

Domestic Violence and the Islamic Tradition: Ethics, Law, and the Muslim Discourse on Gender

Ayesha S. Chaudhry

New York: Oxford University Press, 2013. 258 pages.

The polyvalent Qur’anic text lends itself to multiple interpretations, depending upon one’s presuppositions and premises. In fact, Q. 3:7 distinguishes between *muhkam* (explicit, categorical) and *mutashābih* (metaphorical, allegorical, symbolic) verses. As such, this device provides a way for reinterpreting verses that outwardly appear to be problematic – be it in the area of gender equality, minority rights, religious freedom, or war. However, many of the verses dealing with legal provisions in such areas as devotional matters, marriage, divorce, child custody, inheritance and bequest, and specific punishments appear to be unequivocal, categorical, and explicit. As such, scholars have devised certain hermeneutical strategies to situate and contextualize these verses in a particular socio-historical context, as well as to emphasize that they were in conversation with the society to which the Qur’an was revealed and thereby underlining the “performative” (p.15) nature of the relationship between the Qur’an and the society.

No verse is more problematic, in the sense that it offends contemporary sensibilities and is quite difficult to reconcile with an egalitarian worldview when dealing with gender issues, than Q. 4:34, which allows the husband to discipline his wife if he deems her guilty of *nushūz* (e.g., disobedience, intransigence, sexual lewdness, aloofness, dislike or hatred of himself). Ayesha Chaudhry undertakes a study of this challenging verse by engaging the corpus of literature in Arabic from the classical period to the seventeenth century; she also includes Urdu and English sources for the post-colonial period.

She starts off by relating her personal journey from a state of discomfort and puzzlement when she first came across this verse in middle school to a defensive posture in trying to convince herself by invoking the Prophet’s compassion toward his wives and in cherishing the idea that the Qur’an gave more rights to women than either the Hebrew Bible or the New Testament. She began a more rigorous and nuanced study of this verse after equipping herself with the necessary academic tools and analytic skills during her university studies. Frustrated with the shallow responses and the scholars’ circumspection as regards any creative and novel reading of the verse for fear of losing their status in the community, she decided to do so herself with the hope of discovering views that would promote an egalitarian reading. But

her findings (“I was shocked to find that not a single pre-colonial Muslim scholar objected to the disciplinary privilege of husbands” [p.8]) seem to suggest that she failed to confirm her initial hypothesis.

I was confident that I would find egalitarian voices amidst the patriarchal ones. Since justice was a central value of Islam, and hitting wives was blatantly unjust, it was impossible for me to imagine an Islamic tradition in which no one challenged the right of husbands to hit their wives. (ibid.)

This passionate desire and mission to excavate sources that would produce the intended conclusion leads her, at times, to rationalize and legitimize various classical interpretations that would only further reinforce gender inequity and increase the chances for spousal abuse, even if the directive is for the discipline administered to be moderate (*ghayr mubarrih*): “With a little bit of hermeneutic maneuvering, Q. 4:34 can be compellingly read to support both egalitarian and patriarchal interpretation” (p. 53) and “Given the interpretative flexibility available to pre-colonial exegetes, it is significant that they uniformly interpreted the command of *wa-dribuhunna* to mean ‘hit them’” (p.94). On the positive side, her deep scholarship enables her to provide an insider’s view to this challenging verse and widens the scope of relevance so that it does not cover only the legal or intellectual debates, but also elevates it to a pragmatic and human level, for many women are embroiled in abusive relationships.

This two-part book comprises an introduction, five chapters, a conclusion, an appendix, and rich footnotes and bibliography. The first part examines pre-colonial exegetes and jurists’ understanding of the Q. 4:34 by relying on Arabic sources, and the second explores post-colonial scholars who have written in Arabic, Urdu, and English.

Chaudhry presents a rigorous and exhaustive study of the pre-colonial exegetical and juridical literature on this verse in the first three chapters of her book. She begins by asserting that one’s “idealized cosmology” greatly impacts its interpretation. Her analysis of the context and occasion of revelation is quite useful and informative to those seeking to understand the tension that exists between the Qur’anic injunction and the Prophet’s own preference vis-à-vis hitting one’s wife. The arguments that the exegetes advance to reconcile the conflicting positions are tendentious, as are the reasons cited for providing a higher status to men in a stratified and hierarchical structure of human dignity.

In chapter 2, she tackles the ethical dilemma faced by some exegetes who sanctioned wife-beating. As their patriarchal cosmology did not allow this practice to be prohibited, they introduced ways to either limit or minimize its intensity. The same vision played a role in defining *nushūz* for both

men and women. In this chapter she also provides a detailed analysis of the three-step process that the husband can activate and that culminates in a license to beat his recalcitrant wife. The author appears to be overly optimistic and surmises that pre-colonial methodologies have a built-in elasticity to make room for creative and novel interpretations (p.74). But in my estimation no amount of finesse and “hermeneutical acrobatics (pp. 140, 159) could, with any sense of academic integrity, convince one that *wa-dribu-hunna* means to have intimate relations with one’s wife, to split up with her by way of divorce or travel (pp. 78, 136), “make an impression upon her,” (p. 181), or “mingle” with her (p. 182). Thus the difference between pre- and post-colonial scholars is one of differing idealized cosmologies (p. 94), as Chaudhry correctly points out, and this is organically connected with their methodology and pre-set assumptions.

As such, a critical examination of the foundational sources of *uṣūl al-fiqh* and the attendant built-in assumptions would be required for a paradigm shift, or what Mohsen Kadivar refers to as “foundational” or “structural” *ijtihād*. Without such an overhaul, such outcomes as permitting the husband to rape his wife (pp.104-05) cannot be avoided because the marriage paradigm is adopted from the master-slave relationship. Chapter 3 deals with Q. 4:34 from the juridical perspective of the four Sunni legal schools of thought. The jurists’ deliberations are based on exegetical and hadith literature, and “it is noteworthy that in the end their stances on the right of husbands to physically discipline wives shared essential similarities” (p. 131). The author must be applauded for providing an exhaustive treatment of the subject matter from both perspectives.

In chapter 4, Chaudhry analyses post-colonial approaches and identifies four trends: traditionalist, neo-traditionalist, progressive, and reformist. Her study of the strategies and tactics adopted by each one, along with how they reconcile the tension between classical tradition and egalitarian worldview, are very useful indeed. And yet I doubt if the progressive and reformist scholars would agree with her definition: She says that the former attempt to excavate an egalitarian worldview without severing ties with the classical tradition, whereas the latter have no qualms about debunking the entire classical tradition as they posit their reading of the Qur’anic verse afresh.

The figures she invokes as exponents of these two approaches are not the best, given that some of them are only translators of the Qur’an or of the institutions that issue proclamations. Thus they provide no understanding of their method of interpretation and what, for them, constitutes epistemic authority. Incorporating such scholars as Shihab al-Din Qarafi (d. 1285), Abu Ishaq al-Shatibi (d. 1388), Sir Sayyid Ahmad Khan (d. 1898), Muhammad Abduh (d. 1905), Muhammad Sa’id Ashmawi (d. 2013), Nasr Hamid Abu Zayd (d. 2010),

Mohammed Arkoun (d. 2010), Mohammed Shahrour, Tariq Ramadan, Hasan al-Turabi, Abdallahi An-Na'im, Abdulaziz Sachedina, Abdolkarim Soroush, and Mohsen Kadivar would have enhanced her already fine scholarly work.

In the last chapter, Chaudhry makes a persuasive case as regards the vital role played by one's cosmology when it comes to interpreting the revelatory texts. However, the change from a patriarchal to an egalitarian cosmology has theoretical underpinnings that are linked with theology, ethics, law, anthropology, linguistics, and modern sciences. One would have liked to have seen more discussion on these issues for the post-colonial period. The book ends with a useful appendix of a list of exegetes who espouse views on different aspects of gender equity. All in all, her work is undoubtedly an original contribution to the field and she exhibits a masterful command of the source material.

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