



## Jurisprudential Fatwas Issued by the International Islamic Fiqh Academy on Social, Economic and Medical Issues of Women: A Contemporary Original Study

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### Abstract

This study examines the jurisprudential fatwas issued by the International Islamic Fiqh Academy concerning social, economic, and medical issues related to women. It provides a contemporary analytical reading aimed at tracing the evolution of the Academy's institutional jurisprudential discourse regarding women and their rights. The study is based on an analysis of the Academy's resolutions and the minutes of its deliberations published in the Journal of the International Islamic Fiqh Academy, and connects them with the concepts of gender equity, justice, and the preservation of human dignity as articulated in contemporary Islamic thought and human rights literature. The findings indicate that the Academy has gradually shifted from a near-complete neglect of women's empowerment issues (up to the early 1990s), to adopting a defensive discourse centered on the "complementarity of roles" in response to international women's conferences, and eventually to explicit recognition of women's legal and human qualifications and their rights to education, employment, and participation in development. This shift, however, still maintains the framework of traditional jurisprudence regarding rulings on guardianship, custodianship, inheritance, blood money, and related matters. The study also reveals that emerging medical issues—such as medical treatment of women by male practitioners, reproductive technologies, AIDS, female genital mutilation, and the sterilization of girls with intellectual disabilities—have prompted the Academy to apply the jurisprudential principles of necessity, the removal of hardship, the preservation of lineage, and the preservation of life, in an effort to reconcile scriptural requirements with contemporary medical realities. The study concludes that the most significant transformation in the Academy's discourse lies in the adoption of value-based and humanitarian language that is more responsive to women and their rights. However, structural renewal in ijtiḥād remains limited in several areas that shape power dynamics within the family and define women's roles in the public sphere. This underscores the need to deepen purposive (masjid-based) ijtiḥād and to broaden the participation of researchers and specialists in formulating institutional fatwas.

**Keywords:** *Jurisprudential Fatwas; International Islamic Fiqh Academy; Social, Economic, and Medical Issues; Women.*

الفتاوى الفقهية الصادرة عن المجمع الفقهي الإسلامي الدولي في القضايا الاجتماعية والاقتصادية والطبية الخاصة بالمرأة:

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**ملخص:** تتناول هذه الدراسة الفتاوى الفقهية الصادرة عن مجمع الفقه الإسلامي الدولي في القضايا الاجتماعية والاقتصادية والطبية الخاصة بالمرأة، من خلال قراءة تأصيلية معاصرة تسعى إلى رصد تطوّر الخطاب الفقهي المؤسسي تجاه المرأة وحقوقها. تعتمد الدراسة على تحليل قرارات المجمع ومحاضر مداولاته المنشورة في "مجلة مجمع الفقه الإسلامي الدولي"، وربطها بمفاهيم المساواة الجندرية، والعدالة، وحفظ الكرامة الإنسانية كما تتجلى في الفكر الإسلامي المعاصر وفي أدبيات حقوق الإنسان. تبين النتائج أنّ المجمع تحرّك تدريجيًا من مرحلة التجاهل شبه التام لقضايا تمكين المرأة (حتى مطلع التسعينيات)، إلى اعتماد خطاب دفاعي يركّز على "تكامل الأدوار" في مواجهة المؤتمرات الدولية حول المرأة، ثم إلى الاعتراف الصريح بأهلية المرأة القانونية والإنسانية وحقها في التعليم والعمل والمشاركة في التنمية، مع الإبقاء على مرجعية الفقه التقليدي في أحكام الولاية والقوامة والميراث والدية وغيرها. كما تكشف الدراسة أنّ القضايا الطبية المستجدة، مثل مداواة الرجل للمرأة، وتقنيات الإنجاب، ومرض الإيدز، وختان الإناث، وتعقيم الفتيات المتخلفات عقليًا، قد دفعت المجمع إلى توظيف قواعد الضرورة ورفع الحرج وحفظ النسل وحفظ النفس، في محاولة للتوفيق بين مقتضيات النص ومطالب الواقع الطبي المعاصر. وتخلص الدراسة إلى أنّ التحوّل الأبرز في خطاب المجمع يتركّز في اللغة القيمية والإنسانية المتعاطفة مع المرأة وحقوقها، في حين ما زال التجديد الاجتهادي البنوي محدودًا في كثير من القضايا التي تمسّ بنية السلطة داخل الأسرة وموقع المرأة في المجال العام، مما يستدعي تعميق الاجتهاد المقاصدي وتوسيع مشاركة الباحثات والخبيرات في صياغة الفتوى المؤسسية.

**الكلمات الدالة:** الكلمات المفتاحية : الفتاوى الفقهية، المجمع الفقهي الإسلامي الدولي، القضايا الاجتماعية والاقتصادية والطبية، المرأة

## Introduction

Women's issues in Islamic societies constitute one of the most complex and sensitive areas of contemporary debate—particularly with regard to their social, economic, and medical rights and their position within the system of Sharī'a rulings and modern jurisprudential thought. With the growing presence of women in education, the labor market, and the public sphere, and with increasing international and domestic pressure to promote gender equity and protect human rights, the role of jurisprudential councils has expanded. As collective legal authorities, these councils seek to formulate fatwas and resolutions that respond to contemporary realities while remaining faithful to textual and doctrinal principles. Foremost among these bodies is the International Islamic Fiqh Academy, which serves as an institutional framework for transnational collective ijtihād and exerts both direct and indirect influence on national legislation and on shaping the religious consciousness

of broad segments of the Muslim public.

A review of the Academy's fatwas demonstrates that its treatment of women's issues has not been static or linear; rather, it has undergone gradual transformations that may be grouped into three general phases. The first phase, extending until the early 1990s, was marked by the near absence of women's empowerment and gender equity considerations in its deliberations. The second phase witnessed the emergence of a defensive discourse emphasizing the "complementarity of roles" between men and women, largely in response to international conferences on population and women, alongside what the Academy framed as Islam's honoring of women within a critical, reactive narrative. The third phase, beginning in the early 2000s, introduced explicit recognition of women's legal and human capacity and their rights to education, employment, and participation in development. Yet this recognition remained conditioned by traditional jurisprudential frameworks in matters such as guardianship, custodianship, inheritance, filial piety, gender mixing, and travel. Consequently, a modern maqāṣid-oriented language stressing dignity, justice, and the rejection of violence often appears alongside rulings grounded in inherited textual interpretations that have not undergone deep structural review concerning areas of gender discrimination.

Within this context, the present study examines the jurisprudential fatwas issued by the International Islamic Fiqh Academy on social, economic, and medical issues related to women from a contemporary analytical perspective. It explores the Academy's efforts to harmonize traditional Sharī'a rulings with the jurisprudential principles of necessity and public interest on one hand, and the demands of modern reality and rapid gender transformations on the other. The scope of the study covers several central themes, including women's education and participation in the workforce; travel and residence in foreign countries; norms of mixing and segregation in educational and professional settings; rulings on dress and 'awra; in addition to medical and bioethical issues such as medical treatment of women by male practitioners, reproductive technologies and artificial insemination, abortion and maternal health risks, acquired immunodeficiency syndrome (AIDS), female genital mutilation, and the sterilization of girls with intellectual disabilities.

The research is guided by several key questions, such as: How has the Academy conceptualized the relationship between men and women within the spectrum of complementarity and equality? What is the nature of its fatwas on issues such as women's travel, gender mixing, education, employment, and dress, and how has it sought to adapt these within contemporary jurisprudential frameworks? How has it addressed medical and bioethical questions that affect women's bodily, reproductive, and mental health, such as infertility treatment, reproductive technologies, abortion, and AIDS? To what extent do these fatwas align with the principles of justice and human dignity and with the standards of equality and non-discrimination emphasized in human rights literature? And what jurisprudential, social, and

institutional challenges hinder the translation of these fatwas into genuine empowerment for women in the realms of education, employment, healthcare, and participation in the public sphere?

The study adopts a fundamental, analytical, and comparative methodology that integrates documentary research with jurisprudential critique. It is based on a close reading of the Academy's resolutions and the minutes of its deliberations as published in the *Journal of the International Islamic Fiqh Academy* and on its official website, supplemented by contemporary jurisprudential writings and relevant Islamic human-rights and feminist literature. These texts are analyzed through the lenses of *ijtihād*, *maqāsid*-based reasoning, the principles of necessity, and the doctrines of blocking and opening the means (*sadd and fatḥ al-dhari'a*). The study traces the development of the Academy's discourse across its successive sessions and evaluates the gap between its theoretical pronouncements on women's status and rights and the practical constraints that limit their social, economic, and medical empowerment.

The significance of this research lies in its attempt to provide a critical, in-depth reading of an institutional jurisprudential discourse with broad influence—moving beyond merely descriptive reporting of fatwa texts. On one level, it contributes to contemporary jurisprudential studies by offering a focused examination of the International Islamic Fiqh Academy's decisions relating to women in their social, economic, and medical dimensions. On another, it presents an analytical framework that can inform the development of educational, social, and healthcare policies related to women and guide the reform of institutional religious discourse toward enhancing women's participation as fully capable agents of development. The study thus offers a knowledge base upon which policymakers and researchers concerned with women's issues in the Islamic world may rely in formulating reform initiatives that integrate the objectives of *Shari'a* with the profound transformations of contemporary reality.

### **Theoretical Framework**

#### **International Islamic Fiqh Academy, Social Issues and the Subject of Gender Equality**

The term equality in the Islamic world is associated with two dialectical intellectual tracks, academic, legislative, theoretical, and social-political. The reality of women's fatwas on equality has witnessed a difference of opinion in the fatwa councils and a discord among the jurists, and there has been a disturbance among many Muslim women as a result of this difference, which is in fact not a dispute about constants and certainties, but a problem in matters that *ijtihad* can do. Some Islamic jurists have closed their eyes to a single opinion that does not accept pluralism or *ijtihad*. Others rejected the claim of equality between women and men in its modern form, while others stipulated that it was subject to controls. Then came new

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perspectives, such as those that believed in gender integration rather than equality. The new Islamic feminist perspective is concerned with contemporary women's jurisprudence, and calls for the education of women, and the development of civil societies concerned with feminist political, social and economic rights, investment, and contemporary e-awareness. We can categorize the new feminist point of view and its connection to the societal-political intellectual process, or what we can call the realistic aspect. The other views are related to the academic legislative track, which examines women's affairs from a theoretical perspective. Contemporary researches on this theory of Islamic equality vary, according to the fact that the humanitarian data of Islam require the protection of the weak in general, and women in particular, as equal members of an integrated society that is not equal in age for orphans, in terms of pension for the poor, in terms of neck for slaves, and in terms of the homeland, for strangers and wayfarers. Applied studies show that the process of achieving equality between men and women in Islamic countries and the Arab region is full of obstacles and challenges, and that the gap between men and women in participation, empowerment and employment in the workforce is still low compared to global levels, because the inequality between men and women at work has led to gaps between them in social protection, especially maternity and old age rights. The digital divide between men and women is an obstacle to the economies of the Arab and Muslim world benefiting from the benefits of technological change, especially in poor and remote areas.<sup>1</sup>

It is clear that the situation is different from the picture painted by the Academy's literature on the issue of equality and the empowerment of women, as the International Academy did not deal with this issue from its inception until 1990. In its decision in March 1990, the Planning Division proposed to hold seminars on the subject of women's rights and duties in Islam, and to delegate the General Secretariat to choose what is required by the interest.<sup>2</sup> In 1995, by virtue of the resolution issued

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<sup>1</sup> **Islam and the Contemporary World, A Historical and Cultural** (Jundi-See the following studies: Anwar Al Nolen Heyzer, United Nations, *Women's Voices Must Not Be Silent*, December 2007, Nations, "Promoting Gender Equality in Islamic Contexts – Women's voices must not be silenced," United Nations Chronicle (December 2007), accessed at <https://www.un.org/en/chronicle/article/promoting-gender-equality-muslim-contexts-womens-voices-must-not-be-silenced>

; Hind Obiedin, *Equality between women and men in Islam* (Academia.edu, 2010) [https://www.academia.edu/31136671/Equality\\_between\\_women\\_and\\_men\\_in\\_Islam\\_By\\_Hind\\_Obiedin](https://www.academia.edu/31136671/Equality_between_women_and_men_in_Islam_By_Hind_Obiedin); J. I. Smith, "Women in Islam: Equity, Equality, and the Search for the Natural Order," *Journal of the American Academy of Religion* 47, no. 4 (1979): 517–537; Farida Shaheed, *Great Ancestors: Women Asserting Rights in Muslim Contexts* (Oxford: Oxford University Press, 2012).

Mona Farid Badran, "Achieving Equality between Men and Women in the Arab Region in the Midst of a Changing World of Work", Paper Presented to the Arab Tripartite Meeting on the Future of Work, International Labour Organization, Beirut, April 2017.

<sup>2</sup> International Islamic Fiqh Academy website. (1990, March). Resolution No. 61 (6/12) on topics and seminars proposed by the Planning Division. In: Resolutions and Recommendations of the International Islamic Fiqh Academy, Sixth Session, Jeddah, Saudi Arabia. <https://www.iifa-aifi.org/ar/1815.html>

by the Seventh Islamic Summit Conference, held in Tehran, the recommendations were amended by the Fatwa Division at the ninth and tenth sessions of the Academy, emphasizing the values of Islam towards women, and their contradiction to the International Women's Conferences, especially the Cairo and Beijing Conferences, and the subsequent Islamic statements. In these recommendations, the Academy explained the principle of complementarity between men and women in development and responsibilities, and Islam gave women their full rights on a basis consistent with their personality and abilities. "Women, by virtue of their motherhood and other characteristics, have the fundamental role in the stability and well-being of this family structure... The Academy maintains that women will only be able to fulfill this mission for future generations if they obtain all their Islamic rights to carry out their mission in their respective areas of life. The resolution called for respect for women, rejection of violence, trafficking in women... He called on the media to promote the positive role of women, reject propaganda that is offensive to values, reject foreign cultural and social concepts, condemn attacks on Islamic concepts and rulings, and condemn attacks on women's freedom to adhere to the rituals of their religion, such as the hijab. He called for efforts to alleviate the pain of women, especially victims of armed conflicts, foreign occupation, poverty and victims of foreign economic pressures.<sup>3</sup>Talking about human rights, the magazine of the Academy stated that it is not permissible for women to fight even in war, and if they fight Muslims with men, then if they are forced to kill them, then it is permissible to kill them. Elsewhere in the magazine, it was said: "It is not permissible to kill women and boys even if the people of war are protecting them... It is not permissible to throw them or burn them." The work on this is that the women of the people of war should not be killed unless they fight.<sup>4</sup>

The matter remained silent until 1997 in a resolution that was postponed until next year. After the 1998 Expert Symposium on the Role of Women in the Development of the Islamic Society, the consideration of the resolution was postponed again to 2000 at the twelfth session, in Resolution No. 114 (8/12) on the Islamic Declaration on the Role of Women in the Development of the Muslim Society. It is <sup>5</sup> stated in the magazine of the Academy that women have their dignity, humanity and full competence in all their rights and behaviors, including ownership, sale, purchase and marriage, without guardianship or limitation. There is no difference in Islam between males and females in capacity, even in the capacity of each of them over the other.<sup>6</sup> Reference was made to some of the observations raised

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<sup>3</sup> International **Islamic Fiqh Academy website**, "Resolution No. 159 (17/8) on the Status of Women and Their Social Role from an Islamic Perspective", Seventeenth Session, Amman, Jordan, June 2006, <https://iifa-aifi.org/ar/2218.html>

<sup>4</sup> Abdullah Muhammad Abdullah, "Human Rights in Islam", **Journal of the Islamic Fiqh Academy**, No. 13, Part 1 (2001), pp. 153–175, available at: <https://al-maktaba.org/book/8356/24452>

<sup>5</sup> International **Islamic Fiqh Academy website**, "Resolution No. 114 (12/8) on the Islamic Declaration on the Role of Women in the Development of Muslim Society", Twelfth Session, Riyadh, September 2000, <https://www.iifa-aifi.org/ar/2072.html>

<sup>6</sup> Tahir Ahmad Maulana Jamal Al-Lail, "Human Rights in Islam", **Journal of the International Islamic Fiqh Academy**, No. 13, Part 1 (2001), p. 334, <https://shamela.ws/book/8356/20978>

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about the Islamic law regarding women's equal rights with men, in terms of the quorum of martyrdom, inheritance, and the monopoly of men in the rhythm of divorce, polygamy and the hijab. The Council claimed that these matters are not considered discrimination between men and women, but are required by the Sharia.

In summary, the International Islamic Fiqh Academy's view of women's issues and empowerment has gone through gradual stages that reflect a slow shift from a traditional conservative stance to a more balanced and humane discourse, although it has not yet reached the level of full jurisprudential renewal or a comprehensive human rights vision as in modern intentional thought or reformist Islamic feminist discourse.

1. The first phase (1980–1990): Absenteeism and institutional neglect: Until 1990, the Academy did not show a clear interest in the issue of women's empowerment or gender equality, as its work was limited to traditional jurisprudential issues without a gender or social approach. It is understood from this absence that women were an implicit subject in the general jurisprudential structure, rather than an active party in the formulation of the discourse or decision, reflecting the predominance of the patriarchal perspective at that stage.

2. The Beginning of Attention and Reservation (1990–1995): The Discourse of Restricted Rights: By the beginning of the 1990s, the Academy began to address women's issues within the framework of "their rights and duties in Islam," but remained wary of global proposals on "gender" and "equality", especially after the Cairo (1994) and Beijing (1995) conferences. The Academy adopted a defensive discourse that emphasizes the complementarity of roles between men and women rather than absolute equality, considering that what distinguishes Islam is harmony with "the instinct of women and their motherhood," while insisting that any call for full equality represents a "Western cultural breakthrough."

This position reflects the beginning of a cautious openness, but it remained confined to the jurisprudence of protection, not the jurisprudence of participation, i.e., the defense of women within the roles defined for them by classical jurisprudence.

3. Transformation of values and humanity (1997–2000): Towards a discourse of dignity and competence: After a decade of defensive positions, the end of the 1990s witnessed a gradual shift in the vision of the Academy, which was manifested in the 1998 symposium on the role of women in development, and the subsequent Islamic Declaration on the Role of Women in the Development of Muslim Society (Decision No. 114/12 of 2000). In this decision, the discourse began to move towards recognizing women's full humanity and their legitimate capacity to own, dispose of and marry without guardianship, which is a qualitative advance in institutional jurisprudential thought. He moved from "jurisprudence of the role" to "jurisprudence of dignity". The text also directly discussed the controversial issues (testimony,

inheritance, divorce, plurality, hijab) as detailed provisions that do not affect the essence of human equality. This approach is an indication of a cautious jurisprudential and humanist shift towards re-reading the position of women in the Sharia, although it is not based on a new radical jurisprudence, but rather on an expansion of the circle of intentional understanding of justice and interest.

Thus, the general direction of the discourse of the International Islamic Fiqh Academy indicates a clear consistency in its reference, as it did not leave the traditional jurisprudential principles, but rather readapted them within the formula of "integration of roles" between men and women instead of talking about "equal roles." A chronological gradient can be observed in this discourse, from the period of silence and exclusion before 1990, to the stage of defending the status of women in the face of Western discourses in the mid-1990s, and then to the recognition of their human and human rights capacity more clearly at the beginning of the millennium, as emerged in the 2000 resolutions. However, this shift seems more humane and rhetorical than jurisprudential, as the change does not reflect a new intentional jurisprudence that reconstructs the jurisprudential view of women's issues, but rather reflects a change in language towards highlighting women's fairness, respect for their dignity, and rejection of violence against them. However, the Council remained reticent about structural jurisprudence in texts related to inheritance, guardianship, and guardianship, stressing that the differences between men and women are "required by Sharia" and not a form of discrimination. Accordingly, it can be said that the Academy has moved from the stage of defense to the stage of recognition, and from a guardianship approach to a discourse that is closer to the spirit of justice and expediency, but without bringing about a radical change in the jurisprudential structure regulating women's rulings. This development takes on a gradual ethical, humanitarian, and institutional character, reflecting a belated response to the pressures of international reality and social transformation, and at the same time marks the beginning of the institutional jurisprudence's awareness of the importance of women's role in development, without reaching the level of an integrated empowerment discourse.

## **Issues addressed by the International Islamic Fiqh Academy regarding women in the social, economic, and medical aspects**

### **The woman's blood money is half of the man's blood money**

The jurists of Islam are almost unanimous that the blood money of a woman is half of that of a man, and none of the early jurists have reported that she is like a man except what was narrated from Ibn 'Aliyah and the deaf, as stated in the magazine of the Academy.<sup>7</sup> Their argument is that the verse is general, and that women are included in the expression of the believers, as is known in the texts of the Shari'ah.

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<sup>7</sup> Abdelkader Mohamed Al-Ammari, "Traffic Accidents", *Journal of the Islamic Fiqh Academy*, Issue VIII, Part II (1994), 778 - The Comprehensive Library, <https://shamela.ws/book/8356/12770#p5>

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There is no verse or hadith dedicated to this generality, but this is confirmed by what is stated in the hadith of Amr ibn Hazm: "And in the believing soul there are a hundred camels" and the word "soul" is applied to both male and female, and the man is killed by a woman, so her blood money must be the same as his blood money, and the magazine also mentioned that the phrase "the woman's blood money is half of the man's blood money" is mentioned in some narrations and not in all of them, which is a hadith that has not reached the strength of the chain of narration that can be used to make a distinction.

Those who took half of the blood money explained that the woman is often not a material loss to her family as it is in the loss of the man who is responsible for the responsibilities and requirements of the family. Her blood money was less than that of a man, not because she was less human than him, and that the blood money was not for a person, but rather a compensation for the family for what they lost due to the death of their heir, who is mostly the breadwinner of the family.<sup>8</sup>

In another place, the magazine of the Academy pointed out that the Hanbalis consider the blood money of women to be half that of men.<sup>9</sup> In another place, "The blood money of a woman is half of the blood money of a man and a boy, as is the amount of the blood money of the soul and its limbs, if it has an intended benefit that is missed by cutting it off, such as the tongue, the hand, the man, and the like." He<sup>10</sup> quoted the statement of Ibn al-Qayyim al-Jawziyyah that the wisdom behind making a woman's blood money equal to half of a man's blood money is that "a woman is less than a man, and a man is more useful than her, and he fills what a woman does not pay in terms of religious positions and guardianships..."<sup>11</sup>

In the context of the Majma's magazine's determination of the amounts affecting the rulings between text, measurement and custom, Sa'id ibn al-Musayyib mentioned the saying of Sa'id ibn al-Musayyib submitted to the Prophet (peace and blessings of Allaah be upon him) to estimate one-third of a woman's blood money to a man, i.e.,

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<sup>8</sup> Previous Reference: <https://shamela.ws/book/8356/12770#p5>

<sup>9</sup> Naji bin Mohammed Shafiq Ajam, "The Concept of the Depression of Paper Money and its Impact on the Determination of Rights and Future Obligations, the Limits of Inflation with which Paper Money Can Be Considered Depressed Money", *Journal of the Islamic Fiqh Academy*, Issue IX, Part II (1996), 603-636: <https://al-maktaba.org/book/8356/18524#p6>

<sup>10</sup> Wahba Al-Zuhaili, "The Rights of Children and the Elderly", *Journal of the Islamic Fiqh Academy*, No. 12 (2000), 1779, <https://shamela.ws/book/8356/20417#p5>.

<sup>11</sup> "...And the Messenger of Allaah (peace and blessings of Allaah be upon him) said: 'I am the Messenger of Allaah.' Otherwise, the wisdom of the Shari'ah necessitates that matters be restored to their proper order and that the objectives not be overlooked.

Ibn Qayyim al-Jawziyyah, *The Flags of the Signatories of the Lord of the Worlds* (Beirut: Dar al-Kutub al-'Ilmiyyah, 1991), p. 113.

See also: Omar's Book on the Judiciary and its Explanation: The Discourse on Analogy; The Section on the Errors of Analogists; Detailed Responses to What Was Quoted by the Deniers of Analogy; The Section on the Wisdom Behind Women Being Equal to Men in Some Rulings but Not Others. Electronic version, Modern Comprehensive Library."

her blood money is equal to his blood money until it reaches one-third. He paid his blood money, saying that this is the Sunnah.<sup>12</sup>

It is clear that the jurists have inferred from one piece of evidence, that some of the Companions have ruled that this is the case, but the lesson is that the evidence from the Qur'an and Sunnah is that there is no distinction between men and women in blood money, in addition to saying that it is in the interest of showing the justice of Islam, equality between men and women in retribution, and equality in all other punishments such as theft, adultery, slander, haraba, terrorism, and others.

It has been measured that the difference between a woman and a man in inheritance is that she is on half of her brother's blood money, so she is also on half of his blood money, and the analogy here is with the difference because the difference in shares in inheritance has nothing to do with masculinity and femininity, but rather is due to the difference in the need for money, because the argument is that he bears more financial burdens than her, such as dowry and spending. In all cases, a woman's inheritance is not half of it, but it is equal in some cases, or more than it in other cases, so the analogy here is invalid.

In summary, the issue of equality between women and men in blood money is a matter of dispute among jurists, as most jurists have argued that a woman's blood money is equal to half of a man's, while another group of jurists have argued that a woman's blood money is the same as a man's, including al-Ghazali, Shaltut, and Abu Zahra.<sup>13</sup> The public of the four schools of thought still relies on the blood money of a woman on half of a man, and there is no difference whether the crime against her is complete by murder or on one of its members. Note that this fatwa was never based on a Qur'anic verse and was not mentioned in a saheeh hadith. Despite the claim of the Council that the Muslim peoples adhered to the laws and regulations of Islam in personal status, women's affairs, family ties and other social and economic fields.<sup>14</sup>

### **Women's Testimony**

Ibn al-Qayyim stated that the Shari'ah has equated women and men in some rulings but not others, so that they are equal in physical acts of worship and hudud, and he explained that the interest in worship is common between them and that the need of one of the two categories is the same as the need of the other, so it is not appropriate to differentiate between them.<sup>15</sup> On the other hand, they differentiated

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<sup>12</sup> Abdullah Al-Shaykh Al-Mahfouz Bin Bayyah, "The Inflation Rate Considered in Debt", Journal of the Islamic Fiqh Academy, No. 12, Part 4 (2000), 235–249.

<sup>13</sup> Muhammad al-Ghazali, **The Sunnah of the Prophet between Ahl al-Fiqh and Ahl al-Hadith** (Cairo: Dar al-Kitab al-Masri, 2012), 19; Muhammad Abu Zahra, **Crime and Punishment in Islamic Jurisprudence** (Cairo: Dar al-Fikr al-Arabi, 1998), 579; Murad Odeh, "The Diah of Muslim Women between Halving and Equality with the Diah of Men". **An-Najah University Journal for Research** 27(3) (2013), 571-598.

<sup>14</sup> Resolution No. 126 (13/8) on Human Rights in Islam. At its thirteenth session in Kuwait, December 2001. <https://www.iifa-aifi.org/ar/2107.html>

<sup>15</sup> Ibn Qayyim al-Jawziyyah, **The Signatories of the Lord of the Worlds**, op. cit., 114.

between them in other places, such as Jumu'ah and Jama'ah, and made women pay half of it in terms of blood money, martyrdom, inheritance and 'aqeeqa. Ibn al-Qayyim explained this by the weakness of women's intellect, and his claim that Allah preferred men over women in terms of intellect, understanding, memorization, and discernment.<sup>16</sup> Muhammad Al-Ghazali, on the other hand, believed that the testimony of women should be accepted in everything according to the fixed nisab in religion. "It is not in the interest of the Public Security to waste the testimony of women in cases of which thousands of women are present, and it is not in the interest of jurisprudence and influence to give weight to a doctrine that offends Islam."<sup>17</sup>

The magazine of the International Society justified the inequality of women with men in the quorum of testimony on the grounds that it was not related to human rights, but to the burdens and duties that men must perform. The rulings of Islam have accepted the testimony of women in all matters that have a great impact. The magazine also stated: "If the defect is something that only women can see, then the judge will refer to the women, who are the specialists. The number of them is not required, but it is enough to accept one woman, two justices, and two more precautions."<sup>18</sup>

Thus, a reflection of the positions of Ibn al-Qayyim and Muhammad al-Ghazali and the discourse of the magazine of the International Islamic Fiqh Academy shows a gradual transition in the jurisprudential view of women, from the fixation of gender inequality to a discourse that adopts the language of dignity and competence while keeping the classical jurisprudential structure almost the same. An explanation that reproduces a gender hierarchy that makes male superiority part of the interpretation of the judgments themselves. On the other hand, Muhammad al-Ghazali moves towards a reformist vision that believes that women's testimony is acceptable in everything that is proven by the Sharia text, and that wasting their testimony in cases in which women are predominantly present harms public security and distorts the image of Islam, linking the rulings to the purposes of justice and interest rather than to alleging deficiencies in women's mental formation. The letter of the Academy magazine combines an explicit recognition of women's dignity, humanity and their full capacity to own, dispose of and marry, with the justification of the continued

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<sup>16</sup> What is mentioned in the Qur'aan is that the martyrs of the Prophet (peace and blessings of Allaah be upon him) said: "The Messenger of Allaah (peace and blessings of Allaah be upon him) said: "The Messenger of Allaah (peace and blessings of Allaah be upon him) said: [Al-Baqarah:] 282 Ibn al-Qayyim said: "The Messenger of Allaah (peace and blessings of Allaah be upon him) said: "The Messenger of Allaah (peace and blessings of Allaah be upon him) said: "The Messenger of Allaah (peace and blessings of Allaah be upon him) said: "The Messenger of Allaah (peace and blessings of Allaah be upon him) said: And if you do not accept the testimony of the Messenger of Allah (peace and blessings of Allaah be upon him), then you will not be able to bear witness to the truth of the Qur'an, and the Messenger of Allah (peace and blessings of Allaah be upon him) will not be able to bear witness to the truth of the Qur'an. It is a reminder of the fact that it is a martyrdom of the people of the world, and that it is a martyrdom of the people of the world, and that it is a martyrdom of the people of the world. Ibn Qayyim al-Jawziyyah, *The Flags of the Signatories*), 114.

<sup>17</sup> Al-Ghazali, **The Sunnah of the Prophet between the People of Fiqh and the People of Hadith**, op. cit., 69.

<sup>18</sup> Mustafa Kamal Al-Tarzi, "Istisna'a and Contracting in the Present Era", **Journal of the Islamic Fiqh Academy**, No. 7, Part 2 (1992), 555–626. <https://al-maktaba.org/book/8356/14349#p1>

differentiation in the quorum of the certificate as a result of the distribution of burdens and duties to the sexes and not compromising the essence of human rights, with an acknowledgment of the acceptance of women's testimony alone in their areas of professional and cognitive competence. Accordingly, this gradual development can be read as a transition from the "jurisprudence of imperfection", which links rulings to a presumed mental inferiority, to the "jurisprudence of dignity", which adopts the language of equality in competence and humanity, but this transition is still mostly at the level of discourse and explanation, and has not yet turned into a comprehensive reconstruction of the jurisprudential system regulating women's roles and rights in martyrdom, guardianship, and other areas of public participation.

### **Separation between men and women, and the concept of mixing**

Many fatwas related to women have violated the purposes of facilitation because of intolerance of a certain school of thought, or adherence to the apparent texts. Many jurists have followed the approach of strictness in taking precautions in every controversial matter. Similarly, the international community has taken the prohibition as a pretext for leniency in the matter of mixing or in order to prevent suspicion.

Anyone who looks at the references of the International Forum will find that (informing the signatories) is one of the most important sources of fatwa in it. Ibn al-Qayyim was characterized by exaggerating the use of pretexts, as he forbade something that forbids the means and pretexts leading to it, even if they are permissible, especially fatwas related to women. Referring to many texts that are considered as a barrier to pretexts to protect the purposes of the Shari'ah and to document the general principle on which the Shari'ah is based in order to bring about interests and ward off corruption, Ibn al-Qayyim says that women are not among the people of prominence and intercourse with men... Females are not among his family."<sup>19</sup>

In 1986, the International Academy responded to a query about Muslims in the West having to hold weddings in mosques, and stipulated that they should not be associated with a legal prohibition such as the mixing of men with women. In a 2007 resolution, the Academy called for the Academy to work to make educational institutions at all levels separate from the education of males and females, explaining that this was "in fulfillment of women's legitimate rights and in accordance with the requirements of Sharia." In 2009, the Academy rejected anything that violated the laws of "Sharia and Fitrah," including mixing in a form that is forbidden by Sharia.<sup>20</sup> In

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<sup>19</sup> Ibn Qayyim al-Jawziyyah, **The Signatories of the Lord of the Worlds**, op. cit., 114.

<sup>20</sup> International **Islamic Fiqh Academy website**. Resolution No. 23 (3/11) on the inquiries of the International Institute of Islamic Thought in Washington at its Third Conference in Amman, Jordan, October 1986; <https://www.iifa-aifi.org/ar/1686.html> International Islamic Fiqh Academy website, "Resolution No. 114 (12/8) on the Islamic Declaration on the Role of Women in the Development of Muslim Society", Twelfth Session, Riyadh, September 2000, <https://www.iifa-aifi.org/ar/2072.html> International Islamic Fiqh Academy website,

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2009, Sheikh Ahmed Al-Ghamdi, director of the Commission for the Promotion of Virtue and the Prevention of Vice in Mecca, announced that mixing should be allowed according to regulations. Against the backdrop of the controversy that arose after the opening of King Abdullah Bin Abdulaziz Technical University, these statements sparked widespread controversy in Saudi Arabia and abroad, in what some considered a "bold step." Al-Ghamdi said that "mixing is normal in the life of the nation, and those who prevent it did not consider the explicit evidence of its permissibility." This <sup>21</sup> fatwa was considered a serious and anomalous issue and a slander against Sharia and contrary to what is known to the general scholars of Islam, and others called for it to be prosecuted. Like some other jurists, they argued that the correct texts indicate that it is permissible for women to look at men and men to look at women without fitnah, in markets, work, study, mosques, roads, and others. There is no text for those who said that it is forbidden to do so without accusation or crowding.

On the other hand, Saudi intellectuals saw Al-Ghamdi's statements as a radical shift in the issue of mixing that made women's competencies Highly qualified people don't work, or work in an atmosphere fraught with fear. Researchers claim that gender segregation, as practiced in Saudi Arabia, is based on extremism and contradictory considerations, as the presence of domestic workers in the home is not prohibited and they do not consider it mixing. The principle of blocking pretexts in the International Assembly's fatwa methodology on this issue is also predominant.

The following of the fatwas of the International Islamic Fiqh Academy on issues of mixing and women's work shows that the approach of precaution and pretext often prevailed over the purposes of facilitation, removal of embarrassment, and empowerment of women, as the Academy in many of its decisions followed the logic of general prohibition under the pretext of preventing leniency or dispelling suspicion, thus making its provisions inclusive of various environments and circumstances, without real consideration of women's needs in education, work, and institutional participation. The impact of Ibn al-Qayyim's approach is evident through the adoption of "the information of the signatories" as a major reference in fatwas, as it expands on the pretexts and emphasizes women's going out and their contact with men, which translates jurisprudently into the requirement of complete segregation in education, strict presence of women in mosques, and even preventing them from working when there is mixing, even with the controls. On the other hand, contemporary reformist positions such as Ahmed al-Ghamdi's fatwa on the permissibility of disciplined mixing reveal the possibility of a different ijtiḥād that is based on the same texts, but weighs the interests and evils in a balance that is closer to the reality of women, their education, and their professional role. Therefore, it can

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"Resolution No. 180 (19/6) on Violence in the Family", Nineteenth Session, Emirate of Sharjah, April 2009, <https://www.iifa-aifi.org/ar/2304.html>

<sup>21</sup> ،٢٠١٠/٤/٢٠Ghamdi, -Jazeera Net, "Mixing topples a religious official in Mecca", interview with Ahmed Al-Al <https://www.aljazeera.net>

be said that the Academy's orientation in these issues is still more inclined towards the jurisprudence of isolationist protection than towards the jurisprudence of participation and empowerment, which balances the preservation of chastity and the preservation of dignity on the one hand, and opens the way for the active presence of women in public life on the other.

### **Women's education and going out to work**

Various studies have proven that Muslim women, from the beginning of the modern era until the second half of the twentieth century, were marginalized and unqualified for religious studies in various Islamic countries.<sup>22</sup> Here I will investigate the work of the Academy in advocating for women's education, whether the Academy has an addition or initiative in this field.

In its resolution No. 138 (4/15) of March 2004, the Academy recommended compulsory and free basic education in all Islamic countries, the fight against illiteracy and the provision of contemporary culture. Developing a strategy for the development and Islamization of education curricula, and coordination at the level of the General Secretariat of the Academy, ISESCO and others. He also submitted its findings to the OIC and the Ministers of Education. It reiterated its decision No. 114 (8/12) of September 2000 on the Islamic Declaration on the Role of Women in the Development of Society and other relevant resolutions.<sup>23</sup>

The question here is to what extent did the Academy excel other jurisprudential academies on women's education, and did it have a leadership and effectiveness at the collective level in the public sphere of Islamic countries?

The International Consortium continues to subject women's learning to controls in areas that are "appropriate to their own nature", such as gynaecology and children's medicine and social work. On the other hand, the magazine of the Academy proved the manifestations of women's economic independence in Islamic legislation, but the jurists controlled their movement, based on verse number 33 of Surah Al-Ahzab: "And a horn in your houses." They stipulated that she should not go out except with the permission of her husband, father, or anyone acting in their place. They stipulated adherence to Islamic dress, not adornment, and piety, so as not to be tempted or tempted, and to preserve herself and her modesty, and not to engage in conversation with men. These conditions were imposed on women when they went out to study or work, while men were not required to do the same.

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<sup>22</sup> Samia Khatun, "The Book of Marriage: Histories of Muslim Women in Twentieth-Century Australia," *Gender & History* 29 (2016): 1–23.

<sup>23</sup> **International Islamic Fiqh Academy website**. Resolution No. 114 (12/8) on the Islamic Declaration on the Role of Women in the Development of the Muslim Society at the Twelfth Session in Riyadh, September 2000: <https://www.iifa-aifi.org/ar/2072.html> the **website of the International Islamic Fiqh Academy** Resolution No. 138 (15/4) March 2004 on the Islamization of the Curriculum of Education at its Fifteenth Session in Muscat, Sultanate of Oman: <https://www.iifa-aifi.org/ar/2150.html>

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The Economic Discourse on the Differences between the Husband and the Employed Wife, at the sixteenth session of the Islamic Conference held in Dubai in April 2005, specified in Resolution No. 144 (2/16) that "the wife has full civil rights and complete independent financial responsibility, and has the absolute right within the framework of the provisions of Shari'a to what she earns from her work, and she has her own wealth, and does not need the husband's permission to own and dispose of her money".

At the same time, this decision presents a permanent form of the basic responsibility of wives from the point of view of the International Assembly, which is to take care of the family and raise children, and that when necessary, they have the right to go out to work that is commensurate with their nature and competence, provided that they "abide by religious rulings".

If the wife's going out to work entails additional expenses related to her, she bears those expenses. The decision affirms that the wife's going out to work does not forfeit her obligatory maintenance on the husband, and she is not legally obligated to participate in the expenses due to the husband at the outset, and she may not be obliged to do so, except voluntarily, as it is a matter delegated to him by Shari'a because of the consequent achievement of the meaning of cooperation. It is permissible for the spouses to agree on the fate of the salary earned by the wife. It is not permissible to require the wife to work in exchange for sharing in the expenses due to the husband.<sup>24</sup>

At its eighteenth session, in Resolution No. 164 (2/18) of July 2007 in item IX, it was decided that the achievement of the goals of Islamic development can only be achieved through education, education and rehabilitation. The resolution referred to the prevalence of illiteracy among women in the Islamic world, and the need to pay attention to women's education, education and rehabilitation to play their role in the development of society.<sup>25</sup>The Council's resolution No. 169 (7/18) of the same year 2007 stipulated that women should work with the same rules and conditions, and work in fields "that suit their nature". It recognized the need for women to contribute to social, cultural and educational activities that do not contradict the Shari'a and its controls.<sup>26</sup>

Women have demanded over time, especially in the present era, that women be paid for their dedication to housework and raising children. It is known that this follows the accepted custom that does not contradict the Shari'a, as the custom is governed by it. It is common knowledge in Muslim countries that a wife does not take

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<sup>24</sup> Resolution No. 144 (16/2) on Differences between Husband and Wife in Employment at its Sixteenth Session in Dubai, United Arab Emirates, April 2005: <https://www.iifa-aifi.org/ar/2174.html>

<sup>25</sup> Resolution No. 164 (18/2) on Human Resources Development in the Islamic World, at its eighteenth session in Putrajaya, Malaysia, July 2007: <https://www.iifa-aifi.org/ar/2257.html>

<sup>26</sup> Resolution No. 169 (7/18) on the Rights and Duties of Muslim Women at the Eighteenth Session in Putrajaya, Malaysia, July 2007: <https://iifa-aifi.org/ar/2273.html>

a wage for devoting herself to housework and raising children, and this is the view of the Hanafis, Malikis and a group of jurists, which is the choice of Ibn Taymiyyah.

A woman must serve her husband with virtue from her example to his likeness, and this varies according to the variety of circumstances, for the service of the Bedouin is not like the service of the villagers, and the service of the strong is not the same as the service of the weak."The <sup>27</sup> Council adopted custom as a principle of legislation in Resolution No. 47 (9/5), December 1988, and that it is considered under certain conditions, and that if it is private, it is considered by its people, and if it is public, it is considered by everyone.

The International Wife Complex has reserved some rights regarding work, such as its permission for the wife to explicitly stipulate in the marriage contract that she should work outside the home if the husband agrees to do so. On the other hand, the husband may ask the wife to leave work after his permission If leaving is in the interest of the family and children. It is not permissible to give permission or require the wife to work outside the home in exchange for sharing in the expenses due to the husband in the first place or giving him part of her salary. The husband may not force the wife to work outside the home.

The husband may not abuse the right to prevent the wife from working or to require her to leave it if it is with the intention of harming, unless this results in corruption and harm that exceeds the interest expected from him. This applies to the wife if she intends to harm her by staying in her job. The complex also talked about the concept of complementarity between the spouses, and the relationship based on affection and compassion. This decision recommended that social, economic and medical studies be conducted to show the effects of the wife's work outside the home on her and the family, provided that the study samples come from different communities. It also recommended the holding of a seminar specialized on women's affairs in accordance with Shari'a standards, by adopting the decisions of the Academy by all governments and Islamic bodies before international conferences on women and population.<sup>28</sup>

Abadi pointed to the issuance of a series of resolutions calling for "modifying" the human rights status of women, whether at the level of employment or equal employment opportunities and raising the status of women. But the dynamic of the relationship between the Council and the member states of the organization has been determined by a bureaucracy that does not allow the implementation of the decisions

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<sup>27</sup> Ibn Abd al-Hadi al-Hanbali and Abu Abdullah Muhammad ibn Ahmad al-Maqdisi, **The Choices of Shaykh al-Islam Ibn Taymiyyah** (Jeddah: Islamic Fiqh Academy, 2004), 206;

<sup>28</sup> **Islamic Fiqh Academy website**. Resolution No. 144 (16/2) on Differences between Husband and Wife in Employment, at its sixteenth session, Dubai, United Arab Emirates, April 2005: <https://www.iifa-aifi.org/ar/2174.html>; Resolution No. 47 (5/9) on custom, at its Fifth Session, Kuwait, December 1988: <https://www.iifa-aifi.org/ar/1769.html>

made by the Council.<sup>29</sup>

The International Assembly has theoretically established, in some texts, that women have a fair status, and it is easy to follow that. At the same time, however, it paved the way for optional masculine interpretations of these texts, which prevent women from owning property, practicing trade, and contracts.

The tracking of the decisions of the International Islamic Fiqh Academy on the subject of women's education and their going out to work shows that the Academy has taken important steps towards recognizing the importance of women's education and their economic independence, but at the same time it has kept these gains trapped by a network of controls and conditions that keep the center of power in the hands of men and open the door to restrictive traditional interpretations.

Resolution No. 138 (4/15) of 2004 affirms the compulsory and free basic education in Islamic countries, and the fight against illiteracy, and recalls the Islamic Declaration on the Role of Women in the Development of Society (114/12); By working in exchange for the husband. However, these advanced formulations are counterbalanced by a parallel restrictive system, as the Academy restricts women's fields of work in a way that "suits their nature", such as medicine and social work, and reproduces a jurisprudence for the necessity of the home by relying on the verse "And a horn in your houses", and stipulates that they go out with the permission of the guardian with a set of conditions: certain dress, not adornment, caution against fitnah, and not to engage in conversation with men, which are not imposed on men in the same way.

The complex also relies on custom in denying wages to women for their domestic work, considering the service of the home and the husband as one of the requirements of cohabitation, while its decisions require the wife to bear additional expenses related to her work outside the home if it entails her own cost. Resolution 169 (7/18) of 2007 combines the call for women's education, education and development qualification, with the reaffirmation of the same controls over their work and mixing, with the introduction of the discourse of "complementarity between spouses", affection and compassion, the call for social studies on the impact of wife work outside the home, and the establishment of a global body for women's affairs. Thus, at the theoretical level, the Council establishes a framework that seems fair in affirming financial eligibility and the necessity of education and development participation, but at the practical level, it paves the way for selective masculine interpretations that keep the power of authorization and prohibition in the hands of the husband or guardian, and are used to restrict women's access to work and their practice of trade and contracts, in light of an organizational bureaucracy that makes many decisions on the "adjustment of the status of women" more of a document than

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<sup>29</sup> Personal interview with Al-Abadi, former Secretary General of the International Fiqh Academy, Jeddah, Saudi Arabia, 30.4.2019

a force directed at realistic policies in member states.

### **Women's Travel**

Fatwas issued by many fatwa houses and jurisprudential councils prohibit women from traveling outside their country without a mahram. These fatwas are not in line with the general discourse declared by these councils, in terms of calling for knowledge and learning, and that wisdom is misguided for the believer, wherever he finds it, he is more deserving of it. These fatwas are based on evidence that suffices with the principle of justification. This principle is accompanied by the fear of women from evil, such as their fear of visiting nightclubs, cohabiting with men, and eating vices.

In 1986, the Academy issued a resolution on an inquiry that women were forced to live alone or with non-Muslim women, which the Academy responded by resolution No. 23 (11/3) that it is not permissible for a Muslim woman to reside alone in a foreign country. A husband has the right to prevent his wife from traveling alone except with his permission and with Shari'a regulations.<sup>30</sup> There are also many details in the Academy's magazine on the issue of travel, which I review through the Academy's deliberations, and how the decision was made.

It was stated in one of the researches of the Majma' by Shaykh Muhammad Ali Abdullah that it is more than the concept of the ability of the Malikiyyah to have a woman with her husband, a mahram from her family, or a safe companion, so if all of this is lost, then she does not have to perform Hajj. It is stipulated that the ride should be easy for her if the distance is far away, and the distance is not limited by the distance of the palace, but by what makes it difficult for the woman to walk, and this varies according to different women, provided that the woman is able to cover herself and protect herself. This text goes on to say that there must be security and safety in travel, and this is a condition for a woman to perform Hajj in the presence of a mahram or a safe companion.

Here I present a sample of the discussions of the session of the International Assembly on the travel of women without a mahram, held at its second conference, December 1985. After reviewing the researches submitted to it by members and experts, Sheikh Taha Jaber Al-Alwani and the chairman of the session, Bakr Abdullah Abu Zayd, stated that "the principle is that the majority of the people are forbidden by Shari'ah to authentic hadiths."<sup>31</sup> Shaykh Khalil al-Mays objected: "Excuse me, we say that it is haram in the explicit text, instead of what we say: the original." Al-Alwani replied: "The prohibition is because there is a difference in the issue of prohibition."

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<sup>30</sup> Resolution No. 180 (19/6) on Violence in the Family, at its Nineteenth Session, Sharjah, UAE, April 2009: <https://www.iifa-aifi.org/ar/2304.html>. Resolution No. 23 (3/11) Inquiries of the International Institute of Islamic Thought, Washington, at its Third Conference, Amman, October 1986: <https://www.iifa-aifi.org/ar/1686.html>

<sup>31</sup> Journal of the International Islamic Fiqh Academy. (1988). Discussion: Provisions for the depreciation of paper money and its impact on deferred obligations. Journal of the Islamic Fiqh Academy, 3(2), 953. <https://shamela.ws/book/8356/2177#p1>

Abu Zayd, the chairman of the session, said: "In any case, what is forbidden in the origins descends to the status of haram, and the principle is the prohibition of authentic hadiths, so the Muslim woman avoids it as much as she can." Al-Alwani said: "She could not, but they adopted some Islamic schools of thought and in order to make it easier for her to travel without a mahram. The Synod does not see any prohibition on women traveling without a mahram in large groups and large means of public transport, such as planes, trains, and large buses, which believe in women's religion and display them as if they were walking in the city."

This apparent disagreement here regarding the adoption of the absolute prohibition or prohibition in the presence of evidence, which is the explicit hadiths, justifies that the disagreement between those present at this session is the opposite of the opposite. The Chairperson is trying to reconcile the two. He said, "What is forbidden in the origins descends to the status of haraam." The Chairperson then proposes to postpone the matter for further consideration. Sheikh Mohammed Abdo Omar agrees to postpone it. Al-Zuhaili pointed out that he has a problem in the Maliki school as long as there is an argument. The president objected, saying, "We have no reason to believe that the Prophet is an argument against any doctrine as long as it is in authentic hadiths that are explicit in prohibition."<sup>32</sup> He added: "Even in the Hanbali school of thought, they said, if she was performing Hajj with a company of women or something like that, and she was an old woman or something. But I say that we have an origin, and we have a necessity, so we decide the origin and necessity is appreciated to its value." "I don't see anything wrong with the phrase remaining as it is until the end because this exceptional situation has become today in the sense that cases of necessity and necessity have increased these days.

Therefore, a decision must be made regarding those who are forced to send their wife, daughter, or sister to a place where they have a mahram to receive her, so that traveling by plane from continent to continent has become easier and safer for a woman than traveling to a village for less than three days, as the jurists have permitted her to travel alone...", and adds, "If we say, 'What do we have and the schools of thought have in front of us?' They also knew these principles and pondered them, and they are people of religion, piety, knowledge, and piety."

The President once again says, "It is known among the people of knowledge that if the text comes, the dispute is invalidated. This does not mean that the imams violated the texts, but perhaps one of them did not reach a text or did not prove his weakness." Zarqa mentioned in the context of pluralism in understanding the text and applying it to several cases with the presence of hadiths and not ignoring the imams. Abdu Umar followed him by saying that jurisprudential ijihad must be within the legal texts of the Qur'an and Sunnah and should not exceed them. He gave an example of his point of view on the issue of a woman's passport not having a day or night without a

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<sup>32</sup> Ibid., p. 1267 <https://al-maktaba.org/book/8356/2491#p1>

mahram. The hadith is definitive in the matter of dispute, "and there is no ijtiḥād with a text."

The prohibition in the Shafi'i school of thought has reached such an extent that it is forbidden for an old woman to travel because "every fallen woman has a desire." Sheikh Mohammed Salem bin Abdul Wadood commented that he is with the facilitation. Although he stated that the principle is that it is forbidden by law, "but it is necessary to have its provisions." Sheikh Ahmed Muhammad Jamal called for the facilitation of the hadith "Make it easy and do not be difficult" as a guide for women's passports for Hajj and Umrah and female students to receive knowledge, the necessity for treatment, and the travel of wives because of the necessity, because this has become a widespread reality, and not a rare reality, just as Malik allowed a foreign woman to travel with trustworthy women, he allowed a Muslim woman to travel without a mahram with trustworthy women. We note in this view that it is in harmony with the needs of the times.

The chairman of the session, Abu Zayd, said that the principle is to prevent the authentic hadiths so that the Muslim woman avoids them. If necessity is said to be a matter of its value, it means that the matter is narrow, it means that the matter is not open, the principle is the prohibition, but if there is a necessity, it is estimated to be its value. Zarqa said, "The general means of travel that are known today and were not known before, because they are safe, even if the distances between continents are far away, these means have more than two days of safety on the back of the dogs." The President added... If a woman travels without a mahram in large groups, etc. "With confident women," Zarqa said. Tamimi replied, "With women who are trusted, not groups because groups are different. Chairman, if there are large groups of people who are all men, it means that it must be determined. Zarqa said, "Even if all the passengers in them are men, it is safe for women today in our current situation to travel with a large group of women in other modes." As for the issue of trains and planes, this should not be deleted." The President proposed a postponement.<sup>33</sup>

Al-Alwani raised the question of whether a woman should live alone in a foreign country, if the dwelling is independent and safe.

Al-Tamimi and Zarqa replied that it is not permissible for her to reside alone in a foreign country, even if the residence is never independent. It was pointed out that this clause in its present form is extremely dangerous, in addition to the possibilities of corruption and fluctuations that women encounter in their alienation, such as their exposure to robbery. The Chair proposed to postpone the decision. "I don't see the need to delay, it's clear how we can allow a woman to live or live alone in a foreign country," said Tijani Soboun. The president replied: "If you agree: no, or you agree on: Yes, the opinion is your opinion."

Then the local opinion emerged, where Ahmed Bazi Al-Yassin said: "In fact, we in

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<sup>33</sup> Ibid., 1267. <https://al-maktaba.org/book/8356/2491#p1>

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Kuwait are legally forbidden. Al-Tamimi said: "It is forbidden." The President said: Even in the Kingdom, it is forbidden for women to reside alone. Al-Tamimi said: "I see that the ruling is the prohibition and not every question that comes to us, we will answer it and circumvent the leave, in the questions the answer to them is the prohibition." Abdu Omar also agreed to the ban.

Zarqa suggested that it be deleted. Al-Tamimi said that the prohibition was granted, and there is no need here. Taqi al-Din 'Uthman said: "Blocking the pretext." The president replied: "As long as the trend is to prohibit then it is not permissible for Muslim women to reside alone in a foreign country." "That's the answer," al-Tamimi said. Al-Alwani said: "Except for necessity or not? THE PRESIDENT: Prohibition because of the risks it entails. Al-Zarqa said: There is no doubt that the excuses are blocked. The President: "No, let the necessity go, it is the intention of necessity if you get it, Sheikh. We don't want all our decisions to be a necessity, a necessity, that necessities are valued, Sheikh."

Thus, we find that this ongoing dialogue between the jurists of the International Academy is focused on two principles: the filling of pretexts and the necessity that they appreciate, in addition to preventing the expected damage, which has dominated the decisions of the jurists of the Academy since its inception until today.

In the seventh question of the same session, it was stated that Muslim girls are those who are required by work or study conditions to travel beyond the distance of the minors by plane or other without a mahram, and who are not accompanied by women among whom they are acquainted, other than the companionship of passengers and travelers.

Malik relied on al-Muwatta: "It is not permissible for a woman who believes in Allah and the Last Day to travel for a day and a night except with a mahram from her." Anything called travel is not permissible for a woman, otherwise she has a mahram with her.<sup>34</sup>

In another place, the Council raised reservations regarding women's travel without a mahram, making the preservation of genealogies one of the purposes of the Shari'ah as one of the agreed principles, in order to protect it, because of the hadith "A woman shall not travel three times unless she is accompanied by a mahram."<sup>35</sup>

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<sup>34</sup> In a quote from some jurists, Qadi Ayyad said that the prohibition is on the young woman, and that the woman who travels should travel without a mahram or husband (ibid., 1310): <https://al-maktaba.org/book/8356/2371#p1>

<sup>35</sup> In the novel "The Three Nights March", in the novel "Above Three" and in other novels... Al-Qurtubi says: "This is not a difference in the hadith, but the Prophet (peace and blessings of Allaah be upon him) used to ask him about travel every time with an adverb, and he would answer the questioner according to his question." Malik and al-Shafi'i were of the opinion that she should go out with a safe companion, and al-Shafi'i stipulated that a pious woman should be with men. Al-Baji said: These rulings are in isolation and in small numbers, and as for the great caravans, they are like the countries in which they travel without corruption and without a mahram. Others said: This detail means that the condition of mahram or safe companionship applies to a young woman: as for an

The conclusion is about the development and speed of transportation and transportation, and after reviewing the statement of al-Shafi'i, that she travels alone if the road is safe, the Syndicate issued a fatwa on her passport by buses, trains, planes...

In the eighteenth question of the same session, on women shaking hands with foreigners and men, on the grounds of embarrassment. The answer was that this issue was raised in recent centuries by some students of jurisprudence, that shaking hands with a foreigner is forbidden with the intention of pleasure, otherwise there is no prohibition, in comparison to the invalidation of ablution. Some of the Maaliki went on to say that it is forbidden for a woman to shake hands with a non-mahram, whether it is a pleasure or not. After presenting the texts of the jurisprudence of the four madhhabs, it seems that they are unanimous on the prohibition of shaking hands with a young foreigner without any barrier, but what is taken from these schools of thought is that they have not been exposed to evidence for the ruling.

The Council pointed out that shaking hands is skin-to-skin contact, which is haraam for non-spouses. Handshakes are an excuse for adultery and corruption, and blocking pretexts is one of the principles of legislation adopted in the Academy. The Council issued a fatwa on the prohibition of a man shaking hands with a non-mahram, even if she is a woman: "Whoever gives her hand cannot prevent the punishment of adultery beyond that, and the means take the ruling of the intention as is the rule."<sup>36</sup>

The discussions of the International Islamic Fiqh Academy on women's travel without a mahram, as embodied in the deliberations of the 1985-1986 sessions, reveal that the logic of blocking pretexts and intimidating the possibilities of corruption prevails over the purposes of facilitation, removing embarrassment, and enabling women to seek knowledge, work, and safe movement. Despite the awareness of some members of the public about the change in modern means of transportation and their relative security, and their emphasis on the reality that female students and employees are forced to have a relationship with the wider world, the prevailing trend has tended to prohibit or prohibit women's travel and stay alone in foreign countries, while reducing the scope of necessity to a minimum, and emphasizing that "what is forbidden in assets descends to the status of haram", and that "there is no ijihad with a text" with a great disregard for the wider Maliki and Shafi'i jurisprudence in traveling with safe companionship and the safe way. The minutes of the sessions reveal that the final probability in the cases of residency, travel, and shaking hands with foreigners was not an intentional reading of the reality of women and the level of harassment, and the development of legal and security structures, as much as it was a prior fear of moral deviation, which made modern means – such as planes and trains – attached to the pretexts leading to adultery and forbidden mixing. Thus, in the fatwas of the Academy, a strict model is formed that

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old woman who has no husband in her, she may travel alone" (ibid., 1201-1203): <https://al-maktaba.org/book/8356/2339#p2>

<sup>36</sup> Ibid., 1242-1246.

closes the doors of the movement to women under the pretext of protecting offer and lineage, even though the theoretical discourse itself calls for knowledge, and acknowledges their need for education and work, which creates a contradiction between the declaration of principles and the outcomes of practical rulings, and gives male actors in reality a living jurisprudential tool ready to restrict women's travel, residence, and dealings in the name of blocking pretexts.

### **Muslim women's clothing and the issue of "the woman is 'awrah":**

As cultural conflicts between the West and the Muslim world increased, controversy arose over Muslim women's dress, especially the niqab. The Western media portrays it as a measure of curbing its freedom. On the other hand, Western axioms wear it as a definition of identity. But they may find it difficult to reconcile the demands of work, education, and community involvement, with a duty to culture and religious identity. Despite progress in women's education and activities, the wearing of the hijab in some countries of the Muslim world has remained a source of controversy between "unbridled" renewal and "radical dependence". In some of these countries, the face and hands cover remained under the rule of prohibition, without taking into account the connotations of texts or influential symptoms such as copying, restricting, specifying and interpreting significant meanings, such as the case with women's voices and some issues of adornment and dress.

In summary, there are two contradictory positions on women's dress, including those who stipulate the niqab for going out to work and education as a religious duty. Some considered it to be custom-based societal values, citing the lack of religious texts that give the state the right to force women to wear the niqab. The black abaya is a heritage dress, not a religious one, and there is nothing in Islamic sources that determines the color and type of women's clothing.

The call to provoke women's rights as a source of sedition is a detraction from women's right to wear what they want. If women refuse to wear their black clothes, they are violating religious rule and threatening the state and its symbols, such as changing the flag or the national anthem. Her voice is also classified as 'awrat, and she is forbidden to drive a car, move around and travel without a mahram. These fatwas considered to be a confinement of women in their homes and hijabs, as they do not allow them to mix or interact except with their husbands, and they do not allow them to take into account their opinion on the matter of being "deficient in reason and religion."<sup>37</sup>

The European Council for Fatwa and Research has responded to the fatwa on the legal headscarf – the hijab or the veil – for modern Islamic women as a religious

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<sup>37</sup> See the following sources: Haddad, Y. Y., & Esposito, J. L. (Eds.). (1998). *Islam, gender, and social change*. New York, NY: Oxford University Press; Muhammad Nasser al-Din al-Albani, **The Muslim Women's Jilbab** (Beirut: Dar Ibn Hazm, 1994).

obligation. However, it remains a branch of religion, and its purpose is to leave it as small as possible, so if the strictness in its affairs and the harshness of women for its sake will alienate them from the religion altogether, then the jurisprudence of budgets is not lost in the first place – Islam itself – because of a branch, which is the hijab. It<sup>38</sup> is worth emphasizing here that this fatwa of the Council of Europe is limited to women who are modern to Islam, and it does not emphasize them in order to bring them closer to Islam.

This fatwa acknowledges that the dress of women or men is related to the behavior and practice of individuals at a particular time and place, as happened in critical periods for Muslims in Muslim communities. However, this fatwa remains the opinion of a certain group of contemporary jurists, while the majority of opinions adopt the strictness of wearing the headscarf.

In this regard, the International Assembly is of the view that in question 9 at its second session of the Conference, December 1985, many Muslim women in North America state that employers or schools prevent them from covering their heads and necks. The Majma' issued a fatwa that the maximum that can be allowed to be exposed from a woman's body parts among foreigners is the face and hands, because a woman's 'awrah is if she menstruates with her entire body except the face and hands, according to Malik, al-Shafi'i and Ahmad in one of his narrations, and that the whole of the free woman is 'awrah except her face and hands. except her face. Another hadith narrated by al-Tirmidhi (the woman is 'awrah), but it is permissible for her to uncover her face and palms because of the difficulty in covering it, and it is permissible to look at it for the sake of the khutbah, because it is a complex of virtues. It was said that all the women are 'Awrah until their nails.<sup>39</sup>

The dispute on this issue is due to the possibility that exists in the verse, "And they do not show their adornment except what is visible from it", some of them believed that what is meant by it is customary that what is not covered is the face and the shrouds, which are not 'awrah, and they argued that a woman does not cover her face during Hajj. Al-Tabari permitted her to uncover her hands to half of the arm, relying on the hadith of Aisha: "It is not permissible for a woman who believes in Allah and the Day of Judgment if she is naked to show only her face and hands here and there and the half of the arm is seized." Some of the fuqaha' also made hair an apparent adornment, while others weakened it, because if the hair of the head is exposed, it looks good and the pulp, and none of the fuqaha' said that it is permissible to uncover it. Accordingly, it was decided that no woman, whoever she was, may show more than her face and hands. The International Assembly decided that the prohibition of nudity is imposed on men and women, and that Sharia imposes modesty in appearing among

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<sup>38</sup> European Council for Fatwa and Research, "Fatwa No. 16 (16/1): Khimar for Modern Islamic Women", European Council for Fatwa and Research website (undated), <https://www.e-cfr.org>

<sup>39</sup> The Debate: The Rulings of Paper Money and the Change of the Value of the Currency", Journal of the Islamic " . ١١٤٨ق. ، (١٩٨٧) ٣No. ، ٢Fiqh Academy, Part <https://shamela.ws/book/8356/2372#p2>

people of both sexes in order to protect public morality.

In response to the seventeenth question in the session of the Academy in December 1985, on the issue of women's appearance at work or study after they have taken their eyebrows and shaved their eyebrows. This is a matter in which there has been a dispute, and it is stated in the rulings of the Qur'an by Ibn al-Arabi that this is "a change in the creation of Allah." The decision of the Academy concludes that it is permissible for women to appear in work or study shops after they have been removed from the hair of their eyebrows and covered with them, because it is not easy to remove them when leaving the house, and what is placed in place is not ordered to be covered like rings.<sup>40</sup>

Decree No. 23 (11/3) of October 1986 defined that the hijab of a Muslim woman according to the majority of scholars is to cover her entire body except the face and the hands. The <sup>41</sup> Academy stressed in more than one place the need to adhere to dress as a condition for going out into the public sphere, including what was stated in Decision No. 211 (7/22) March 2015 that in the event that women assume public office, they must abide by the regulations set by the Sharia, especially in the provisions of dress and others.<sup>42</sup>

The debate over Muslim women's dress, as reflected in the fatwas of jurisprudential councils and the decisions of the International Assembly, shows a deep contradiction between a theoretical discourse that acknowledges the general principle of decency for all men and women, and jurisprudential practices that make women practically "moving awrah" that depend on strict conditions in dress, movement, and voice. While the European Academy for Fatwa and Research adopts a deliberate approach in the case of modern Islamic women, the hijab is considered an obligation, but it is a branch of religion in which the "jurisprudence of balances" is taken into account so that the new Muslim woman from the origin of Islam is not alienated by one of its branches, the dominant current in traditional jurisprudence and the international community continues to deal with the head and face covering as the boundary between obedience and deviation, and this is supported by a literal reading of the hadith "Women are Awrah" and the construction of strict rulings on the basis of blocking pretexts and fear of sedition.

Although the decisions of the International Assembly are based on the opinion of the jurists that a woman's nakedness is her entire body except for the face and hands, and it has been theoretically determined that the prohibition of nudity and modesty

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<sup>40</sup> "Discussion: Rulings on Paper Money and the Change of the Value of Currency", Journal of the Islamic Fiqh Academy, Part 3, No. 3 (1987), 1179 <https://shamela.ws/book/8356/2403#p>

<sup>41</sup> International Islamic Fiqh Academy. Resolution No. 23 (3/11) on the inquiries of the International Institute of Islamic Thought in Washington, D.C., at its Third Conference in Amman, Jordan, October 1986: <https://www.iifa-aifi.org/ar/1686.html>

<sup>42</sup> International Islamic Fiqh Academy website. Resolution No. 211 (22/7) on Women and Public Mandates, held at its twenty-second session in the State of Kuwait, March 2015: <https://www.iifa-aifi.org/ar/3993.html>

in appearance is obligatory on both men and women, it always links women's right to go out to work and education and to assume public mandates to "abide by the rules of dress" as a precondition for access to the public sphere.

The discussions and details of the Academy also reveal a striking selectivity: on the one hand, it allows the hair of the eyebrows and the eyebrow to be taken as a "disagreement" or a kind of "change in God's creation", and on the other hand, the structure of the public discourse about women is left captive by a perception that makes them a permanent source of strife that must be covered and controlled. In this way, a turbulent jurisprudential equation is formed: part of contemporary jurisprudence adopts more humane and flexible readings that link governance to context, identity, and the ability to integrate, while the international community, through dress requirements that are always associated with work, education, and guardianship, establishes a model that reproduces the centrality of the female body as a source of moral threat, and gives male actors in the state and society interpretive tools ready to confine women to the hijab and the home more than to open the horizon for full participation in the public sphere.

## **Second: The International Complex and Medical Issues Concerning Women**

The jurists have limited the needs of society to things that only women can perform, so they were obligatory, and some of them were sufficient, such as women's work in education, nursing, and social work. In the light of this exclusive view of the need of society and the controls for women's work, I present in this aspect of the research the treatment of men for women, women for men, abortion and AIDS and their related rulings on women, the provisions on the treatment of women through reproductive techniques and artificial insemination, the issue of female genital mutilation and the sterilization of mentally retarded girls.

### **Men's treatment of women**

In its recommendation in Resolution No. 67 (5/7) on medical treatment in May 1992, the Academy approved that the General Secretariat of the Academy should inquire into medical topics to be presented to the next sessions of the Academy. These include the treatment of men for women and women for men.<sup>43</sup> After reviewing the research received on the subject of men's treatment of women, the Academy decided in Decision No. 81 (12/8) of June 1993 that if a specialized doctor is available to examine the patient, and if there is no available woman, a trusted non-Muslim doctor should do so, otherwise it should be done by a Muslim doctor, and if there is no Muslim doctor, a non-Muslim doctor can take his place. The woman's body should be informed as much as needed in diagnosing and treating the disease, and no

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<sup>43</sup> Resolution No. 67 (7/5) on Medical Treatment held at its Seventh Conference in Jeddah, Saudi Arabia, May 1992: <https://www.iifa-aifi.org/ar/1858.html>; Omar Yousef Hamza, "The Intellectual Invasion in the Life of Muslims: Its Entrance and the Means of Resistance", *Journal of the Islamic Fiqh Academy*, Issue Seven, Part IV (1992), 735-830: <https://al-maktaba.org/book/8356/15648#p1>

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more than that, and turning a blind eye to the extent that He can, and the doctor should treat this woman in the presence of a mahram, husband, or a trusted woman for fear of seclusion.<sup>44</sup> The resolution recommends that the health authorities encourage women to engage in the field of medical sciences and specialize in all its branches, especially gynaecology and obstetrics, given the scarcity of women in these specialties, so as not to have to make an exception.<sup>45</sup> The Academy explained that there is not enough male nurses to be negligent in opening nursing schools to them, and if this is available, there will be no need for female nurses in the men's wards.<sup>46</sup>

The magazine of the Academy raised the question of the right of the husband or the woman's guardian to refuse a man's doctor to perform a medical examination or surgery on a woman. There may be a medical need for a doctor to perform an operation or an urgent examination, as there is no female doctor in the area in this specialty. A woman may be an adult and is not considered a legal guardian of her in the matter of medicine. His daughter may be a minor or unconscious or mentally ill, so he refrains from treating her under the pretext that he does not want to expose her nakedness, despite the embarrassment of the medical situation.

It was stated in the magazine of the Academy that after following the statements of the jurists, the Academy believes that the matter of treatment is a necessity, as the legislation has taken into account the provisions of the 'Awrat, it has taken into account the treatment as an exception to the general rule. Fiqh has been based on this until now. As long as the condition of medical need is met, and there is no one to take care of it, and if there is a good intention, there is nothing wrong with it. It is permissible for the doctor to look at what is needed from her body, because the necessities are valued.

The same applies to a man with a woman, if there is no one else to do it. The fuqaha' stipulated that a woman should have a mahram or a husband or a woman who is trustworthy, for fear of seclusion, because it is permissible for a man to be alone with two women who are trustworthy according to many scholars. And the lack of a specialized doctor to treat her. Similarly, it should not be done for examination of a woman who is not faithful, and it may be forbidden to look without touching, as well as if the doctor is able to identify the cause only by touching. The same applies to those who serve a sick man or a woman. In the case of rescue from destruction, such

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<sup>44</sup> Abdullah Al-Shaykh Al-Mahfouz bin Bayyah, "Participation in Companies that Deal in Haram", **Journal of the Islamic Fiqh Academy**, Issue Eight, Part Three (1994), 765-773: <https://al-maktaba.org/book/8356/17438#p4>

<sup>45</sup> Journal of the International Islamic Fiqh Academy. Decision No. 85 (8/12) on the Treatment of Women by Men, Eighth Conference of Bandar Seri Bejwan, Brunei Darussalam, June 1993: <https://www.iifa-aifi.org/ar/1976.html> Muhammad Ali Albar (1992). Ethics of Medicine: The Responsibility of the Physician. Journal of the Islamic Fiqh Academy, 7(4), 735–830. Journal of the International Islamic Fiqh Academy, "Resolution No. 85 (8/12) on the Treatment of Women by Men", Eighth Conference, Bandar Seri Bejowan, Brunei Darussalam, June 1993, <https://www.iifa-aifi.org/ar/1976.html> ; Muhammad Ali Al-Bar, "Medical Ethics: The Responsibility of the Doctor", Journal of the Islamic Fiqh Academy, No. 4 (1992), pp. 735–830.

<sup>46</sup> Ibid., (Muhammad Ali al-Bar, The Healing of the Man for Women and the Woman for the Man, 8), 1279. <https://shamela.ws/book/8356/13271#p3>

as drowning, fire, demolition, etc., it is permissible for the rescuer to look at the private parts of the rescuer from destruction out of necessity.<sup>47</sup>

In summary, the exposure of a woman's 'awrah for the purpose of medicine is a matter that has been resolved by the fuqaha' by specifying who should perform this work as a Muslim doctor, if it is not possible, then a non-Muslim doctor, if it is not possible, then a Muslim doctor, otherwise a non-Muslim doctor is trustworthy.

The decisions of the International Islamic Fiqh Academy on the issue of men's treatment of women show a systematic attempt to strike a balance between the preservation of the sanctity of the body and the practical recognition of the necessity of treatment in modern health systems that are predominantly attended by male doctors. Decree No. 81 (12/8) of 1993 establishes a clear hierarchy for the treatment providers: a Muslim doctor, if it is not possible, a non-Muslim doctor, and if there is no one, then a Muslim doctor, and a trustworthy non-Muslim doctor, with the condition that the woman's body should not be exposed except what is required by medical necessity, and that she should avoid seclusion in the presence of a mahram, husband or trusted woman.

On the one hand, this construction reflects a conscious use of the "necessity is valued" rule and the transformation of medicine into a legitimate exception to the provisions of the awrah, and it also includes a positive directive for the authorities to encourage girls to study medicine and specialize in obstetrics and gynecology, implicitly acknowledging that the absence of female doctors is not a religious fate but the result of changeable educational and social choices. On the other hand, this organization remains a prisoner of the logic of strict separation between the sexes, as it presents the "treatment contrary to the original" as a temporary necessity that is intended to be extricated in the future by circulating homogeneous medical staff, while continuing to focus on the presence of the mahram and the obsession with seclusion, in a way that enshrines a supervisory authority over the woman's body, even in the situation of illness and rescue.

Thus, it appears that the Academy has employed the tools of traditional jurisprudence – awrah, necessity, and blocking pretexts – to legalize women's treatment, while opening a significant margin for effective treatment and not enabling the husband or guardian to disrupt treatment, but it did not go to a deeper review of the relationship between gender, the body, and medical specialization in modern care systems, but rather kept medical necessity a controlled exception from a system that originated in segregation and precaution.

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<sup>47</sup> Muhammad Ali Al-Bar, "Ethical Issues in Reproductive Techniques", Journal of the Islamic Fiqh Academy, No. 1 (1988), pp. 110–224. <https://shamela.ws/book/8356/1337#p3> Muhammad Ali Al-Bar, "Medical Treatment: Patient Consent and Critical Cases", Journal of the Islamic Fiqh Academy, 7, No. 1 (1992), pp. 1517–1536. <https://shamela.ws/book/8356/11180#p17>

### **Treating women with reproductive techniques**

The Academy's magazine has identified the cases of necessity in women's medical lives, foremost of which is the lack of children for women, which may lead to pathological and psychological conditions. Among the emerging issues of the age in the wake of the development of embryology, images of reproductive techniques have emerged, contrary to natural reproductive patterns within the framework of natural marriage. These images are located in different societies but Islam rejected them completely, and before Islam – in the pre-Islamic era there was a so-called "marriage of immortality". Sperm from a man known for intelligence and strength and the eggs of a woman who is known for beauty are fertilized to produce an excellent human lineage – the Nazi theory.

These "luxury" embryos can be sold. A woman conceives this foetus, or rents a womb for it. All these methods have led to the popularity of the trade in embryos, sperm banks and rented wombs. Some women devoted themselves to this work by taking embryos ready from the bank to be carried from the desired breed, as is done in the animal world. In other cases, the male testicle or the female ovary is transplanted, so if a woman dies and recommends that her uterus be donated, or if she is past the age of pregnancy or has many children, or her uterus is removed, or the ovary is removed and she has only the uterus left and she can only get pregnant by borrowing an egg from a donor, or donating her uterus to the one who owns the ovaries, all these images are forbidden by Islam for fear of mixing the genealogy.<sup>48</sup>

In Resolution No. 5 (5/2) on IVF at the session of the Second Academy Conference in Jeddah in December 1985, and after reviewing the research submitted by the jurists and doctors who presented the subject of IVF from its jurisprudential and technical aspects, it was found that the subject needs further study from a medical and jurisprudential point of view, a review of previous research, and a complete understanding of all its aspects, so it was postponed to next year. At the session of the Academy's Third Congress held in October 1986, after reviewing the research on the subject of IVF and the seven methods of artificial insemination, two of them were allowed conditionally and five cases were prohibited.<sup>49</sup>

The magazine noted that the ethical, religious, and legal problems resulting from reproductive techniques are diverse, and despite the ingenuity of these techniques, they have not solved the problem of infertility. The magazine states that there is no objection to using available medical methods to treat infertility on the condition that these methods do not cause confusion in genealogy and do not abolish the family system. Since Islam does not accept any means of reproduction other than marriage,

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<sup>48</sup> "Ethical Issues Arising from the Control of Reproductive Techniques (IVF)", Journal of the Islamic Fiqh Academy, No. 3, Part 1 (1988), pp. 110–224, <https://al-maktaba.org/book/8356/1338#p1>

<sup>49</sup> International Islamic Fiqh Academy, "Resolution No. 5 (2/5) on IVF", Second Conference, Jeddah, December 1985, <https://www.iifa-aifi.org/ar/1579.html>; International Islamic Fiqh Academy, "Resolution No. 16 (3/4) on IVF", Third Conference, Amman, October 1986, <https://www.iifa-aifi.org/ar/1661.html>

the jurists have issued a fatwa that any means of reproduction in which a third party is used is invalid, forbidden and requires ta'zir. If this contract ends with death, divorce that has expired, or a valid divorce, then it is not permissible to have intercourse between these two persons, regardless of the excuses and motives.

A decision was issued by the Fiqh Council of the Muslim World League, in which clarifications and restrictions were issued in this regard, including the fact that the doctor must be a Muslim if there is no Muslim doctor, and stipulated necessity, and the state of necessity, and limited the permissibility to two cases:<sup>50</sup>

First, the male and female offspring must be from a couple in an existing marriage.

The second is that the two seeds should be inseminated internally, by taking the man's water and injecting it into the woman's uterus, or the egg should be taken from the wife and the sperm from her husband, and the insemination should be carried out in the test vessel externally and then at the appropriate stage for implantation in the woman's uterus.

These two cases are absolutely permissible in them, with the observations that were decided in the decision of the Mecca Council of the League.<sup>51</sup>

Certain cases may require doctors to stimulate the ovaries to release a number of excess eggs, and if the doctor inseminates them and returns them to the woman's uterus, this may lead to premature miscarriage or multiple pregnancies. The more fetuses in a woman's womb, the greater the risk to the woman's life and the life of the fetuses. In March 1990, the International Society for the Prevention of Cruelty to Animals (IGC) issued a resolution that the number of implants required should be limited at a time, in order to avoid the presence of a surplus of fertilized eggs. If there is a surplus of it, it should be left without medical attention until the life of that surplus is normal. The use of an egg fertilized in another woman is prohibited, and precautions must be taken to prevent its use in an illegitimate pregnancy. There is nothing wrong with having more than one fertilized egg in her womb in order to conceive more than one child.<sup>52</sup>

Since embryonic tissue is growable and at the same time is not rejected by the body as quickly as adult and developing tissues, the use of these embryos for organ transplantation is a new opening in the world of medicine, but it is also a thorny ethical and religious issue. Decree No. 56 (7/6) of March 1990 on the use of embryos

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<sup>50</sup>The Islamic Fiqh Academy of the Muslim World League defines itself as an Islamic scientific body with an independent legal personality, within the framework of the Muslim World League, composed of a select group of jurists and scholars of the Islamic Ummah. It was established in 1977 with the aim of explaining the Shari'a rulings on the problems, crises and emerging issues facing Muslims around the world from the reliable sources of Islamic legislation. <https://ar.themwl.org/node/11>

<sup>51</sup> **Journal of the International Islamic Fiqh Academy** (IVF and IVF), 89. Ibid., (Ethical Issues Arising from the Control of IVF Reproductive Technologies), 117, 123. <https://www.iifa-aifi.org/ar/1661.html>

<sup>52</sup> Ibid., 110-115.

as a source of organ transplantation stated that it is not permissible to perform an abortion in order to use the embryo to transplant its organs into another human being, but that abortion is limited to unintentional nature and abortion for a legitimate reason.<sup>53</sup>

The decisions of the International Islamic Fiqh Academy on the treatment of women through reproductive techniques reveal a jurisprudential structure that attempts to accommodate the development of embryonic sciences within a strict framework for the preservation of genealogy and the traditional family structure, so that the protection of lineage is presented as the supreme destination in which all the possibilities of modern medicine are controlled.

After initial hesitation at the 1985 and 1986 conferences, the Academy ended up permitting only two forms of IVF and IVF, on condition that the two seeds be from a couple in an existing marriage, and that fertilization takes place inside or outside the wife's womb and then the fertilized egg is returned to her uterus alone, with any third party interfering in the reproductive chain prohibited, and considering all forms of surrogacy, egg or sperm donation, and ovarian and testicular transplantation as a forbidden trade and a dangerous excuse for genealogical mixing. At the same time, the Council recognizes that infertility in women is a pathological and psychological condition that is part of the permissible necessities for the use of available medical means, but this necessity remains tightened to precise limits: limiting the number of transplanted embryos, leaving the surplus to die spontaneously, prohibiting the use of embryos in the wombs of others or in illegitimate pregnancies, and allowing the use of embryos for organ transplantation within strict restrictions that prevent intentional abortion for the purpose of donation.

Thus, it appears that the women's body in this system is defined first by its reproductive function and its position in the genealogy network, and that the acceptance of modern reproductive techniques by the academy is conditional on remaining within the traditional model of marriage without conceiving of motherhood as reproductive options outside of this model.

### **The Issue of Female Genital Mutilation**

The International Assembly No. 220 (4/23) of 2018 on (Female Reduction in Islamic Jurisprudence) declared that it is an ancient social custom that Islam has directed to refine in a way that protects the female from exceeding the usual limit. The reduction referred to in paragraph (1) of the decision is a matter of dispute among the scholars, and it is not practiced in most countries of the Islamic world, and a number of jurists have permitted it under conditions, such as being under medical supervision, and that it is not permissible to touch any part of the female

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<sup>53</sup> International Islamic Fiqh Academy website, "Decision No. 56 (6/7) on the Use of Embryos as a Source of Organ Transplantation", Sixth Session, Jeddah, March 1990, <https://www.iifa-aifi.org/ar/1800.html>.

reproductive system, except as mentioned in the paragraph ( 1) Because of its harm to the girl and her marital life, this act is prohibited by Islamic law and criminalizes its perpetrator. The Academy supports the measures taken by the governments of Islamic countries to eliminate these abuses. The Academy claims that the reduction of female genital mutilation (FGM) prescribed here does not fall within the term Female genital mutilation (FGM), which is stipulated in its prohibition and warning in international health organizations. The Academy recommended that the World Health Organization be asked to reintroduce the topic of FGM for study by involving religious, community and medical leaders, to update information, and to use medical practitioners in hospitals, when women need it, and to clarify the difference between it and others Species agreed to be criminalized.<sup>54</sup>

The question here is about the competence of the jurists in determining the extent of the health and psychological impact in this regard, in addition to their lack of reference to the methodology followed or the jurisprudential guide for this fatwa, and whether they are the ones who guide experts and doctors in this matter, and not the other way around.

The International Fiqh Academy's treatment of the issue of female genital mutilation in its resolution No. 220 (4/23) of 2018 shows a dual problem related to the source of scientific legitimacy and the methodology of jurisprudential reasoning together: the Council decides that the reduction is an "old social custom" that Islam has directed to "refine", and then distinguishes between a "legitimate" reduction conditional on medical supervision and what international organizations consider "female genital mutilation", without providing a detailed statement of the medical or psychological criteria on which it relied in this distinction, nor the fundamentalist and jurisprudential evidence that justifies the retention of the origin of the verb.

Instead of starting from the current medical and psychological data, which often gather on the severe damage caused by any non-therapeutic intervention in the genitals of the girl child, the decision treats doctors and experts as a complement to a previous jurisprudential vision, and calls on the World Health Organization to "re-raise the issue" and clarify the difference between the reduction it decides on and the other types it is unanimously criminalizing, as if the jurists are the authority to determine the boundaries between harm and non-harm, and then asks medicine to follow their perception. This inverted arrangement of the relationship between medical knowledge and jurisprudential jurisprudence raises serious questions about the competence of jurisprudential councils in estimating the health and psychological impact on girls, especially in the absence of a transparent presentation of the approved methodology or the statistics and studies on which the decision was based. No one lifts his hand from him in the first place.

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<sup>54</sup> International Islamic Fiqh Academy, "Resolution No. 220 (23/4) on the Reduction of Females in Islamic Jurisprudence", Twenty-third Session, Madinah, November 2018, <https://www.iifa-aifi.org/ar/4879.html>

### **Sterilization of mentally retarded girls**

At the seventh session held in Jeddah in May 1992, in the light of the research presented and the subsequent deliberations, the Council of the Academy adopted a resolution on mentally retarded girls, who are subjected to pregnancy against their will. This topic has been the subject of a long debate. The same is true of what some doctors do when they prescribe contraceptives to minors without the permission of their guardian. Pharmacies also sell these pills to them without a prescription, which is contrary to medicine and reason.<sup>55</sup>

What is happening in the Western world is happening in the Islamic world, where parents of mentally disabled women defend themselves by what they consider their right to undergo a hysterectomy, and consider it a precautionary measure to protect the girl from any sexual assault, due to the sensitivity of dealing with puberty, and its connection to honor crimes that leave a "stigma" if they are raped and become pregnant. Others consider this to be a "violation of the rights and dignity of girls with mental disabilities." Rather, this measure is considered to obliterate the effects of sexual assault and not punish the perpetrator for his act and allow him to repeat the assault. He also calls for legislation to control the phenomenon and to guide girls on how to take care of themselves. Resolution No. 39 (1/5) on birth control was adopted by the International Assembly at the Fifth Conference in Kuwait, December 1988, prohibiting the removal of reproductive capacity in men or women, which is known as sterilization, unless it is required by its legal standards. Considering that one of the goals of marriage in the Shari'ah is to preserve the human species, and that this purpose should not be wasted. It was therefore decided that it was not permissible to promulgate a general law restricting the freedom of the spouses to have children.

The decision authorized temporary birth control with the intention of spacing the periods of pregnancy, by mutual consent between the spouses, if there is a legitimate need for it, provided that this does not result in harm, that the means are legitimate, and that there is no aggression against an existing pregnancy.<sup>56</sup>

The Academy's discussion of the issue of sterilization of girls with mental disabilities sums up a tension between the purpose of preserving offspring and human dignity on the one hand, and the obsession with "shame" and fear of pregnancy resulting from possible rape on the other. In its resolution 39 (1/5), the Council prohibits the permanent sterilization of men and women except within the scope of legal "necessity", and only allows temporary consensual birth control, but does not take an explicit position that criminalizes the preventive sterilization of these girls as an attack on the body and reproductive rights. Thus, the concept of

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<sup>55</sup> Muhammad Ali Al-Bar, "Medical Treatment: Patient Consent and Critical Cases", Journal of the Islamic Fiqh Academy, No. 1 (1992), 1517–1536, <https://shamela.ws/book/8356/11180#p2>

<sup>56</sup> International Islamic Fiqh Academy website, "Resolution No. 39 (5/1) on Birth Control", Fifth Session, Kuwait, December 1988, <https://www.iifa-aifi.org/ar/1746.html>

necessity is left uncontrolled, allowing it to be employed under the pressure of social fear rather than medical danger, so that the disabled girl bears the burden of the failure of the criminal and social system to protect victims and prosecute the perpetrators, and the purpose of preserving the offspring becomes in practice a tool to protect the image of the family and guardian rather than the protection of the girl and her basic rights.

### **Fatwas on AIDS concerning women**

At the Eighth Conference of the Council of June 1993, Resolution No. 82 (13/8) was issued, which called on the General Secretariat to recruit doctors and jurists and to complete research on topics related to AIDS. The symposium discussed the jurisprudential aspects of AIDS in cooperation with the Islamic Organization for Medical Sciences in Kuwait. After the discussions, the participants reached recommendations among them, that adherence to the teachings of Islam, the fight against vice, the reform of the media and the prohibition of pornographic films, and the control of tourism are among the key factors for the prevention of these diseases. It also recommended that if one spouse is infected with this disease, he or she should inform the other and cooperate with him in preventive measures. The symposium also recommended the provision of care for people with this disease. The Council of the Academy recommended that the General Secretariat write physicians and jurists on related topics, to complete their research and present them in future sessions, including: abortion of pregnant women infected with HIV. The right of termination is given to a woman living with AIDS. The mother's HIV/AIDS infection affected her right to custody. Conducting medical examinations before marriage to avoid the risks of infectious diseases, the most important of which is AIDS.<sup>57</sup>

At the Ninth Congress, after reviewing the research received in this regard, in April 1995 in resolution No. 90 (7/9), it was decided that the fetus of a mother living with AIDS may not be aborted, since infection often occurs only after the pregnancy has progressed or during childbirth. It was also decided based on the (present) medical information that there is no definite risk from the custody of the mother with AIDS, such as contact and normal cohabitation, and there is no religious objection to her custody of him and breastfeeding him unless a medical report prohibits this. In addition, it was decided that it was the right of the healthy spouse to request separation from the spouse who was living with AIDS. The wife may request separation as AIDS is a contagious disease. The resolution also recommended that the topic of the right to cohabitation with HIV/AIDS be postponed until further research.<sup>58</sup>

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<sup>57</sup> International Islamic Fiqh Academy website, "Resolution No. 82 (8/13) on Acquired Immunodeficiency Disease (AIDS)", Eighth Session, Bandar Seri Begawan, Brunei Darussalam, June 1993, <https://www.iifa-aifi.org/ar/1978.html>

<sup>58</sup> International Islamic Fiqh Academy website, "Resolution No. 90 (9/7) on Acquired Immunodeficiency Disease (AIDS) and its Related Jurisprudential Rulings", Ninth Session, Abu Dhabi, April 1995, <https://www.iifa-aifi.org/ar/2000.html>

The fatwas of the International Islamic Fiqh Academy on AIDS with regard to women are summarized in two main points:

On the one hand, there is relative progress, as the Council recognized the right of a healthy wife to request annulment if her husband is infected with AIDS, and considered it a contagious disease that allows separation, as well as refusing to abort the fetus of a mother infected with AIDS simply because of infection, and allowed her continued custody and breastfeeding of her child unless it is medically proven that harm has been achieved, based on the available medical data.

On the other hand, the general framework remained governed by a preventive moral discourse that focuses on "fighting vice" and controlling the media and tourism, while postponing the resolution on sensitive issues such as the right to cohabit with the presence of the disease, and without deeply addressing the issues of social stigma, violence, and guaranteeing the rights of infected women to privacy, care and protection.

### **Abortion and the danger to the mother's life**

In the fifth session of the Academy in December 1988, it was stated that the most likely view of the jurists of the Academy regarding abortion is that it is absolutely forbidden, whether before or after the breath of the soul, unless it is a danger to the mother's life or for some other necessity, such as the possibility of a deformed birth or an illness. This is in accordance with the jurisprudential rule that "if the asset is damaged in the branch, the interest of the asset must be presented over its branch". Some of the jurists of the conference said that abortion is forbidden before and after the breath of the soul and is not permissible under the pretext of population explosion, unless it is only to save the life of the mother and not for other reasons. Ahmed Al-Ghazali was a mediator between the two sides, saying that "medical considerations do not stop at the mother's health, but may also go beyond her mental state" that may push her to commit suicide or expose herself to death. The participants talked about the harm of birth control methods of all kinds, saying that they may expose women to immediate or delayed damage, such as a nervous breakdown, damage to the uterus, death during abortion, or disruption of their mental or reproductive powers.<sup>59</sup>

The discussions of the Academy in the fifth session (1988) show that the prevailing trend among its jurists prohibits abortion almost absolutely, before and after the breath of the soul, and permits it only when the mother's life is in real danger, based on the rule that "if the origin is damaged by the branch, the interest of the asset must be given over its branch." Some of them refused to expand the licensing of abortion for reasons such as "population explosion" or deformity and the like, and limited the

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<sup>59</sup> Tajani Sabun Mohammed, "Birth Control", Journal of the Islamic Fiqh Academy, No. 5, Part 1 (1988), pp. 429–440, <https://al-maktaba.org/book/8356/8898#p1>

permissibility to saving the mother's life only, in contrast to a more moderate opinion represented by Ahmed al-Ghazali, who introduced severe psychological damage. The possibility of suicide is within the scope of medical consideration. The deliberations also showed great sensitivity to birth control and abortion, focusing on their potential physical and psychological harms to women (such as nervous breakdown, uterine injury, or disability of reproductive capacity), reflecting the dominance of a precautionary approach that makes the original prohibition and treats licensing as a narrow exception linked to the risk of physical or psychological death to the mother, for some.

## **Results**

An analysis of the decisions and seminars of the International Islamic Fiqh Academy shows that dealing with women's issues has gone through three overlapping stages: the stage of absence or almost complete disregard of the issue of equality and empowerment until the beginning of the 1990s, then the stage of defensive discourse focusing on the "integration of roles" in the face of international conferences (Cairo, Beijing), and then the stage of gradual recognition of women's full dignity and their legal and economic capacity, especially in the "Islamic Declaration on the Role of Women in the Development of Muslim Society" (114/12, 2000), which stipulates their full competence in ownership, contracts and marriage without guardianship, and its central role in family stability and development.

However, the study shows that this positive shift has mostly remained at the level of value language and discourse, without being accompanied by a structural renewal in the jurisprudential structure regulating the relationship between women and men, as the Academy remained adhering to the jurisprudential tradition in issues such as women's blood money (half of a man's blood money), the nisab of martyrdom, traveling without a mahram, mixing, and working in areas that "suit their nature", while justifying these differences as "one of the requirements of Sharia" and not a form of discrimination.

The research reveals that the approach of blocking pretexts and precautions is predominantly in many of the Academy's fatwas related to women's movement in the public space; its decisions on mixing, women's travel, staying alone in foreign countries, and men shaking hands with foreign women, tend to prohibit or restrict the general public, while limiting facilitation to the circle of "necessity that is appreciated". The Academy relied heavily on the heritage of Ibn al-Qayyim and the "information of the signatories", which made the fear of strife and mixing preceded practical considerations for the purposes of facilitation, removal of embarrassment, and enabling women to education, work and safe movement.

On the other hand, the research has recorded clear progress in the economic field, as decisions such as 144 (2/16) emphasize the wife's "full capacity and independent financial responsibility", her absolute right to earn and wealth, the prohibition of

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obliging her to share in the expenses due to her husband, and the prohibition of stipulating her work in exchange for a financial waiver. However, these gains remain surrounded by a belt of conditions: restricting the fields of work to what is "appropriate to their nature", linking their exit to the permission of the husband or guardian, Suspending her public participation in adhering to a certain dress, and incurring the additional expenses associated with her work outside the home, while keeping her domestic work unpaid as a requirement of custom and good cohabitation.

An analysis of the academy's discourse on education and labor issues showed that the academy theoretically recognizes the compulsory basic education for both sexes, warns against the prevalence of illiteracy among women, calls for their rehabilitation to contribute to development, and even recommends the establishment of an international Islamic body for women's affairs. However, the control of this education and the practice of strict conditions (permission of the husband or guardian, the hijab with specific conditions, the prohibition of mixing in broad terms) actually creates a gap between the principle of "women's right to education and work" and the fact that it can be practiced in societies where these conditions are tools of social pressure and control.

The research showed that the Academy's decisions related to dress and hijab reflect an almost complete adoption of the public's opinion that a woman's entire body is 'awrah except for the face and hands, with an expansion of the use of the hadith of "women are awrah" to restrict their participation in the public sphere, and to link their public mandate or political work to the necessity of strict adherence to dress codes. At the same time, the Academy theoretically asserts that decency is required of both men and women, but practical applications keep the female body at the center of strife and moral and legal restraint.

In medical cases, the Academy has shown a greater ability to employ the rules of necessity and remove embarrassment, as in the matter of men's treatment of women, it has set clear priorities (a Muslim doctor, then a non-Muslim doctor, then a Muslim doctor, and then a trustworthy non-Muslim), and it allowed the disclosure of what is needed from the body with the requirement of the presence of a mahram or a trustworthy woman, and explicitly called for encouraging women to study medicine, especially obstetrics and gynecology. In the field of reproductive and artificial insemination techniques, the Complex authorized limited forms of parentage and insemination within the framework of existing marriages, completely prohibited any intervention by a third party (eggs, semen or a tenant's uterus), and controlled the handling of surplus embryos and prohibited their use in illicit pregnancy or surrogacy.

The Council's decisions addressed sensitive issues such as abortion, AIDS, female genital mutilation, and the sterilization of mentally retarded girls, so there was a general tendency to prohibit abortion at all except to save the mother's life, to protect the right of the wife to seek separation from her husband who is infected with AIDS,

and to recognize the prohibition of female genital mutilation while trying to differentiate between the "alleged reduction of refinement" and internationally criminalized forms of mutilation, and the prohibition of permanent sterilization except for a legitimate necessity. However, the presence of the medical and scientific approach in these decisions remains limited, as they have not always been based on disciplined and stable consultation mechanisms with health experts and social researchers.

The study confirms that there is a clear gap between the texts of the Council's decisions and the level of their application in the member states, due to the institutional bureaucracy, the weakness of the mechanisms of enforcement or follow-up, and the dominance of conservative local interpretations that may be required from the Council's decisions, which strengthen the authority of the guardian or the state at the expense of women's empowerment. Thus, it can be said that the impact of the Academy on women's empowerment has been closer to the rhetorical and symbolic impact than to bringing about tangible legal and social change.

Ultimately, the research reveals a gradual trend within the International Islamic Fiqh Academy towards a more moderate and humane discourse on women's issues, which talks about dignity, competence, financial responsibility, independence in ownership and contracts, and acknowledges the necessity of their education and developmental participation, but has not yet crystallized an integrated and purposeful *ijtihad* project that reconsiders the jurisprudential structures that have enshrined women's inferiority in areas such as blood money, martyrdom, guardianship, and movement in the public sphere, and is still more captive to the duality of "blocking pretexts" and "necessities are valued" than to invest For the purposes of justice, mercy, removing embarrassment, and empowering human beings, both men and women.

## **Recommendations**

Based on the results of the research, a number of recommendations can be proposed for the International Islamic Fiqh Academy, other jurisprudential academies, and policymakers in the Islamic world:

- **Deepening the Maqāṣid-Based Approach in Women-Related Fatwas:** There is a pressing need to shift from justifying rulings primarily through the logic of "gender differentiation" toward purposive (maqāṣid-oriented) interpretations in which justice, dignity, and the removal of hardship serve as foundational principles. This is especially important in areas such as blood money, martyrdom, travel, employment, and public guardianship, ensuring alignment with the spirit of Sharīʿa and its overarching objectives.
- **Reassessing the Barrier-Based Approach to Gender Mixing and Travel:** It is advisable to re-evaluate the extensive application of the "blocking the means" (*sadd al-dharīʿa*) doctrine that has effectively constrained women's mobility in education, employment, and travel. A more balanced approach is

needed—one that safeguards morality while enabling safe and meaningful participation, taking into account advances in transportation, modern legal protections, and mechanisms to prevent violence and harassment.

- **Integrating Female Scholars and Experts into Jurisprudential Decision-Making:** Female jurists and specialists in Sharīʿa, social sciences, and medical sciences should be included in the Academy’s membership and technical committees. Ensuring that women’s expertise and lived experiences are represented directly—rather than filtered exclusively through male intermediaries—will significantly enhance the quality and relevance of fatwas related to women.
- **Strengthening Institutional Partnerships with Health, Legal, and Social Bodies:** Established mechanisms for consultation should be developed with health institutions, women’s protection organizations, and legal and social experts when addressing complex medical and social issues (e.g., HIV/AIDS, reproductive technologies, sterilization, and violence against women). Such partnerships will help ground jurisprudential reasoning in accurate and up-to-date scientific data.
- **Translating Jurisprudential Resolutions into Practical Public Policies:** The Organization of Islamic Cooperation (OIC) and its member states should adopt the Academy’s resolutions—particularly those affirming women’s full financial capacity, their right to education and work, and the prohibition of abuse and violence—and translate them into national legislation accompanied by clear implementation strategies in education, the labor market, and healthcare.
- **Revising Jurisprudential Discourse on the Female Body and Dress:** There is a need to reduce the overemphasis on “female ‘awra” in practical discourse and distinguish between rulings related to general public modesty for both sexes and the use of hijab as a tool for excluding women from public life. Sharīʿa guidelines should be presented as frameworks for dignity and religious freedom rather than mechanisms for restricting women’s participation in work, politics, or scientific fields.
- **Supporting Contemporary Juristic Approaches within the Sharīʿa Framework:** Contemporary scholarly readings—such as those addressing women’s testimony, travel through modern transportation systems, and participation in development—should be encouraged when they faithfully engage with texts while responding to contemporary realities. Such views should not be dismissed as “anomalous” solely because they depart from

older jurisprudential norms.

- **Launching Field Research Programs on the Impact of Fatwas on Women's Lives:** The Academy should support empirical social and human-rights research that measures the real-world impact of its fatwas on women's experiences in education, employment, healthcare, travel, and domestic violence. This will allow for evidence-based evaluation of how well Sharī'a objectives are being realized in practice—not only in theory.
- **Developing a Renewed Educational and Da'wah Discourse on Women:** Scientific, educational, and religious institutions are encouraged to promote an accurate and empowering image of women in Islam as full participants in worship, social development, and civilization-building. This requires revisiting selective uses of texts that have sometimes been invoked to justify domination or violence, and re-centering the values of mercy, justice, and mutual solidarity in family and social relations.
- **Institutionalizing an Independent Women's Affairs Unit within the Academy:** It is recommended that a permanent unit dedicated to women's issues be established within the Academy. This body should review and update fatwas, coordinate with relevant international entities, and develop practical guidelines for governments and educational, health, and judicial institutions on implementing fatwas concerning women's empowerment effectively.

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