

## The King, the Mufti & the Facebook Girl: A Power Play. Who Decides What is Licit in Islam?

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### Abstract:

*Saudi Arabia enforces a ban on woman driving on the grounds that it is prohibited by sharia law. Women's associations have actively denounced this ban for years, arguing that it was the only Muslim country which had such a peculiar interpretation of Islamic law. A power play is taking place online on this subject between the ulema (who support the ban), the Saudi authorities and feminine associations. This situation raises the question: "Who decides what is licit or illicit in Islam?" Muslim women's associations merely ask for the implementation in Muslim countries of the "best practices" in Islamic law which exist anywhere, as a substitute for those laws which are unfavorable to women's rights or do not protect their interests adequately.*

### Keywords:

*gender, Saudi Arabia, activism, Muslim women, fatwas, Islamic law, social media*

"It is human beings (with all their frailties) who interpret the sharia"

Ali ibn Abi Talib

"Women in Saudi Arabia: to drive or not drive? That is not the question.

The question is: When?"

Somayya Jabarti (2011)

### Introduction

Although sharia was developed in the Muslim world based on the same sources (Quranic prescriptions, "hadiths" [sayings] of the Messenger Muhammad, etc.), its rulings on any point may vary significantly from one country to another, as well as over time. Thus, the rights of women in Muslim countries, which are claimed to be ruled by sharia, differ on important points from one country to another and one legal tradition to another. In Saudi Arabia, women are not allowed to drive a car, based on a fatwa by

the country's former grand mufti Abdel Aziz Bin Baz. But, no such ban exists anywhere else in the Muslim world. Saudi women's associations have been contesting the fatwa's reasoning and conclusions for years, but all in vain. They seize every opportunity to bring the issue back into focus, resorting, among other things, to the web's social networks (Facebook, YouTube, Twitter, etc.) to communicate their message, to mobilize support for their position, and to put pressure on the authorities to get them to act on this question.

Thus, in May 2011, the young feminist activist Manal al-Sharif put on Facebook and YouTube a "provocative" video of herself driving a car and talking with another passenger about the women's plight in Saudi Arabia resulting from the driving ban (al-Sharif 2011). This gesture of defiance upset the Saudi authorities which had her arrested and detained for nine days on the charge of "disturbing public order and inciting public opinion," before releasing her (Sidiya and Hawari 2011). When another woman drove a car, in defiance of the same ban, a judge sentenced her in September 2011 to a flogging. It took the personal intervention of King Abdullah to cancel the harsh sentence (Sheridan 2011).

The driving ban issue raises important questions concerning the interpretation and implementation of Islamic law in Muslim countries. How can sharia lend itself to such a wide variety of interpretations that things which are licit and banal in a Muslim State are, at the same moment, considered as illicit and sanctioned harshly in another Muslim country? Who decides what is licit or illicit in Islam? Muslim women's associations have learned through experience that it serves little purpose to question each state's interpretation of sharia on every controversial point. Some have evolved a new strategy to deal with the issue. They call for the adoption and implementation in Muslim countries of the "best practices" in Islamic law which exist anywhere, in substitution to those laws which are unfavorable to women's rights or do not protect their interests adequately.

### The Grand Mufti Bin Baz fatwa on women driving

Shaikh Abdel Aziz Bin Baz's fatwa is at the heart of the Saudi controversy. According to him, "[driving of automobiles by women] is a source of undeniable vices", including "the legally prohibited *khalwa* [meeting in private

between a man and a woman] and abandonment of *hijab* [women's veil]. This also entails women meeting with men without taking the necessary precautions. It could also lead to committing *haram* [taboo] acts hence this was forbidden." He further explains that (Bin Baz 1990)[1]: "Pure sharia also prohibits the means that lead to committing taboo acts and considers these acts haram in themselves...Thus, the pure sharia prohibited all the ways leading to vice...Women's driving is one of the means leading to that and this is self-evident."

The "khalwa" issue is clearly at the center of the Mufti's preoccupations. Although the Quran does not address itself to this topic, a hadith of the Messenger states:

"Whosoever believes in Allah and the Last Day, let him not be alone with a woman who has not a mahram (male relative who she cannot marry) with her. Indeed, the third (person) is al-Shaytan [Satan]!"

This hadith has been interpreted variously in different parts of the Muslim world. In the countries of the Maghreb, it is viewed as a warning to avoid situations in which sexual temptation may arise. But, in the Gulf States, the ulema ruled that this hadith prohibited *khalwa*. Even though the Messenger did not define any sanctions, the ulema studied the "offence", defined its nature and decided on the applicable sanctions (under the *ta'azir* approach, in which the judge has latitude to decide on the applicable sanction, such as whip lashes, or a jail sentence) (Chraibi 2008).

According to Bin Baz, if a woman is allowed to drive a car, she will leave her home (where she is safe) to go to places where she will be subjected to a variety of temptations. She may thus find herself in a situation of *khalwa*, take off her appropriate Islamic dress or doing things which are prohibited by sharia. Bin Baz quotes at length Quranic verses and hadiths of the Messenger to the effect that women are a major cause of temptation for men, and that they should not mingle with those men who do not belong to their immediate family. Therefore, in order to avoid this, he thinks that women should not be allowed to drive. He finds legal support for this conclusion in the sharia principle which states that it is illicit to use means which help accomplish an illicit end.

## A critique of the fatwa

Women's associations in Saudi Arabia do not openly criticize the fatwa, preferring to observe that there is no such interpretation of sharia in the rest of the Muslim world. But, the fatwa hardly withstands scrutiny:

*The premise of the fatwa is questionable*

The Mufti states that [Saudi] women cannot be trusted to go out of their home without the risk of committing illicit acts. He takes no account of Saudi women's education and self-respect, their sense of honor, their sense of values, their loyalty to their husband (when they are married). Although there exist many Quranic verses and hadiths of the Messenger celebrating the virtues of women, Bin Baz quotes only these verses and hadiths which throw a shadow of doubt on their behavior.

The premise of Bin Baz is unsupported by any corroborating evidence from the real world, judging by women's behavior in the rest of the world (including in Muslim countries). Moreover, Bin Baz worries only about the sexual implications of the encounters that woman driving may lead to. He fails to take into account the tremendous difficulties that the driving ban creates every day for women who have to go to work, to take their children to school, etc. Buses and cabs are insufficient in number to meet the demand at peak hours, when they are most needed. The expenses associated with the daily use of cabs are also very high, compared to the cost of using one's own car. Only wealthy women can afford to hire a full-time chauffeur, invariably a male not from her family. The rest of the female population is left to fend for itself, because of the fatwa.

*The juridical principle invoked in the fatwa is applied selectively*

Bin Baz notes that "sharia prohibits the means that lead to committing taboo acts and considers these acts haram in themselves." This is true, but the principle is applied very selectively. For example, smoking is harmful to one's health, and ulema throughout the Muslim world have been asking for decades for a tobacco ban in Muslim countries, based on this principle (Islam for today 2003). But, no Muslim State has ever entertained the idea of enacting a tobacco ban, except in certain public spaces. People are usually free to smoke in Saudi Arabia, nowadays, as they do in the entire Muslim

world. So, why is not this principle applied to deal with the smoking issue? Why are men not sanctioned for smoking, if this principle is so important a general application?

*The juridical principle should also apply to men*

If woman driving can be banned, based on sharia, to avoid its leading to a situation of khalwa, with its possibly unlawful consequences, the same driving ban should also apply to men, in order for them to avoid finding themselves in haram situations prohibited by sharia. The juridical principle underlying the driving ban should be applied indiscriminately to all people, regardless of sex.

*A unique interpretation of sharia in the Muslim world*

This fatwa relies on an interpretation of sharia which is unique in the Muslim world. In dozens of other Muslim States and communities, the fact of woman driving is considered as a banal act, perfectly licit from the point of view of sharia. Are all these other Muslim scholars in error on this point? The Bin Baz fatwa draws its strength in Saudi Arabia from the fact that it is in line with the Saudi society's prevailing conservative culture, customs and traditions. The religious establishment, the leading groups in power in the country and most Saudi men support the Grand Mufti's fatwa because they fully agree culturally with its conclusions, regardless of whether the latter are well-grounded in Muslim law or not.

As for Saudi women, they have been born and raised in a social and cultural environment in which females have the status of "perpetual minors" (Human Rights Watch 2008) which cannot do a thing without the authorization of a male "tutor" (be it a father, a husband, a brother or even a son) [2]. In theory they cannot go out of their home without being accompanied by a *mahram* (male guardian) to avoid falling into a situation of being alone with a male non-family member. In their majority, Saudi women accept the situation as a matter of fact and submit to the constraints it imposes, regardless of whether they consider the ban as God-given or as merely imposed by men's will.

However, a growing number of women pursue their education to the university level, travel abroad on vacation, watch satellite TV networks and use

modern technologies such as the internet and mobile phones. They are thus regularly made aware of the enormous gap which exists between the set of constraints and restrictions within Saudi Arabia, and the freedom of movement and of action that Muslim women enjoy in other Muslim countries. As a result, though still a minority, many people in the country (both male and female) are working essentially within the framework of human rights NGOs and women's rights associations. They increasingly dare to question the situation and to openly express their disagreement with the contents of Bin Baz's fatwa.

### The fatwa and the national law

However, the important point to keep in mind, in this debate, is that a fatwa is not binding in Islamic law. This is a point that Sheikh Abdul Mohsen al-Obeikan(2006), vice-minister of Justice of Saudi Arabia, makes perfectly clear in an interview granted to the Arabic daily *Asharq al-awsat* on July 9, 2006. Asked whether a fatwa by the Islamic Fiqh Academy (IFA) on the subject of misyar (temporary) marriage, which had been rendered by IFA on April 12, 2006, was binding on member States, al-Obeikan replied: "Of course, [the fatwas issued by the Islamic Fiqh Academy] are not binding for the member Islamic states." He then explained: "There is a difference between a judge and a *mufti*. The judge issues a verdict and binds people to it. However, the mufti explains the legal judgment but he does not bind the people to his fatwa. The decisions of the Islamic Fiqh Academy are fatwa decisions that are not binding for others. They only explain the legal judgment, as the case is in *fiqh* books.[3]" Asked to explain whether the fatwas issued by the Ifta House [official Saudi fatwā organism] are binding on others, he said: "I do not agree with this. Even the decisions of the Ifta House are not considered binding, whether for the people or the State."

Consequently, no matter how one views Bin Baz' arguments and conclusions, the fact is that his fatwa merely expresses his juridical point of view on the subject. It is not binding on anyone else, neither on individuals nor on the State. It would be necessary for the Saudi State to adopt a law (based on the fatwa) in order to give the fatwa the force of law. According to the Saudi authorities, there is no law prohibiting woman driving in the country(Reuters 2007). However, Saudi nationals as well as foreign visitors need to obtain a Saudi-issued license to drive in the country. The authorities re-

fuse to issue such licenses to women (not even to foreign ones), making it effectively illegal for them to drive(al-Mokhtar and Wahab 2011). They do so based on an order issued by the Minister of Interior in 1411 H (1991-92) which considers driving a car by a woman an offence, even though there is no official law to this effect[4]. Saudi women (as well as foreign ones) are thus subjected by the Saudi authorities to a discriminatory practice, based on gender.

### A Saudi power play

So, today, a discrete power play can be said to be taking place within the country on the subject of women's status and rights, between the three major players in the field with the driving issue as a catalyzer. The ulema, relying on centuries of traditions, support the Bin Baz fatwa and its conclusions that sharia prohibits a woman driving automobiles to avoid falling into a situation of *khalwa* and its possible illicit consequences. To make things perfectly clear, in September 2011, a Judge sentenced to 10 whip lashes a woman who had been arrested by the police for driving a car. This harsh sentence caused a big uproar, both in the country and abroad, and it took the personal intervention of King Abdullah to cancel it.

The feminist groups consider that the ulema defend an extremely conservative interpretation of sharia, which is unique in the Muslim world. They want the ulema and the State administration to admit that other interpretations are possible within the religious framework of the country. They know they have a very strong hand on this point, when they say: "If the driving of automobiles by women is perfectly legal, natural, and banal in all Muslim countries and communities in the world, with the exception of Saudi Arabia, why should Saudi women be penalized, and banned from driving, simply because the Saudi authorities have chosen to apply to them their restrictive interpretation of Islamic law? Why not adopt a more liberal and widespread interpretation of Islamic law on this subject, such as exists in other Muslim countries which also apply sharia, and consider that a woman driving is not in itself an ethical danger?"

Saudi feminist activists do their best to maintain the issue into public focus. To this end, they regularly make use of the internet and its social networks (Facebook, YouTube, Twitter). In the early months of 2011, they demon-

strated their tremendous capabilities and efficacy through these new means of communication and mobilization in Arab countries, Social media were among the principal tools of information of the national and international media and of mobilization of the people in the uprisings which took place in Tunisia, Libya, Egypt, Yemen, Bahrain and Syria.

Not surprisingly, the young feminist protester Manal al-Sharif used the web's social networks as a means of protest against the driving ban, in defiance of this ban she put a video of herself driving a car on Facebook and YouTube in May 2011, Her subsequent arrest by the Saudi police on the charge of "disturbing public order and inciting public opinion" made the news worldwide, drawing much more attention to her protest than she could ever have imagined. The incident put the Saudi authorities under new pressure to take a fresh look at the driving issue.

The feminine associations again made use of the social networks to call for a "drive-in" on June 17, 2011 in order to protest Manal al-Sharif's arrest and to renew the pressure on the authorities. Numerous women participated in the protest, which also made the news worldwide. Manal al-Sharif had written provocatively on the web: "I will drive my car myself." A slogan of this campaign emphatically stated, along the same defiant line: "I want to drive because there's no reason why I can't." Similarly, a group of Saudi women posted on different Saudi websites, and circulated through e-mails, a petition addressed to the government, asking that women be allowed to drive cars. "We demand that the right of women to drive is given back to us," says the petition. "It's a right that was enjoyed by our mothers and grandmothers in complete freedom to (utilize) the means of transportation in those times." (Mubarak 2007)

The political authorities for their part are aware, at the country's highest level, of the need for change in the domain of women's rights in general, and of the driving issue in particular. They tell their critics that all they do is implement sharia, which has defined a different set of rules for males and females. Consequently, by applying to each of the two sexes the appropriate sharia rules, they do not violate anyone's rights, whether male or female. Sharia merely presents a conception of human rights which differs from that of Western countries. But, during a state visit to the United Kingdom in 2007, the king told the British media that the driving issue belonged not



in politics, but within the social field, reflecting local customs and traditions (and, thus, one could say, not Quranic prescriptions). His administration is divided on this issue. So, even though the king wants to promote some reforms, he seems to have limited degrees of freedom, as he is confronted with a great deal of resistance from the religious establishment and the traditional segments of society, both within the population and the civil administration.

In September 2011, the king took a highly symbolic and even “revolutionary” decision, given the Saudi context, announcing that women would be able to vote in elections and to serve on the Shura Council as full members in future. This was a considerable step forward in Saudi women’s struggle for freedom, equality and justice. But, can he convince the ulema establishment to turn the page on the Bin Baz fatwa and to endorse the “best practice” in the Muslim world, according to which the driving of automobiles by women is compatible with sharia?

### Women reading the sharia

The driving ban issue illustrates the enormous differences which exist in the interpretation of sharia in the Muslim world. Some Muslim women’s associations took it upon themselves, therefore, to proceed with a thorough study of the sharia, in order to determine for themselves what it really said on the subject of women’s rights (WLUML 2004). They thus became aware, in the words of Pakistan’s Riffat Hassan (2011), that “there was a big gap in what the Koran was saying about women’s rights and what was actually happening in Muslim culture. So, one has to distinguish between Koranic text and the Islamic tradition. The interpretation of the Koran from the earliest times till now has been done almost entirely by men. It was also done in a male-dominated patriarchal culture. So the Koran was interpreted through a male-centric cultural lens—which obviously has affected women’s rights.”

Nigeria’s Ayesha Imam (2005) notes, for her part, the need “to distinguish between Islam - the way of Allah - on the one hand, and, what Muslims do - those who believe in Islam and attempt to practice it - on the other.” She explains: “Islam is not questioned. But, what Muslims (human fallible people) make of Islam can be.” She says emphatically: “Though religious laws

draw their inspiration from the divine, they are not the same as divine laws.” They “do rely on human agency to elaborate, implement and enforce them.” In many situations, even the experts do not agree on the definitive meaning of verses in the Quran. Similarly, “many hadith (accounts of the life of the Prophet) are apocryphal, motivated by inter-sect and dynastic rivalries.” Thus, some hadiths seem to have had as their principal aim to put restrictions on women’s rights, although they are not compatible with the teachings of some suras in the Quran or with other hadiths. Ms. Imam notes the existence of four main schools of sharia in the Sunni tradition, illustrating the diversity of interpretations. None of the leaders of these schools considered their views as final or binding on all Muslims. So, “refusing further *ijtihād* (personal reflection) is not a religious or divinely sanctioned act. It is not required in the Koran or by the Sunna. To the contrary, both the Koran and hadith refer approvingly to thinking, reasoning and diversity of opinion.”

Therefore, observes Malaysia’s Zainah Anwar(2004): “If Islam is to be used as a source of law and public policy to govern the public and private lives of citizens, then the question of who decides what is Islamic and what is not, is of paramount importance. What are the implications for democratic governance when only a small, exclusive group of people is accorded the right to interpret the Text and codify it? Particularly when they do so very often in a manner that isolates the Text from the socio-historical context in which it was revealed, isolates classical juristic opinion from the socio-historical context of the lives of the founding jurists of Islam, and isolates the Text from the context of contemporary society.”

Nora Murat(2004) adds: “Knowledge that the Koran supports the universal values of equality, justice and a life of dignity for women, gives us the courage and conviction to stand up and argue with those who support discrimination against women in the name of religion. It is this knowledge that gives us the confidence to tell them that there are alternative views on the subject and that their obscurantist view, which discriminates against women, is not the only view in Islam.”

### Who decides what is licit in Islam?

These women were aware that, in the absence of a religious hierarchy in Sunni Islam, there was no supreme theological authority they could turn to,

to ask it to arbitrate between divergent rules which were applied in different areas of the Muslim world. Moreover, observes Ahmed Khamlichi(2002), Director of Dar al Hadith al Hassaniya (Morocco): “The ulema do not have a monopoly on the interpretation of sharia. Of course, they must be consulted before anyone else on sharia issues. (But), they do not make the religious law, in the same way that it isn’t the law professors who make the law, but the Parliaments.”

Today, sharia is, in fact, interpreted and applied in the context of each state as a result of its own choices. It is the political, religious and lawmaking authorities in each Muslim country, acting in a concerted way, either by consensus or by negotiation, which hold the power to decide what will be considered as lawful in the country, theoretically by drawing on the database of all the options that the sharia can offer on a given issue. The development of personal status codes (Islamic family law codes) provides a good illustration of the approach used. The rulers choose, in a range of solutions which are all considered as lawful in Islam, the one that best meets their objectives. The selected option is discussed with all concerned, and in particular with the religious authorities (such as the *mufiti* or the Ulema Council). Then, it is drafted as a text of law which is presented to the Parliament for discussion and approval. Once the text is adopted by the Parliament, and then endorsed by all concerned administrative instances, it is published in the country’s official legal media to become effectively the law of the land on that subject.

But, what is considered as lawful in a Muslim state, at a given moment, on a given question, may be considered as illicit in another Muslim state, at the same time. Such a situation is not unusual, and reflects the interplay of several factors. First, Muslim countries belong to several schools of legal thought, or juridical rites (Abu Hanifa, Malik ibn Anas, al-Shafi’i, Ibn Hanbal, Shi’a...), each of which has developed its own methodology to study the same questions, resulting in a number of variations in the answers provided. Second, the ulema can interpret differently the same religious texts of reference (a Quranic verse or a hadith, for example) when their formulation lends itself to multiple interpretations, or they can draw different conclusions from them, depending on the context in which they place them, and the other suras, hadiths, etc. they bring to bear on them to substantiate their interpretation. Third, in most Muslim-majority countries,

some confusion prevails at times on certain issues, even at the ulema's level, between what belongs to national customs and traditions on the one hand, and what belongs to Quranic prescriptions, on the other.

How is one to determine, therefore, what Islamic law really says on each important issue (concerning women's rights for example) when one is confronted with a multiplicity of interpretations which are promoted by the different juridical schools? Is it possible to promote progress in the field of human rights within the religious framework?

### The strategy of the “best practices” in Muslim law

In their efforts to promote the respect of women's rights in the Muslim world, the national and international associations acting in this field gave, for a while, a high priority to putting pressure on governments to implement the UN-sponsored international conventions these countries had signed, concerning human rights in general and women's rights in particular. They also wanted their governments to withdraw the reservations they had expressed on signing these conventions concerning various provisions - on the grounds that they “conflict with religion” - since the reservations had the effect of diluting much of the conventions' usefulness. But, they rapidly became aware of the ineffectiveness of this strategy, which led to no tangible results, and was criticized by conservative movements in the Muslim world on the grounds that these associations wanted to replace sharia with Western law.

These associations also quickly saw the uselessness of contesting any state's interpretation of any point in sharia, because they would always be confronted with excellent jurists which would find unassailable arguments to justify the state's rulings on any point, whatever it was, within any particular rite. But, having developed a great expertise in the analysis, interpretation and implementation of all major aspects of sharia throughout the Muslim world, women's associations became aware of the opportunities offered by the diversity of interpretations of Muslim law which prevailed in different countries(WLUML 2006).

“Sisters in Islam” (SIS 2011a) from Malaysia and “Collectif 95-Maghreb-Egalité” (Collectif 95-Maghreb-Egalité 1995, 2003) (which comprises the

main women associations of Morocco, Algeria and Tunisia), working within a network of feminine associations, came up with a new strategy to achieve progress in the field of Muslim women's rights. Their position is as follows: "If all these different rules are equally valid in the sharia, and if some of them grant more rights to women or protect their interests better, isn't it these rules (designated as the "best practices" in Islamic family law) which should be applied in Muslim countries, in the beginning of the 21st century, in preference to the rules which are less favorable to women's rights? Why should women pay the price for these differences in interpretation, which clearly are the acts of men?"(Chraibi 2009, SIS 2011b)

In support of this last point, NGOs observe that, although the Personal Status Codes of Muslim countries are based on Quranic prescriptions and Sunna teachings, everybody takes it for granted that they should be revised from time to time to take into account the evolution of society. This was the case of the codes of Egypt (2000), Mauritania (2001), Morocco (2004) and Algeria (2005). Since the rules presented in such family law codes are periodically modified, is this not conclusive evidence that many rulings contained in these codes of law do not represent immutable Quranic prescriptions but merely man-made choices, which can - and should be - modified as required by circumstances?

### A case study of the application of the "best practices" strategy: the reform of Morocco's Personal Status Code in 2004

The reform of Morocco's *moudawana* (Personal Status Code) provides a good illustration of how the "best practices" strategy was applied in a Muslim country, resulting in considerable progress in the field of women's rights within the religious framework. The first version of the Code was adopted in 1957, shortly after independence. Though relatively modern and equitable in many respects, it showed a clear conservative bias in its interpretation of many provisions of the sharia, putting several undue restrictions on women's rights. The network of Moroccan women's rights associations struggled for a half-century before the code was revised in depth. This reform finally took place in 2004(Kingdom of Morocco 2004).

The new "Family law" of 2004 completely redefined the legal status of women within the family and society, bringing it considerably closer to current

international standards. Among other things, it made the family the joint responsibility of both spouses, rescinding the wife's duty of obedience to her husband. It allowed women to be their own guardians, and raised the minimum age of marriage for women to eighteen years. It put prohibitive restrictions on polygamy, by requiring the consent of the first wife, the notification of the second wife of the existence of the first one, and a judge's consent to the second marriage - which may be granted if he is satisfied that the husband will grant equal status to each wife in every respect. The Law made polygamy grounds for divorce by the first wife, and promoted the use of a marriage contract to exclude the possibility of a second marriage by the husband. It put repudiation under strict judicial control, and required an equitable distribution of the couple's assets before a divorce could be final.

The Moroccan ulema and jurists associated with the revision of this code explained that all its provisions were based on a meticulous reading of the sharia, in all its complexity, taking into account the "best practices" in use in other Muslim countries. Thanks to a more modern interpretation of the sharia' prescriptions, it afforded a considerable progress in the situation of women in Morocco. Following this recasting of the Personal Status Code in 2004, the Moroccan authorities progressively withdrew, one after the other, the reservations they had previously expressed about the implementation in Morocco of some provisions of various international Conventions dealing with women's rights, which they had earlier considered as possibly "inconsistent with religious prescriptions."

## Conclusion

The driving ban on women and the *khalwa* issues in Saudi Arabia result from a unique and extremely conservative interpretation of Islamic law, which declares as illicit actions which are considered as banal and licit in other Muslim countries. The power play taking place today on this subject between the ulema, the authorities and feminine associations will determine whether women will be allowed to eventually drive or not. In the process feminine associations have learned through experience the vanity of questioning the interpretation of Islamic law which prevails in any Muslim country, because each country's ulema are convinced that they interpret and apply sharia correctly within the framework of their own juridical rite.

The associations working in the domain of women's rights have therefore developed a strategy which circumvents these considerations, to address itself to the heart of the problem. Since all the different rules applied to determine women's rights in different Muslim states applying sharia are equally valid, they suggest that the Muslim states apply to women the "best practices" in existence in the Muslim world, specifically those sharia rules which grant them more rights or protect their interests better, in substitution to the rules which are less favorable to women's rights.

They argue: "Why should women pay the price for these differences in interpretation, which clearly are the acts of men?" This strategy is, unquestionably, in tune with both the letter and the spirit of sharia. If adopted by all Muslim states, it could drastically change for the better the life of dozens of millions of Muslim women throughout the Muslim world. It could thus pave the way for a brighter future for all women living under Muslim law. Using this approach, in Saudi Arabia the authorities could legitimately allow women to drive, within the religious framework, if they decide to base their new ruling on the "best practices" in existence in other representative Muslim countries which apply sharia.

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## Notes

[1] for partial translation see: Humanitarian texts (2011)

[2] “[A woman] is not allowed to drive cars, to travel without consent, to stay in a hotel without consent, to name her children without consent, to get any document needed for her children without consent, to apply for schools for her children without consent, to get a passport without consent, to get out of the house without consent, to leave the work place (this concerns school teachers) without consent, to apply for a job without consent, to rent a house alone without consent, to change the colour of her Islamic garment (Abaya), to go to university or school without consent, to make use of the scholarships abroad without consent, to underwriting or open an account for her children without consent, to uncover her face in some cities in the kingdom, to send for a driver or a domestic helper without consent...” (Saudi Women for Reform 2007)

[3] The same position is developed by Mehmood Madani, president of the Jamaat-e-Ulema-e-Hind, who explains: “In Sunni Islam, a fatwā is nothing more than an opinion. It is just a view of a mufti and is not binding in India.” (Naqvi 2005)

[4] According to Prince Ahmad Bin Abdul Aziz Aal Saud, Deputy Minister of Interior Affairs, a “statement has already been issued in the year 1411 (1991/92)” on the woman driving issue [prohibiting woman driving]. This 1411 statement is still in force. “The Ministry of Interior is still implementing it,” Prince Ahmad said. “It is not up to us to say whether it is right or wrong, we only implement the regulations.” (Okaz/Saudi Gazette 2011)