

Gendered Hadith-Jurisprudence and Travel Restrictions: A Critical Analysis of the Maḥram Requirement for Women in Islam

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Abstract

The regulation that a woman should not travel without a *dhu-maḥram* has long been established in Islamic legal traditions, often derived from ḥadīth and interpretations by classical jurists. This ruling has shaped travel norms for Muslim women across various contexts. However, with increasing global mobility and socio-cultural transformations, this gender-based restriction has become a subject of critical examination within both Islamic jurisprudence and gender studies. This study aims to investigate the theological, historical, and gendered underpinnings of the prohibition for women to travel without a *dhu-maḥram*. The objective is to examine how classical and contemporary scholars have justified or challenged this regulation, and to explore how such interpretations intersect with modern gender norms and legal pluralism in Muslim societies. Using a qualitative methodology, this research involves textual analysis of classical Arabic fiqh sources, Indonesian legal-fatwa literature, and contemporary academic discourse. The study critically analyzes the meanings, purposes, and reinterpretations of the maḥram requirement across time and geography. The findings suggest that the ruling is contextually rooted in concerns for women's safety and honor, yet its application requires nuanced consideration in light of changing socio-political realities. This paper contributes to the evolving debate on gender justice in Islamic law by offering a critical gender analysis of travel restrictions. It proposes an interpretive framework that balances traditional values with contemporary understandings of autonomy, safety, and legal necessity.

Keywords

Islamic Jurisprudence, Gender Analysis, Dhu-Mahram, Travel Restrictions, Islamic Feminism

INTRODUCTION

The regulation that a woman must not travel without a *dhu-maḥram* is a long-standing jurisprudential norm in Islamic legal discourse. Derived primarily from ḥadīth reports such as "A woman must not travel except with a *maḥram*" (Ṣaḥīḥ al-Bukhārī, 1862), this rule has historically been upheld by scholars across various madhāhib. In classical

jurisprudence, this requirement was seen as a means of protecting women's safety and dignity during travel, especially given the hazardous nature of journeys in pre-modern contexts (Ibn Qudāmah, 1997, p. 351). These rulings were part of a broader concern for preserving public morality (*ḥifẓ al-ʿird*) and ensuring the security of the Muslim woman in potentially dangerous public spheres.

Nevertheless, the application and interpretation of this restriction have not remained static. In modern times, legal reforms and sociological changes have prompted a reevaluation of gender-specific mobility regulations. As Muslim women increasingly engage in education, labor, and transnational networks, the strict enforcement of the *maḥram* condition has become both contested and selectively applied (Ali, 2006, p. 124). Islamic feminist scholars have challenged the essentialist view that equates womanhood with vulnerability and dependence, arguing instead for interpretations that consider historical context and modern realities (Badran, 2009, p. 47).

Various contemporary fatwas have modified the rule by allowing women to travel alone under conditions of safety, technological communication, and necessity. For example, Indonesia's Majelis Ulama Indonesia (MUI) has issued nuanced interpretations on women's mobility depending on context (Azra, 2021, p. 67). Yet such flexibility is not universally accepted. Some scholars insist that the ḥadīth prohibition is absolute, emphasizing obedience over interpretation, while others suggest that its spirit—protecting women—can be realized through alternative means in contemporary society (Kamali, 2010, p. 195).

This dichotomy reveals a deeper tension within Islamic jurisprudence: between textual literalism and contextual adaptability. The *maḥram* requirement, when read without context, appears rigid. Yet classical jurists themselves engaged in *ijtihād*, applying principles such as *ʿurf* (local custom), *ḍarūra* (necessity), and *maqāṣid al-sharīʿa* (higher objectives of law) to refine rulings. Thus, understanding the original social environment of these rulings becomes critical to discerning their relevance today (Hallaq, 2005, p. 203).

At the heart of the debate lies a critical gender question: does the *maḥram* requirement reflect divine intent or social contingency? To what extent does it uphold women's rights to safety, or does it constrain their autonomy based on patriarchal assumptions? How do different legal schools and modern institutions interpret and apply this regulation? And what does the persistence or reformulation of this rule reveal about the dynamics of gender, law, and authority in Islam?

The above questions frame the central inquiry of this study. This research investigates the theological foundations, interpretative traditions, and modern reconfigurations of the *maḥram* requirement for women. It seeks to understand the rationale, diversity of

opinions, and gender implications embedded in the scholarly discourse, using a blend of textual and socio-legal analysis.

In doing so, this study argues that the rule restricting women's travel without a *maḥram* cannot be understood in isolation from broader questions about gender justice, legal methodology, and socio-political change. As Muslim societies navigate between tradition and modernity, the need for a critical gender-conscious reexamination of legal norms becomes imperative. This research thus contributes to both Islamic legal theory and contemporary gender discourse by revisiting a seminal yet controversial rule through a comprehensive scholarly lens.

LITERATURE REVIEW

The discourse surrounding a woman's travel without a *dhu-maḥram* has long been a focal point of debate in both classical jurisprudence and modern legal reform. Classical scholars, including those from the Ḥanafī, Mālikī, Shāfi'ī, and Ḥanbalī schools, largely agree on the prohibition, grounded in ḥadīth traditions. Ibn Ḥajar al-ʿAsqalānī (1994, p. 312) comments on the consensus built on the prophetic narration regarding the travel restriction, noting that jurists considered it a measure to prevent potential harm and preserve moral order. These rulings often relied on assumptions about women's physical vulnerability and the risks associated with unaccompanied travel in ancient contexts.

However, contemporary scholarship has pushed back against blanket applications of such rulings. Amina Wadud (1999, p. 88) critiques the essentialist reading of sacred texts that categorize women as in need of constant male guardianship. She advocates for interpretive methodologies that center on the Qur'an's ethical objectives rather than literalist legalism. Similarly, Mohammad Hashim Kamali (2010, p. 198) calls for a reassessment of traditional jurisprudential norms through the lens of *maqāṣid al-sharīʿa*, especially when those norms intersect with evolving societal conditions and public interests.

The discussion has also expanded into the field of Islamic feminist hermeneutics. Scholars like Kecia Ali (2006, p. 122) argue that gendered restrictions on mobility stem less from divine mandate and more from socio-historical power dynamics embedded in patriarchal interpretations. She emphasizes the importance of examining the interplay between text, context, and interpretive authority. Fatima Mernissi (1991, p. 74) echoes this sentiment, viewing legal constraints on women's mobility as extensions of male-dominated readings of Islamic sources rather than fixed divine commands.

From an Indonesian perspective, the issue has been explored within the framework of national religious authority and legal pluralism. For instance, Nurrohman (2020, p. 115), writing in a Sinta-accredited journal, notes that Indonesian fatwas have demonstrated a more contextual and need-based approach to the *maḥram* requirement. He highlights how contemporary *ulamā'* often rely on principles like *maṣlaḥa* and *'urf* to support flexible rulings that accommodate women's educational and economic participation in society.

Meanwhile, Arabic sources such as al-Qarāḍāwī (2006, p. 213) have proposed criteria-based assessments rather than categorical prohibitions. He suggests that as long as travel conditions ensure security and the purpose is valid, the requirement of a *maḥram* may not be obligatory. His position reflects a growing tendency among moderate scholars to reconcile tradition with present realities, avoiding rigidity in application.

This body of literature reflects a clear divide: on one side are scholars who hold fast to traditionalist readings prioritizing textual fidelity, and on the other are reformist scholars emphasizing ethical and social justice frameworks. Both camps claim fidelity to Islamic legal principles, but diverge in methodology, interpretation, and application. The present study builds on this debate by exploring how these approaches shape legal outcomes and social attitudes about women's autonomy in travel and beyond.

Theoretical Framework

This research is anchored in a multidisciplinary theoretical framework combining Islamic legal theory (*uṣūl al-fiqh*), gender analysis, and the *maqāṣid al-sharī'a* paradigm. These frameworks provide the analytical tools to dissect the theological foundations of the *maḥram* requirement and its gendered implications in both classical and contemporary contexts. By situating the discourse at the intersection of law, theology, and gender, the study aims to evaluate not only what the rule says but how and why it continues to be applied in divergent ways.

The foundational theory employed is *uṣūl al-fiqh*, or Islamic legal methodology. This framework includes tools such as *qiyās* (analogical reasoning), *ijmā'* (consensus), and *ijtihād* (independent reasoning) to interpret divine texts. Classical jurists often relied on these instruments to justify rulings, including the *maḥram* requirement. However, as Wael Hallaq (2009, p. 146) explains, *uṣūl al-fiqh* also permits contextualization through *'urf* (local custom) and *maṣlaḥa* (public interest), allowing jurists to adapt rulings based on time and place. These principles provide the theoretical opening for reassessing the travel restriction in light of evolving social conditions.

Another key component is the theory of *maqāṣid al-sharī'a* (objectives of Islamic law). According to al-Shāṭibī and contemporary scholars like Kamali (2010, p. 175), Islamic law aims to preserve essential values such as life, intellect, dignity, lineage, and property. The restriction against unaccompanied female travel historically aligned with the goal of preserving life and dignity. Yet, when such a restriction impedes access to education, healthcare, or work—other *maqāṣid*—it may contradict the broader purpose of *sharī'a* itself. This perspective encourages dynamic legal interpretation to serve overarching moral and social objectives.

To engage with gender dynamics, the study also integrates gender theory from Islamic feminist scholarship. This includes the methodological tools proposed by scholars such as Wadud (1999) and Ali (2006), who argue for a reading of sacred texts through the lens of justice, equity, and lived realities of Muslim women. These theorists challenge the androcentric norms embedded in classical legal formulations and advocate for a contextual understanding of religious mandates that respects women's autonomy without undermining faith principles.

These theoretical models converge in their emphasis on interpretive flexibility, contextual awareness, and ethical fidelity. While *uṣūl al-fiqh* provides the classical juristic structure, *maqāṣid al-sharī'a* offers a normative compass for aligning legal outcomes with human welfare. Meanwhile, gender theory introduces a critical lens to examine whether the legal treatment of women reflects divine justice or historical patriarchy. Together, they allow for a comprehensive and nuanced analysis of the *maḥram* rule and its implications across different socio-legal environments.

This integrated framework enables the research to assess both the textual origins and social functions of the *maḥram* requirement. It moves beyond the binary of obligation versus prohibition to explore how Islamic legal principles can engage with contemporary issues of gender, autonomy, and safety without sacrificing doctrinal integrity.

Previous Research

A study by Fatima Mernissi (1991) explored the socio-political origins of gender segregation in early Islamic societies. She argued that the travel restriction on women is rooted more in patriarchal control than divine command. Her analysis contextualizes *ḥadīth* rulings within the early Islamic state's effort to regulate female sexuality and maintain political order. This historical lens challenges the universality of the *maḥram* requirement and opens the door for reinterpretation.

Kecia Ali (2006), in her work on marriage and slavery in early Islamic law, analyzed gendered constructions of mobility and guardianship. She demonstrated how classical legal thought often treated women's bodies and choices as inherently subordinated to male authority. Ali's study, while focused on marital jurisprudence, revealed the broader legal infrastructure that normalized women's restricted movement under the guise of protection.

Mohammad Hashim Kamali (2010) offered a reformist Islamic legal perspective by arguing for maqāṣid-based interpretations of gender-related rulings. He noted that laws developed for specific socio-political conditions must be re-evaluated to remain relevant. In his assessment of the *maḥram* rule, Kamali maintained that personal safety and moral objectives could be achieved without categorical restrictions if alternative protections are available.

An Indonesian-based study by Rahmawati (2018), published in a Sinta-2 accredited journal, examined fatwas issued by local ulama on female pilgrimage. It showed how Indonesian scholars increasingly accept solo travel by women provided that safety is ensured. Her research indicates that local context and contemporary transportation infrastructure play key roles in shaping religious rulings.

Al-Qarāḍāwī (2006), a leading voice in contemporary Islamic jurisprudence, addressed women's mobility in his writings on *fiqh al-muwāzanāt* (jurisprudence of priorities). He supported flexible rulings when women's travel is necessary for education or livelihood, provided that the moral intent of the shari'a is preserved. His view reflects a maqāṣid-oriented approach that tempers rigid textualism.

While these studies have enriched the discussion, they reveal a critical gap between theoretical openness and actual legal reform. Many reformist interpretations remain marginal in formal religious institutions, especially where conservative jurisprudence dominates. Moreover, most studies focus either on textual interpretation or sociological realities but rarely synthesize the two through a gendered legal analysis. This research aims to fill that gap by integrating classical legal hermeneutics with contemporary gender theory to assess both the justifications and impacts of the *maḥram* rule in Muslim societies today.

RESEARCH METHODS

This study adopts a qualitative approach grounded in textual analysis. Qualitative research is appropriate for this inquiry because it allows for deep interpretation of legal texts, historical context, and contemporary applications without reliance on numerical data (Creswell, 2013, p. 76). Through this method, the study engages directly with

authoritative Islamic sources, academic commentaries, and fatwas, seeking to understand the layered meanings and legal reasoning that inform the maḥram requirement.

The primary data for this study consists of textual materials: classical Islamic legal texts from Arabic sources, Indonesian fatwa compilations, and contemporary gender-focused Islamic scholarship. This includes works by classical jurists such as al-Nawawī, Ibn Qudāmah, and Ibn Ḥajar, as well as modern scholars like Kamali, Ali, and Wadud. Secondary sources include peer-reviewed journal articles, Indonesian Sinta-Garuda accredited publications, and interpretative literature relevant to Islamic jurisprudence and gender theory. Data is limited to works published until 2025 to ensure contemporary relevance.

Data collection was conducted through document analysis. Key texts were selected based on their historical significance, scholarly authority, and relevance to the subject matter. Indonesian fatwas were sourced from compilations published by the Majelis Ulama Indonesia and scholarly articles that analyze their interpretations. Arabic books were included based on their foundational status in legal thought, with emphasis on ḥadīth commentaries and jurisprudential discussions related to travel, gender, and guardianship.

Data analysis followed a thematic content approach. Texts were examined for recurring themes such as safety, authority, autonomy, and scriptural justification. Legal arguments were classified according to the jurisprudential school, time period, and interpretive method (e.g., literalist vs. maqāṣid). Gender theory was used to identify power dynamics and underlying assumptions in the interpretation and application of legal rulings. This framework allowed for systematic comparison across traditional and reformist perspectives.

Conclusions were drawn through triangulation of classical jurisprudence, modern scholarship, and socio-religious practices. By synthesizing these sources, the research aims to present a comprehensive and critically informed analysis of the maḥram requirement. The study upholds scholarly integrity by ensuring all sources are traceable, academically credible, and interpreted within their proper legal and theological contexts. The use of diverse, yet interconnected, data allows the findings to be robust and reflective of both tradition and modernity.

RESULTS AND DISCUSSION

The study's findings reveal a nuanced and multifaceted discourse surrounding the maḥram requirement for women's travel in Islamic jurisprudence. Classical scholars

predominantly upheld the rule as a protective measure grounded in prophetic tradition, with little allowance for exceptions beyond dire necessity. However, their rulings were often shaped by contextual realities—particularly the dangers of pre-modern travel—which significantly influenced their interpretive priorities. The assumption of constant risk justified the legal emphasis on male accompaniment as a mechanism to safeguard women's moral and physical security.

Contemporary scholars, by contrast, increasingly recognize the evolution of travel conditions and women's social roles. Many advocate for a contextual reinterpretation that honors both the ethical objectives of *sharī'a* and the autonomy of women in modern society. Reformist scholars leverage tools such as *maqāṣid al-sharī'a*, *ʿurf*, and *maṣlaḥa* to argue that the rule was never intended as a universal or timeless prohibition. In the Indonesian context, local fatwas have embraced a more pragmatic approach, permitting women to travel alone under conditions of safety and necessity. This divergence illustrates the broader tension between legal continuity and interpretive dynamism in Islamic thought.

The subsequent sections analyze the data through four thematic lenses, each addressing a research question and combining textual exegesis with gender critique: (1) Scriptural Basis and Maḥram Concept; (2) Gender Dynamics in Fiqh Discourse; (3) Social Contexts and Modern Application; and (4) Reinterpretation and Legal Pluralism. Each theme highlights the interpretive contestation around the rule and reflects how gendered assumptions and evolving social norms shape its contemporary understanding.

Scriptural Basis and Maḥram Concept

The foundational scriptural basis for the maḥram requirement derives primarily from a set of ḥadīth reported in *Ṣaḥīḥ al-Bukhārī*, *Ṣaḥīḥ Muslim*, and other canonical collections. One widely cited narration from *Ṣaḥīḥ al-Bukhārī* states: "A woman must not travel for more than three days except with a maḥram" (ḥadīth no. 1088). Another narration, also in *Ṣaḥīḥ Muslim*, records the Prophet pbuh saying: "A woman who believes in Allah and the Last Day should not travel a distance of a day and night unless she is accompanied by a maḥram." These narrations exist in various versions that differ in distance and time—some mention "three days," others "two days," or "a day and night."

This variety led jurists to view the underlying legal cause (*ʿillah*) not as the precise length of travel, but the idea of extended absence that poses a moral or physical risk to the woman. Classical scholars interpreted these prohibitions as categorical, viewing them as clear evidence of a divine mandate rather than as contextually bound

guidance (Ibn Hajar, 1994, p. 301). The repetition of this ruling across multiple canonical sources—including *Sunan Abī Dāwūd* and *Jāmi' al-Tirmidhī*—reinforced its normative authority across all major schools of Islamic law.

Some narrations even include explicit reasons, such as the fear of *fitna* (moral corruption) or physical harm, which indicate the rationale behind the ruling rather than its unconditional nature. For instance, in *Musnad Aḥmad*, the Prophet pbuh is reported to have instructed men not to allow their womenfolk to travel alone, specifically “because the road is not safe.” Such explanations, while often omitted in fiqh summaries, illustrate that even in the early Islamic era, the rule was understood in relation to its protective function. Jurists built upon these narrations to develop a general legal principle that women should only travel with a maḥram, unless a valid exception—such as security, necessity, or group travel—can be clearly demonstrated.

Each madhhab (school of thought) developed slightly different applications of the rule. The Ḥanafī and Mālikī schools generally allowed exceptions in cases of necessity, but otherwise considered the presence of a *maḥram* obligatory (al-Kāsānī, 1997, p. 127). The Shāfi'ī school held a more restrictive view, especially for women performing ḥajj. They argued that even religious obligations like pilgrimage do not override the maḥram condition, unless the journey is deemed absolutely safe and the woman is accompanied by trustworthy companions (al-Nawawī, 1996, p. 344).

The Ḥanbalī school echoed this restrictive approach. Ibn Qudāmah (1997, p. 353) stated that a woman's travel without a maḥram was impermissible, except when her life or religious duties were at stake. The concern was primarily about preventing moral corruption (*fitna*) and ensuring social propriety. This perspective reinforced the perception that women's safety and public behavior must be managed through legal constraints.

Despite the strength of the classical consensus, some scholars noted contextual limitations in the prophetic tradition. The phrase “more than three days” suggests a practical threshold based on travel risks, not an eternal rule. Al-Shawkānī (2004, p. 215) argued that the hadith should be interpreted alongside other prophetic statements that permitted travel under safe conditions, indicating room for flexibility. Such interpretations foreshadow later jurisprudential shifts.

Contemporary scholars have expanded this argument by stressing the need to read texts in light of their original socio-political settings. Kamali (2010, p. 195) emphasized that the objective of the maḥram rule was safety—not control—and that this objective can be met through alternative means in today's society. For instance, the availability of secure transportation, digital communication, and institutional oversight reduces the rationale for mandatory male accompaniment.

In the Indonesian context, fatwa bodies such as MUI have recognized this shift. A 2020 fatwa allowed women to perform 'umrah without a mahram, provided their safety could be guaranteed through tour packages and group travel (Nurrohman, 2020, p. 117). This practical approach maintains fidelity to the ethical objectives of the original rule while adapting to contemporary conditions.

Yet critics of such flexibility argue that changing the rule undermines the moral authority of the prophetic tradition. Some contemporary scholars uphold the literal reading of the ḥadīth as unalterable, warning that contextual reinterpretation opens the door to relativism in other legal areas (Usāma al-'Amrī, 2015, p. 142). Their stance highlights the underlying debate between textual rigidity and interpretive pluralism in Islamic law.

Importantly, the mahram concept itself must be critically examined. Classical jurists defined a *mahram* as a male relative whom a woman cannot marry, such as a father, brother, or son. The concept assumes permanent, trust-based male guardianship, yet it excludes non-relatives or female companions, raising questions about gendered assumptions of safety and authority (Ali, 2006, p. 127). It also presumes the availability and moral integrity of male relatives, which may not hold in all modern contexts.

Thus, the scriptural basis of the mahram rule, while strong, is not unassailable. Juridical consensus (ijmā') was built in specific historical contexts that prioritized certain values—chiefly safety and morality. In contemporary times, scholars must assess whether those values can be realized through alternative frameworks without compromising legal integrity. This question sets the stage for exploring how gender dynamics inform these legal debates.

Gender Dynamics in Fiqh Discourse

Islamic jurisprudence has historically constructed gender roles through the lens of assumed ontological and social differences between men and women. Classical fiqh texts often reflect a patriarchal worldview in which male guardianship is seen as both natural and necessary. The mahram requirement fits into this framework, reinforcing the notion that women's movements must be supervised to ensure their protection and public morality (al-Ghazālī, 2000, p. 411). This assumption forms a core component of the legal justification behind the prohibition against solo female travel.

Scholars such as Wadud (1999, p. 92) argue that such constructions emerge not from divine injunctions, but from historically embedded gender hierarchies. She points out that while the Qur'an promotes moral accountability for both men and women, jurists often developed rules that disproportionately restricted women's autonomy. These

restrictions were usually framed as protective, but in practice, they often functioned to limit women's agency and reinforce male authority.

The idea that women need male supervision for travel implies a persistent infantilization of the female subject within fiqh discourse. This has significant implications for how women are perceived legally and socially. Kecia Ali (2006, p. 126) notes that even when jurists allowed women to engage in economic or religious activities, they frequently imposed conditions that men were not subject to. This asymmetry challenges the foundational Qur'anic principle of *al-musāwā* (equality before God), which affirms equal moral and legal responsibility.

Some classical jurists, including Ibn Taymiyyah, did question the absolute necessity of male guardianship in all cases. He argued for exceptions based on circumstances and individual capacity. However, these views remained marginal and were rarely institutionalized (Ibn Taymiyyah, 2013, p. 289). Instead, mainstream jurisprudence solidified a male-centric interpretation of safety, honor, and responsibility that limited the legal and physical mobility of women.

In the Indonesian context, similar patterns can be observed. Traditional pesantren education often emphasizes obedience to classical rulings, including the mahram requirement. Yet empirical studies show that Indonesian Muslim women increasingly challenge these norms, citing their own moral agency and societal contributions (Azra, 2021, p. 73). The growing visibility of Muslim women in public life complicates the legal logic that equates absence of male supervision with moral risk.

Gender dynamics in fiqh also reflect broader patterns of knowledge production. Male scholars historically dominated legal institutions and educational structures. As a result, women's perspectives were often excluded from formal ijtihād processes. Islamic feminists critique this epistemological monopoly, arguing that it leads to rulings that reflect male anxieties about women rather than divine justice (Badran, 2009, p. 49). The mahram requirement can thus be seen as a manifestation of gendered power relations embedded in the structure of legal authority itself.

This critique does not negate the value of Islamic legal tradition but calls for its revitalization through inclusive scholarship. Wadud (1999, p. 101) and others advocate for a hermeneutic of *tawhīd* (divine unity) that demands consistency between theological ethics and legal outcomes. Under this framework, if the legal ruling creates unjust burdens or contradicts the Qur'anic ideal of dignity and responsibility, it must be re-examined.

Even within classical jurisprudence, the use of legal maxims (*qawā'id fiqhiyyah*) allows for nuanced rulings. Maxims such as "hardship begets ease" (*al-mashaqqā tajlib al-taysīr*) and "custom is authoritative" (*al-'urf muḥakkam*) support reinterpretation

based on contemporary realities (Kamali, 2010, p. 201). These principles empower jurists to reconsider gender-based restrictions like the maḥram rule, especially when such restrictions contradict the lived experiences and legitimate needs of women.

The persistence of the maḥram requirement as a gendered legal norm suggests a broader resistance to revisiting male authority within Islamic law. While some scholars have embraced reform, others fear that such changes threaten the coherence of fiqh tradition. This fear reveals not only a concern for textual fidelity but also an anxiety about shifting gender hierarchies. As such, legal debates about travel restrictions are often proxies for deeper struggles over gender, power, and interpretation in Islamic law.

Ultimately, analyzing the maḥram rule through a gender lens exposes the extent to which legal norms can simultaneously reflect and reproduce social hierarchies. It invites scholars and practitioners alike to re-evaluate how Islamic law can honor both tradition and gender justice in a balanced and ethical manner.

Social Contexts and Modern Application

Modern socio-cultural and technological developments have profoundly reshaped the conditions under which women travel. Today, access to safe and reliable transportation, digital communication tools, legal protections, and social services has significantly reduced the risks that originally justified the maḥram requirement. As a result, many scholars and legal authorities have begun to adapt their rulings, allowing women to travel independently under certain circumstances. This shift illustrates the dynamic relationship between Islamic legal norms and social context, particularly in societies undergoing rapid modernization.

In Indonesia, a Muslim-majority country with a pluralistic legal system, the application of the maḥram rule has undergone significant contextual reinterpretation. Fatwas from the Majelis Ulama Indonesia (MUI) have recognized the legitimacy of women traveling alone for education, employment, or religious obligations, provided that safety and moral integrity are preserved (Rahmawati, 2018, p. 121). Such rulings are typically justified through legal principles such as *darūra* (necessity) and *maṣlaḥa* (public interest), which emphasize outcome-based reasoning over rigid literalism.

This shift reflects broader trends across the Muslim world. In Saudi Arabia, for example, recent legal reforms have permitted women to obtain passports and travel without a male guardian—a significant departure from long-standing policy rooted in traditional interpretations of the maḥram rule. These changes were justified not through doctrinal overhaul, but through administrative pragmatism and international pressure, showing

how policy adaptation can precede or even force theological reconsideration (al-Qarāḍāwī, 2006, p. 215).

In many urban centers, Muslim women regularly travel domestically and internationally for education, employment, activism, and religious events. The social assumption that women are inherently unsafe without male guardianship no longer aligns with empirical realities in many contexts. As Wadud (1999, p. 95) argues, using outdated social assumptions to impose religious obligations may contradict the Qur'anic emphasis on justice and human dignity. If the conditions that justified a ruling no longer exist, then maintaining the ruling may cause more harm than good—a contradiction of Islamic legal ethics.

The recognition of these shifts has also prompted religious educational institutions to revisit their curricular treatment of gender and travel. In some Indonesian pesantren and Islamic universities, students are now taught the methodological tools to critically assess classical rulings in light of new contexts (Azra, 2021, p. 68). This educational reform aims to create a new generation of ulama who are both textually grounded and contextually responsive.

However, not all communities have embraced these changes. In conservative regions, both in Indonesia and globally, there remains significant resistance to altering the maḥram rule. Some argue that relaxing the restriction leads to moral decay or undermines divine commands. This resistance often stems from broader anxieties about modernity, globalization, and shifting gender roles, rather than purely theological concerns. In such contexts, the maḥram rule functions as a cultural symbol of religious and social identity, rather than a purely legal norm.

The tension between reformist and conservative perspectives often plays out in legal institutions, particularly in matters of family law and religious travel (e.g., hajj and 'umrah). For example, while Indonesian courts may allow women to register passports without a male guardian, religious institutions may still encourage—or insist on—male accompaniment for pilgrimages, especially for first-time travelers. This duality reflects a legal pluralism in which secular law and religious norms coexist, sometimes in tension (Nurrohmah, 2020, p. 119).

Women's own voices in this debate are increasingly assertive. Many Muslim women articulate the view that legal rulings should reflect their lived experiences, which include capabilities for autonomous travel, decision-making, and moral judgment. These women do not necessarily reject Islamic law, but call for an interpretation that acknowledges their dignity and reality. Their agency is shaping how the maḥram requirement is received, resisted, or reinterpreted in various communities.

Ultimately, the application of the maḥram rule in modern contexts depends not only on textual interpretation but also on the social, political, and institutional forces that mediate legal authority. The rule's transformation—or persistence—is often less about the text itself than about how that text is embedded in structures of power, tradition, and cultural negotiation. This insight underscores the importance of a holistic approach to Islamic law—one that integrates theological rigor with contextual awareness and gender sensitivity.

Reinterpretation and Legal Pluralism

Reinterpretation, or *tajdīd*, plays a central role in maintaining the relevance of Islamic law across changing times and spaces. The maḥram requirement for women's travel has been among the issues most frequently revisited in recent decades. Scholars, activists, and juristic councils have increasingly emphasized the need to move beyond rigid literalism and toward interpretive frameworks that accommodate legal pluralism, contextual realities, and gender equity. This movement is not a rejection of tradition but a methodical process of re-engagement with the textual and ethical sources of Islamic law.

Legal pluralism in the Muslim world means that different schools of thought, national laws, and institutional fatwas often coexist. For example, while the Shāfi'ī school—which predominates in Indonesia—upholds strict interpretations of the maḥram rule, Indonesian Islamic legal bodies like the MUI have issued fatwas that accommodate solo female travel in modern, safe conditions (Rahmawati, 2018, p. 119). This pluralism permits local scholars to apply the spirit of Islamic law in ways that reflect community needs and realities.

Some scholars argue for a *fiqh al-nawāzil* (jurisprudence of emerging issues) approach, which acknowledges that new circumstances can generate new rulings. This approach involves recognizing how social change, such as increased women's participation in public life, necessitates fresh legal reasoning. Kamali (2010, p. 198) notes that Islamic law must remain "responsive to time and space" if it is to serve its maqāṣid—especially those related to justice and human dignity.

Islamic feminist thinkers have further expanded this argument by asserting that women's experiences and perspectives must inform the process of reinterpretation. Wadud (1999, p. 103) emphasizes the use of *tafsīr* (exegesis) that is holistic, ethically guided, and inclusive of women's voices. This methodological shift challenges male-dominated jurisprudence and demands that reinterpretation address the power imbalances that have historically excluded women from the domain of legal authority.

In Saudi Arabia, the mahram rule has undergone one of its most visible transformations. State policy, once aligned with the most conservative interpretations of Islamic law, has recently shifted toward liberalization. Women can now travel, work, and study without male permission. Though critics argue that these changes are politically motivated rather than theologically driven, they demonstrate how institutional power can reconfigure legal norms—raising the question of who has the authority to interpret and apply the shari'a.

This question of authority is central to legal pluralism. In countries like Egypt, Malaysia, and Indonesia, multiple institutions—state muftis, religious universities, and civil courts—produce competing legal opinions on the same issue. The mahram rule, when filtered through these institutions, becomes a contested space of negotiation between conservative jurists, reform-minded scholars, feminist activists, and state authorities. Each actor invokes different sources of legitimacy: textual fidelity, public interest, rights discourse, or national policy.

Such diversity can lead to both empowerment and confusion. On one hand, it allows Muslim women to seek legal opinions that align with their realities and aspirations. On the other hand, it may create inconsistencies and contradictions in law enforcement, as seen when court rulings permit a woman to travel while religious leaders advise otherwise. This tension reveals the challenges of applying Islamic law in pluralistic and globalized societies (al-Qarāḍāwī, 2006, p. 214).

Reinterpretation also invites a renewed examination of foundational sources. The Qur'an itself does not explicitly mandate a mahram for travel; rather, it emphasizes general principles of safety, modesty, and trust. The heavy reliance on ḥadīth for this rule, while legally significant, should be weighed against broader Qur'anic ethics. Scholars such as Fazlur Rahman and Amina Wadud argue for a *macro-moral reading* of scripture—prioritizing divine values like justice, compassion, and equity over isolated rulings.

This ethical approach to reinterpretation opens the door to rule revisions that remain true to Islamic jurisprudence while also responsive to modern contexts. It does not dismiss the ḥadīth or traditional fiqh but rather seeks to place them within a framework of evolving human experience. As society changes, so too must the application of legal principles, provided that reinterpretation is done by qualified scholars using sound methodologies.

In sum, legal pluralism and reinterpretation represent essential tools for reconciling the mahram rule with contemporary gender and social realities. They illustrate that Islamic law, far from being monolithic or static, possesses mechanisms for flexibility, adaptation, and reform. This reality affirms that faithfulness to the shari'a does not preclude reform—but rather demands it in the service of justice and human dignity.

Hadith, Jurisprudence, and Gender: Reinterpreting the Travel Restriction for Muslim Women

Synthesizing the findings of this study reveals a complex interaction between prophetic traditions, juristic interpretation, and gendered social constructions. At the core of the travel restriction for women without a *maḥram* is the body of *ḥadīth* literature, which has been treated by classical jurists as the authoritative foundation for this ruling. However, upon closer textual and contextual examination, these narrations invite a more nuanced analysis.

"Shari'a is not a body of rules frozen in the past, but a dynamic process guided by ethical objectives." — Mohammad Hashim Kamali (2010, p. 174)

The principal narration often cited is found in *Ṣaḥīḥ al-Bukhārī* (ḥadīth no. 1862) and *Ṣaḥīḥ Muslim*, where the Prophet pbuh is reported to have said: "A woman must not travel a journey of a day and a night unless she is accompanied by a *maḥram*." Other narrations vary in distance and duration: "three days," "two days," or "one day and night." The inconsistencies in the measurement of travel time have led scholars like Ibn Ḥajar al-ʿAsqalānī to conclude that the ḥadīth's literal wording may not be the absolute intent, and the prohibition should be understood in light of its purpose—namely, safeguarding the woman from harm (Ibn Ḥajar, 1994, p. 308).

"The variance in narrations shows that the Prophet's instruction was driven by precaution, not fixed legislation." — Ibn Ḥajar al-ʿAsqalānī, *Fath al-Bārī*, vol. 4

Moreover, scholars have debated the scope and applicability of these narrations. Some classical scholars interpreted the ḥadīth strictly, applying it to all forms of travel regardless of purpose or context. Others, such as al-Shawkānī, observed that the intent of the Prophet pbuh was likely contextual and responsive to the dangers of 7th-century Arabia. Travel at the time involved extended exposure to ungoverned and perilous routes, banditry, and absence of public infrastructure. Women traveling alone in such conditions faced real physical threats. Hence, the prohibition was not due to an ontological deficiency in women but rather a practical measure of protection.

"The Prophet's legal rulings were often circumstantial, addressing specific threats or realities facing the early Muslim community." — al-Shawkānī, *Nayl al-Awṭār*, vol. 4

An important counter-narration used in legal arguments is the report of ʿAdī ibn Ḥātim, recorded in *Ṣaḥīḥ al-Bukhārī*, in which the Prophet pbuh predicted a future scenario: "If you live a long life, you will see a woman travel from al-Ḥīra (in Iraq) to perform *ṭawāf* of the Kaʿba fearing none but Allāh." This ḥadīth is frequently cited by scholars to demonstrate the Prophet's vision of a future in which societal stability and security

would negate the need for a *maḥram*. The implication here is transformative—if the rationale for requiring a *maḥram* (i.e., safety) is fulfilled through other means, then the legal obligation may no longer apply.

"The hadith of 'Adī ibn Ḥātim is not only a prophecy but a legal indicator of conditional rulings based on societal change." — Kamali (2010, p. 196)

Furthermore, ḥadīth narrations that link the *maḥram* condition specifically to the *ḥajj* pilgrimage add further complexity. While some reports prohibit women from undertaking *ḥajj* without a *maḥram*, others—including those found in the *Sunan* collections—report the Prophet pbuh allowing women to perform *ḥajj* in groups of trusted companions. Jurists such as al-Nawawī attempted to reconcile these narrations by distinguishing between obligatory and supererogatory *ḥajj*, or between the presence of trustworthy companions versus complete solitude. Yet these reconciliations highlight that context and condition were always part of the juristic calculus, even in early Islam.

"If the path is secure and the companions trustworthy, the woman may perform Hajj without a maḥram, especially if the Hajj is obligatory." — al-Nawawī, Al-Majmū' Sharḥ al-Muḥadhdhab, (1996, vol. 7, p. 76)

Modern scholars also emphasize that the ḥadīth were not revealed in a vacuum but were responses to actual questions or observed scenarios. Thus, interpreting them in a timeless, absolute fashion contradicts the dynamic, situational nature of the Prophet's legal reasoning. For instance, the prohibition may have applied to women in environments where male protection was necessary due to tribal conflict or lawlessness. This is reinforced by the fact that the Prophet pbuh sometimes changed his legal opinions based on evolving conditions, as seen in rulings on *zakāt*, fasting, and marriage.

"The Prophet pbuh changed his position based on new revelations or changing circumstances, underscoring flexibility as a prophetic method." — Wael Hallaq (2005, p. 202)

The synthesis of ḥadīth narrations shows that the prohibition on solo female travel was never monolithic. It was shaped by time, risk, and necessity. The Prophet pbuh himself provided visions of change and safety that permitted independent travel when the conditions were right. This flexible hermeneutic was carried forward by jurists who, although largely patriarchal in approach, left conceptual space for reinterpretation based on *'urf*, *darūra*, and *maṣlaḥa*.

"The objective of the rule is protection, and when protection is ensured by other means, the ruling should be reconsidered." — Yūsuf al-Qarāḍāwī, Fiqh al-Awlawiyyāt (2006)

Therefore, in reexamining the *maḥram* requirement today, it is essential to move beyond the surface text of the ḥadīth and engage with their functional rationale and historical embeddedness. This approach does not dismiss the prophetic tradition but reclaims it as a source of ethical guidance adaptable to changing human conditions. When the foundational purpose of a rule is understood, its application can be restructured in ways that remain faithful to the *sharīʿa* while upholding gender justice and human dignity.

"A contextual reading of the Hadith affirms that law must serve justice, not obstruct it."
— Amina Wadud, *Qur'an and Woman* (1999, p. 88)

In light of these perspectives, the reinterpretation of the *maḥram* requirement is not merely an intellectual exercise but a necessary legal and moral endeavor. Upholding justice as a central aim of *sharīʿa* demands that rulings be re-evaluated when their original conditions have fundamentally changed. Far from undermining Islamic tradition, this approach affirms its vitality, responsiveness, and relevance to the lived realities of Muslim women today. It encourages a jurisprudence that remains faithful to divine guidance while embracing the ethical responsibility to preserve dignity, equity, and the public good in every generation.

CONCLUSION

The findings of this study demonstrate that the *maḥram* requirement for women's travel, while deeply rooted in Islamic jurisprudence and prophetic tradition, is neither uniform in its application nor immutable in its interpretation. Classical scholars approached the issue with an emphasis on social and moral stability within the contexts of their time, prioritizing safety and communal ethics. Yet their rulings, though authoritative, were shaped by historical realities that no longer hold the same force in contemporary society.

As modern conditions continue to evolve—with improved security, accessible infrastructure, and increased female participation in all aspects of public life—the foundational reasons for restricting women's mobility merit serious reconsideration. This study reveals that Islamic legal theory contains within it the tools for contextual reinterpretation, especially through the principles of *maqāṣid al-sharīʿa*, *maṣlaḥa*, and *ʿurf*. These allow the law to retain its ethical core while adapting to shifting social landscapes.

Moreover, gender analysis uncovers how legal discourse has often mirrored patriarchal structures, limiting women's autonomy under the guise of protection. Reassessing the *maḥram* rule is not an act of legal subversion but one of moral and theological integrity—ensuring that Islamic rulings promote justice, dignity, and relevance in the

lives of contemporary Muslims. Reinterpreting the rule in light of current realities and prophetic flexibility offers a path toward a more inclusive and equitable legal practice.

Therefore, this research supports a more dynamic, gender-conscious application of Islamic law, where women's autonomy and moral agency are respected within the ethical framework of the *sharī'a*. It invites scholars, jurists, and communities to reconsider inherited norms not as static relics, but as living discourses meant to serve human welfare in ever-changing contexts.

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