

Olfa Youssef

## **The Perplexity of a Muslim Woman: Over Inheritance, Marriage, and Homosexuality**

Lanham, MD: Lexington Books/Rowman & Littlefield Publishers, 2017 (ISBN 978-1-4985-4169-5)

Reviewed by Ziba Mir-Hosseini, 2018

Chapter (surah) 58 in the Qur'an is titled "She Who Disputes." The occasion for its revelation is reported to have been an incident in Medina when a Muslim woman came to the Prophet with a complaint and did not leave until she got justice. Her husband had told her, after years of marriage and childbearing: "you are to me as my mother's back." This was a pagan oath that, once uttered by the husband, made sexual relations with his wife unlawful and resulted in a form of separation called *zihar*. The husband was then released from all his conjugal duties, but the wife was kept in a state of limbo for the rest of her life, unable to leave her husband or remarry. Having no way to sustain herself and her children, the woman who came to the Prophet wanted the marital bonds renewed. As reported in one account, the Prophet at first could see no way out and told her: "You are [now] forbidden to him," implying that the marriage could not be renewed. But she did not accept this and kept arguing her case with the Prophet; "they went back and forth in this manner" until God intervened. It was then that the opening verses of chapter 58 were revealed: "*God has indeed heard the words of she who disputes with thee concerning her husband and complains to God. And God hears your conversation. Truly God is Hearing, Seeing.*" The following verses (58: 2-5) abolished this form of separation (*zihar*).<sup>[1]</sup>

After the Prophet's death, the revelations stopped, and slowly but surely, the process of sidelining women and their concerns began. By the time the schools of jurisprudence (*fiqh*) were consolidated almost two centuries later, women's voices had been silenced, and their concerns could not be reflected in the process of law-making. But they did not give up; they continued disputing and demanding justice. Olfa Youssef is one of them, and her book *The Perplexity of a Muslim Woman: Over Inheritance, Marriage, and Homosexuality* is an eloquent instance of this tradition of disputation--and of the issues that concern Muslim women in the twenty-first century.

*The Perplexity of a Muslim Woman* is the first book by this prolific and renowned Tunisian scholar to have been made available in English. For this we must thank Lamia Benyoussef, herself a Tunisian teaching in the US and a scholar of nineteenth-century Arabic, French, and English literature. First published in Arabic in 2008, it has been reprinted several times, and pirated copies are available online. Benyoussef began the translation in 2010 out of frustration about the absence of English translations of important Arabic work, with the aim of breaking "the silence in the [sic] Anglophone academia over the critical scholarship of Muslim women who reside in the MENA [Middle East and North Africa] region in the field of Islamic Studies" (9). In her excellent preface, she reflects on the challenges she encountered as a translator, and provides a useful introduction to Olfa Youssef's life and work in pre- and post-revolutionary Tunisia.

Olfa Youssef, born in 1966, belongs to the generation who were the first beneficiaries of the legal and educational reforms initiated by Habib Bourguiba, Tunisia's first president (1955-1987). Tunisian family law, codified in 1956 immediately after independence, remains the most progressive, egalitarian code among Muslim majority countries, and the only one that bans polygamy. The prestigious traditional religious school, al-Zaytuna, was integrated into the secular educational system in the early 1960s and turned into a college of the university.

In time, this led to scholars in the humanities and social sciences engaging with Islamic tradition and history beyond the limits of traditional perspectives. Despite Bourguiba's autocratic rule, his modernizing reforms opened a space where scholars fluent in Arabic and French could bring the tools of new branches of knowledge--such as hermeneutics, linguistics, sociology, and psychotherapy--into their understanding of religious tradition.

What distinguishes Youssef among these scholars is her ability to reach a wider public. Since the early 1990s, she has appeared on Tunisian and Arab satellite channels, presenting programs and taking part in discussions. She maintains a blog and is active on Facebook and Twitter. She has also been subject to fierce critique, which became violent in tone in the aftermath of the 2010 Revolution. In Arabic, and in an erudite fashion, Youssef engages with the critics of her work. Since August 2013 she has been under police protection following threats to assassinate her on the anniversary of the Tunisian Personal Code (promulgated on August 13, 1956).

The focus of *The Perplexity of a Muslim Woman* is on the Qur'anic verses that are invoked to justify women's lesser share in inheritance, their subordinate place in marriage, and attacks on sexual diversity. In a brief introduction, Youssef explains why this challenge is an absolute necessity because of the immense power of "the established explanations of the Qur'an on the Muslim imaginary and jurisprudence in the Muslim world." Muslims find themselves forced to choose between two apparently conflicting paths. One is to heed "calls for the desertion from a religion which refutes gender [equality], calls for the stoning of homosexuals, and forces women to be always sexually available to their husbands." The other is to heed "calls for the acceptance of the literal interpretations of religious scholars, turning the latter into the official spokesmen of the Great and Almighty God" (22).

Youssef sees both positions as problematic and flawed: the first one because "the foundations of culture are unconscious," and those born or socialized into Muslim societies "cannot erase with one stroke, or through a conscious and rational act, the imprint of the social unconscious." The second position is flawed because those Muslims who adhere to the call for acceptance of the literal interpretations of religious texts, instead of worshiping God, end up "worshiping the scholar in different forms and manifestations" (22). Youssef offers a third choice: staying in religion and advocating justice, as we understand it today, and just laws by showing the openness of the Qur'an to the possibilities of readings for *ijtihad* (deriving legal rulings). She is keen to stress that, in doing so, she is asking for "neither reconciliation nor fabrication of facts as some might say," but "to question and deploy reason out of the desire for a truth I do not claim ownership of as others do" (22). "[I] am driven in this by the profound belief that I am neither proclaiming a final truth nor confirming an unequivocal interpretation when questioning the divine word . . . [and that] only God knows the true meaning of the Qur'an" (21).

Youssef rejects all shades of absolutist thinking, whether in a religious or in a secular guise: "I am at the farthest point from fundamentalism in both its religious and modern façade: I do not offer any final or ready-made answers, for I belong to the world of questions before answers and perplexity before certainty" (22). What she offers is an approach and a methodology that enable Muslims to combine faith and modernity--a modernity that is rooted and cultivated in an indigenous tradition.

I hold that the Qur'an, even though the word of God, is a linguistic statement subject to diverse interpretations like any other statement and I assert that anyone who claims to possess the true and the unique meaning of the Qur'an is speaking in the name of Almighty,

setting himself in the omnipotent position of one who has absolute knowledge, and deceiving people into thinking s/he possesses the truth only He, the Great and Almighty God, possesses. (21)

*The Perplexity of a Muslim Woman* is a powerful and a sophisticated challenge to traditional readings of Islam's sacred texts. It comprises three chapters, in which Youssef lists what she finds perplexing in the established interpretations and the laws based on them. There is no overall conclusion, but each chapter ends with a short section titled "That Which Lies after Perplexity," where Youssef summarizes the key arguments and evidence presented in the chapter and poses a number of ethical and rational questions that make a case for the necessity of her challenge.

In chapter 1, the focus is on gender inequality in inheritance laws. This is an area of law that is commonly held not to be open to reform, because, it is argued, there are explicit Qur'anic texts on this matter that leave no room for either reinterpretation or *ijtihad*. Youssef shows the fallacy of such a line of argument. She points to the existence of verses in which women are allocated either an equal share or a bigger share than men. In verses relating to inheritance, it is not gender but fairness and equity that serve as criteria for the allocation of shares. She also provides evidence of instances where explicit texts have been ignored in the interest of justice, beginning with the suspension by the second caliph, Umar Ibn Khattab, of two explicit Qur'anic verses, one on cutting off a thief's hands, the other on the allocation of *zakat* (charity) in the interest of justice, and the nineteenth-century Muslim consensus to abolish the slavery that the Qur'an did not abolish.

Chapter 2, "Perplexities over Marriage," speaks to my own work. It begins with a discussion on whether *mahr* (*sadaq*) is required for a valid marriage. *Mahr* is the sum of money or any valuable that the husband has to give upon marriage or later, and is defined in *fiqh* (Islamic jurisprudence) as an essential condition of the marriage contract. Youssef then goes on to show, first, that there is no single verse in the Qur'an that speaks of *mahr* as mandatory; and second, that in some of the Prophet's marriages there was no *mahr*. She argues that payment of *mahr* was a social custom that "the Qur'an has . . . neither prohibited nor imposed" but merely made the wife its direct recipient, instead of her guardian or her family (50-51). Then she raises a question: now that we know the Qur'an has not made *mahr* a requirement of marriage, how can we explain that *fiqh* has made it one of the three essential elements--the other two being the offer (*ijab*) by the woman or her guardian, and acceptance (*qabul*) by the husband? Her answer is that most commentators saw marriage as a contract like any other sale contract. What is sold in marriage is a woman's vagina, and the husband buys it by paying *mahr*; she quotes one of the greatest of the early commentators, Fakhr-al-Din Al-Razi: "if the Almighty God had added the giving of the *mahr* to them, it is because it is the price of their goods" (51). She goes on to stress that neither in the Qur'an nor in the Prophet's hadith is there any indication, implicit or explicit, that a correlation exists between the payment of *mahr* as a price and the perception of women's vaginas as goods. What she concludes is that views and reasoning such as those of Al-Razi can only be understood as "projections of historical perceptions and social imaginary onto [the] Qur'an" and are thus tied to historical context, and this is why contemporary jurists who are bound by a different social imaginary are "embarrassed to say that [*mahr*] is a form of exchange" in that sense (53). Yet they go on to reproduce the commodification of women's sexuality unconsciously by not exposing and challenging the jurisprudential assumptions that have given rise to legal rulings in marriage. The rest of the chapter offers illuminating deliberations on other areas of marriage and sexual relations, under intriguing headings, for instance: Perplexity Three: The Obedience to the

## Husband in Bed or Perplexity Nine: Sex with One's Hand.

The last chapter, "Perplexity over Homosexuality," offers an enlightening discussion on the criminalization of same-sex relations. The rise of political Islam and the revival of *fiqh* penal concepts relating to sex outside (heterosexual) marriage have made this an area of acute tension with international human rights laws. Youssef argues that such criminalization has no basis in the Qur'an and Sunnah; once we go back to them, "we find ourselves facing various forms of philosophical perplexity" (103). There is no mention in the Qur'an of sexual relations between women, and the passage used to justify the ban on sex between men--the story of the People of Lot--concerns "anything that harms others, and in the context of sexuality, specifically refers to the raping of men by men" (127). What she aims to highlight in this chapter is "the divergence of opinions on this issue between religious scholars . . . and . . . the enormous difference in attitude toward homosexuality between the old religious scholars and commentators on the one hand and common Muslims today on the other hand" (127). For Youssef, the condemnation of homosexuals on the basis of such subjective rulings speaks of the "psychological anxiety and refusal of difference, not to mention one's psychological dividedness on the unconscious level."

*The Perplexity of a Muslim Woman: Over Inheritance, Marriage, and Homosexuality* is a *tour de force* of reason and erudition in the course of which Youssef holds a critical conversation with classical and contemporary Qur'anic exegetists and jurists to show how human interpretations throughout the centuries have closed the Qur'an to possibilities of readings for justice. It is a valuable contribution to a new genre of literature that is opening Islam's sacred texts to new readings in line with twenty-first-century values, concerns, and questions, enabling Muslims to remain within their faith yet be critical of dominant interpretations of the texts and the laws made, and discriminations justified, in their name.

Lamia Benyoussef does an excellent job of translating a text that was written for an "insider" readership, but I have a few quibbles: the most important is the translation of *musawah* as "equity" (for example, 22 and 42). "Equity" is the term used by apologists for traditional *fiqh* gender notions for "complementarity" of gender rights and is a world away from Youssef's intention in using *musawah*, which, it is clear from the text, means "equality." Less important is the mistranslation of *mahr/sadaq* as "dowry"; strictly speaking, it is "dower"; dowry, which does not exist in Islamic law or Muslim custom, is almost the reverse of dower.

### Reference

Nasr, Seyyed Hossein, et al. 2015. *The study of Qur'an: A new translation and commentary*. New York: HarperOne.

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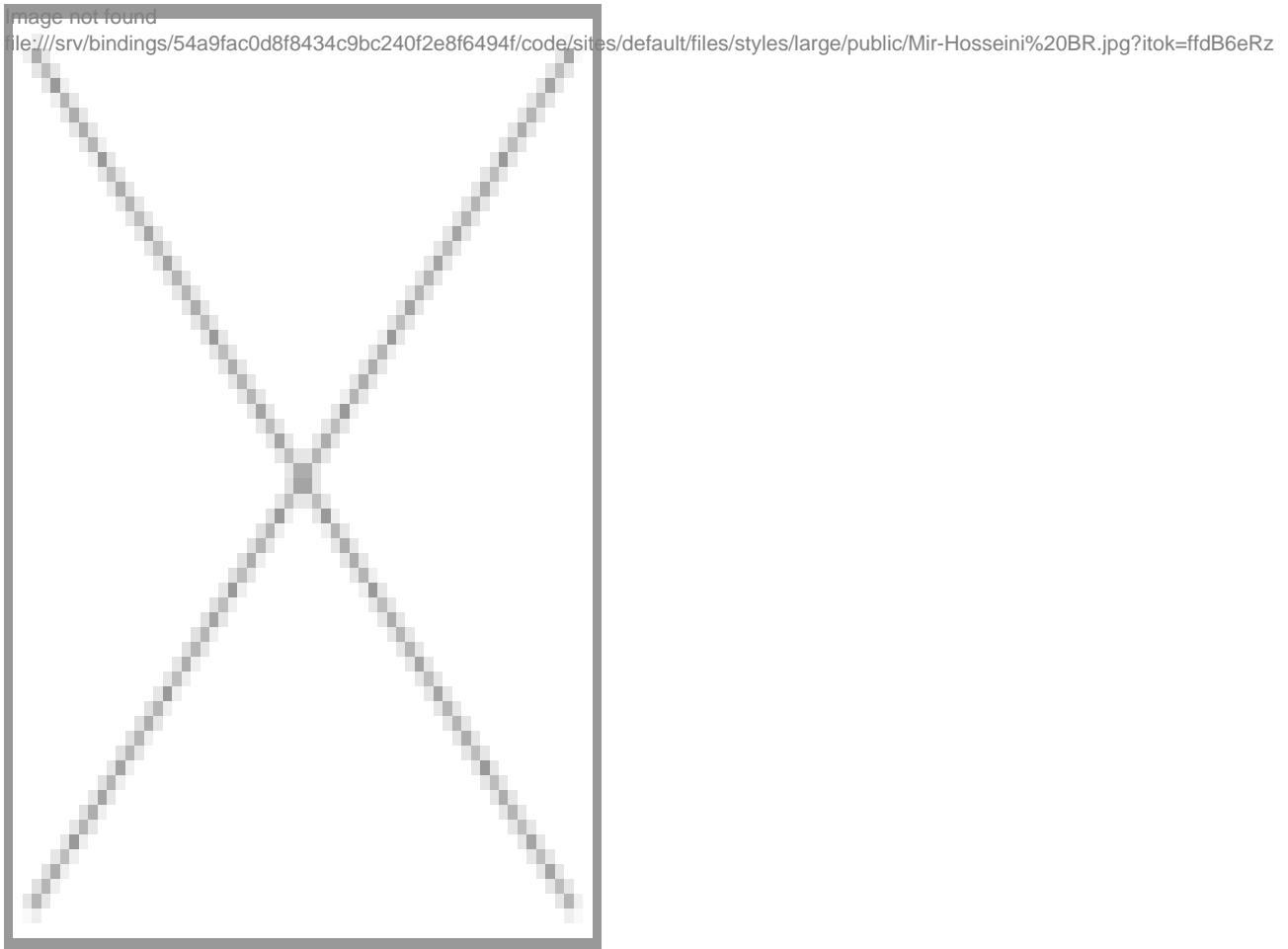
[1] Both the translation of the verse and the account come from Nasr et al. 2015, 2343.

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