

The Shari'a issue

Abdennur Prado

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Bismillahi ar-Rahmani ar-Rahim

The First International Conference on Islamic Feminism (Barcelona, October 2005) was considered a presentation of Islamic feminism as a cross-national movement, bringing to light the desire of many Muslims, men and women, to fight against injustices committed against women in the name of Islam. At that time, we listened to reflections from Muslims of different nationalities as to the situation of women in countries such as the U.S.A., Iran, Malaysia, Pakistan, Mali or Nigeria. Through their words and the memory of their deeds we were able to sense the importance of Islamic feminism as an emerging movement that seeks gender equality –as yet a minority movement, but whose message holds great hope for the future.

At this Second conference, we wanted to take another step forward, to pose a debate concerning the Shari'a and gender discriminatory Family codes currently in force in many countries with a Muslim population. Our intent is to focus directly on certain topics where patriarchy exercises its control over minds and bodies. In the next few days we will have well-known intellectuals and activists among us who will present their views on polygamy, divorce, abortion, family planning, sexual rights and the spiritual leadership of women. All of this from an Islamic perspective, and in opposition to those sectors which seek to impose an obscurant view of Islam. In other words, we will speak of the confrontation between Islamic feminism and judicial Islam, of real situations of injustice which many Muslim women are subjected to, and of responses to these injustices from an egalitarian standpoint.

The conference will not be limited to this topic, and the topic itself may serve as a thread which takes us in other directions. If we speak of laws pertaining to family, we must speak of the worldview which sustains it, of a concept of family where the woman is subject to the man. If we speak of regaining rights, we are recognizing that these rights have been violated. If we speak of the reestablishment of justice and equity between the sexes, we are evoking the ethical dimension of Islam, upheld in the Qur'anic conception of the human being, *al-insan*, a creature capable of love, solidarity and transcendence. A creature gifted with an essential dignity regardless of gender, race, religion or sexual tendencies.

What is the Shari'a?

The purpose of this initial address is to offer a general introduction to the topic: I will present perspectives of Islamic feminism in connection to the issue of Shari'a. In what terms is the Shari'a debate presented in the Islamic world? And more specifically, what overall view can we contribute to this debate from a feminist perspective? In order to answer this question we must ask another: What is the Shari'a? What does this word mean in the life of every Muslim man and woman? And this is where we meet the first difficulty in understanding, the first methodological snag which we must clarify in the simplest fashion.

Surely many of those present (some of whom are Westerners with little knowledge of Islam) have heard the word Shari'a in connection with barbaric laws and corporal punishments. Just a few days ago we received news of the imminent execution of a sentence of stoning in a case of adultery in Iran. The court which decreed this sentence claims to be fulfilling the laws of Islam. Likewise from Somalia we receive worrying news, the so-called courts of the Shari'a are imposing corporal punishments and other sentences. These are courts with questionable legitimacy, who disregard all the legal procedures.

Cases like these fully account for the rejection against the word Shari'a, associated with a type of legislation that seems to arise from the depths of our own history. Let us not forget that the fight against corporal punishment marks the beginning of a new paradigm in legal matters in Europe. Thus, it is understandable that the news that reaches us concerning the Shari'a elicits strong rejection.

Here we run into a snag, since the word Shari'a has another meaning which must be clarified. An etymological look at this Arabic word can help clarify the term, shedding light on what it means for Muslims. The word Shari'a appears in the Qur'an in a very broad sense: **"We have set you in the way (*shariat*) which proceeds from the Decree"** (45:18). Allah, evoking the earlier revelations of Moses and the Torah, of Jesus and the Gospels, declares: **"In the matter of religion, He opened a way (*Shari'a*) for you that He had entrusted to Noah, the same way that we revealed to you; the same way that was entrusted to Abraham, Moses and Jesus: firmly establish worship (of God) and do not make it into an object of division."** (42:13).

These verses show that the Shari'a, in the Qur'an, is the broad way which leads man towards the divine being, and not a specific legal code. In all of its forms, the Arabic term *Shari'a* has the same root as the verb *shara'a*: to make one's way toward a spring. A way which leads toward a spring of water, a metaphor for God, the unique Fountain of existence. This is very different from legal prescriptions or *fiqh*, drawn up by men from ethical principles that can be found in the revealed word, and that have a historical character, linked to a precise situation. We want to make this very clear, since normally these words are used interchangeably, as if the Shari'a were a synonym of *fiqh*, jurisprudence.

This ethical orientation and its quality of spiritual Guide is the fundamental objective of the Qur'an. This is a spiritual message and not a legal code. Out of more than six thousand verses contained therein, a mere 80 can be considered legal prescriptions. It is completely absurd to reduce the Shari'a, an orientation for life, to just these verses, which represent less than 3% of the total revelation. What I mean by this is that the Shari'a is something broader than the law, and that this translation, so often used, impoverishes its meaning.

Although the Shari'a is typically associated with corporal punishments and laws which discriminate against women, it is necessary to step aside from stereotyped views for a moment and come closer to what it means in the Muslim's daily experience of Islam. A basic thing about Islam is that it is construed as a practice. It is not only a matter of more or less abstract beliefs, but rather a praxis directed toward putting man into contact with Reality. The objective of all Islamic rituals or practices is to guide man toward the undivided fountain, the goal of all that has been created. In other words: this fountain-way that we call Shari'a is construed as *fiqh*, jurisprudence.

The practical discourse of the Shari'a encompasses, first of all, all aspects of the *'ibada*, the practice of worship. Such as praying, fasting, carrying out a pilgrimage. If the Shari'a were not put into

concrete terms, Muslims would not know how they should do these things, how to practice the pillars of our religion. Only if we understand this can we understand the meaning of the classic expression “there is no Islam without Shari’a”. The Shari’a is the practice of Islam, what determines how the ritual prayers should be performed, and what the *zakat* consists of, the obligatory donation of part of one’s earnings to the needy. The Shari’a establishes how one carries out the pilgrimage to Mekka, how one fasts during the month of Ramadan. In this sense, the Shari’a is essential for every Muslim man and woman.

Now then, the Shari’a prescriptions go beyond these typically religious practices. In addition to all that is the practice of worship, we have what we call in Arabic *mu’âmalât*, which regulates the believer’s relations with society, including commercial transactions or family rights. This is to say, all norms for all matters that are addressed in the social life of Muslims. Toward this end it has been applied to the penal procedure, to administrative law and to war. The word *mu’âmalât* means, literally, transactions, exchanges. If the *‘ibada* refers to the vertical dimension: man’s direct relationship with the divine being, the *mu’âmalât* refers to the social, horizontal dimension of Islam.

Sharia and Patriarchy

All this brings us to the current situation. There are numerous Islamist movements in certain Muslim-majority countries that in recent decades have invoked the Shari’a as the only way out of the political, social and economic evils which they are suffering. This demand for the Shari’a coincides with the zeal for de-colonization, with shaking off a foreign heritage which is perceived as destructive, not only of culture and traditional life style, but also of the economy which guaranteed the subsistence of these countries’ populations during centuries.

As Lily Zakiyah Munir expressed, *“Failure of modernizing secular state is evident by political decay, the decline of politics into authoritarianism, patrimonialism, corruption, and the dissatisfaction with the project of the post colonial secular states. The growing saliency of religion in the politics of countries throughout the world is a struggle for cultural liberation in search for authentic identity, political representation, and more equitable development in third world countries”*.

Thus, the return to religious matters is not necessarily a step backward. Acceptance of modern Western values is problematic for countries that have been colonized, tortured and exploited by the countries who claim to represent this modernity, and this problem increases with the continuity of post-colonial regimes, who have applied repression politics against all those currents which demand greater social justice and an end to privileges. This is the context in which Islamist movements call for the application of the Shari’a as a way to attain a more just society. Taking all this into consideration, it is understandable that this possibility is attractive to many Muslims. The problem is that when the Islamists speak of applying the Shari’a, they are speaking of applying legal constructions drawn up by the great jurists of the classical period of Islam. In practice, this involves implementing the death penalty, corporal punishments, and a whole series of laws whose principal victim is the woman. This process is known as a “re-islamization of society”. But one must keep very much in mind that this re-islamization does not mean returning to a traditional Islam, rooted in people’s daily life, but rather the implementation of Islam as a religion of the State.

I quote again Lily Zakiyah Munir: *“While this growing Islamization has had an impact on states,*

societies, and communities, women seem to be impacted the most. More than anything else, gender-related issues present some of the most difficult and complicated challenges to contemporary Islamic law. Islamic legal system regulating women-related issues, the family law (al-akhwal al-syakhsyiyah), has remained static and immutable since its codification a thousand years ago. Time and space have changed, and Muslims are currently living in a completely different socio-cultural and political context, but the conventional shari'a on gender and women remain unchanged. This same law has been used as a reference on issues like gender relations, polygamy, divorce, inheritance, women's leadership role, etc. which, unsurprisingly, reaffirms the already patriarchal attitudes of many Muslim males. Under the guise of uplifting Islamic law, the war against women is launched demonstrating the misuse and abuse of God's authority in order to impose a suffocating patriarchy among Muslim society.” (Islam, Modernity and Justice for Women. Paper presented at the Islam and Human Rights Fellow Lecture, October 14, 2003).

At this time there are groups which advocate the implantation of a codification of Islamic law dating back to the 8th or 10th century, and which in practice means nothing more than corporal punishment, justification of domestic violence against women, dress codes which restrict freedom, family codes which are strongly discriminatory and chauvinistic, restricting women's rights to divorce, inheritance, and exercising certain professions.

Faced with these attempts, Islamic feminism denounces that this supposed Islamic law is not the 'law of God', as its proponents affirm, but rather a human creation codified too many centuries ago, in the context of societies where the woman was considered property of the man, and where religious discourse was in the hands of men. This movement considers that the Islamic tradition has been degraded and the Qur'an has been distorted. It postulates that genuine Islam contains important elements of liberation and it proposes that these be regained as the basis for the Muslim woman's emancipation.

Feminist readings of Qur'an

The need for Qur'anic hermeneutics from an egalitarian perspective becomes evident here, as has been proposed by Asma Barlas in her book 'Believing Women in Islam'. An analytical reading of the Holy Qur'an makes clear that classical Islamic jurisprudence is not merely an objective implementation of Qur'anic principles, but rather an interpretation linked to a concrete historical period, carried out from a patriarchal perspective, and linked to a hierarchical concept of society.

I would like to mention a specific example of how such hermeneutics work: the famous case of the *daraba* and domestic abuse, beginning at verse 34 of chapter 4 of the Qur'an:

**“... wa l-latî tajâfûna nushûçahunna fa'dzûhunna
wa ihÿurûhunna fî l-madâÿi'
wa idribûhunna.”**
(Qur'an, surah 4, an-Nisa', verse 34)

This passage has been the object of innumerable explanations and interpretations throughout history. The problem originates in the polysemous nature of the last word, *idribûhunna*. According to numerous authors, the verb *daraba* in this context means 'beat, strike', with which the Qur'an is permitting, as a last resort, the beating of wives:

**“As for those women with whom you may have a dispute;
admonish them;
then leave them alone in bed;
then beat them.**

This understanding situates us within the patriarchal legal tradition of Islam. Given its contradiction with the general teachings of Islam and with the Sunna of the Prophet (peace and blessings), scholars have to explain this verse in some way. In relation to this matter Muhammad (peace be upon him) clearly showed his rejection of all forms of violence against women: “*Never beat God’s handmaidens*”, “*He who beats his wife is the worst of all men*”, and “*The best amongst you men is he who best treats his wife*”. Thus with the intention of “emptying of violence” this “beating”, a series of limitations are indicated: one cannot strike in moments of anger; one cannot strike sensitive areas; one can only strike lightly, etc. Anyone can see that these limitations dilute the punishment to its minimum and make it ridiculous or impossible.

This has an explanation in the very polysemous nature of the word *idribûhunna*. Taking into account that many Arabic speaking Muslims read verse 34 of an-Nisa as “beat them”, and that the Sunna explicitly prohibits this, the *fuqaha* have come up with a means of uniting the two. They have come up with a series of limitations to this “beat them” making it so absurd that it cannot take place. For example, there is a hadith which speaks of “not beating the face” of the enemy, given that the face is the sign of our likeness. The idea of beating with a *siwak* (a type of toothbrush) has its origin in a hadith in which the Prophet (saw), angry with someone, said to him “*if it wasn’t for the fact that I know that it will weigh against me on the Day of Judgement, I would beat you with this [showing a siwak]*” (passed on by Ibn Majah and for Ibn Hibban in their *Sahih*). In this way, it is an attempt to avoid beatings without giving up the possibility (which is a fact) of reading the verse of an-Nisa in the sense of “beat them”. A stratagem – when the causes that have made it necessary are left to one side, one gives way to ambiguities and misunderstanding.

Opposing these types of arguments (casuistry typical of Islamic jurisprudence of the 9th to 12th centuries), other Muslim scholars stated emphatically their rejection of any possibility of “ill-treatment” of wives, no matter how remote or “limited” it claims to be. In this case, the “limitations” do no more than leave the door open, just as it has been shown in cases of domestic violence in which a Muslim man has sought protection in his religion in order to justify his actions.

In this controversy, the determinant point is the meaning of verse 34 of the surah an-Nisa. The verb *daraba* is eminently polysemous and that in the very Qur’ân it has different meanings.

— To travel, to leave: 3:156; 4:101; 38:44; 73:20; 2:273

— To strike: 2:60,73; 7:160; 8:12; 20:77; 24:31; 26:63; 37:93; 47:4

— To beat: 8:50; 47:27

— To give examples: 14:24,45; 16:75,76,112; 18:32,45; 24:35; 30:28,58; 36:78; 39:27,29; 43:17; 59:21; 66:10,11

— To take away, deprive: 43:5

— To condemn: 2:61

— To seal, to hide: 18:11

— To cover: 24:31

— To explain: 13:17

In the Qur’án, *daraba* appears with at least ten different meanings which are only some of the more than thirty meanings of this Arabic verb. When the scholars explain how the ablutions (*wudu*) should be carried out they use this verb – “pour” (*daraba*) water over the face. Other meanings are: “imprint” (coin); “multiply” (numbers); “finish” (a job); etc. From this, one understands that each reader of the Qur’án in Arabic reads this part of the verse according to his or her own understanding.

Not all scholars read the verb *daraba*, in an-Nisa 34, as “beat”. Some argue it cannot refer to ‘ill-treat’ or ‘physically beat’. In any case, it would refer to ‘beat’ in a figurative sense – a *coup de théâtre* or ‘to set an example’ in order to bring about a change.

The Saudi Dr. Abdul Hamid Abu Sulayman, president of the *International Institute of Islamic Thought* and rector of the International Islamic University of Malaysia affirms in his article ‘*Chastising Women: A Means to Resolve Marital Problems*’: “A correct reading of the term *daraba* advises a husband to ‘separate’ from his wife, to ‘distance himself’ from her and to ‘leave’ the conjugal home”. In addition, he indicates that when the Qur’án talks of “strike physically” it uses the verb *jalada* (flog), as at the beginning of the surah an-Nur (punishment in the case of adultery).

Edip Yuksel, translator of the Qur’án into Turkish, states that the translation “beat them” is erroneous, and that it ought to be translated as ‘separate from one another’. One of the meanings of *daraba* is ‘to travel’ or ‘to leave’ as found in the Qur’án (3:156; 4:101; 38:44; 73:29; 2:273). This opinion is shared by numerous authors, such as Mohammed Abdul Malek (‘Does The Quran Sanction The Beating of Women?’), Uzma Mazhar (‘Treatment of Wife’), and many others.

This reading is reinforced by the verse as a whole and the verse that follows it. One needs to step back a little in order to see the whole picture. The whole can be understood as follows. If you have domestic problems, in the first place try to talk calmly. If this does not solve the problem, leave your wives alone in bed. As a last resort it is best to separate. If they are in agreement, in no way should you look for excuses to abuse them. Seek an arbitrator to settle your disputes and formalise the divorce.

This translation is in accordance with other passages of the Qur’án which deal with the subject of divorce:

A divorce may be [revoked] twice, whereupon, the marriage must either be resumed in fairness or dissolved in a goodly manner.

(Surah 2, Al-baqara, 229)

And so, when you divorce women and they are about to reach the end of their waiting-term, then either retain them in a fair manner or let them go in a fair manner. But do not retain them against their will in order to hurt [them]: for he who does so sins indeed against himself.

(Surah 2, Al-baqara, 231)

If you marry believing women and then divorce them ere you have touched them, you have no reason to expect, and to calculate, any waiting period on their part hence, make [at once] provision for them, and release them in a becoming manner.
(Surah 33, Al-Ahsab, 49).

And if a woman has reason to fear ill-treatment from her husband, or that he may turn away from her it shall not be wrong for the two to set things peacefully to rights between themselves: for peace is best, and selfishness is ever-present in human souls.
(Surah 4, an-Nisa, 128)

In the case of a serious domestic conflict the Qur'án recommends "resolving the matter in a goodly manner", "without hurting them" and "in a becoming manner". Between this and "beat them" there is an abyss, and as such this translation appears incongruous.

In his translation of the Qur'án published by Princeton University Press (1988; pp. 78-79), Ahmed Ali offers an alternative reading:

As for women you feel are averse, talk to them suavely; then leave them alone in bed (without molesting them) and go to bed with them (when they are willing).

Where some read "beat them", Ahmed Ali reads "go to bed with them". In other words, make love. This may seem frivolous, and yet Ahmed Ali uses as a basis two indisputable authorities in order to justify his translation. The first is the Qur'anic commentator Zamakhsari. The second is Raghib's *Al-Mufridat fi Gharib al-Qur'an*. According to Raghib the verb *daraba* could have the metaphorical meaning "have sexual relations". He cites a well-known Arabic expression in which *daraba* means "have sexual relations" - *daraba al-fahl al-naqah* (the male camel mates with the female camel). Raghib gives as an example of the sexual meaning of the verb *daraba* precisely verse 34 of the surah an-Nisa.

These translations (separate/to give an exemple/make love) have the advantage of not contradicting other passages of the Qur'án that deal with the relationship between spouses and of not clashing with the example of Muhammad (peace be upon him) or with the teachings of Islam as a whole. It is true that this verse from the Qur'án is polysemous and that, taken out of context, it can be read as permission granted by God to physically punish disobedient or rebellious women. But it is also true that this reading is incoherent with other Qur'anic verses which deal with the topic of domestic conflict and divorce. Therefore, we must conclude that the usual interpretation of this verse is contradictory.

We could cite more examples in order to demonstrate that a patriarchal reading of the Qur'án has distorted much of the egalitarian message of Islam, always opting for the interpretation which is most detrimental to women.

Qur'an and patriarchy

Beyond the need for an answer to certain specific verses from the Qur'án, a feminist reading seeks to regain the egalitarian message of the Qur'án, based on rigorous hermeneutics, recovering the message of the Qur'án as an organic whole, a dynamic, open text, and not only as a book of laws,

and even less a catechism which must give an answer to every question. This way we wish to show that Islamic feminism has its foundation in the Holy Qur'án, as revealed by an analytical reading of the text. In other words: if, to begin with, we have shown that the traditional patriarchal reading has always chosen the interpretation most detrimental to women, out of all possible readings, a interpretation in the context of the whole shows that this reading cannot be upheld in the least. The error often committed is precisely that of avoiding this reading of the Message of the Qur'án as a whole, looking instead for verses which regulate the life of believers. This is the essence of judicial Islam: transforming the Qur'án into a book of laws, contrary to all the evidence.

They are mistaken those who think that Islamic feminism constitutes a heterodoxy, as opposed to the orthodoxy represented by the patriarchy, as if this constituted true Islam, and feminism were a modern movement that tries to adapt the message of the Qur'án to contemporary reality. In fact it is just the opposite: an egalitarian reading of the Qur'án respects the text as the revealed Word, without the need to twist its meaning. By contrast, the patriarchal reading of the text represents a clear manipulation in many aspects, in many cases offering interpretations which cannot withstand the most minimal analysis. If these interpretations are maintained over the centuries as unchanging truth, it is only because of the constant pressure from the traditionalist clergy who are at the service of totalitarian power. This alliance between reactionary clergy and despotic power constitutes the essence of the patriarchy. This alliance is seen not only in all that concerns women's rights, but also in the very system of government and social organization. The community spirit of Islam has been substituted by a religion of the State. The making of collective decisions in traditional assemblies has been eradicated. The concept of the caliph, according to which every human being is a caliph of God over the earth, has been converted into the expression of despotic power.

As opposed to the patriarchal religion which we have inherited, through Islamic feminism we open up to a new dimension of our tradition, so as to recover the balance that should prevail in a rightly guided society. Islamic feminism is deeply rooted in the Message of the Qur'án. In the *Qurán*, we are quite far from worldviews which present a male superiority over the female. Think of Hesiod's worldview: woman represents the chaotic forces of nature, a creature contrary to Civilization and Culture. For Hesiod, Civilization is produced as a result of male dominion over the female. Pandora, the first woman, enters later than man, a poisoned gift from Zeus, a punishment for having stolen fire. Woman is a punishment, a great calamity, representative of the blind forces of nature that man must master. The case of Hesiod is paradigmatic to all Greek thought, a patriarchal conception, strongly misogynous, which passed from mythology to philosophy. This view has dominated Western thought for many centuries, up until the arrival of modern times.

On the contrary, in the Qur'án there are none of the ideological elements which justify the establishment of a patriarchy. The Qur'án speaks to us of Creation of men and women from a single soul, from a unitary, undifferentiated base, from which the beginnings of both masculine and feminine appear. At no time is an ontological difference established between men and women. All human beings enjoy the same rank before Allâh, and they are only differentiated by their inner qualities. The ontological equality between men and women takes us to the cosmic image of the Balance. "We created everything in pairs", says Allâh in the Qur'án. We live in a world of polarities: cold and hot, active and passive, body and spirit. All these opposing or complementary pairs are held in tension within the human being.

Only a full awareness of the equilibrium between male and female responds to these teachings. This balance can never be based on the idea of male superiority over the female, or in man's guardianship of woman. In this sense, we must realize that patriarchy means the destruction of

Islam as a spiritual path. Patriarchy is nothing more than fiction, it represents a break from the order of creation, from the very inner dynamism of things. The subjection of the female to the male leads to a stagnation of society, upon exclusion of women. The patriarchy is in essence unjust, contrary to the message of the Qur'án, contrary to the example of the Prophet Mohammed, contrary to our original nature, to that innate feeling of justice engraved on the heart of every creature.

In short, Islamic feminism presents itself as a movement for spiritual restoration as well as a social movement. In the social arena, recovering the message of the Qur'án corresponds to the struggle for gender equality, against all discrimination that they try to impose on us in the name of Islam. On the spiritual sphere, this *gender jihad* consists in recovering the balance between the masculine and feminine within each one of us.

To affirm that the Qur'án does not uphold the patriarchy has great implications. This is not just a nice statement, to play to the gallery, but rather to become conscious of what this means and to act accordingly.

First of all, it means recognizing that a large part of the knowledge passed down to us by the great wise men of the past is corrupted by a patriarchal view which disfigures the Message of the Qur'án on important points. If one takes Qur'anic commentary from the classical period, this bias is plainly seen, to the point that it can be said that many of the great commentators respected as great wise men by the majority of Muslims were absolutely misogynous, to extremes that are difficult to imagine. This is so in almost every area, not only in jurisprudence, but also in Qur'anic exegesis, in philosophy, and even in mysticism and Sufism. This does not mean that we must throw this immense legacy away—that would constitute intellectual suicide. Instead, it means that we must maintain a critical approach to the Islamic legacy from the classical period.

Second, to affirm that the *Qurán* does not uphold the patriarchy places us in opposition to a whole caste of misogynous and reactionary clergy. Resistance to Islamic feminism from these sectors is enormous. Let us not forget that the patriarchy has constituted the substrate of Islamic society for fourteen centuries, and permeates all aspects of society. The criticism of Islamic feminism from other Muslims focuses on two points: (1) feminism is a Western movement which undermines the cultural and religious identity of the Muslims; and (2) feminism is a movement which destroys the family.

Theological criticism of feminism focuses on the idea that God has created man and woman as differentiated creatures. Even though ontological equality between the two is accepted, it is considered that the woman is especially gifted for maternity, the care of children and tasks of the home. From fundamentalist positions, it is considered that in a society guided by the laws of Islam, woman must remain under the guardianship of man. It is considered that women are not qualified to interpret the Qur'án and Islamic Law. From this perspective, Islamic feminism is seen as contrary to the values of Islam, a threat against which we must defend ourselves. As an example of this belligerent attitude, it is worth quoting the words of the Saudi Sheij Al-Munajjid to an Iqra Television station: *“Those who want total equality between the sexes are criminals, traitors and violators of the Qur'án and of the Sunna. They are apostates and enemies of religion.”* In order to understand how far-reaching these words are, one needs to know that in Arabia, apostasy carries the death penalty.

Attacks on Islamic feminism come not only from these fundamentalist sectors, but also from moderate Muslims who consider that feminism is something Western.

Faced with criticism on the part of other Muslims, we must make clear that (1) Islamic feminism is based on an analytical reading of the Qur'án, and (2) Islamic feminism is not against the Shari'a.

Insistence on fighting against injustices which are committed in the name of the Shari'a is not fighting against the Shari'a: it is fighting against injustice. Actually, the big enemies of the Shari'a are those who try to apply discriminatory laws. We are not speaking of abstractions, but of stark reality. During the conference, Shaheen Sardar Ali will speak to us about the *hudoos* laws in Pakistan, where the woman who reports a rape is required to have four male witnesses who corroborate the facts. Otherwise, she may be accused of *zina*, adultery, or even be punished for reporting a rape that she cannot prove. Under these circumstances, most rapes are not reported, thus giving incentive to rapists, who know they will go unpunished. And all this because of the strong pressure from Islamic parties to maintain this law, which has nothing to do with Islam, but is presented as a part of the Shari'a. These Islamic groups are the ones who are creating a strong rejection of the Shari'a among the Muslims themselves. Faced with this reality, Islamic feminism can be seen as a defense of the Shari'a in modern society, based on an egalitarian reading of the Qur'án. One good example of this attitude is Ayesha Imam, who after her fight against sentences of stoning and other punishments imposed by the Shari'a courts in Nigeria, has publicly defended the right of Nigerian Muslims to be governed by the Shari'a.

We find ourselves, therefore, needing to carry out an interpretation of the Shari'a which does not enter into contradiction with the legal principles of equality between the sexes, of non-discrimination. This implies leaving behind medieval codifications and carrying out a radical transformation of Islamic jurisprudence. In practice, this means revising all those discriminatory laws, those against women as well as those which discriminate against religious, sexual or racial minorities. My position on this is very simple. If what we call Shari'a involves the least discrimination, I will oppose it with all my strength. By contrast, if the Shari'a means a possible application of the Qur'anic Message of social justice and equality of all human beings, in this case I will defend the right of Muslims to be governed by the Shari'a, without any contradiction with human rights and democracy.

In order for this egalitarian view of the Shari'a to be fruitful, it must be absolutely clear that it cannot be based on discriminatory criteria, or on a segregation of man and woman, separated by some idealized view of male and female, assigning social roles according to gender and not according to the qualities and abilities of each human being. In order for this egalitarian view of the Shari'a to be fruitful, it must be based on a deep awareness of the essential dignity of each human being, regardless of their sex, as a caliph of Alláh over the earth, charged with caring for the earth and improving one's surroundings.

This criterion involves recovering the Qur'anic view of the human being, *al-insan*. It must be stated clearly: the Qur'án does not establish roles as a function of sex, but it considers each creature as *insan*, a transcendental creation, gifted with reason and judgment, a creature capable of loving and giving itself to another, of being fulfilled as a caliph of God over the earth. The assigning of differentiated roles for man and woman is a social construction that was imposed as a basis from which to limit the egalitarian message of Islam. As Asma Barlas rightly states, it is not a matter of criticizing the great thinkers of Islam from the classical period for not having the same criteria as we do. It is rather a matter of recognizing that they applied criteria which intervened in their interpretation of the Qur'án, and of deciding whether this criterion is valid for us.

As a movement rooted in the most authentic Islamic tradition, Islamic feminism should not remain

in what is merely ideological. It must be able to get past our differences and to accept the struggle which, from different trends and sensitivities, is taking place on behalf of women. In this sense, the movement must know how to reach out both to Islamist movements and to secular Arab feminism, drawing from the most authentic aspects of their positioning and legacies. Going beyond the ideological means considering ourselves a movement for spiritual renewal. Only from a renewed commitment to the values of Islam can we reach our objective. The patriarchy is nothing more than fiction, an ideal order created by man in order to veil our access to the Unique Reality, where masculinity and femininity are perfectly balanced.

In summary, what we propose is a genuine transformation, carried out from a deep connection with the Message of the Qur'án, from opening our heart to Allâh as Just and Merciful, *al-'Adl wa al-Rahman*, a profound Fountain of Love that reaches everywhere, who has established the Balance, *al-Miçan*, the perfect equilibrium of forces which run through Creation, and affect the creatures, as an unending movement from the One towards the One.

But only Allâh knows.