little or no regard for women and who did not allow their inclusion in matters considered the domain of men. In fact, pre-Islamic Arab society sanctioned female infanticide.

And they ascribe daughters unto God, who is limitless in His glory, whereas for themselves [they would choose, if they could, only] what they desire; for, whenever any of them is given the glad tidings of [the birth of] a girl, his face darkens, and he is filled with suppressed anger, avoiding all people because of the [alleged] evil of glad tiding which he has received, [and debating with himself:] shall he keep this [child] despite the contempt [which he feels for it]—or shall he bury it in the dust? Oh, evil indeed is whatever they decide! (16:57-59)

According to the Qur'anic commentator, Fakhr al Dīn al Rāzī:

Men in the period of *jāhiliyah* would go into hiding when they knew that their wives were about to give birth. Then, if they were told they had fathered a son, they rejoiced. But if they learned that the newborn was a girl, they were saddened, and would stay in seclusion, trying to make up their minds about what they should do with the child: *shall he keep this [child] despite the contempt [which he feels for it]—or shall he bury it in the dust?* Should he keep the child alive, as an object of perpetual disdain, or simply do away with it?<sup>1</sup>

Nor was this phenomenon very far removed from the period of revelation. In fact, some early Muslims had killed their infant daughters. Qays ibn 'Āṣim once said to the Prophet: "O Prophet of God! In the days of ignorance I buried alive seven daughters." The Prophet replied: "For each one of them, set free one slave." The man said: "But I have only camels." So the Prophet told him: "Then for each one, sacrifice a camel (at the hajj)."<sup>2</sup>

Another man told the Prophet: "I have never been able to taste the sweetness of faith, even though I have accepted Islam. In the days of ignorance I had a daughter. One day, I told my wife to dress her up. When my wife sent her out to me, I took her to a distant valley in the desert where nothing grew. At that place, I threw my daughter down from my camel, and rode away. When I left her, I heard her calling to me: 'Father! You have killed me!' Now, whenever I think of her and what she said, I find that nothing helps me." The Prophet replied: "Whatever wrongs took place in the days of ignorance are abolished by Islam. And whatever wrongs take place in Islam may be abolished by repentance (*istighfār*)."<sup>3</sup>

The Qur'an transported the people of those times to the realm of faith in absolute gender equality. This single article of faith, perhaps more than any other, represented a revolution no less significant than Islam's condemnation of idolatry, and its censure of blind faith passed, without examination, from one generation to another. Theoretically, such equality may seem a relatively simple matter to accept. But when it comes to the practical implementation of any new social model, problems are certain to arise. In the case of early Muslim society, given the long-established customs,

attitudes, and mores of pre-Islamic Arabia, it was necessary to implement such changes in stages and to make allowances for society's capacity to adjust itself accordingly. For example, if God had prohibited wine by degrees, as related by 'A'ishah,<sup>4</sup> it follows that He would do the same in the case of an issue of far greater importance and sensitivity in that society, namely, the equality of men and women. It would appear that the Qur'an sought gradual change via prudent and judicious means, rather than all at once, in which case the possibility of rejection and negative reactions might have been greater. Thus, its initial intent was to instruct Muslims in the ways of a truly civilized society, one in which economic, social, or other changes would be integral to its development. Such change, moreover, is designed to occur in accord with the Qur'anic teachings for introducing reform on the basis of the two readings: that of revelation and that of the natural universe. And this is what the verse of debt brings to us.

The Qur'an, in its own subtle manner and with characteristic sagacity, places the reclassification of women as fully participating members of society on its agenda for reform. By establishing a role for woman in the witnessing of transactions, even though at the time of revelation they had little to do with such matters, the Qur'an seeks to give concrete form to the idea of woman as participant:

and if two men are not available, then a man and two women from among such as are acceptable to you as witnesses (2:282)

The objective is to end the traditional perception of women by including them, "among such as are acceptable to you as witnesses," and to bring about their acceptance as full partners in society by means of this practical recognition. In this way, the Qur'an seeks to overcome the psychological impediments of men that prevent them from accepting women as their equals in society. At the time of revelation, the question of numbers was irrelevant, as it was the equality of women that the Qur'an sought to emphasize. Even the matter of witnessing served merely as a means to an end or as a practical way of establishing the concept of gender equality, for what was critically significant was the Qur'an's application of the principle of equality, not only on a religious or otherworldly level, but on the levels of human society, interpersonal relations and, most pointedly, commerce. Under the prevailing circumstances, all of this was extremely important.

Thus, it was as if the Qur'an, in its subtle attempt to bring about major change in a society whose customs constituted a major obstacle in the way of that change, sought to address that society in an "acceptable" manner by implying that women were somehow less important as witnesses in such matters. As a result, the testimony of two women would equal that of one man. It was as if the Qur'an had recognized society's view that women, in general, are quicker to forget matters related to affairs with which they had little or nothing to do, especially when these were usually conducted and concluded orally.

Furthermore, the society's oral culture was dominated by two cultures: that of pagan Arabia and its female infanticide and that of the People of the Book (Christian and Jewish inhabitants of Arabian towns) who considered woman the chief reason for humanity's fall from Paradise. Under those circumstances and by means of this approach, the change sought by the Qur'an was not change that would overturn completely the society's customs, but rather a modification or a judicious laying of foundations for the acceptance of Qur'anic teachings about equality in general. Otherwise, it is more than obvious that the "forgetfulness" taken as a circumstantial context for the legal ruling regarding the acceptance of two women's testimony in place of one man's is a trait shared equally throughout the world. From the beginning of history, each man and woman has been subject to it. In fact, Adam is characterized as having forgotten the covenant of his Lord, a matter of far greater importance.

Both the pagan Arabs and the Arabian People of the Book believed that women were somehow a lesser breed than men. Indeed, the dominant culture on the Arabian peninsula at the time was that of the Christians and the Jews, both of which refused to grant equality to women.<sup>5</sup>

## The Second Issue

It must be admitted that Christian, Jewish, and Muslim scholars have neglected the wisdom of their respective revelations concerning the equality of the sexes. Qur'anic commentators and jurists in particular seem to have ignored the broader intellectual aspects of a woman's testimony. In addition, some seem to have allowed themselves to completely overlook the basic Qur'anic principle of gender equality, even though this teaching is mentioned in literally hundreds of Qur'anic verses. Instead, they have engrossed themselves in studies emphasizing biological and psychological differences, thereby attempting to derive evidence from divine revelation to support the attitudes and customs of their pre-Islamic heritage.

Such a decidedly un-Islamic bias has prevented Muslim scholars from considering the issue of a woman's testimony in light of the broader Qur'anic teachings of equality. Instead of looking at the issue as a mere division of labor, they considered it as one based on natural incompetence. Taking their cue from Jewish, Christian, and pagan Arab traditions and attitudes, they dwelt on a "woman's natural tendency to be forgetful and fall into error" and her physical "disabilities." Did God not say, they argued: "if one of them should make a mistake, the other could remind her" (2:282), thereby reading no more than the letter of revelation and without taking into consideration the verse's context or attempting a balanced reading of woman or of nature?

In essence, Muslim jurists and Qur'anic commentators allowed their cultural prejudices to color their discussions on the subject of women. In their ignorance, they used those verses declaring the competence and equal-

ity of women to “prove” the contrary. Using the same perverted logic, they dealt with the subject of the shares due to women through the laws of inheritance.

## The Third Issue

Let us turn now to a discussion of the meaning of “mistake” (*ḍalāl*) in the verse in question. According to the *Arabic Lexicon*,<sup>6</sup> the underlying meaning is “absence.” Later, the word was used to indicate any turning from the right way, whether intentionally or otherwise.<sup>7</sup> The word came to be used in the sense of “to forget,” for the reason that one who forgets is one for whom the right way is absent. The wisdom in the Qur’an’s choice of this word, rather than the one usually chosen to mean “to forget” (*nisyān*) or “to err” (*khaṭā*) is perhaps that the meaning of *ḍalāl* is broader and more comprehensive than the other two, as a mistake in testimony may be either intentional or unintentional.<sup>8</sup>

## The Fourth Issue

Since most commentators have explained that the meaning of *ḍalāl* in this verse is probably “to forget,” it would be best here if we paused to consider the meaning of the infinitive, “to forget,” which is oversight and dereliction. This too may come about either intentionally or unintentionally.

## The Fifth Issue

Commentators differ in their interpretations of “reminding” in the verse: “if one of them should make a mistake, the other could remind her,” (2:282). For example, Ṣufyān ibn ‘Uyaynah opined that a woman who gives testimony, and who is helped through another woman’s reminding, becomes legally equal to a man. Other commentators, including al Ṭabarī, rejected this view on the grounds that the other’s “reminding” has the effect of causing the first woman to remember something she had forgotten.<sup>9</sup>

Clearly, the mistake that might be made by one of the women in the testimony she gives would be her forgetting, like the mistake made by a person in a matter of religion, when they are unsure of something and stray from the truth. So, if one woman should become this way, how is it possible that another’s reminding her will make her as if she remembered the testimony she had forgotten and mistaken?

Qur’anic commentators who came after al Ṭabarī did not go beyond these two positions, namely, that the woman remembered after being

reminded (and could then be legally equal to one man, but only with the help of a “reminder”) or that the combination of the reminding woman and the forgetful woman is, in legal terms, equal to one man who remembers.

In his *Aḥkām al Qur'ān*, Ibn al 'Arabī, after mentioning the opinions summarized above, asked rhetorically: “What if there is one woman with one man, so that the man can remind her if she forgets?”<sup>10</sup> What is the wisdom in that?” Immediately, however, he goes on to nullify the question by stating: “The answer is that Allah legislates what He wills, and He knows better what wisdom lies behind His legislation. It is certainly not essential that His creation should know and understand the wisdom in what He legislates for their betterment and welfare.”

In their interpretations of “mistake” and “remind,” Qur'anic commentators have approached the issue from a perspective based on the assumption that the division of testimony for women into halves is somehow connected with women's inherent inequality to men. This idea has been shared by classical and modern commentators alike, so that generation after generation of Muslims, guided only by *taqlīd* (imitation), have continued to perpetuate this faulty understanding. Certainly, the attitudes engendered by such a misunderstanding have spread far beyond the legal sphere.

Based on the above, I would like to say that the purpose of this particular article of legislation was to emphasize the Qur'anic principle of gender equality by means of a practical formula. The subject of this principle is, furthermore, by no means limited to witnessing and legal testimony, regardless of whether we consider this a right, a responsibility, or a partnership in the affairs of society. The important thing is that the presence of two women as witnesses to such affairs is held to be essential, even if one is there only to remind the other in the event that she forgets. Thus, Ibn al 'Arabī's question is valid: What if a man is there to remind the woman witness? If the point is to remember the event after it has been forgotten, it should suffice that a man remind the woman if she forgets. The emphasis, however, on the necessity of having two women is so that they may support one another in the matter of the testimony and in breaking down the psychological barriers erected by society, regardless of their numbers. All of this is a part of the miraculous nature of the Qur'an, which has paved the way for major social changes in the spheres of economics, law, relationships, and social structure within one single verse.

## The Sixth Issue

But how was this “miracle” perverted into the indictment (or the insinuation) that it became, and one that generations of Muslims have had little success in refuting? There are several reasons for this, among them:

1. The dominant culture at the time of revelation was, as mentioned earlier, a mix of pagan Arab, Christian, and rabbinical

Jewish, all of which had little regard for women, minimized their role, stressed their natural inferiority to men, and refused to grant them equality.

2. The prevailing social customs were dictated by an oral legal tradition passed down from generation to generation by the male elders of the tribes. This tradition was perpetuated via the proverbial Arab veneration of their elders and their ancestors.
3. The prevailing social structure was predicated on military and commercial success, and both, owing to their physical nature, were the domain of men—military success depended on the force of arms and commercial success depended on the movement of caravans across great expanses of desert.
4. Family honor was a key element in that society, and women were perceived as weak links in the chain that made up the preservation of that honor. Thus, men felt it was their duty to control women.

These and other factors led Islamic-Arabic thought to dwell upon the physical and mental differences between men and women whenever it encountered texts from the Qur'an or the Sunnah that dealt differently with men and women, especially in matters of witnessing, inheritance, and indemnity for bodily injury. For example, consider al Rāzi's extraordinarily biased commentary, written in the seventh century A.H., on Qur'an 2:282:<sup>11</sup>

The nature of women is dominated by forgetfulness owing to a predominance of cold and wetness in their physical constitution. The joining of two women in forgetting is less likely than the occurrence of forgetting in just one woman. This is why two women are to take the place of only one man.

He also maintains that the verse in question could be read in different ways, namely, "so that when one makes a mistake," as if making a mistake is a foregone conclusion, and, "willing that when one makes a mistake," as if to say that it is the will of God that one of them make a mistake. He justifies this bizarre assertion by saying:

Here, there are two purposes. The first is to bring about testimony, and that will not take place unless one of the two women reminds the other. The second is to explain that men are better than women, so that it becomes clear why it is just to equate two women to one man. Now this explanation will be served only if one of the two women actually forgets. Moreover, if both purposes are to be served, and there is no way that will happen unless one of the women forgets and the other reminds her, then without doubt that is what is sought.

The reader will note how this greatly respected scholar attempted to put words in the mouth of the Qur'an for the sole purpose of supporting prevalent social ideas, despite the fact that this would result in the destruction of a principle that the Qur'an seeks to establish as one of the most important of all its principles—gender equality! But consider how a scholar of al Rāzī's stature could state with authority that God stipulated that there be two female witnesses just so He could cause one of them to forget and thereby establish the principle of male superiority!

Before discussing the evidence presented in the Sunnah, I should explain that witnessing (*shahādah*) and legal authority (*wilāyah*) are two totally separate matters. This point, however, is one that was ignored by many jurists in their discussions of why a woman's testimony is equal to only half of a man's testimony. Rather, witnessing should be understood as an attempt to present the judge with an objective picture of something that took place so that he/she can make a fair judgment. All of the ten or more conditions stipulated by the jurists for witnesses were formulated in order to achieve the objective of not dictating the ruling to the judge. Since Islam considers the ruler as God's deputy (*khalīfah*) and as responsible for carrying out His will by implementing the Shari'ah (i.e., the ruler has no sovereignty in his/her own right), then how can one say that a witness has legal authority over a judge or that a witness dictates the judgment to the judge?

To summarize, then, there is no difference between men and women in terms of their abilities, their propensity to forget, in the possibility of their colluding to present false witness, or in their ability to speak either the truth or fabrication. Moreover, the objectives of the Qur'an do not include anything that would indicate otherwise. Therefore, there is no evidence to suggest that there is anything other than equality between the sexes.

## The Evidence of the Sunnah

I shall examine the evidence of the Sunnah in regard to the subject at hand, but before doing so I would like to emphasize that preeminence in this matter, and in all others, belongs to the Qur'an alone. It is only the Qur'an that is without blemish, as its text is protected by God.<sup>12</sup> Furthermore, the Prophet Muhammad was ordered to recite it to the people, to impart its wisdom, and to purify them by means of it. After this, the people were commanded to learn it, to ponder its meanings, and to disseminate its knowledge openly. The Qur'an was revealed "to clarify everything" (16:89), and therefore no other source can share in its qualities and attributes. Thus, it is to be turned to whenever differences occur: "and on whatever you may differ, the verdict thereon rests with God" (42:10). The Sunnah, on the other hand, is a source of clarification for the Qur'an and an aid to its understanding and interpretation. It does not overrule the Qur'an, overstep its bounds, abrogate its texts, contradict it, or violate its principles.<sup>13</sup>

Therefore, the Sunnah does not transgress the bounds set by the Qur'an in regard to the principles of the equality of all human beings and of men and women. Rather, this is a firmly established principle, one of the highest of all Islamic values and a fixed methodological and epistemological verity. Furthermore, many hadiths emphasize this point. For example, Abū Dāwūd related a hadith in which the Prophet is reported to have said: "Verily, women are the partners of men."<sup>14</sup> Likewise, al Bukhārī related a hadith in which 'Umar ibn al Khaṭṭāb said: "In the days of ignorance we considered women to be worthless. But when Islam came, and God mentioned them, we realized that they had rights over us."<sup>15</sup> Another version of the same hadith states: "By God! In the days of ignorance we never used to consider women to be of importance. But then God revealed what He revealed concerning them and granted them what He granted them."<sup>16</sup>

If the Qur'an equated, in absolute terms, the humanity of both sexes and said that men and women are equal, no one has the right to say otherwise. In addition, they certainly have no right to say that the Sunnah states otherwise, for the Sunnah is there to clarify the Qur'an, not to contradict it or to reject its basic principles. Such "rights" cannot be tolerated, especially when the Prophet dealt with the issue in his final message, which was delivered to the Muslims on the occasion of the farewell pilgrimage:

Verily the Almighty has distanced you from the time of ignorance and its aggrandizement of your male forebears. All people come from Adam, and Adam came from dust.

In his commentary on the Qur'anic verse concerning the creation of each soul from a male and a female, al Zamakhsharī writes:

that is, from Adam and Hawwā' (Eve). And the Almighty said that He created every one of you from a father and a mother, so that there are none among you who may claim other than that he or she was created like every one else was, in exactly the same way.<sup>17</sup>

There is no basis, then, for the claim that one is somehow less than the other. Such a view only manifests its holder's own ignorance of the Sunnah and its true relationship to the Qur'an, for, in effect, it states that the Sunnah contains something that refutes, ignores, or contradicts the Qur'anic principle of absolute gender equality.

Hadith scholars expended a great deal of effort during the classical period in the service of the Sunnah. In fact, had the ulama continued to refine the methodologies developed by these early scholars, the Muslim world might not have fallen into the intellectual difficulties and pitfalls that robbed it of its vitality and impeded its progress to such an extent that, even today, it continues to suffer from the effects of intellectual stagnation.

The inability to make use of these methodologies has persisted since the advent of the herd mentality encouraged by the institution of *taqlīd*

(imitation). Moreover, this same mentality has led to the Muslims' neglect of the differences between the concepts of service to God and slavery to despots, so that the one was equated to the other with disastrous consequences for Muslim society. While *taqlīd* legitimized the abandonment of the responsibility to perform *ijtihād* (effort to determine the actual meaning) and renew their faith, which resulted in the Muslim world following a handful of imams in matters of *fiqh*, it also prompted them to accept the opinions of a few selected scholars concerning the degree of authenticity, or lack thereof, of hadiths and what could and could not be accepted from the Sunnah. The methodologies for dealing with the Sunnah remained the same as those used by their initial developers and underwent little or no change. Thus, it is as if they were used in the first age of *ijtihād* and then abandoned. Such an oversight has resulted in the Muslim world's continued acceptance of an understanding of the Sunnah based on the individual efforts of a few scholars from the classical period or from the first three centuries of Islam. What this means, in terms of our discussion of the testimony of women, is that discussion of the subject was abandoned early on in our history and at a time when prevailing social attitudes were antithetical to women. For the last several centuries, whenever the subject came up, reference was made to the thinking of earlier generations, and the matter was closed.

Let us consider the differences, in the classical period, between *ijtihād* on questions of *fiqh* and *ijtihād* on questions about the authenticity of hadiths. Entire schools grew up around the imams of *fiqh*. Abū Ḥanīfah, for example, never ruled on a question of significance until he had presented it to his dozens of students and discussed it with them at length, often for an entire month.<sup>18</sup> On the other hand, hadith scholars worked as individuals to collect, remember, and transmit narrations. As the majority of hadith were transmitted by certain individuals to other individuals, the criteria and methods used were highly individualized. For example, in regard to the authenticity of a certain hadith, we read that, "this was authenticated in accordance with the conditions (established by) al Bukhārī" or by some other hadith scholar. These conditions, of course, represent the scholar's own preferences and criteria based on personal experience and taste. All of this points to major differences between the *fuqahā'* and the *muḥaddithūn*.

Within the general discipline of *fiqh*, there developed an entire body of knowledge, known as *uṣūl al fiqh*, that was devoted to studying the methodological principles and guidelines that regulated the actual processes involved in deriving juridical rulings and classifications from the texts of the Shari'ah. Owing to its theoretical nature and its importance in the eyes of scholars, *uṣūl al fiqh* passed through several stages of development and refinement as a discipline in its own right. The "conditions" of the hadith scholars, by comparison, remained much the result of individual efforts and thus never attained the sophistication of *uṣūl al fiqh*. Any attempt to discern a comprehensive methodological framework

would require the expenditure of a great deal of effort on collecting and piecing together an assortment of methods and criteria from the works of a variety of hadith scholars. No single set of "conditions" would ever yield anything approaching a comprehensive methodology. There is a world of difference between the existence of such "conditions" throughout the corpus of classical hadith literature and their being ordered in such a way as to facilitate a formal process of ranking hadiths in accordance with established methodological criteria.

Over the centuries, many controversies have arisen over the Sunnah and its validity as a source of Shari'ah classifications and rulings, for while its validity is obvious, the methodology for dealing with it has remained difficult.<sup>19</sup> Furthermore, while the integrity of the Qur'anic text is guaranteed by God, the Prophet insisted that the Companions memorize and preserve it. So great was his insistence that he once prohibited them from collecting his sayings (hadiths) and from treating them as they treated the Qur'an. Nonetheless, several Companions memorized and transmitted what the Prophet had said and done. In many cases, however, they used their own words to convey what the Prophet had said, as they were concerned with the meaning rather than with the letter of his sayings. Such changes opened the way to the possibility of further distortion, for other narrators felt free to express the hadith's meaning rather than its exact text. This, in turn, increased the possibility of intentional distortion. Moreover, as the meaning grew further from the one originally intended by the Prophet, whether intentionally or otherwise, the sense of context was also lost and, in many cases, the true import of the hadith became impossible to discern.

With the rise of theological disputes and sectarianism, a great deal of spurious hadith literature was circulated. This caused the great hadith scholars to look for a way to preserve the Sunnah, which involved stipulating methods and procedures for sifting sound narrations from those that were unsound. While their efforts continue to enrich all Muslims, the methods they used were determined by the age in which they lived and the methodological tools available to them during that period.

In fact, the methods they employed were quite varied, and some even became widespread. Chief among these were the methods developed for classifying and authenticating the chain of transmission (*isnād*). Highly specialized and technical studies were conducted on every person who related even a single hadith, so that his/her strengths and weaknesses as a narrator could be known and used in assigning a rank to the hadith related. Volume upon volume of biography, in the forms of history (*tārīkh*), ranking (*tabaqāt*), and biographies (*siyar* and *rijāl*) were written and covered the intellectual life histories of hundreds of thousands of narrators. Even so, as the "conditions" or criteria differed from biographer to biographer, there was a great deal of disagreement over which narrators could be (or not be) considered trustworthy or accurate, especially in regard to those who came after the first generation. In addition, these scholars developed methods for criticizing the text and for exposing what they considered "fatal" textual

faults that would disqualify the hadith in question from serious consideration, even if no fault could be found in its method of narration or its chain of narrators. The hadith scholars emphasized that a hadith could not be cited as proof (legal indicator) until it had satisfied all of the methodological criteria used to authenticate both its chain of transmission and its text. Had this been the case in regard to what the Sunnah had to teach regarding women in general, the status of women in the Muslim world today would very likely be quite different.

Muṣṭafā Sibā'ī, a scholar who sought to summarize the methodological considerations devised by the hadith scholars for criticizing the texts of hadiths, counted around seventeen.<sup>20</sup> Not every hadith scholar accepted all of these criteria, however, and there were significant differences in how they applied the criteria that they did accept. Some of these criteria may appear to overlap, while some seem more concerned with the chain of transmission than with the actual text. Nevertheless, the important thing is that the hadith scholars recognized the need for such criteria, in addition to the criteria they developed for classifying the chain of transmission.

In recent years, Muṣṭafā Gharām Allāh has done some important work regarding the criteria used in hadith textual criticism. He has summarized the criteria collected by Sibā'ī into seven.<sup>21</sup> These are as follows:

1. It should not contradict the Qur'an.
2. Its different versions should be in agreement.
3. The practice (*sunnah*) recorded in the hadith should agree with what is known about that particular practice.
4. It should concur with known historical facts and events.
5. It should be free of grammatical and stylistic weaknesses.
6. It should not contradict established Shari'ah principles or the universal truths of Islam.
7. It should not contain material that is impossible to imagine as having originated with the Prophet.

Even so, the Muslim mind is still confronted with material from the hadith literature that clearly contravenes the natural laws formulated for the universe. For example, several hadith collections include the narration by Asmā' bint 'Umays, who reported that the Prophet would receive revelation while his head was in 'Ālī's lap. Once, the revelation took so long that 'Ālī was unable to perform the *'aṣr* prayer until the sun had set. Then the Prophet said: "O God! He was busy obeying You and Your Prophet! So, please, return the sun." Asmā' said: "I saw the sun go down and then I saw it come back above the horizon after it had set."

It appears that the intention of those who fabricated this hadith was to compete with the Jews. If the Jews could boast of a miracle when the sun

remained on the horizon long enough for Joshua and his army to defeat their enemies and bring victory to Banū Isrā'īl, then why should the nephew of the Prophet Muhammad not have a similar miracle attributed to him? Many hadith scholars, including Aḥmad ibn Hanbal, Ibn Kathīr, Ibn Taymīyah, al Dhahabī, Ibn al Jawzī, and Ibn Qayyim, say it is a fabrication. Even so, many others have upheld its authenticity, including such learned and respected imams as al Bayhaqī, al Tahāwī, Ibn Hajr, Qāḍī 'Ayāḍ, al Haythamī, al Quṣṭalānī, al Ṣuyūfī, 'Alī al Qārī, and others.<sup>22</sup>

But how could this have happened? How could the Muslim mind have accepted a single-narrator narration<sup>23</sup> of such an incredible event? How did such a hadith escape their scrutiny or pass their criteria for textual criticism? Why did they not compare it with another hadith that has been authenticated by both al Bukhārī and Muslim in addition to many others? This particular hadith related that, during the Battle of Aḥzāb, when the fighting was so intense that the Muslims were unable to stop and perform the afternoon prayer, the Prophet said: "May God fill their (the idolaters') homes and their graves with fire, for they have prevented us from performing the 'aṣr prayer!" God did not stop the sun's progress or return it to the horizon after it had set so that the Prophet and his Companions could pray the 'aṣr prayer, even though they had been engaged in jihad.

Among contemporary hadith scholars, Muḥammad 'Umrānī Hafashī of Morocco has completed an excellent study in which he applies the methodology of the *muḥaddithūn* themselves on both the hadith's chain of transmission and text as related by al Bukhārī and Muslim and held by both to be authentic. Hafashī, however, establishes that the hadith under investigation is unquestionably a fabrication. The hadith in question, related by Abū Dharr al Ghifārī:

One day the Prophet said to his Companions: "Do you know where the sun goes (at night)?" They replied: "God and His Prophet know best." So the Prophet replied: "It continues on its path until it comes to its resting place beneath the Throne, where it falls into *sajdah* (prostrates itself). It remains in this position until it is told to rise and return from whence it came. It gets up and goes back, so that it rises from its place on the horizon. It then continues on its way until it again reaches the Throne and falls into *sajdah*. Again it stays in that position until it is told to rise and return to its place of rising on the eastern horizon. Again and again it will do this, and no one will notice anything wrong until, one day, when it is in the *sajdah* position, it will be told to rise from the western horizon. Do you know when that will be?" the Prophet asked his Companions. "That will be on a day when faith will avail no one who has not previously had it or earned by means of it some good."

Hafashī writes:

No one today who knows even a little about geography or astronomy will doubt that this hadith is unsound, especially if they consider the two principles for the rejection of hadiths: first, that the hadith should not contradict what can be sensed and witnessed, and second, that it should not contradict the laws of nature or the natural order for the universe. The hadith, moreover, is not open to explanation as it clearly speaks of the sun below the Throne waiting for permission to rise. Thus, the hadith can not possibly be the words spoken by the Prophet, as he never spoke out of caprice. Rather, since most of the hadith scholars knew nothing of the natural sciences, I shall employ their own methodology for authenticating both the text and the chain of transmission of hadiths to establish that the hadith is spurious.

He then reexamines its chain of transmission as related by al Bukhārī, Muslim, and other major hadith scholars, as well as the works of those Qur'anic commentators who related it. During his analysis, he found fourteen versions and was able to demonstrate that its chain of transmission, as recorded by al Bukhārī and Muslim, revealed serious weaknesses when subjected to the methodology and criteria developed by the hadith scholars themselves. He then went on to show that the same was true of each different version of this particular narration. Applying this criteria to the criticism of the text itself, he pronounced the hadith a fabrication. It is hoped that the International Institute of Islamic Thought will be able to publish this study in its series of methodological studies on the Sunnah.

All of this serves to stress the need for close examination of hadiths related in the "authentic" collections before all others. This exercise must be carried out by qualified experts in accordance with the methodology and criteria developed by the *muḥaddithūn* so that the Sunnah may be cleansed of everything that contradicts or opposes the authority of the Qur'an, the laws of nature, reason and logic, or historical fact. In addition, linguistic studies of the hadith literature are needed, as are studies conducted from sociological and psychological viewpoints, in order to consider the impact of sectarianism and/or theological and ideological orientations. Only if this is done will the subject of gender equality receive its due from the literature of hadiths.

The neglect of criteria for textual criticism of the hadith and the lack of sufficient interest in this subject have led to many of the Sunnah-related problems facing Muslims. A prime example is that of gender equality, or the place of men and women in terms of their common humanity, their intellectual and psychological constitution, and controversies as to their roles in society. Nearly all of the legislation that arose in regard to questions of inheritance, witnessing, marriage, divorce, and indemnity (for bodily injury) is based on differences perceived in the religious and social roles and functions of the two sexes. Obviously, there will be significant differences in the opinions and positions on the matter taken by those

whose approach to life is shaped by a worldview based on an intellectual paradigm formulated by the Qur'an (with its concepts of divinity, worship, covenant, trial, vicegerency, creation, unicity, the oneness of humanity, the oneness of the universe that was created as the abode of humanity and as a trust, and the oneness of the ultimate destination) and the positions taken by those whose worldview may best be represented by the following verse:

And yet they say: "There is nothing beyond our life in this world. We die as we come to life, and nothing but time destroys us."  
(45:24)

One of the greatest of all calamities to befall Muslim society, and one that led to a truly dangerous rift, was when the religious legacy of the Jews and Christians, with all of its twisted notions concerning women, was taken as a source in the interpretation of the Qur'an and the Sunnah. An even greater catastrophe occurred when certain hadith narrators began adding words and expressions carrying Jewish and Christian concepts to their narrations and then presented these as having come from the Prophet. In fact, many hadiths were misunderstood or given interpretations that were based on the dominant cultural influences of the time, even if they were untenable or incompatible with the originally intended spirit and meaning. All of these factors, in turn, influenced the legislation or judicial opinions that governed the institution of the family, which, in fact, is the cornerstone of all existence, creation, and humanity, and of the totality of the role of each human as a *khalifah*.

The first home of the Prophet's message, the cultural environment of Makkah with its particular pagan practices and attitudes, represented a major obstacle in the way of social change and a real challenge to the establishment of a sound family system. In addition to female infanticide, there were other practices even more insidious in terms of the family structure, such as sons inheriting the wives of their fathers, and other practices that debased and degraded women. As a result, the pagan Arab concept of family was confused and ambiguous at best.<sup>24</sup>

All of these factors constitute a backdrop against which certain hadiths need to be read in order to acquire an accurate understanding. The Prophet was a wise and practical man in the arena of education and upbringing. Thus, when Islam launched the process of restructuring the family by teaching the principle of gender equality, he was forced into the role of mediator between the forces of the newly liberated and those of traditional reaction. In this capacity, he was called upon regularly to educate, advise, and caution his followers in regard to many of the details occasioned by the ensuing social revolution. In some instances, he needed to correct people. Such corrections, taken out of context, have led to the misinterpretation of certain hadith texts that became "key" to the classical understanding of issues concerning women.

One such hadith was related by both al Bukhārī and Muslim on the authority of 'Abd Allāh ibn 'Umar, who reported that the Prophet, after performing a special prayer (*ṣalāt al khusūf*) during a solar eclipse, said:

“The sun and the moon are signs among the many signs of God, and they do not go into eclipse for the death or the life of any human being. When you witness an eclipse, remember God.” On that occasion, the Companions said: “O Prophet of God. As you were standing there, it appeared to us that you were taking something, and then we saw you flinch.” The Prophet replied: “Verily, I had a vision of Paradise, and I reached for a bunch of grapes . . . Had I been able to grasp them, you would have eaten from them for as long as the world remains. Then I had a vision of the Fire. To this day, I have never seen a more horrible sight. And I noticed that most of its residents were women.” The Companions said: “For what reason, O Prophet?” He replied: “For their ingratitude.” The Companions said: “For their ingratitude to God?” The Prophet replied: “No, for their ingratitude to their husbands. If you do something good for one of them, and then you displease her with the slightest thing, she'll be the first to tell you that you've never done anything good for her.”

On this occasion, it seems clear that the Prophet took the opportunity to direct a few words of advice to the women of the community. The words of the Prophet recorded in this hadith were certainly not intended to drive them to despair or to lead them to think less of themselves. On the contrary, the intent was to caution and advise. In fact, hadith literature in general is filled with thousands of examples of such admonitory narrations, sometimes directed toward individuals and sometimes stated generally. In regard to this particular hadith, Ḥāfiẓ ibn Hajr wrote that another version indicated that the women seen in the Fire were those who exhibited serious character flaws, for the other version included: “I noticed that most of its residents were women who, if entrusted with something would betray that trust, or if asked for charity would refuse to give it, or if given something would not be appreciative of it.”

Clearly, then, this particular hadith is an example of admonition and instruction given for the purpose of exhorting all Muslims to strive to attain paradise and to avoid hell. It then went on to explain to the women how one aspect of their behavior might need their attention. On other occasions, the Prophet addressed shortcomings among men, merchants, soldiers, husbands, and fathers in a variety of ways.

Abū Sa'īd related another hadith, included in the collections of al Bukhārī and Muslim, in which he reported that the Prophet went out on the day of 'īd to the place of prayer and passed by a group of women. He said:

“O you assembly of women. Never have I seen so intellectually or religiously deficient a person, or one more capable of driving away the good judgment of a man, than one of you.” The women asked: “And how are we intellectually and religiously deficient?” The Prophet replied: “Is the testimony of one woman not equal to the testimony of half a man?” They replied: “Quite right, it is.” The Prophet said: “Then, there is your deficiency of intellect. And is it true that you do not pray or fast when you have your period?” The women answered: “Quite right, it is true.” So the Prophet replied: “There is your deficiency of religion.”

These hadiths and a handful of others have contributed to basic misunderstandings in regard to the issue of gender equality. Moreover, the effects of these misunderstandings have resulted in serious legal and intellectual consequences, even to the extent of confining and overshadowing the Qur’anic principle of equality. In addition, the misconceptions engendered by these interpretations have served, over the centuries, as the basis on which the practical Islamic position in regard to issues relevant to women was formulated. Thus, the Qur’anic teachings about equality and the general principles derived from those teachings were ignored, and very nearly buried, save for the conclusions derived from the verse “then a man and two women.” The matter was further complicated when the classical jurists considered the relevant hadith literature as having significant legal import—and it is clear that a legal ruling on any subject will have real consequences not only for the law, but for history, society, and culture as well.

The positions taken by the classical legal schools on the issue of women were summarized by Ibn Rushd as follows:

The entire legal community agrees that the testimony of women will not be accepted in *ḥudūd* cases. The *Zāhiri* jurists, however, opined that the testimony of more than one woman can be accepted if it is corroborated by (testimony from) one man, because this is what the verse literally says. Abū Ḥanīfah said that their testimony may be accepted in financial matters and in non-*ḥudūd* matters that have to do with the person, such as divorce, marriage, manumission, and the like. Imām Mālik, however, held that their testimony may not be accepted in matters related to the person. The testimony of women on their own, in which only women (and not men) give testimony, is accepted by the entire legal community in matters related to the person on the condition that the matter is of the nature that only women would have knowledge of it. Such matters include childbirth, monthly courses, hidden physical defects, and the like. There is no disagreement on this matter, save in regard to suckling and the establishment of foster relationships.<sup>25</sup>

Ibn Ḥazm wrote:

It is not lawful to accept, in cases of adultery, the testimony of fewer than four men who are both Muslims and deemed trustworthy (*'udūl*), by the court. Two trustworthy Muslim women may, however, take the place of each man. In all cases involving rights, like *ḥudūd*, blood, *qiṣaṣ*, marriage, divorce, return to marriage (*raḡ'ah*), and financial affairs, only the testimony of two men, or one man and two women, or four women may be accepted. In all such cases, save cases of *ḥudūd*, if the one seeking rights gives an oath, then the testimony of only one trustworthy male witness will suffice, or one male and two female witnesses, or four female witnesses. Likewise, in all such cases save *ḥudūd* cases, the testimony of one man or two women will be accepted if it is accompanied by an oath taken by the plaintiff. In matters of suckling only, the testimony of one trustworthy woman or man will be accepted. Ibn Taymīyah wrote:

The verse—"and if two men are not available, then a man and two women from among such as are acceptable to you as witnesses, so that if one of them should make a mistake, the other could remind her"—indicates that the reason for equating the testimony of two women with that of one man is so that one woman may remind the other if she goes wrong. Generally speaking, the sort of mistake that will take place is forgetfulness and the inability to remember. This is what the Prophet alluded to when he said: ". . . as to the deficiency in their intellect, it is (attested to by the fact that) the testimony of two women is equal to that of one man." Thus, he clarified that the reason for halving their testimony is attributable to a deficiency in their intellect and not in their religion. From here, we learn that the trustworthiness of women as witnesses is the same as the trustworthiness of men, but that their intellect is inferior. Thus, in regard to testimony on matters in which it is not feared that they will make mistakes, their testimony is not equal to half the testimony of men. As for matters on which the sole testimony of women is accepted, these are matters that women have an opportunity to witness by themselves, or hear, or otherwise sense, so that their intellects play no part in the testimony. These are matters like childbirth, monthly courses, hidden physical defects, suckling, and the like. Usually, such matters are neither easily forgotten nor require great intellect to comprehend, as opposed to words spoken in acknowledgment of debt, and the like, all of which are complex and generally require a great deal of experience before they can be understood. Having established this point, we may say that the testimony of a man and two women is accepted in every case in which the testimony of a man and the oath of the plaintiff are accepted. Both 'Atā' and Ḥammād ibn Sulaymān held the opinion that the testimony of one man and two women will be accepted in cases of

*ḥudūd* and *qīṣāṣ*. And, according to one narration, they accepted such testimony in cases of marriage and manumission as well. The same was related about Jābir ibn Zayd, Iyās ibn Mu'āwīyah, al Sha'bī, al Thawrī, and others from the rationalist schools of jurisprudence. The same holds true, according to another narration, in regard to cases involving damages and the payment of reparations.

The passages quoted above should suffice as examples of how the classical scholars of Islam understood the Qur'anic verses we are considering and the hadith literature on the subject. Clearly, the legal rulings derived from these texts came not only from statements made in the imperative or prohibitive mode, but from every aspect of the reported texts.

It also appears that the word for "make a mistake" in the verse was interpreted as a deficiency when considered in conjunction with the hadith literature on the subject. The reader will recall that the meaning of the word was interpreted variously by Qur'anic commentators and lexicographers as either "to forget" or "to overlook." Also the hadith related by 'Abd Allāh ibn 'Umar was interpreted variously by different hadith scholars. For example, Imām Muslim related it in a chapter entitled "An Explanation of Deficiency in Faith by Means of Deficiency in Devotion, and an Explanation of How the Word '*Kufr*' Does Not Always Mean Disbelief in God But is Sometimes Used to Denote Ingratitude."

In explanation of Abū Sa'īd's hadith concerning the "intellectual deficiency" of women, Sharaf al Dīn al Nawawī explained that the meaning of the Prophet's statement, "there is your deficiency of intellect," should be understood as meaning "there is a sign of your deficiency."<sup>26</sup>

In any case, when we examine the classical commentaries on these hadiths, we find that none of them applied the criteria they or their predecessors established for the textual criticism of hadiths. The *muḥadith-thūn* themselves stated that the authenticity of a hadith's chain of transmission alone does not guarantee the authenticity of its text. So, in what follows, I will apply certain of the criteria developed by the classical hadith scholars in order to authenticate the texts of hadiths. For the purposes of this paper, I shall deal only with the texts and the classical criteria for their criticism.<sup>27</sup>

The difficulty in the hadith alleging the "intellectual and religious inferiority" of women is that it ascribes to the Prophet a statement that indicates the religious inferiority of people who do no more than what God has commanded them to do, both in the book of nature and in the Qur'an. Therefore, the assertion that women are deficient in their religion because they cannot pray or fast during their menstrual periods is clearly suspect. Several hadith commentators have attempted to explain this in one way or another, but the fact remains that God ordered women not to fast or pray during such times. Thus, when they follow these instructions they are earning the reward for obeying His commandments, and He "does not lose sight of the labor of any who labors, be it man or woman" (3:195).

By way of comparison, the Shari'ah considers the shortening of prayer while on a journey to be the original state of affairs. In a hadith, 'Ā'ishah related: "When prayer was first prescribed as a duty for Muslims, the number of *rak'ahs* was two. Later on this was increased to four for those not traveling, while the number for those on journeys remained the same."<sup>28</sup> So the shortening of prayer for a traveler has nothing to do with deficiencies on the part of anyone.

In addition, it is extremely difficult to reconcile the matter of "intellectual deficiency" with the Qur'anic principle of equality between the sexes. Had it been a matter of deficiency in testimony, there might not have been a problem. But when the hadith mentions "intellectual deficiency" in clear contradiction to the evidence of both nature and the unequivocal texts of the Qur'an in regard to equality, a problem clearly arises. Furthermore, the difficulty is no way lessened or decreased in importance by the fact that it has only come to light in modern times. The message of Islam is, after all, universal and applicable to every time and place. These truths are beyond dispute.

Western intellectual trends, including the scientific method, are now widespread and have led to the development of important critical and analytical skills and tools. Modern thinkers are very reluctant to consider anything that cannot be subjected to their various critical methodologies. Clearly, this has led to reservations and doubts about nearly everything related to religion and religious experience. In order to counter these doubts successfully, it is essential that we develop methodologies based on Qur'anic paradigms and that we strive to develop our methodologies for the criticism of hadiths, rather than leave our intellectual legacy to the depredations of others. What the Muslim world expects of its hadith scholars, hadith colleges, and university departments of hadith studies is not a mere rehash of what was produced in the past, but a renewal, in the sense of further development on the foundations laid in the past, so that these can be strengthened by modern methods of criticism. If we want to be of service to the Sunnah, this is the direction we must take.

We know that the early imams of hadith rejected some hadiths with sound chains of transmission for the reason that their texts were unsound, and that they rejected other hadiths with sound texts for the reason that their chains of transmission were unsound. Nor did they allow their rulings in regard to the authenticity of those hadiths to be swayed by the fact that the hadiths had been included in the collections of al Bukhārī and Muslim. Imām Bukhārī, for example, selected the 2,602 hadiths he included in his collection from over six hundred thousand hadiths. Nor does it detract from his efforts to include only the most authentic hadiths if scholars who come after him discover that some were not actually authentic or that some did not meet the criteria he himself had established for their authenticity.

If it is a simple matter of fact that the *ijtihād* performed by the four major imams of *fiqh* was disputed by others, why should it be difficult to

imagine that there might be criticism of the *ijtihād* performed by al Bukhārī and Muslim in ascertaining which hadiths were authentic and which were not? In fact, their work was corrected by many of the great scholars of hadith, among them Abū Maṣ'ūd al Dimashqī, Abū 'Alī al Jiyānī al Ghas-sānī, and Abū al Ḥasan al Darqūṭunī, who found two hundred hadiths in al Bukhārī's and Muslim's collections that did not measure up to the criteria for authenticity set by these two collectors themselves. Likewise, the two great *rijāl* biographers Abū Zur'ah al Rāzī and Abū Ḥātim listed the mistakes made by al Bukhārī in his biographical works. Abū Ḥātim even wrote a book on the subject: *Bayān Khaṭā' Muḥammad ibn Ismā'il al Bukhārī fī Tārīkhihi*. Al Khātīb al Baghdādī did the same in his *Muḍīḥ Awḥām al Jam' wa al Tafriq*.<sup>29</sup>

Thus, the real problem is that of methodology. There is a very real need today for the development of a methodology for dealing with the Sunnah and for applying it with care, so that balance may be maintained in regard to the hadith literature. Only in this way may we protect the Sunnah from baseless attacks and from incorrect applications (through assumptions or deductions drawn from less than authentic hadiths). In order that this problem be addressed in a suitable and effective manner, the gulf between the criteria used by classical scholars and the methodologies of the modern age must be bridged by building upon the foundations established by the classical scholars and developing these in light of the Qur'anic epistemology. Once these issues have been clarified, it will be possible to review much of the legal legacy of Islam in regard to women and issues of gender equality.

It is not my intention to cast doubt upon the works of al Bukhārī and Muslim. Rather, what I am concerned with is serious scholarship and devoted academic attention to the matter of using modern methods to criticize and analyze hadiths. Finally, our problems with the hadith literature today are not the result of anything done by the classical *muhaddithūn*, but rather with the failure of our scholars to follow up their predecessors' work and to develop it further. If today's scholars would apply as much energy to the study and criticism of hadith texts as the classical scholars applied to the study and criticism of hadith chains of transmission, we would be able to join our reading of the Qur'an with our reading of the Sunnah, and our reading of the Qur'an with our reading of the "book" of the real-existential.

These have been some reflections on the subject of women's testimony, and I hope that they may serve to inspire others to ponder that subject, and those related to it, in greater detail and from the perspectives of their respective disciplines. Clearly, owing to shortcomings in our intellectual history, attitudes toward women and their roles in society have been less than the Qur'anic ideal. If we are to progress in this particular matter, or in any other of the imbalances that exist in our societies, we will have to reconsider the teachings of the Qur'an and the Sunnah and the ways in which we deal with these sources.

## Endnotes

1. See Fakhr al Dīn al Rāzī, *al Tafsīr al Kabīr* (Cairo: Maṭba'ah al Bahiyah, n.d.), 12:54-56. Italics added for emphasis.
2. See Ibn Kathīr, *Tafsīr al Qur'ān al 'Aẓīm* (Cairo: al Maktabah al Ṣalafiyah, n.d.), 4:478; al Rāzī, *ibid.*
3. al Rāzī, *ibid.*
4. al Bukhārī, "Kitāb Faḍā'il al Qur'ān" (Virtues of the Qur'an chapter), in *al Jāmi' al Ṣaḥīḥ*, hadith no. 4707.
5. Numerous passages can be cited from the Old and New Testaments of the Bible. Representative, however, are the following from Genesis 3:15: "I will put enmity between thee and the woman, between her seed and thy seed," and from Timothy 2:11-12: "Let the woman learn in silence with all subjection." The Qur'an exposes something of these attitudes in its story of how the mother of Mary vowed that the fruit of her womb would serve God and how she was startled to learn that she had given birth to a girl. See Qur'an 3:35-37) (translator's note).
6. See Aḥmad ibn Muḥammad al Fayyūmī, *al Miṣbāḥ al Munīr*, 3d ed. (Egypt: al Maṭba'at al Āmirīyah, 1912), 496.
7. See al Ḥusayn ibn Muḥammad al Rāghib al Isbahānī, *Mufradāt fī Gharīb al Qur'ān*, 297.
8. For a detailed discussion of the uses of the word, compare: Abū Zakariyā al Farrā', *Ma'ānī al Qur'ān* (Cairo: Dār al Kutub al Miṣriyah, 1955), 1:184 and 2:181. See also Muḥammad ibn Jarīr al Ṭabarī, *Jāmi' al Bayān fī Tafsīr al Qur'ān*, 2:62-67 and 16:132-33; and Abū Bakr al Jaṣṣāṣ al Rāzī, *Aḥkām al Qur'ān*, 1:507-14; and Ibn al 'Arabī, *Aḥkām al Qur'ān*, 1:252-56.
9. In other words, these jurists refused to equate the testimony of the woman with that of a man for the reason that neither she nor her partner could deliver reliable testimony; not her's, because she might forget, and not the other's, because her role is merely to remind and not to give testimony (translator's note).
10. In other words, under those circumstances, is the woman's testimony to be considered equal on its own as a result of the man's reminding her or equal in combination with the man's reminding? See Abū Bakr Ibn al 'Arabī, *Aḥkām al Qur'ān* (Cairo: Dār Iḥyā' al Maktabah al 'Arabīyah, 1958), 1:252-56.
11. al Rāzī, *al Tafsīr al Kabīr*, 2:366-67.
12. See Qur'an 42:41.
13. See Muḥammad ibn Idrīs al Shāfi'ī, *Kitāb al Umm* (Cairo: Maktabat al Kuliyah al Azhariyah, 1961), 7:264-65.
14. See Nāsir al Dīn al Albānī, *Ṣaḥīḥ al Jāmi' al Ṣaḥīḥ* (Beirut: al Maktab al Islāmī, 1969), hadith no. 2329.
15. Muḥammad ibn Ismā'il al Bukhārī, *al Jāmi' al Ṣaḥīḥ*, "The Book of Clothing."
16. This version was related by both al Bukhārī and Muslim.
17. Abū al Qāsim Jār Allāh al Zamakhsharī, *al Kashshaf'an Ḥaqā'iq al Tanzīl* (Būlaq, Egypt: al Maṭba'ah al Āmirīyah, 1318 A.H.), 3:569.
18. See the introduction written by Zāhid al Kawtharī on Zayla'ī, *Naṣb al Rāyah* (India: al Majlis al 'Ilmī, 1936), 1:37-38.
19. The number of Qur'anic verses attesting to the validity of the Sunnah is such that there is hardly a chapter in which this fact is not mentioned. Significant among these, however, are the following: Qur'an 4:105, 59:7, 4:59, 4:80, 16:64.
20. Muṣṭafā Sibā'ī, *al Sunnah wa Makānātuha fī al Tashrī' al Islāmī* (Damascus: al Maktab al Islāmī, 1979), 271.
21. Musfir Gharam Allāh al Damīnī, *Fī Maqāyīs Naqd Mutūn al Sunnah* (Riyadh: Imām Muḥammad ibn Sa'ūd University Press, n.d.), 127-29.
22. Ibn Qayyim, *al Manār al Munīf fī al Ḥadīth al Ḍa'īf* (Aleppo: Maktabah al Maṭba'ah al Islāmīyah, 1970), 58.

23. The term *single-narrator narration* or *khabr al wāḥid*, refers to a hadith transmitted, at some point, by only one narrator. The authenticity of such transmissions was the subject of dispute among the hadith scholars and the *fuqahā*, many of whom held that such narrations were acceptable only as corroborative evidence (translator's note).

24. al Bukhārī relates a lengthy hadith from 'Ā'ishah, in which she narrates the variety of forms taken by pagan marriages. See hadith no. 4835.

25. Ibn Rushd, *Bidāyat al Mujtahid* (Cairo: n.d. ), 2:174.

26. Sharaf al Dīn al Nawawī, *Sharḥ Ṣaḥīḥ Muslim* (Beirut: Dār al Fikr, 1990), 5:226.

27. See 'Abd al Ḥalīm Abū Shuqqah, *Tahrīr al Mar'ah fi 'Aṣr al Risālah* (Kuwait: Dār al Qalam, 1990),1:271-91.

28. Ibn Abī Shaybah, *al Muṣannaf* (Beirut: Dār al Fikr, n.d.) 14:132.

29. See the introduction by Ibn Ḥajr al 'Asqalānī to his commentary, *Fath al Bārī* (Beirut: Dār al Fikr, n.d.), 346, 375-76, 465.