

Women - Only Mosques

Under International Human Rights and
Islamic Law

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Abstract:

The title of “Women-only” could indicate unlawful gender-based discrimination, this article shows that the Muslim women advocates, and attendees of Women’s Mosques has the right to establish and run this form of Mosques under International law. This article argues that this right and freedom shall be protected under International human rights law, and the allegations of being discriminatory against Muslim man cannot stand in front of the discrimination legal tests. This form of Mosques is also legitimate according to Islamic law. Islamic law does not consider women’s Mosques discriminatory and does not prevent women from praying in congregation without men or leading each other. The major debate in Islamic law related to these Mosques is whether a woman can lead a man or not. This article explains the debate about these points among Muslim scholars and shows that it is not legitimate for women to lead men in prayers, or to raise the Adhan. Moreover, This article shows how does these Islamic rules are a manifestation of Islam honoring of women.

Keywords:

Women-only Mosques, Gender Equality, Religious rights, Islamic feminism, Islamic Law, Female Imam, Women’s Human Rights.

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Note in Transliteration:

In the few Arabic words, I used in this article, I have used the simplest transliteration system: ā, ī and ū for long vowels not used in English. Beside (ʾ) for “Hamzah” and (ʿ) for “Ain”. This system is part of a larger one called Brill’s simple Arabic transliteration system¹

¹ Pim Rietbroek, Brill’s simple Arabic Transliteration System, (Dec 2012) Available at https://brill.com/fileasset/downloads_static/static_fonts_simple_arabic_transliteration.pdf, last visited 05 / 09 / 2019.

Introduction

Pursuant to the Universal Declaration of Human Rights (UDHR) Article 18,

*“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance”.*²

And pursuant to the international covenant on civil and political rights (CCPR), Article 18: “Everyone shall have the right to ... manifest his religion or belief in worship, observance, practice and teaching”³.

A Muslim man would like to manifest his religion in practice by attending the Friday prayer in a place where Muslims practice

² Article 18, U N General Assemble, *Universal Declaration of Human Rights*, (Dec 1948), 217 A (III) available at : <https://www.un.org/en/universal-declaration-human-rights/> last visited 05 /08 / 2019 .

³ Article 18, U N General Assemble, *International Covenant on Civil and Political Rights*, (Dec 1966), United Nations, Treaty Series, vol. 999, p. 171 available at : <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> last visited 05 /10 / 2019.

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and perform worship (simply: a Mosque), according to UDHR and the CCPR Muslim man has the right to pray in any Mosque, however, his access would be denied if he tried to pray in one of the Women-only Mosques⁴.

The issue is whether these Mosques could be discriminatory under International Human Rights Law. Another Issue is whether is it permissible under Islamic law. This article does NOT argue that Women-only Mosques are discriminatory, neither under International Human Rights Law nor under Islamic Law. This article argue that case law supports the legitimacy of Women-only Mosques and that it is not discriminatory. The ruling under Islamic Law is more complicated regarding the fact that the presence of Mosques for Women without men require women to do the function of *Imam* (prayer leader), lead the congregation for five daily obligatory prayer, give Friday *Khutba* (sermon) and more. A job that traditionally has been tied to men, along with a whole religious literature that generally prevents women from doing these jobs.

⁴ For the purpose of this article the term Women-only Mosque, All-Female Mosque and Women's Mosque; all will refer to a Mosque that is run by women and deny the access of men to perform worship and practice their faith all the time or in a certain time like Friday prayer.

I- Overview

Presence of Muslim women in religious places is a tale as old as Islam itself, when the Prophet taught Muslim men the right of Muslim women to access Mosques and do their worship, he said, “do not forbid the maidservants of God from the Mosques of God”.⁵ Women used to access the mosque in the Prophet era to pray with men, this is a well-authenticated fact⁶. Over time in most of the Muslim world a new custom has established where women pray in a separate room, but with men in the same mosques⁷.

a. China’s Mosques for Females:

The history of the women-only mosques started early in China, may be more than three hundred years ago. They were established for cultural and educational purposes to protect Muslim identity under the Chinese Mao Zedong’s regime and to teach women how to read and understand the holy book of Islam (*Quran*). Another name for the women’s Mosque in China is Women’s

⁵ Narrated by Imam Malik Ibn Anas, Al- Mūwt-t’, Cited in Marion Holmes Katz, *WOMEN IN THE MOSQUE A HISTORY OF LEGAL THOUGHT AND SOCIAL PRACTICE*, Columbia university Press, New York, 2014, 18.

⁶ According to Ibn Hazm, a famous Andalusian Muslim scholar (d. 1064), *Id*, 39.

⁷ Louisa Lim, *Female Imams Blaze Trail Amid China’s Muslims*, (Jul 2010), available at : <https://www.npr.org/2010/07/21/128628514/female-imams-blaze-trail-amid-chinas-muslims> last visited 05 /05 / 2019 .

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Quranic school⁸. According to 83-year-old, Tang Guiying, “women’s mosque was the only place a girl could receive education”⁹.

Women spiritual leaders of Chinese Muslims has the role of guidance and education of other Muslim women. They would lead a prayer of women only, not a mixed prayer of men and women¹⁰.

b. Women-only Mosques in the US

One can link between the idea of Women’s Mosques and the “historic step”¹¹ of Amina Wadud leading mingled-gender congregational prayer. Wadud is a Muslim American philosopher, “with a progressive focus”¹². She is famous for leading mixed prayer in New York, in March 2005, and she had given a Friday sermon

⁸ Maria Jaschok, *Religious Women in a Chinese City: Ordering the past, recovering the future*, QEH Working Paper Series, (Feb 2005), available at : https://www.qeh.ox.ac.uk/sites/www.odid.ox.ac.uk/files/www3_docs/qehwps124.pdf last visited 05 /10 / 2019.

⁹ Louisa Lim <https://www.npr.org/2010/07/21/128628514/female-imams-blaze-trail-amid-chinas-muslims> last visited 05 /05 / 2019 .

¹⁰ Alexa Olesen, *China: Female Imams a tradition in Chinese mosques*, (Dec 2006) available at : <http://www.wluml.org/node/3428> last visited 05 /05 / 2019 .

¹¹ Asghar Ali Engineer, *Rights of women in Islam*, 3rd, Sterling Publishers Private Limited, New Dehi, 2008, 211.

¹² Available at : https://en.wikipedia.org/wiki/Amina_Wadud last visited 05 /10 / 2019 .

before, at South Africa in 1994¹³. This prayer in New York has triggered strong debate on gender equality in Islam, Juliane Hammer has argued that this action by Wadod must [be] considered a gender justice Qurānic interpretation¹⁴

1- The Women Mosque of America:

The first women only mosque in the United States is located in Los Angeles, California, called The Women Mosque of America¹⁵, and represents the case we are discussing in the best manifestation where men are denied accessing the Mosque, men cannot give *Jumu'ah* (Friday sermon), or listen to it, and they are not allowed to lead prayers. This Mosque has been founded in 2015, by Hasna Maznavi¹⁶ and managed by Sana Muttalib, together with

¹³ Andria Elliott, *Woman Leads Muslim Prayer Service in New York*, (Mar 2005) available at :

<https://www.nytimes.com/2005/03/19/nyregion/woman-leads-muslim-prayer-service-in-new-york.html> last visited 05 /06 / 2019 .

¹⁴ Juliane Hammer, *AMERICAN MUSLIM WOMEN, RELIGIOUS AUTHORITY AND ACTIVISM MORE THAN A PRAYER* , University of Texas Press, 2012, 10.

¹⁵ Available at : <https://womensmosque.com> last visited 05 /10 / 2019 .

¹⁶https://www.huffpost.com/author/mhasnam-769?gucce_referrer=aHR0cHM6Ly93d3cuaHVmZnBvc3QuY29tL2VudHJ5LzktdGhpbmdzLXlvdS1zaG91bGQta25vdy1hYm91dC10aGUtd29tZW5zX2JfNzZmOTU4Mg&gucce_referrer_sig=AQAAABLWh7H_nnuSfBhHQoEYGtwZXO6UMydUH0kJgNgOp6lw7gXifBboLC86nErF3oMtsGA1ecyFo8PA03WbMIwhZdRVtYj4-zSVRz6n-VSC-KrZ6XyYA9by5Bcak4KpkywIwCjfurdfx7WYiXSmFso1YwlsgiaVnme3adc656dZytQh&gucounter=2 last visited 05 /10 / 2019 .

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Hasna Maznavi¹⁷. According to Maznavi, the mosque is not seen as a “liberation” of Muslim women. Rather, a celebration of Women who consider men their brothers in faith¹⁸. The first *Jumu‘ah* was given by Edina Lekovic¹⁹, where she said it is like a dream comes true²⁰. In an interview with Lekovic, she highlighted the fact that their work in this mosque does not aim at isolating women. It is not to be seen as competitive to men, but complementary.²¹

The same was confirmed by Ruqayya Khan, chairwoman of the Islamic studies program at Claremont Graduate University, who sees that there is nothing radical about a woman leading woman in the prayer. Rather, Khan described the practice of Amina Wadud who led a mixed-gender congregational prayer as “radical and

¹⁷ Nick Street, *First all-female mosque opens in Los Angeles*, (Feb 2015), available at : <http://america.aljazeera.com/articles/2015/2/3/first-all-female-mosque-opens-in-los-angeles.html> last visited 05 /10 / 2019 .

¹⁸ M. Hasna Maznavi, *9 Things You Should Know About the Women’s Mosque of America — and Muslim Women in General*, (May 2015) available at : https://www.huffpost.com/entry/9-things-you-should-know-about-the-womens_b_7339582 last visited 05 /07 / 2019 .

¹⁹ Nick Street.

²⁰ Edina Lekovic, *“Stepping Up” - Khutbah by Edina Lekovic*, (Apr 2015) available at : <https://www.youtube.com/watch?v=4g26wK-VYV0&feature=youtu.be> last visited 05 /10 / 2019 .

²¹ Kristen Root, *Women-only mosque in Los Angeles is the first of its kind in the U.S.* (Jul 2015) <https://womenintheworld.com/2015/07/17/women-only-mosque-in-los-angeles-is-the-first-of-its-kind-in-the-u-s/> last visited 05 /10 / 2019 .

provocative”²² Thus, we can say that the founders of women’s mosque of America have shown an effort to avoid any potential clash between genders and/or between their practices and the conservative view of Islamic law.

2- *Qalbu Maryam Women’s Mosque:*

The second women’s mosque has opened its doors for all Muslims in April 2017 , Qalbo Maryam Women’s Mosque which literally means, the heart of Mary.²³

They allow men to pray all together with women, however they prevent men from entering the Mosque during the *Jumu’ah*. Unlike the women mosque of America. Qalbu Maryam is a manifestation of Amina Wadud ideas, a completely different modern approach of the mosque who aims to “get the truth of Islam minus the patriarchy and male agendas”²⁴, the mosque accepts and welcomes male worshippers. The *Adhaan* (call for prayer), the *khutbah* (sermon) and leading the prayers are offered by women. In the mosque males and females pray in the same line. The mosque

²² Nick Street.

²³ Qalbu Maryam Mosque Official Website, available at : <http://qalbumaryam.weebly.com/> last visited 05 /10 / 2019.

²⁴ Id.

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was found by Rabi'a Keeble who is an alumnus of Starr King²⁵.

Note that most of these practices are debatable under Islamic law.

c. Mariam Mosque in Copenhagen, Denmark:

The first Scandinavian Women-only Mosque, funded by, the author of “Women are the Future of Islam”, 43-year Sherin Khankan. Born for a Syrian Father and a Finnish Mother, Khankan is a Sociology of Religion and Philosophy MA holder²⁶, She is an activist on feminism during her interview with Asian House she described her history with Islam and politics and talked a lot about the foundation of Mariam Mosque in Denmark. The Mosque is a women's Mosque that welcomes men during the week for the prayer but prevents them from attending Friday Prayers. The Mosque is more progressive than the other mosques where interfaith marriage, woman sermon and woman leading man in prayer take place and other controversial issues. At min 26 of the interview, she calls what they are doing “the real revolution which are based on Islamic

²⁵ Starr King Welcomes Second Women's Mosque in United States (Apr 2017), available at :

<https://www.sksm.edu/2017/04/17/starr-king-welcomes-second-womens-mosque-in-united-states/> last visited 05 /04 / 2019 .

²⁶ EXTRACTS Women Are The Future Of Islam, (Jun 2018) available at :

<https://www.penguin.co.uk/articles/2018/women-are-the-future-islam.html> last visited 05 /03 / 2019 .

principles of justice²⁷. Khankan is also the founder of Critical Muslims Organization and she was named one of the BBC's 100 Women of 2016²⁸.

II- Women's Mosques under International Human Rights Law

Some of Women-only mosques may open their doors for men to enter and pray during week days, but most of them deny this right of men to enter the Mosque during Friday *Jumu'ah* and allow women to do so. This looks like a discrimination based on gender and a potential case of sex-segregation. The issue is: could this denial be considered as discrimination against Muslim men. We are going to analyze this issue through showing the international provisions related to religious rights, case law and judicial tests related to sex segregation.

a. International covenant on civil and political rights:

The political covenant protects the right of all women and men in the freedom of religion and the freedom

²⁷ interview with Asia House: Sherin Khankan: can Islam be a Feminist Religion, available at: <https://www.youtube.com/watch?v=6VF3vcS3HvI> last visited 05 / 01 / 2019 .

²⁸ <https://www.revolvy.com/page/Sherin-Khankan> last visited 05 / 10 / 2019 .

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to manifest faith, practice, and worship pursuant to article 18 which states that,

“Everyone shall have the right to freedom of thought conscience and religion. This right shall include freedom to have or to adopt a religion or belief of one’s choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching”²⁹.

b. European Convention for the Protection of Human Rights and Fundamental Freedoms:

The same language is used at Article 9 on the European Convention for the Protection of Human Rights³⁰ and protected

²⁹ Article 18, U N General Assemble, *International Covenant on Civil and Political Rights*, (Dec 1966), United Nations, Treaty Series, vol. 999, p. 171 available at : <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> last visited 05/10/2019.

³⁰ Article 9 Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5. Available at: <https://www.refworld.org/docid/3ae6b3b04.html>, last visited 05 /10 / 2019.

against discrimination, on any bases including gender, by Article 1,
Protocol No. 12³¹

³¹ Protocol No. 12 to the ECHR, 51.

https://www.echr.coe.int/Documents/Convention_ENG.pdf last visited 05 /10 / 2019 .

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c. The Convention on the Elimination of All Forms of Discrimination Against Women:

Beside the Articles mentioned from the covenant for Civil and Political Rights, and the European convention, when it comes to women's rights, the most important international document in the United Nations' system regarding women and feminism will be The UN Convention on the Elimination of All Forms of Discrimination Against Women³².

The treaty frequent Language as “**ensure the equal rights of men and women**”³³ might suggest that CEDAW could be used to bring lawsuits or complaints for both men and women's human rights and therefore a Muslim man can bring complaint against the Women-only Mosque, because, according to Cook: “International human rights... were developed primarily by men in a male oriented world. They have not interpreted in a gender sensitive way that is

³² Christine Chinkin, *Feminism, Approach to International Law*, Oxford Public International Law, October 2010, 3.

³³Preamble, article 1-5, 7-12... etc. *Convention on the Elimination of All Forms of Discrimination against Women*, Dec. 1979, 1249 U.N.T.S. 13 available at : <https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm> last visited 04/22/2019.

responsive to women's experiences of injustice"³⁴. This is irrational, in fact, the convention is not to bring Human Rights Complaints about men being discriminated, pursuant to CEDAW **commentary**, "CEDAW is not gender-neutral but addresses explicitly the need to eliminate discrimination against Women"³⁵.

I believe that one key argument is that the women-only mosque is protected under the freedom of Religion clause in Political covenant and the European Convention because this clause protects "the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications"³⁶, where the women-only Mosques serve as religious school that argue for Islamic Feminism³⁷.

³⁴ Rebecca J. Cook, Women's International Human Rights Law: The Way Forward, Human Rights Quarterly, Vol.15 No 2 (May 1993, PP. 230-261, 238

³⁵ Christine Chinkin, Marsha A. Freeman, Introduction, in Freeman. Chinkin, Rudolf (eds), CEDAW Commentary (Oxford: OUP, 2012), 9.

³⁶ Human Rights Committee, General Comment 22, Article 18 (Forty-eighth session, 1993). Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 35 (1994), 4. <http://hrlibrary.umn.edu/gencomm/hrcom22.htm> last visited 05 /10 / 2019 .

³⁷ Sherin Khankan has said that they have a school that teaches Islamic Philosophy and Islamic Feminism, in an interview with Asia House: Sherin Khankan: can Islam be a Feminist Religion, available at : <https://www.youtube.com/watch?v=6VF3vcS3HvI> last visited 05 /10 / 2019 .

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d. Application of the International Provision on Denial of Muslim men to the Women only Mosques:

Muslims' access to the Mosque is mandated to perform *Jumu'ah* prayer, and denial of this access could be considered as deprivation of the right to manifest their belief³⁸, whereas listening to the Khutbah and the prayer is a form of worshiping and manifestation of Islamic religion. "The concept of worship extends to ritual and ceremonial acts giving direct expression to belief"³⁹ because denial of access on bases of gender would be considered discriminatory. But the rebuttal for this argument is by using the Similarity and Difference Test: A Muslim man can have the same religious education and spiritual guidance in the same quality at another mosque. This test has been used by "international and regional human rights tribunals"⁴⁰.

Another crucial argument in favor of the women only Mosques is what the Equality and Human Rights Commission

³⁸ Sarah Joseph, Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary*, Oxford Scholarly Authorities on International Law, (3rd Edition), July 2013, 567.

³⁹ Human Rights Committee, General Comment 22, Article 18 (Forty-eighth session, 1993). *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.1 at 35 (1994), 4. <http://hrlibrary.umn.edu/gencomm/hrcom22.htm> last visited 05 /10 / 2019 .

⁴⁰ Rebecca J. Cook, 240.

stated that, gender segregation outside of religious worship and practice is unlawful⁴¹. This means that the commission does not consider gender segregation in the arena of worship discriminatory.

III- Tests for Discrimination and Reasons of Exclusion of Men:

Although, we have produced the argument that the Women's Mosque is protected under international conventions, we still need to reply to the counterargument that the women-only Mosque is discriminatory against men. This will be established by applying the tests for discrimination which have been produced by case law and academic literature.

a. The Test of Inferiority:

The core of this test is that the policy or behavior will be deemed discriminatory if it **“conveys a message of inferiority”**⁴². This test is based upon the attribute of a person with a certain

⁴¹ Rebecca Hilsenrath, *Commission comments on gender segregation at school in Luton*, Equality and Human Rights Commission, (Apr 2016) available at : <https://www.equalityhumanrights.com/en/our-work/news/commission-comments-gender-segregation-school-luton>, last visited 05 / 10 / 2019

⁴² Amir Paz-Fuchs, Tammy Harel Ben-Shahar, *Separate but Equal Reconsidered: Religious Education and Gender Separation*, Human Rights Law Review, May 2018, 2, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3176713 last visited 05 / 10 / 2019

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character that may be different or could be criticized. This character should exist in the affected person to be protected against discrimination, which pursuant to *Chief Inspector of Education, Children's Services And Skills v The Interim Executive Board of Al-Hijrah School*, which states that “protected characteristics are protected because they all have long histories in which one group has been regarded as fundamentally different or inferior”⁴³

Applying this test to the case of Women’s Mosques shows that there is no such an inferiority message, in other words no man would feel inferior because of his sex⁴⁴ or gender when the Mosque’s policy denies his access and therefore this policy is not pursuing discrimination on bases of sex, and does not breach gender equality. Furthermore, even if alleged that he felt inferior because of this situation together with his gender, the reply is that his characteristic is not protected because it has no history of

⁴³ *Chief Inspector of Education, Children's Services And Skills v The Interim Executive Board of Al-Hijrah School* (Rev 2) [2017] EWCA Civ 1426 (13 October 2017)

⁴⁴ *Id.*, 6.

being inferior, in contrast to Black African Americans in *Brown v Board of Education*⁴⁵

b. The Test of Disadvantage:

This test is for a person who belongs to a group which is “persistently disadvantaged”⁴⁶ and who proves that a certain behavior or policy ruins or sustains this disadvantage. With these two factors the behavior is discriminatory⁴⁷.

In case of these mosques, this policy is just kind of regulation, and it is not against a “persistently disadvantaged group”, inasmuch as a man does not belong to the attributed group. This test has been used by the Supreme Court of Canada⁴⁸.

c. The Reasons of Exclusion of Men from these Mosques:

If we want to talk about the purpose of establishing this kind of mosques, for the first instance perhaps it seems different in China

⁴⁵ *Brown v. Bd. of Ed. of Topeka, Shawnee Cty., Kan.*, 347 U.S. 483, 495, 74 S. Ct. 686, 692, 98 L. Ed. 873 (1954), supplemented sub nom. *Brown v. Bd. of Educ. of Topeka, Kan.*, 349 U.S. 294, 75 S. Ct. 753, 99 L. Ed. 1083 (1955)

⁴⁶ Rebecca J. Cook, 240.

⁴⁷ *Id.*, 240

⁴⁸ *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143 available at : <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/407/index.do> last visited 05 /10 / 2019 .

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than in the west, both in the US and Denmark. Since the reason in China was to protect Muslim identity and religion and to educate people about Islam while the sound of feminism is very loud in case of the Women's Mosques in the west. Truly, it is the same because even in the west these Mosques are also aimed to protect Muslim Women faith and religion and to educate both men and women about Islamic feminism. As they believe that this is the right interpretation for Islam in this century, otherwise they would have lost faith if they had believed that their problem is with Islam itself and Qūran not in an old man-oriented interpretation.

Furthermore, the purposes of the Women's Mosque approach the reasons for other women-only workplaces, spas, clubs ... etc.

Women empowerment is one of the common reasons, they will argue that for decades women have been in need for a man-free space to have their chance. Same feelings expressed by saying that

“being left behind”⁴⁹. Some of them say that, they found support, security and privacy in women – only places⁵⁰

IV- Women’s Mosques under Islamic Law

a. What is Islamic Law?

Islamic law or *Shari’ah* has two primary sources, Qurān and Hadīth. Qurān, as Muslims believe, is the word of God (*Allah*), that has the answer for all humanity questions and the solution for any of their problems, consequently perfect and sound. Qurān contains general rules for legislation.

Hadīth is the word of the Prophet (peace and blessing be upon him) and it is the first practical interpretation of Qūran. Hadīth was narrated by the Prophet’s companions who watched the events happening in which the Prophet has given his teaching ⁵¹, not only in

⁴⁹ Getty Images, Do private women’s clubs discriminate against men?, available at <https://globalnews.ca/news/4110963/private-women-clubs-gender-divide/> last visited 05/10/2019

⁵⁰ Sarah Molineaux, No Boys Allowed! Women-Only Spaces and Anti-Discrimination Law, (Jun 2018), available at: https://www.womensmarchcanada.com/women_only_spaces last visited 05/04/2019.

⁵¹ Shaykh Muhammad Hisham Kabbani, *Understanding Islamic Law*, The Islamic Supreme Council of America, available at : http://www.islamicsupremecouncil.org/understanding-islam/legal-rulings/52-understanding-islamic-law.html#_ftnref last visited 05 /10 / 2019.

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the form of sayings but also acting and conducting as father, as husband, as a friend, as a judge, as a leader... etc

These two sources have influenced the whole literature of four different doctrines (*Madh-habs*) Which represent the mainstream of Islamic legal thought, named after their founders, these four doctrines, respectively, are Hanafī, Malikī, Shafī‘ī, and Hanbalī⁵². Although Qurān and Hadīth are the sources of Islamic law, Muslims believe that madhhabs are the way to understand the sources i.e. the Quran and the Sunna and that madhhabs are representing the code of Islamic Law.

b. Islamic Law and Women’s Human Rights:

Islam as a religion is against harm, racism and discrimination but when it comes to gender equality, Islamic scholars (‘alims) could be divided into two categories of perspective: conservative and modern. The first category sees that gender equality between man and women in the form introduced by International Human Rights

⁵² G. Burak, *Madhhab*, The [Oxford] Encyclopedia of Islam and Law, available at: <http://www.oxfordislamicstudies.com/article/opr/t349/e0094>, last visited 05 / 10 /2019.

Law is not compatible with Muslim perspective because man and women are different, so they ought to be treated differently⁵³. Other Muslim scholars would argue that a modern interpretation of Qurān in the light of context and purpose rules, would make no contradiction between Islamic norms and international law⁵⁴.

Muslim scholars would not argue against Women-only Mosques merely because of sex-segregation, I believe they would like the idea of men and women being separated. They would not see this as discrimination against men because they believe that *Ikhtilat* (mingling between men and women) is forbidden in Islam.⁵⁵ Of course I am not generalizing saying that all Muslim scholars are saying that, but at least the mainstream Islamic opinion. In fact, even if they do not see *Ikhtilat* as forbidden, they also would not see something wrong with separation between genders, as a result of the

⁵³ Said Mahmoudi, Islamic Approach to International Law, Max Plank Encyclopedia of Public International Law, March 2018, 19 .

⁵⁴ Id, 19.

⁵⁵ Dr. Jawaher Alwedinani, *Ikhtilat* as Patriarchal Expression: Gender Segregation and the Influence of Father, International Journal of Gender and Women's Studies June 2017, Vol. 5, No. 1, pp. 7-20, 8

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Islamic concept of *Hijab* which literally means “curtain”⁵⁶, and implied as “physical or metaphorical barrier”⁵⁷ between Muslim men and women.

The real problem of Muslim scholars with the Women-only Mosque is within the details which is related to the phenomenon such as the female leading of a mixed-sex prayer.

c. Women Calling for Adhan:

The Adhan is only to be made by a Muslim man, with legal capacity, who is able to pronounce and vocalize the letter sounds of the Adhan distinctly and beautifully in standard Arabic. Women are not asked to raise the Adhan. It is a job of men to do. That is because the Adhan is a way of inviting others and telling other people that the prayer is about to begin. Women are not allowed to perform this role.

Moreover, calling the Adhan involves raising and beautifying the voice to be heard by several men. Women are also not permitted to such a practice.

⁵⁶ Erum Tariq-Munir, *The Dynamics of Wearing hijab for Muslim American Women in the United States*, (2014). Graduate Theses and Dissertations. 13842, 11. <https://lib.dr.iastate.edu/cgi/viewcontent.cgi?article=4849&context=etd> last visited 05 /10 / 2019 .

⁵⁷ Id, 6.

The Holy Quran advises the wives of the Prophet, and consequently all Muslim women, not to use a soft and gentle voice when speaking in case it (the softness of voice) exposes their vulnerabilities, but to use appropriate tone of voice.

“O wives of the Prophet, you are not like anyone among women. If you fear Allah, then do not be soft in speech [to men], lest he in whose heart is disease should covet, but speak with appropriate speech”⁵⁸.

According to this premise, I argue that a Muslim woman is prohibited from raising the Adhan.

d. Women Prayer Leadership:

The well-known and authorized opinion in Islamic law is that a man can lead men in prayer, women can lead women, and man can lead women. When Amina Wadud led men in a mixed prayer, a number of Muslim scholars were against it⁵⁹, while their evidence, representing the conservative side, was that the four *madhhabs* in

⁵⁸ Quran 33:32

⁵⁹ Asghar Ali Engineer, 211.

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Islamic jurisprudence do not allow women to lead men, Wadud and her allies, representing the modern side, rely on a *hadīth* that the Prophet (peace and blessing be upon him) has allowed a women called Umm Waraqah⁶⁰ to lead in her household or the whole locality⁶¹.

According to David Solomon Jalajel, the claim that the four *madhhabs* are against women leadership of prayer is not totally correct, because some of the hanbalī scholars have allowed woman to lead men in case of voluntary prayer⁶².

David has based this opinion on his own understanding to Ibn Qudama's words. I have translated Ibn Qudama's text from al-Mughni to discover the major opinion in Islamic law about women prayer leadership and analyzed Ibn Qudama's words in the following pages, Ibn Qudama says⁶³:

*it is not valid for a man, according to
the general view of the jurists, to follow*

⁶⁰ Umm in Arabic means mother, and waraqah is the name of her son.

⁶¹ Engineer, 212.

⁶² David Solomon Jalajel, *Women and Leadership in Islamic Law*, Routledge, (2017), 238.

⁶³ Muwaffaq al-Dīn 'Abd Allāh ibn Aḥmad Ibn Qudāmah, *Al-Mughnī*, vol 2, page 146.

her in prayer in any case, whether in an obligatory or desirable prayer.

Yet Abu Thawr said: There is no repetition for the man who prayed behind her. This opinion is appropriate for what Al-Muzni said

Some of our companions said: It is permissible for a woman to lead men in Tarawih, and to be behind them;

Because of what was narrated on the authority of Umm Warqa bint Abdullah bin Al-Harith, "The Messenger of God - may prayers and peace be upon him - appointed for her someone who would call out for prayers, and commanded her to lead the people of her house." Narrated by Abu Dawood. This applies for both men and women

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This means that Umm Waraqua was allowed by the Prophet to lead her people including males and females living in her home. Note that Ibn Qudama disagrees with this opinion, he believes that a woman should not lead men anyway, he says⁶⁴:

[T]he evidence for the correctness of our doctrine is the saying of the Messenger, peace and blessings be upon him: "A woman is not an imam for a man" ...

and because a woman does not give the call of prayer to men, it is not permissible for her to lead them...

Then Ibn Qudama needed to interpret the hadith of Umm Waraqah in a way that is harmonious with his view, he says⁶⁵:

The hadith of Umm Waraqah only permitted her to lead the women of her home, as was narrated by al-Daraqutni. This is an addition that must be accepted, and even if this is

⁶⁴ Ibid.

⁶⁵ Ibid.

not mentioned, the narration must be interpreted accordingly.

However, we need to examine the argument of Ibn Qudama about the other opinion when he said: "Some of our companions said: It is permissible for a woman to lead men in Tarawih, and to be behind them."⁶⁶. It looks like Ibin Qudama means that some Hanbali scholars are in the favor of the opinion saying that a woman is permitted to men in a congregation prayer, but with two conditions: 1) Not in an obligatory prayer. 2) She shall stand behind them.

Another important text is in a book called, *al-Ma'ani al-Badi'aa fi M'rifat Ikhtilaf Ahl al-Shari'a*, says that⁶⁷:

According to al-Shafi'i and most of the scholars, it is not permissible for a woman to lead men or hermaphrodites. According to al-Muzni, Abu Thawr and Muhammad ibn Jarir al-Tabari, it is permissible for a woman to lead men in

⁶⁶ Ibid.

⁶⁷ Gamal al-Deen al-Reemi, *al-Ma'ani al-Badi'aa fi M'rifat Ikhtilaf Ahl al-Shari'a*, volume 1, page 200.

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*Tarawih if there is no other reciter and
she stands behind the men.*

This text is very important as it states two critical points:

First, the author of this book, Gamal al-Deen al-Reemi, believes that there are three Muslim Scholars who allow a woman to lead men in prayer. They are al-Muzni, Abu Thawr and Muhammad ibn Jarir al-Tabari. In fact this is not true. According to Ibn Qudama: al-Muzni and Abu Thawr did not allow this practice, they have only said that if a man considers a woman as an imam in a prayer, by mistake, he is not mandated to repeat that prayer.⁶⁸

The second, this book has mentioned three conditions for such practice to be valid: "it is permissible for a woman to lead men in Tarawih if there is no other reciter and she stands behind men"⁶⁹.

- 1- The prayer should be not an obligatory prayer, but a voluntary one, such as Tarawih.
- 2- There should be no other reciter, i.e. there is no one who is male and can read Quran in a proper way.

⁶⁸ Muwaffaq al-Dīn ‘Abd Allāh ibn Aḥmad Ibn Qudāmah, *Al-Mughnī*, vol 2, page 146.

⁶⁹ Gamal al-Deen al-Reemi..

- 3- The female imam should stand behind the men, so they only can hear her voice but they cannot see her, as this may disturb their minds looking to her back.

I believe these conditions are very limited, it only establishes an exception, in cases similar to the case of Umm Warqa, an old lady in a far place, but the general rule should be constructed according to famous evidence in Islamic law.

e. The General Islamic Rule on Women's Leadership:

In the following points, I will explain the general institution in Islamic law about women leadership of prayers:

1. The jurists have different opinions regarding the permissibility of Muslim women lead women in prayer, although the correct opinion is that it is permissible, but the leading woman should stand in the middle of other women and does not raise her voice. I wonder if a woman is commanded to lower her voice among women and is forbidden to come before them, then how it can be imagined that she would raise her voice among foreign men and be ahead of them.

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2. If the follower is commanded to follow the imam in his bowing and prostration, and that can only be achieved by looking at the imam's back, then looking to a female imam contradicts the command to look down eyes (Ghad al-Basar), and expose men prayer to be void.
3. A woman is not obliged to perform Friday prayer, because the Prophet peace be upon him said: “Friday prayer in congregation is an obligation for every Muslim, except for an owned slave, a woman, a boy or a sick person.”⁷⁰. This means that a woman performing Friday prayer is doing a voluntary act, while a man is performing an obligation. Consequently, the man should lead the woman.
4. The Prophet, may peace be upon him, said: “If something disturbs you in your [congregation] prayer, let the men glorify and let the women clap.”⁷¹ It is clear that if women are forbidden to raise the voice in glorification, when necessary, then by analogy they are not allowed raising their voice with recitation and preaching.

⁷⁰ Abu Dawoud, (1067)

⁷¹ Bukhari (684), Muslim (421).

From these previous premises, we can infer that in Islamic law the general institution for this issue is that women are not allowed to lead men in a congregation prayer, including obligatory and voluntary prayers.

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V- The Status of Women in Islam:

This mentioned opinion is not against women nor derogates their rights. Islam has honored women, placed her in a position that no previous religion nor nation has placed women in. This section shows the honoring of women in Islam and the future of women in mosques:

a. The Honoring of Women in Islam

Islam gave her rights that were neglected in the ancient ignorance, in the modern West, and among non-Muslims in general. It is in the Quran: “And they have the same rights as they are due to them, and men have a degree over them.” The Prophet, may peace be upon him, said: “Women are the sisters of men,”

For example, the right to inherit, the Almighty said: “Men have a share of what the parents and close relatives leave, and women have a share in what the parents and close relatives leave, whether it is little or much, an obligatory share.”

Islam came with maintaining women’s rights and preservation of them, Islam honored the woman after she used to be inherited like a commodity as possessions in the pre-Islamic era, and

she was obliged to committe suicide by fire if her husband dies in the ancient religions of India.

The general rule I have explained is a manifestation of the honoring of women in Islam; we can summarize this in the following points:

1. Protecting a woman from men looking at her during prayer, which includes bowing and prostration; these motions surely describe the features of the body.

2. Preventing her from doing so will put an end to embarrassment because of the physiological changes that the woman is exposed to, such as pregnancy, childbirth, menstruation, and the consequent changes in the psychological state.

3. Concerning the Friday sermon, the sermon requires certain psychological and physical characteristics that are not compatible with the nature of the woman, such as raising the voice, and the ability to influence by enticement at one time and by intimidation at other times.

4. A Muslim woman will not be disgraced with this ruling in front of women from other religions, because it is known in all

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religions that men have matters that they specialize in and women are specialized in matters that are not for men.

b. The Future of Muslim Women in Mosques

One of the vital questions we need to answer in this article is whether Women-only Mosques are solving a problem or worsening it, I would agree with Naz Shah⁷², when she said,

*“It seems to me that having a women-managed mosque is completely the wrong approach because the community and faith are stronger when Muslim men and women work in partnership as equals. I don’t want to see greater gender segregation, or women’s involvement pushed to the margins. What we need is good examples of mosques and madrasas that are inclusive of both men and women”*⁷³

⁷² Naseem Shah (Naz Shah) is a British Labour Party politician. She was elected at the 2015 general election as Member of Parliament for Bradford West, see https://en.wikipedia.org/wiki/Naz_Shah last visited 05 /10 / 2019.

⁷³ Naz Shah, Why I disagree with having a women-run mosque in Bradford, available at : <https://www.theguardian.com/commentisfree/2015/jul/31/women-mosque-islam-bradford> last visited 05 /10 / 2019 .

However, I believe that this is the same wish that the founders of the other women-only mosques may want to accomplish, but even if they try, it is near to impossible during the contemporary situation. Men has complete control on mosques. Therefore, it makes sense for Muslim women activist to take this huge step, i.e. the establishment of women mosques, in order to reach a compromise.

The terms of this compromise would be so close to what Shah has suggested above where Mosques are managed by both men and women, women are allowed to give lectures while men and women can listen and understand.

At the very least, regular Mosques must be Women-friendly by including women into it, involving them into management, allowing them to pray, does not ban their access under any circumstances, and provide them with enough room to pray and preach. This is the least that Muslim men can do instead of complaining about the Women-only mosques, so make your places Women-friendly Mosques⁷⁴

⁷⁴ Available at: <http://america.aljazeera.com/articles/2015/2/3/first-all-female-mosque-opens-in-los-angeles.html> last visited 05 /10 / 2019.

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VI- Conclusion

Women-only Mosques are protected under International Human Rights Treaties, and the allegations of being discriminatory against Muslim man cannot stand in front of the discrimination tests like the test of Inferiority and the test of Disadvantage.

Islamic law does not consider women's Mosques discriminatory and does not prevent women from praying in congregation without men or leading each other. The major debate in Islamic law related to these Mosques is whether a woman can lead a man or not, according to some Hanbali scholars and al-Tabari, she can do that only in voluntary prayers. However, the major opinion in Islamic law is preventing women leading men. This rule is a manifestation of honoring of women in Islam.

Finally, establishing these Mosques was a necessary step to open the eyes toward a reform in the way Muslim woman has been treated for a long time, in addition to practicing of Muslim women to their religious rights in a way that meets their freedom, empower them, and take a step in the way of accomplishing gender equality.

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عنوان البحث:

"مساجد النساء: دراسة في ضوء الشريعة الإسلامية والقانون الدولي لحقوق الإنسان"

ملخص البحث:

قد يحمل هذا العنوان إيجاءً بالتمييز على أساس النوع، لكن دراسة هذه الظاهرة في ضوء الشريعة الإسلامية تبين أنه لا مناعاً شرعياً من استقلال النساء بمساجد من حيث المبدأ، كما أن معايير التمييز الممنوع في إطار القانون الدولي لا تنطبق على هذه الممارسات. وقد جاء هذا البحث في مقدمة وثلاثة مباحث: حوت المقدمة الإطار الذي وضعه الإعلان العالمي لحقوق الإنسان، والاتفاقية الدولية بشأن الحقوق المدنية والسياسية.

استعرض المبحث الأول تاريخ مساجد النساء في العالم، والظروف التي أدت إلى ظهورها قديماً وحديثاً في كل من الصين وأوروبا وأمريكا.

أما المبحث الثاني فقد طبق معايير القانون الدولي في مسألة التمييز، مثل: معيار تقليل الشأن، ومعيار الضعف. وتوصل إلى أن هذه المساجد لا تعتبر تمييزاً ضد الرجل في ضوء القانون الدولي لحقوق الإنسان.

وأما المبحث الثالث فقد بين الأحكام الشرعية المتعلقة بتلك المساجد في ضوء الفقه الإسلامي، مثل مسألة إمامة المرأة ورفعها الأذان، وقد توصل البحث إلى نتائج ذكرها في الخاتمة، ومنها أنه يشرع للمرأة أن تؤم غيرها من النساء، ورجح أنه لا يجوز لها إمامة الرجال ولا رفع الأذان، وبين أن ذلك من مظاهر تكريم المرأة في الإسلام.

الكلمات المفتاحية:

مساجد النساء - النسوية الإسلامية - حقوق المرأة - إمامة المرأة