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The “Islamic State” (IS) as Proponent of Neo-Ahlḥadīth Manhāj on Gender Related Issues

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Abstract

It is the aim of this article to examine several gender related practices considered religiously normative by the IS and deconstruct the religious justifications behind them. In the analysis I include the practices pertaining to the all-pervasive nature of gender segregation, obligatory nature of the face-veil (niqāb) and the institution of concubinage through means of enslavement of ‘pagan’ female war captives. In this context I will argue that from interpretational methodology point of view, the IS’ stance on gender under discussion are identical with the neo-ahl ḥadīth approach to interpretation (manhāj) of the Qur’ān and Sunna as advocated by major contemporary Saudi Arabian scholars such as N. Al-Albanī (d. 1999), A. Bin Bāz (d. 1999), M. Al-Uthaymīn (d. 2001), Ṣ. al-Fawzān (b. 1933), M. Ṣ. Al-Munājīd (b. 1960), Ibn Jibrīn (d. 2014) and H.R. Al-Madhkhālī (b. 1931). I also briefly note that in many ways the broader Sunnī traditionalist approach as exemplified in “Open-letter to Baghdādī Document” which aims to refute IS interpretation of the normative texts, shares many hermeneutically critical presuppositions, and therefor legal determinations, with that of the neo-ahl ḥadīth in relation to the gender issues under discussion.

Keywords

Islamic State – ahl ḥadīth – ahl ḥadīthmanhāj – neo- ahl ḥadīth – Sunnī traditionalism – Qur’ān – Sunna – ḥadīth – open-letter to Baghdādī – veiling – niqāb – Saudi Arabia – slavery – concubinage – women and gender in Islam – Islamic law – Islamic hermeneutics

1 Introduction

Since establishing what it considers to be an Islamic State (IS) (*al-Dawla al-Islāmīya*), on 29th of June 2014 under the leadership of an Iraqi individual by the adopted name of Abu Bakr Al-Baghdādī (b. 1971),¹ the IS has attracted an avalanche of analysis, both academic and lay, from a number of different perspectives including the narratives pertaining to its religious origins and the sources of its religiously inspired *worldview*.² In particular, a large bulk of commentary has focused on IS religiously sectioned violence and brutality once again triggering questions over 'Islam's' normative relations to them.³ In this context a number of commentators have deliberated on the affinities between the IS version of Islam and that prevalent in the Kingdom of Saudi Arabia including its social laws and norms such as beheadings, strict and all-encompassing gender segregation, mandatory niqāb veiling, and all pervasive patriarchy.⁴ Recently introduced changes in the religious studies curriculum imposed by the IS are a clear testament to this close affinity.⁵ Namely, as reported by al-Monitor, the IS has in essence copied the religious studies curricula currently being taught in Saudi Arabia "without making any major changes to them."⁶

It is the aim of this article to examine several gender related practices considered religiously normative by the IS and deconstruct the religious justifications behind them. In the analysis I include the practices pertaining to the

1 Ibrahim al-Badri al-Samarrai is his real name. He received his Ph.D. in Islamic jurisprudence from Faculty of Islamic Studies at Baghdad University. A short biography of his can be found here: <http://news.siteintelgroup.com/blog/index.php/entry/226-the-story-behind-abu-bakr-al-baghdadi>.

2 For an excellent brief overview of ISIS—related analysis in the Middle East see I. Eido, *ISIS: The Explosion of Narratives—The Land of the Revolution Between Political and Metaphysical Eternities*, http://www.jadaliyya.com/pages/index/19475/isis_the-explosion-of-narratives_the-land-of-the-, accessed 13th October, 2014.

3 See for example, T. Daniels, *Islam: a religion of peace*, <http://asiapacific.anu.edu.au/newmandala/2014/10/06/islam-a-religion-of-peace-2/>, accessed 13th October, 2014.

4 Adam Yaghi, On the Altar of ISIS: Difference, Plurality, and the Roots of Contemporary Violence in the Middle East, *Just Peace Diplomacy Journal*, 9 (2014): 1–18.

5 Especially as shall be argued below in terms of their approaches to the interpretation of the Qur'an and Sunna.

6 http://www.al-monitor.com/pulse/originals/2014/10/islamic-state-impose-education-program-iraq-syria.html?utm_source=Al-Monitor+Newsletter+%5BEnglish%5D&utm_campaign=09f4e32228-October_22_2014&utm_medium=email&utm_term=0_28264b27a0-09f4e32228-93079261.

all-pervasive nature of gender segregation, obligatory nature of the face-veil (niqāb) and the institution of concubinage through means of enslavement of ‘pagan’ female war captives. In this context I will argue that from interpretational methodology point of view, the IS’ stance on gender under discussion are very much in accordance with the neo-ahl ḥadīth approach to interpretation (manhāj)⁷ of the Qur’ān and Sunna as advocated by major contemporary Saudi Arabian scholars such as N. Al-Albanī (d. 1999), A. Bin Bāz (d. 1999), M. Al-Uthaymīn (d. 2001), Ş. al-Fawzān (b. 1933), M. Ş. Al-Munajjid (b. 1960), Ibn Jibrīn (d. 2014) and H.R. Al-Madhkhālī (b. 1931)⁸ and their students or associates.⁹ I will also briefly historically contextualize and explain the main contours of the ahl-ḥadīth thought and deconstruct some interpretational assumptions that underpin their manhāj in the final section especially those which can shed light as to why these scholars consider these practices religiously normative. To contextualize the paper I, however, start with the analysis of the “Open-letter to Baghdādī Document” and the arguments employed by those who have formulated the latter in ‘refuting’ the gender related practices and points of doctrine espoused by the IS. In this context I wish to argue

7 I will use phrases “approach to interpretation”, “methodology of interpretation” and manhāj interchangeably.

8 Al-Albanī taught ḥadīth among others at University of Medina. For more see Mohammad Al Ali, *Muhammad Nasir Al-Din Al-Albani: Muhaddith Al’asr Wa Nasir Al-Sunna* (Damascus: Dar al Qal’a, 2001). Bin Baz was the former Grand Mufti of Saudi Arabia. See ‘Shaykh ‘Abdul-‘Azeez Ibn ‘Abdullaah Ibn ‘Abdur-Rahmaan Ibn Baaz’, Fatwa Online, <http://www.fatwa-online.com/scholarsbiographies/15thcentury/ibnbaaz.htm>. Accessed 27 June 2013; Shaykh Saalih bin Fawzaan al Fawzaan, Fawzan.co.uk, <http://www.fawzan.co.uk/>. Accessed 27 June 2013. Al-Uthaymīn taught Religious Fundamentals at the Shari’ah Faculty of Ibn Sa’ud Islamic University, Riyadh. Al-Madhkhālī was a student of Bin Bāz and Al-Albanī. For his status and significance for contemporary NTS see Roel Meijer, ‘Politicising Jarh Wal Ta’dil: Rabi Hadi Al Madkhali and the Transnational Battle for Religious Authority’, in *The Transmission and Dynamics of the Textual Sources of Islam, Essays in Honour of Harald Motzki*, ed. Nicolet Boekhoff-van der Voort, Kees Versteegh, and Joas Wagemakers (Leiden: Brill, 2011), pp. 375–99. Şālih al-Munajjid is a well known founder of a popular Salafī web site IslamQA.info. Al-Fawzān, is a student of Bin Bāz <http://www.it-rx.com/Salafi-scholars/scholarsbiographies/15thcentury/ibnfowzaan.htm>. Ibn Jibrīn (d. 2014) was a senior cleric who sat on the General Presidency of Scholarly Research and Ifta <http://www.saudigazette.com.sa/index.cfm?method=home.regcon&contentID=2009071443654>.

9 I have elsewhere described this approach as neo-traditional Salafism as an alternative to neo-ahl ḥadīth See. *Constructing A religiously ideal ‘Believer’ and ‘Woman’ in Islam: Neo-traditional Salafī and Progressive Muslims Methods of Interpretation* (Palgrave, 2011) For a list of the major contemporary neo-ahl ḥadīth scholars see <http://www.marabic.com/scholarsbiographies/15thcentury/index.htm>, accessed 16th October.

that the Open letter to Baghdādī is but one example of continued debates on the relative status and authenticity of the various sources of legal authority in the Islamic legal tradition as exemplified in the debates between madhhab—based Sunnī traditionalists and those of the ahl-ḥadīth based madhhab.

2 Open Letter to Baghdādī vs. IS: Sunnī madhhab-based traditionalism vs. ahl-ḥadīth madhhab

The question over the relative status and authenticity of the various sources of legal authority in the Islamic legal tradition have, since its very conception, been contested and subject to intense intra-Muslim debates. Hence, there is a long history of antagonism between what eventually in crystalized as proponents of the major madhhab—based Sunnī traditionalists (here exemplified in those scholars who have formulated the Open Letter) and those of the ahl-ḥadīth madhhab (those using violence like the IS or not) that continues to this very day. Stated in very broad terms these include interpretational disagreements regarding the relationship between reason and revelation, the nature and the scope of the concept of sunna and its hermeneutical, epistemological and methodological relationship with the Qur’ān and ḥadīth bodies of knowledge.¹⁰ Some of these differences are clearly apparent in the arguments employed in the ‘refutation’ letter known as the “Open Letter to Baghdādī” with respect to various acts and points of doctrine espoused by the IS, some of which relate to gender issues.

In what follows I will briefly describe these ‘refutations’ with specific reference to the kind of sources of legal authority that are being employed in the arguments to highlight their nature and the kind of arguments that have been employed with special reference to those pertaining to methodology and gender. In the subsequent section I provide evidence that the idea of the obligatory nature of niqāb, the institution of concubinage and the insistence on all pervasive gender segregation that are propagated as religiously normative by the IS and that have attracted disapproval from traditionalists as per the “Open letter to Baghdādī” document, are very much faithful to neo-ahl ḥadīth manhāj as articulated by the most prominent contemporary Saudi Arabian scholars and their worldwide sympathizers and followers. I also note that the beliefs regarding gender ideologies and major hermeneutical presuppositions on which the examined IS gender related practices, including, for example, veiling and stoning to death as corporal punishment for adultery, are in substance also shared

¹⁰ See our discussion below.

by the proponents of Sunnī madhhab-based traditionalism. In the final section I deconstruct some of the assumptions behind the ahl-ḥadīth manhāj and how they help us understand the nature of religious justifications employed by the IS in justifying their gender practices and policies under discussion.

2.1 *Methodology of Interpretation Based Refutations of IS in the Open Letter to Al-Baghdādī*

The traditional Sunnī scholars in their “Open letter to Baghdādī”¹¹ purport to repudiate the theological and legal frameworks and arguments guiding the actions of the IS. In this section of the article we are interested in those pertaining to methodology of interpretation. In order to contextualize this discussion and hopefully gain a better grasp of the subject matter we need to briefly provide a general¹² insight into the delineating feature of main interpretational approaches to the Islamic tradition.

The primary source of religious guidance, including matters pertaining to law, is the Islam’s Holy Book, the Qur’ān. As it became evident to early generations of Muslims that the Qur’ānic content is often in need of commentary, elucidation and explanation, the Islamic tradition, basing itself on some verse in the Qur’ān, developed a doctrine of the religious obligation to follow the Prophet’s Muhammad’s embodiment of the Qur’ānic guidance, through whom Muslims believe the Revelation was revealed to humanity. This explanation and elucidation of the Qur’ānic message was termed *sunna*, a term which existed in pre-Islamic Arabia designating exemplary conduct of an influential individual worthy of emulation. According to this traditional Islamic doctrine Prophet Muhammad as the recipient of the Qur’ānic revelation is considered to be best ‘qualified’ or the most authoritative person to interpret, comment on and elucidate the Qur’ānic message in order to provide guidance for the believers.

In addition to the doctrine of *sunna* there are other concepts and principals which have a direct bearing on understanding differences in interpretation between different approaches. In Sunnī Islam, the idea of the interpretational authoritativeness of the *salāf-us-sāliḥ* (generally understood to be the

11 The letter was released on the 25th of September 2014 and written and/or endorsed by over 100 traditional Sunnī scholars from around the world. It is meant to represent a majority Sunnī traditional view on the subject matter of the letter as “everything said here consists of synopses written in a simple style that reflect the opinions of the overwhelming majority of Sunnī scholars (*‘ulamā’ahl-sunna*) over the course of Islamic history”. <http://lettertobaghdadi.com>, p. 2.

12 A more detailed discussion will follow in the final section.

first three generations of righteous Muslims)¹³ of the Qurʾān and sunna arose according to which the temporal proximity of these generations of Muslims to the time of revelation and the Prophet Muhammad and their (perceived) immense contribution to Islam means that their (methods of) interpretation of the Qurʾān and sunna, if evaluated as being authentically originating from them, are to be privileged over those of later Muslims.¹⁴

Now going back to the concept of sunna mentioned earlier it is important to bear in mind that to some Muslims the concept of sunna found its expression in the numerous oral reports later put down in writing, known as the ḥadīth, that have been collected over the period of the first two to three centuries of Islamic history which contain information transmitted through a chain of transmitters reportedly going back to the Prophet himself about what he said, did or tacitly approved of. In a similar fashion to Sunnī ḥadīth there are Shīʿī ḥadīth that report, again through a chain of transmitters considered authentic, what the Prophet or the Imams might have said, done or tacitly approved of. Now because some relatively small sections of the Qurʾān contain matters of legal import and because Prophet Muhammad (and the Prophets' most notable Companions and Imams) are reported to have adjudicated upon legal matters that have arisen during his twenty or so years of Prophethood, Muslims, over time, developed a body of knowledge which deals with the methodology of interpretation of the Qurʾān and sunna for the purposes of explicating laws for the benefit of guidance of the believers in their daily lives. In the early Muslim history this body of knowledge was known as *fiqh*, a word connoting human understanding of the evidence that could be found and deduced in the Qurʾān and sunna on a particular matter of legal import.

Over time a number of Islamic schools of law and sophisticated legal theories were developed which interpreted the Qurʾān and the Sunna. From then on every new generation of Muslims approached the interpretation of the Qurʾān and Sunna in following ways: 1. By engaging them in the light of previously established legal theories rather than directly. This method is known as *taqlīdī* method. It has given rise to this what is here termed scholastic traditionalism as espoused for example by those who have formulated the "Open Letter to Baghdādī Document"; 2. By largely circumventing the *taqlīdī* method and insisting on a methodology which engages the Qurʾān and ḥadīth texts

13 Although, technically speaking this is also subject to contestation between ahl-ḥadīth and madhhab based manāhij since both of them consider to be following the manhāj of the salāf-us-sāliḥ. See Duderija, *Constructing*, Chapter one.

14 In Shīʿīsm, this interpretational precedence was bestowed on the Prophet's grandsons and their progeny (known as Imams or religious leaders of the Muslim community).

directly in addition to the (supposed interpretational) consensus of the early generations of Muslims.¹⁵ This method branches into two distinct approaches, namely the one which prioritises the Qurʾān and its reason based interpretation for purposes of law explication and has a relatively critical stance towards the authenticity of the majority of ḥadīth texts (usually referred to as modernism as associated with scholars such as M. Abduh and his disciples) and another one which prioritises ‘sound’ ḥadīth based interpretation of Qurʾān and Sunna over that of reason and reason dependent interpretational principles (e.g. *istislah*, *istiḥsān*) and applies it to the realm of Islamic law (here termed [neo]-ahl- ḥadīth *manhāj*); 3. By discarding the validity of ḥadīth as sources of Islamic legal authority all together (but not necessarily the concept of Sunna) and, hence, basing Islamic Law entirely on the Qurʾān. This is the least representative method; 4. By combining 1. and 2 (the progressive version) in addition to interpreting the Qurʾān and Sunna in light of contemporary knowledge in humanities and social sciences. We refer to this approach as critical/progressive.¹⁶ It is also important to note that the first three approaches, in terms of their sources of and the manner of authenticating of knowledge (i.e. epistemology and methodology), are in their entirety pre-modern based and are governed solely by classical traditional sciences developed by classical Muslim scholars. These approaches do not have internal hermeneutical mechanisms which would enable them to integrate post-classical episteme and methodologies when interpreting the Qurʾān and Sunna.¹⁷ Indeed, they *a priori* reject these as inauthentic and invalid.

Now going back to the Open letter to Al-Baghdādī document, the traditionalists have condemned the IS for adopting a deviant methodology on the following grounds and I quote:

1. It is forbidden in Islam to issue *fatwas* without all the necessary learning requirements. Even then *fatwas* must follow Islamic legal theory as defined in the Classical texts. It is also forbidden to cite a portion of a

15 On the misleading nature of the claim see J. Brown, “Is Islam Easy to Understand or Not?: Salafis, the Democratization of Interpretation and the Need for the Ulema”, *Journal of Islamic Studies* first published online December 10, 2014 doi:10.1093/jis/etu081.

16 See Duderija, *Constructing*.

17 The main reasons for this is the concept of the concept of Salafism to which both major madhhab and ahl-ḥadīth *manāhij* subscribe. In this context Salafism implies a subscription to an epistemologically entirely pre-modern episteme that lacks internal hermeneutical mechanisms to incorporate ethical values and system of ethics that were not prevalent at the time of the formative and classical periods of Islamic thought into its ethical and legal canon. For more on the concept of Salafism see our main discussion below.

verse from the Qur'ān—or part of a verse—to derive a ruling without looking at everything that the Qur'ān and *Ḥadīth* teach related to that matter. In other words, there are strict subjective and objective prerequisites for *fatwas*, and one cannot 'cherry-pick' Qur'ānic verses for legal arguments without considering the entire Qur'ān and *Ḥadīth*.

2. It is forbidden in Islam to issue legal rulings about anything without mastery of the Arabic language.

3. It is forbidden in Islam to oversimplify *Shari'a* matters and ignore established Islamic sciences.

4. It is permissible in Islam [for scholars] to differ on any matter, except those fundamentals of religion that all Muslims must know.

5. It is forbidden in Islam to ignore the reality of contemporary times when deriving legal rulings.¹⁸

To support point one by quoting Qur'ānic verses such as (2:85); (5:13) and (15:91) as well as opinions of Al-Shafī'ī and Al-Juwaynī, Al-Ghazālī and Al-Suyūtī, the traditionalists have stated that the proper methodology of interpreting the Qur'an and hadith consists of a holistic rather partial approach to evidence.¹⁹

Traditionalists also insist that for a proper understanding/interpretation of Qur'ān and Sunna²⁰ one needs to not only master the Arabic language but also pay attention to classical legal theory principles such as the distinction between the 'general' ('amm) and the 'specific' (khās), the 'conditional' (muqīd) from the 'unconditional' (muṭlaq). Also, the 'unequivocal' (muḥkamāt) from the allegorical (mutashābihāt) as well as be mindful of circumstances for revelation (*asbāb al-nuzūl*) for all the passages and verses, "in addition to all the other hermeneutical conditions that the classical imams have specified."²¹ The traditionalists' letter considers that this methodology is in accordance with the views of prominent Sunnī classical legal theorists such as those cited above.²²

18 <http://lettertobaghdadi.com/>, p. 1.

19 <http://lettertobaghdadi.com/>, p. 3. God says: '... What, do you believe in part of the Book, and disbelieve in part? ...' (Al-Baqarah, 2:85); '... they pervert words from their contexts; and they have forgotten a portion of what they were reminded of ...' (Al-Ma'idah, 5:13); '... those who have reduced the Recitation, to parts' (Al-Hijr, 15:91).

20 The Arabic version of the letter employs the term sunna while the English translation uses the word ḥadīth. This is, strictly speaking, from Islamic legal theory perspective, as shall be demonstrated below, problematic.

21 <http://lettertobaghdadi.com/>, p. 3.

22 In the quote from Al-Juwaynī's work *Al-Burhān fi Uṣūl Al-Fiqh regarding the necessary qualifications for a mufti* reference to additional classical Islamic legal theory principles are added including the knowledge of abrogation (naskh wa mansūkh), the knowledge of

The traditionalists also accuse IS of oversimplifying (*istishāl*) of matters in legal methodology or cherry-picking extracts from the Qurʾān without understanding it within its full context and without interpreting them on the basis of a sound legal theory. Staying faithful to the principle of salafism,²³ the traditionalists argue that “only a small number of Companions were qualified to issue fatwas’ despite the fact that all Companions “were greater than all of us in understanding, jurisprudence and intellect”. The letter goes on to quote Qurʾān : ‘... Say: “Are those who know equal with those who do not know?...”’ (Al-Zumar, 39:9), : ‘... Ask the People of the Remembrance if you do not know:’ (Al-Anbiya’, 21:7); and: ‘... If they had referred it to the Messenger and to those in authority among them; those among them who are able to think it out, would have known it from them ...’ (Al-Nisa’, 4:83) to make a point that “jurisprudence is no simple matter”, and that “not just anyone can speak authoritatively on it or issue fatwas (religious edicts).” To further substantiate this claim they quote Qurʾān: ‘... But only people of cores remember.’ (Al-Ra’d, 13:19) and the ḥadīth of the Prophet Muhammad said: ‘Whoever speaks about the Qurʾān without knowledge should await his seat in the Fire.’²⁴ In short, the traditionalist claim that IS methodology of interpretation goes against that of the “understanding and discernment as the noble Companions and the imams of the Pious Forebears (*salāf-us-sāliḥ*).”²⁵

The letter also distinguishes between blameworthy and praiseworthy differences in opinion which is substantiated on the basis of two Qurʾānic verses²⁶ and is attributed to the founders of the major four *madhāhib*. The letter also argues, on the basis of a number of Qurʾānic verses and two ḥadīth, that in the case of praiseworthy differences in opinion the more merciful (*arḥām*) one is to be followed.²⁷

Finally, the letter argues that in order to understand and interpret Qurʾān and sunna correctly this must be done in accordance with the principles of *al-fiqhal-wāqiʿ* which they define as

classical ḥadīth methodology, knowledge of the principles of legal ruling (*uṣūl ul ahkām*), knowledge of jurisprudence (*fiqh*) and history, legal intuition (*fiqh -ul -nafs*) and those pertaining to the knowledge of Arabic, its grammar, syntax etc.

23 See fn 17.

24 <http://lettertobaghdadi.com/>, p. 4. The reference provided in the letter is given as “Narrated by Al-Tirmidhi in Tafsir Al-Qur’an, no. 2950.”

25 <http://lettertobaghdadi.com/>, p. 4. By that they also imply that the traditionalist’s methodology, unlike that of IS, is in agreement with it.

26 (Al-Bayyinah, 98:4); (Al-Baqarah, 2:213).

27 <http://lettertobaghdadi.com/>, pp. 4–5.

process of applying Shari'ah rulings and dealing with them according to the realities and circumstances that people are living under. This is achieved by having an insight into the realities under which people are living and identifying their problems, struggles, capabilities and what they are subjected to. Practical jurisprudence (al-wāqī') considers the texts that are applicable to people's realities at a particular time, and the obligations that can be postponed until they are able to be met or delayed based on their capabilities.²⁸

The traditional scholars also attribute this view to Al-Ghazalī and Ibn Qayyim Al-Jawziyya.²⁹

2.2 Gender related Refutations of IS by in the Open Letter to Al-Baghdadi

In relation to gender issues the traditionalists in the letter have criticized the IS on the basis of their illegitimate reintroduction of (sexual) slavery, their denial of "women's rights" in terms of the dress code imposition, freedom of movement restrictions and, without questioning their normative status, the zealous and inappropriate application of *ḥudūd* such as stoning to death for adultery.

In relation to re-introduction of (sexual) slavery it is argued in the letter that this practice is forbidden in Islam on the grounds that the practice was abolished by the universal consensus of Muslim scholars and that "No scholar of Islam disputes that one of Islam's aims is to abolish slavery"³⁰ and on the basis that the institution of slavery was something that "Shari'ah has worked tirelessly to undo". In support of this view, they proffer Qur'ānic verses 'And *what will show you what the obstacle is?, the freeing of a slave, or to give food on a day of hunger*' (*Al-Balad*, 90:12–14); and: '*... then [the penalty for them is] the setting free of a slave before they touch one another . . .*' (*Al-Mujadilah*, 58:3).

They also argued that abolition of slavery was part of the Prophet Muhammad's Sunna as it is reported that he himself is that he freed all male and female slaves who were in his possession or whom had been given to him. To substantiate this claim the scholars referred to Ibn Kathīr's *Al-Bidāya wal-Nihāya* (Vol. 5, p. 284) in which he says: "The Prophet(s) freed male and female slaves . . . and after the Prophet(s) died, there were absolutely no slaves of his to be inherited. . . ."³¹

28 Ibid., p. 5.

29 Ibid.

30 Ibid., p. 12.

31 Ibid., p. 12. On the problematic nature of these claims see for example Kecia, Ali, *Sexual Ethics and Islam: Feminist Reflections on Qur'an, hadith and Jurisprudence*, Oxford, Oneworld, 2006, 39–52.

The letter also condemns the IS denial of what it [i.e. the letter] terms in very general terms “women’s rights”.³² In this respect it refers to the IS and more specifically Al-Baghdādī’s treatment of women as that of “detainees and prisoners” who have to “dress according to your whims”; and who are not allowed to leave their homes, go to school, to work/ earn a living,³³ move freely and are forced into marriages with the IS fighters. To refute these practices the scholars refer to a well-known ḥadīth according to which it is obligatory for every Muslim regardless of gender to be in pursuit of knowledge³⁴ and the Qur’ānic instruction to ‘*Read*’ (95:1) Scholars also cite Qur’an 4:1³⁵ as evidence that women have these rights as well as a ḥadīth of Prophet to ‘*Treat women well*’.³⁶

The letter also questions the manner³⁷ in which the ḥudūd punishment³⁸ have been carried out by the IS citing historical legal precedents of the need for their suspension under certain circumstances, that argument that they needed to be implemented with mercy and the idea that before the ḥudūd implemented highest burden of proof must be met.³⁹ Importantly, traditionalists do not question the literal application of ḥudūd (once the conditions have been met) as normative as they assert in the letter that: “*Ḥudūd* punishments are fixed in the Qur’an and *Ḥadīth* and are unquestionably obligatory in Islamic Law”. In this respect traditionalists merely accuse the IS of not adhering to the required burdens of proof.

The wearing of niqāb accompanied by jilbāb/abāya with no adornments, of particular size, shape and colours only (preferably black or other dull colors), is a mandatory policy of the IS.⁴⁰ The disapproval of this practice was alluded

32 It does not specify if by this they mean the rights of all women or Muslim women in particular.

33 Based on the reports such as the UN these claims are incorrect.

34 <http://lettertobaghdadi.com/index.php>, p. 13. cited evidence in the letter is given in this form: Narrated by Ibn Majah, no. 224, and by Al-Tabarani in al-Mu’jam al-Kabir (10/195).

35 *O people, fear your Lord, Who created you of a single soul, and from it created its mate, and from the pair of them scattered many men and women; and fear God by whom you claim [your rights] from one another and kinship ties. Surely God has been watchful over you.*

36 <http://lettertobaghdadi.com/index.php>, p. 14–15 cited evidence: Narrated by Al-Bukhari in Kitab al-Nikah, no. 5186; and by Muslim in Kitab al-Rida’, no. 1468.

37 <http://lettertobaghdadi.com/index.php>, p. 13.

38 According to the UN report On 21 August, a 31-year old man was stoned to death by ISIL after a self-appointed court sentenced him to death for adultery, http://www.ohchr.org/documents/countries/iq/unami_ohchr_poc_report_final_6july_10september2014.pdf p. 6.

39 <http://lettertobaghdadi.com/index.php>, p. 13.

40 <http://www.al-monitor.com/pulse/security/2014/02/isis-islamic-rule-raqqa-syria.html#;>
<http://english.alarabiya.net/en/News/middle-east/2014/08/01/Report-ISIS-orders-no>

to by the 'mainstream' Muslim scholars' refutation of Al-Baghdādī as a practice that is in accordance with his 'whims'.⁴¹ Indeed, numerous reports and video footage coming out of the IS' headquarters in the city of Raqqa testify to these practices being imposed on the population. Reports inform us that the IS has engaged in months long campaigns, including the setting up of billboards to show the requirements of proper niqābs,⁴² to lure women into wearing them. Once it gained total control of the area the IS issued a circular compelling women to wear the niqāb whose monitoring and enforcement is carried out by moral police patrols reminiscent to those found in Saudi Arabia. These patrols have the authority to punish women and their male guardians who violate the imposed niqāb dress codes.⁴³ In actual fact UNAMI/OHCHR received reports that a number of women who had refused to wear the veil were beaten by the IS patrols in Mosul. According to the same report

some female doctors went on strike because of the difficulty in doing their job with their faces covered. On 21 August, media reported that ISIL beat with sticks women who were not wearing the veil in markets in the city.⁴⁴

The mandatory imposition of niqābs is but one aspect and symbol of all pervasive gender segregation policy by the IS leadership and has been applied to virtually all public places including universities, cafes and shops.⁴⁵

gender-mixing-in-Mosul-universities.; <http://www.ibtimes.co.uk/life-under-isis-robbery-sex-slaves-headless-bodies-street-1459147>; Also video: <http://www.mirror.co.uk/news/world-news/watch-brave-woman-reveal-life-4319481>.

41 <http://lettertobaghdadi.com/index.php>, p. 12. As shall be argued later the dress code instructions regarding the size, shape and colour imposed by IS are founded on large body of ḥadīth-based evidence and as propagated by noted contemporary Saudi Arabian scholars as discussed below.

42 Such that it must not be translucent that it must cover all body parts, including the face and hands and that it should not resemble male attire or have any distinctive features. <http://www.al-monitor.com/pulse/security/2014/02/isis-islamic-rule-raqqa-syria.html#ixzz3G5rR3o2W>.

43 According to witness accounts at least two girls were flogged in an ISIS detention center for not wearing the proper *niqāb*. <http://www.al-monitor.com/pulse/security/2014/02/isis-islamic-rule-raqqa-syria.html#ixzz3G5rR3o2W>; <http://muftah.org/isis-gender-policing/#.VDyoXbDLeRY>.

44 http://www.ohchr.org/documents/countries/iq/unami_ohchr_poc_report_final_6july_10september2014.pdf, pp. 10–11.

45 <http://english.alarabiya.net/en/News/middle-east/2014/08/01/Report-ISIS-orders-no-gender-mixing-in-Mosul-universities.html>; <http://english.alarabiya.net/en/News/middle-east/2014/08/01/Report-ISIS-orders-no-gender-mixing-in-Mosul-universities.html>;

The IS, through their media outlets such as their monthly magazine “Dabiq” in its fourth issue published in October 2014 have defend their gender related policies, in particular the permissibility of sexual enslavement of pagan (‘mushrik’) women.⁴⁶ For example, in an article titled “The Revival of Slavery before the Hour” IS supports this view by citing the Qur’ānic verse 9:71,⁴⁷ the practice of *khums*,⁴⁸ as well as reports from Islamic history both at a time of the Prophet, his Companions and during the time of early Muslim conquests.⁴⁹ The UNAMI/OHCHR document based on reports coming from IS controlled areas in Syria and Iraq recount how Yazidi women and children who refused to convert were being allotted to IS fighters or were being raped and trafficked as slaves (‘*malak yamīn*’) in markets in Mosul and to Raqqa in Syria. Married

http://www.al-monitor.com/pulse/originals/2014/10/islamic-state-impose-education-program-iraq-syria.html?utm_source=Al-Monitor+Newsletter+%5BEnglish%5D&utm_campaign=09f4e32228-October_22_2014&utm_medium=email&utm_term=0_28264b27a0-09f4e32228-93079261.

- 46 Accordingly, the Islamic State dealt with this group as the majority of fuqahā’ have indicated how mushrikīn should be dealt with. In the cited article in Dabiq the IS states: Unlike the Jews and Christians, there was no room for jizya payment. Also, their women could be enslaved unlike female apostates who the majority of the fuqahā’ say cannot be enslaved and can only be given an ultimatum to repent or face the sword. After capture, the Yazidi women and children were then divided according to the Shari’ah amongst the fighters of the Islamic State who participated in the Sinjar operations, after one fifth of the slaves were transferred to the Islamic State’s authority to be divided as khums., <http://www.docdroid.net/j8dr/dabiq-magazine-issue-4.pdf.html>, p. 15.
- 47 Allah ta’āla said, {Successful indeed are the believers who are humble in their prayers, and who shun vain conversation, and who are payers of the zakāh, and who guard their modesty except from their wives or the [female slaves] that their right hands possess, for then they are not blameworthy, but whoever craves beyond that, such are transgressors} [Al-Mu’minūn: 1–7]., used English translation as in Dabiq, p. 17.
- 48 “A one-fifth share of the spoils of war and, according to the majority of Muslim jurists, of other specified forms of income, set aside for variously designated beneficiaries. The rules for the *khums* apply in the first instance to moveable property, which includes the captured slaves of the non-Muslim enemy. In the case of combatants taken prisoner and captive women and children”. A. Zysow “*Khums*.” *Encyclopaedia of Islam, Second Edition*. Edited by: P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs. Brill Online, 2014. Reference. University of Melbourne, 14 October 2014.
- 49 A newspaper report cites the existence of a question-answer pamphlet issued most probably by ISIS propaganda leadership which outlines the rules and regulation regarding the ‘correct’ treatment of sexual slaves which more or less repeats the same arguments found in the above mentioned Dabiq magazine. <http://www.independent.co.uk/news/world/middle-east/isis-releases-abhorrent-sex-slaves-pamphlet-with-27-tips-for-militants-ontaking-punishing-and-raping-female-captives-9915913.html>.

women who converted were told by IS that their previous marriages were not recognized in Islamic law and that they, as well as unmarried women who converted, would be given to IS fighters as wives.⁵⁰ UNAMI/OHCHR also received a number of reports that an office for the sale of abducted women was opened in the al-Quds area of Mosul city. They were brought with price tags for the buyers to choose and negotiate the sale. The buyers were said to be mostly youth from the local communities. Apparently IS was “selling” these Yezidi women to the youth as a means of inducing them to join their ranks.⁵¹

3 Normative Textual Evidence Regarding the Obligatory nature of Niqāb, Sexual Slavery and Gender Segregation: The IS as proponent of Ahl-ḥadīth manhāj

In this section of the article I aim to discuss on which basis the religiously normative nature of *niqāb*, sexual slavery and all pervasive gender segregation is justified by the IS. In this context I argue that the IS approach to interpretation of Qurʾān and Sunna most faithfully represent the views of prominent ‘mainstream’ Saudi Arabian scholars who are associated with, and in fact as discussed below, consider themselves the inheritors and followers of the ‘the ahl-ḥadīth as identified above. In what follows I present the evidence for this. Prior to that ahistorical excursus regarding the genealogy of debates on the relative status and the authenticity of the various sources of legal authority in the Sunnī legal tradition is necessary to contextualize the subject matter.

3.1 *A history of ahl-ḥadīth vs. Sunnī traditionalism debates*⁵²

As amply evident in the Open letter to Bhagdadi there have always been interpretationally significant disagreements regarding the relative status and the authenticity of the various sources of legal authority in the Sunnī legal tradition. In what follows I outline the main contours of these debates with special emphasis on its two major actors, namely the Sunnī traditionalism (or a madhhab—based approach) and the proponents ahl-ḥadīth manhāj.

50 http://www.ohchr.org/documents/countries/iq/unami_ohchr_poc_report_final_6july_10september2014.pdf, 15.

51 http://www.ohchr.org/documents/countries/iq/unami_ohchr_poc_report_final_6july_10september2014.pdf#5.cf; <http://www.cbc.ca/news/world/isis-admits-enslaving-yazidi-women-kids-in-own-magazine-1.2796680> <http://www.hrw.org/news/2014/10/11/iraq-forced-marriage-conversion-yezidis>.

52 based on chapter 2 of Duderija, *Constructing*.

At the beginning of the second century Hijri ḥadīth collections which were being put together by some Muslims were starting to be considered by sections of the Muslim community to be a truer reflection of sunna than that of other methodologies used by other groups whose concept of Sunna was, epistemologically and methodologically independent of ḥadīth.⁵³ By the second half of the second century the former were named *ashāb al-ḥadīth* or *ahl-ḥadīth* and the latter *ahl-ra'y*.⁵⁴ *Ahl-ḥadīth* school of thought considered ḥadīth as being the sole and the complete depository of sunna and the only vehicle of its perpetuation. This *ḥadīth-based* approach to Sunna came into being out of opposition to the *ahl-ra'y* concept of the nature and the scope of the Sunna (and by extension to that of the Qur'ān itself) and the role of *ra'y* or *reason-based opinion* in interpreting the Islamic tradition.⁵⁵ The *ahl-ḥadīth* insisted that all law had to be traced back to the Qur'ānic text and *ḥadīth-based* Sunna and that *ra'y* was to be considered either an illegitimate methodological tool in derivation of law⁵⁶ or that its use had to be constrained to those cases in which Qur'ān and ḥadīth texts offered no insight at all.⁵⁷ In Melchert's opinion, *ahl-ḥadīth* considered the Qur'ān and the 'authentic' ḥadīth as the only religiously legitimate basis of Islamic law and theology. They preferred to resort to 'weak' (*da'īf*) ḥadīth over principles generally deduced from the Qur'ān or through analogical reasoning.⁵⁸ According to the *ahl-ḥadīth* proponents there was no difference between a ḥadīth and a law expert. As such the proponents of the *ahl-ḥadīth manhāj* dealt with juridical problems by exclusively referring to and reciting relevant ḥadīth reports. In the ninth century Baghdad the *ahl-ḥadīth* group was associated with the followers of the eponyms of the Hanbalīmadhhab Ahmad ibn Hanbal (d.241 A.H.). On the other hand the *ahl-ra'y*, or in the words of Melchert the 'semi-rationalists', considered jurisprudence as a separate field from ḥadīth sciences employing the rational techniques of scholastic theolo-

53 See our discussion below.

54 Ch. Melchert, 'Ibn Mujahid and the Establishment of Seven Qur'anic Readings', *Studia Islamica*, 91, 2000, 5–22. For a more complex picture of the ahl-hadith—ahl—ra'y divide see A. Osman, *The History and the Doctrine of the Zahiri Madhhab*, Ph.D. thesis, Princeton, 2010, 106–161.

55 I. Goldziher, *Muslim Studies*, tr. By Barber and Stern George Allen & Unwin Ltd. London, vol. II (1971), 81; J. Schacht, 'Ahl-Hadith' *The Encyclopaedia of Islam*, Volume one, Leiden Brill, 1960, edited by several editors, 258.

56 Such as in the case of Zāhirīs or the Hashwiyya, which were often given the epithet *ahl-ḥadīth*.

57 Sh. Jackson, 'Literalism, Empiricism, and Induction: Apprehending and Concretizing Islamic Law's Maqāsid al-Sharī', *2006 Mitch. St. L. Rev.*, 1469–1486.

58 M. Abu Zahra, *Tarikh al-Mathahib al-Islamiyyah*, Cairo, Dar al Fikr al-'Arabi, n.d., 458.

gians (*ahl-kalām*) to justify the accepted theological tenants. This school of thought was primarily associated with the emerging Mālikī and Shāfī'i schools of thought of the second Hijri century.⁵⁹ The two designations *ahl-ra'y* and *ahl-ḥadīth*, thus, can be considered to have "[O]riginally referred to branches of legists occupied with the investigation of Islamic law: the former were concerned with the study of transmitted sources (i.e. ḥadīth) and the later with the practical aspects of the law.⁶⁰

As the influence of hadith-based Sunna gained more credence in the second and third century Hijri, the *ahl-ra'y*, which at this point in time crystallised into several regional and subsequently personal schools of thought (*madhahib*),⁶¹ took certain steps to accommodate and award more legitimacy to the mushrooming body of texts based on the hadith-based notion of the nature and the scope of the concept of Sunna in their overall Qur'an-Sunna hermeneutic. Thus, a process of syncronism and cross-pollination between *ahl-ra'y*, the pre-cursors of the *madhahib*, and *ahl-ḥadīth* methodologies took place resulting in the formation of what are today the four extant Sunnī schools of thought (*madhahib*).⁶² The formed Maliki, Hanafi and Shafi'i *madhāhib* were generally considered closer to the *ahl ra'y* model of interpretation of the Qur'an and the Sunna for the purposes of legal derivation. The Hanbali *madhhab* is generally regarded as the successor of the *ahl-ḥadīth approach*.⁶³ However, the concept of the nature of Sunna according to the *madhāhib* was still independent of hadith both epistemologically and methodologically. This hadith-independent concept of Sunna was also evident in the writings of the eighth century madhhab scholars from Iraq such as Abu Yusuf (d. 182/798) who referred to it as *al-Sunna al-mahfūza al-ma'rūfa*, the well-established Sunna, or that of the Medinian scholar, Malik ibn Anas (d. 178/795) who referred to it primarily as *Sunna madiya* / *'amal*.⁶⁴

However, Brown writes the *madhāhib* "had given assent in theory to the importance of hadith whilst resisting its thorough application", thus creating a tension between *ahl-ḥadīth's* definition of Sunna and "the actual doctrine of the madhhab." The consolidating *ahl-ḥadīth* movement increasingly questioned

59 Melchert, 'Ibn Mujahid', 6.

60 I. Goldziher, *The Zāhiris- Their Doctrine and Their History*, E.J. Brill, Leiden, 1971, 3.

61 Ch. Melchert, *The Formation of the Sunni Schools of Law in the 9th–10th centuries*. Leiden, Brill, 1997.

62 Goldziher, *The Zāhiris*, 3.; Hallaq, *The Origins*, 122–28. Hallaq refers to this as the "Great Synthesis".

63 Goldziher, *Zāhiris*, op. cit., 4–5.

64 Duderija, 'The evolution in the canonical Sunni Hadith'.

the already systematically constructed Qur'an-Sunna hermeneutical doctrine of the *madhāhib* as not being based on true Sunna.⁶⁵ This opened the doors for the argument of *Ihyā' al-Sunna*, the revivification of and the return to Prophetic Sunna. This was to be achieved by insisting that only an unflinching adherence to the body of "authentic hadith" as defined by *ahl-hadith manhāj* constitutes *Ihyā' al-Sunna*. Thus, the main purpose behind the call for *Ihyā' al-Sunna* was to undermine the *madhhab*-based approach to conceptualising and interpreting the Islamic tradition, especially their concept of the nature and the scope of the concept of Sunna.

As a summary to the above we can deduce that one point of contention between the *madhhab* and *ahl-hadith* based approaches to conceptualisation and interpretation of the Islamic tradition is the difference in which these two schools of thought approached the question of the nature and the scope of the concept of Sunna.

Another point of difference between the *madhhab*-based approach to the Islamic tradition and that of *ahl-hadith manhāj* is the role and the function of external authority in the explication of the Islamic Law. To understand this point we need to briefly describe the nature of classical Islamic law. In essence Islamic law can be characterized as being an accretive,⁶⁶ ascriptive⁶⁷ and socially constructed⁶⁸ discourse embedded in the larger oral-based framework that privileges 'authoritative parlance', to use Souaiaia's phrase, of certain individuals (such as the Prophet Muhammad, Caliphs, founders of the *madhāhib* etc.) considered to be authoritative by the Muslim community.⁶⁹ In other words authority in Islamic law is first and foremost epistemic in nature.⁷⁰ As a result of the (legal) reasoning (*ijtihād*) of authoritative individuals over time accumulation of legal precedents took place and became considered as binding by the Muslim community because these were seen to be in accordance with the teachings of the Qur'an and the Sunna. This, in turn, gave rise

65 Brown, *Rethinking*, 20.

66 Souaiaia defines accretive in a sense that Islamic law expanded through time through the interaction between the oral discourse with the static Qur'anic enunciations to adapt to changing times and circumstances. A. Souaiaia, *The Function of Orality in Islamic Law and Practices: Verbalizing Meaning*, Edwin Meller Press, 2006, 163.

67 Meaning that Islamic Law is neither entirely founded on what Muslims consider as divine scripture nor on the letter of the written documents. *Ibid.*

68 Meaning that Islamic law was significantly shaped by social, economic and political forces present during its formative period. *Ibid.*, 164.

69 *Ibid.*

70 W. Hallaq, *Authority, Continuity and Change in Islamic Law*, Cambridge University Press, Cambridge, 2001, 257.

to the concept of *taqlīd*. In his discussion of this principle and its function in Islamic jurisprudence Jackson argues that *taqlīd* is not so much related to the notion of it precluding novel interpretations, as it is commonly held, but rather as a means of validating jurist's legal interpretation 'retrojectively', i.e. by searching to back the interpretation with an established source of authority. Furthermore, Hallaq considers that *taqlīd* not only functioned as an effective means of legal change but even more so than *ijtihād* itself because, unlike *ijtihād*, *taqlīd* based interpretations were seen as to be loyal to and continuous with the ongoing tradition.⁷¹ *Taqlīd* is, therefore, to be seen as a hermeneutical mechanism whereby rather than abandoning existing legal theory rules in favour of new interpretations of the relevant textual indicants found in the Qur'an and hadith without precedent, a jurist develops new interpretations within the framework of the established *madhhab*-based hermeneutic. Hallaq forms a similar view by seeing *taqlīd* as a reasoned defense of a particular legal doctrine based on a *madhhab*'s overall methodology and hermeneutic.⁷² This allegiance to the *madhhab*-based legal theory hermeneutic by the means of *taqlīd* was derived from the consensus of scholars belonging to a particular *madhhab*.⁷³ This legal mechanism's primary purpose was to ensure that the legal opinion of a jurist is able to gain wide(er) acceptance by embedding it into the 'sacred past'. For the *madhhab*-based approach this consensus of *madhhab* scholars is the ultimate criterion in determining the compliance or otherwise of a particular legal principle⁷⁴ with the Qur'an and the Sunna and not the hadith as in the case of the *ahl-hadith manhāj*. Therefore, the jurists belonging to one of the *madhāhib* rather than opting for acceptance of a hadith unknown to previous authorities belonging to the same school, the majority of *fuqaha*, especially those of lower status, were faithful and obedient (*muqallid*) to their own school's hermeneutic.⁷⁵ It is important to keep in mind that each *madhhab* did have scholars who were associated with it and specialised in hadith sciences but the predominant *madhhab* view was a result of the overall *madhhab* legal hermeneutic.⁷⁶

71 Ibid., 239.

72 Ibid., x–xi.

73 This consensus should not be confused with the later definition of it in form of *ijma'* but should be understood in terms of the agreed living practice constituting sunna. Cf. W. Hallaq, *The Origins*, 110–112.

74 Brown, *Re-thinking*, 20.

75 One of the reasons for this is the fact that the schools of law gained high prestige in society and awarded a great deal of authority and reverence to their founding fathers. On this see W. Hallaq, *Authority*, op. cit.

76 Ibid.

The *ahl-hadith manhāj* rejects the broader, hierarchical hermeneutic upon which the practice of *taqlīd* is based. The proponents of the *ahl-hadith manhāj* argue, instead, for an unmediated return to the Qur'an and Sunna in the form of Qur'an and hadith-based texts. *Taqlīd*, according to the *ahl-hadith approach* is an innovation, *bida'a*, and a deviation from Sunna.⁷⁷ Instead, the *ahl-hadith* consider that the uncontested adherence to hadith, as the sole vehicle for the perpetuation and depository of Sunna, termed *ittiba'*, is the only way of remaining truthful to the Prophet's Sunna. Furthermore, the *ahl-hadith* also aimed to minimise the hermeneutical leverage of non-textual based sources of the Islamic tradition such as preference (*istihsān*), analogy (*qiyās*), speculation (*nazar*), the writings of ancient philosophers, or the views of scholastic theologians of later times.⁷⁸

In order to have a more complete understanding of the nature of the Islamic tradition and the *madhhab* and *ahl-hadith* approaches to it we need to have an understanding of importance of the concept of the 'sacred past' mentioned above in the context of discussing *taqlīd* and the accretive nature of Islamic law to which both *madhhab* and *ahl-hadith* approaches subscribe. The notion of the 'sacred past' in the Islamic tradition has found its expression in the notion of Salafism to which I turn my attention now. The concept of Salafism refers to not only to the notion of how the Islamic tradition is to be conceptualized and interpreted but also concerns the questions of reading of history and the nature of time. Salafism, as an Islamic precept, seems to have been developed in the late second century Hijri. As a concept the genesis of the Salafī mind-set is best understood in the light of the political and theological schisms that took place in the Muslim community in the first century Hijri.⁷⁹ At that time, the concept of Salafism was used as an anchoring point for various ideologically competing groups who were all eager to show that their views, unlike those of others, were consistent with those figures who were held in high esteem during the inception of the Muslim community. In this context the doctrine of Salafism seems to have employed at certain point in time, at least in part, in response to the more systematically articulated Imāmī theology. Another example of the 'sectarian' nature of this concept is evident in the use of word *as-salaf as-salih* in treaties attributed to Hasan al-Basri's (d. 110/728) who employs this phrase to support the doctrine of free will to which he, unlike his interlocutors, considered as being a doctrine espoused

77 Brown, *Rethinking*, 28–29. More on this in the second chapter.

78 J. Robson, 'Tradition: Investigation and Classification', *Muslim World*, 41, 1951, 98–112, 101.

79 S.A. Mourad, *Early Islam between Myth and History*, Brill, Leiden, 2006, 9–15 and 199–200.

by the *as-salaf as-salih*.⁸⁰ This quest for religious legitimacy by linking one's theological, political or legal views to that of the *as-salaf as-salih* would, thus, imbibe these factions with the sense of normativeness, credibility and authoritativeness. Importantly, in Sunnī Islam the Salafī worldview was also necessitated by the fact that the very viability of the classical sciences pertaining to evaluation of authenticity of hadith depended on the complete moral unblemished of the Prophet's Companions because of their crucial position in the chains of transmissions of individual hadith which could otherwise not be deemed sound.⁸¹ The same holds true for the contemporary usages of Salafism, including its employment of both the Sunnī traditionalists and the proponents of ahl-hadith manhāj under examination here.⁸²

From a historical point of view, the earliest usage of the terms *as-salaf as-salih* is therefore to be understood as a particular outlook of the post-*as-salaf as-salih* generations of Muslims on the early historical events that took place after the Prophet's death regarding the issues considered unresolved in the Qur'an and Sunna as well as the means of getting to terms with the above mentioned political and doctrinal schisms that plagued the nascent Muslims community. This Salafī doctrine proved particularly important for the formation of what now is largely considered 'mainstream' Sunnīsm, at times referred to as *ahl-Sunna wa Jama'a*, (The People of Sunna and Muslim Majority Community) in the fourth century. Its significance was in its function of serving as a political mechanism which purported to cleanse all of the Companions⁸³ of the Prophet Muhammad of any partaking in or responsibility for the ensuing conflicts and violence between various Muslim factions that threatened to disintegrate the very social fabric of the nascent Muslim community.⁸⁴ As a corollary, the Salafī worldview can also be conceptualised in the idea of the "emulation-worthiness" of the first century religious and political authorities who were perceived as having remained faithful to the teachings of the Qur'an and the example of the Prophet (i.e. Sunna) in relation to '*aqidah* (beliefs), *manhāj* and '*ibadah* (worship) in contrast to those who deviated from them. Moreover, towards the

80 Whether these words can indeed be attributed to Al-Basri is not of crucial importance to our argument since they can be seen as providing an insight into how the early Muslim community interpreted the events of the first century of the Islamic calendar. Ibid.

81 The concept of a sound hadith, as explained above, was over time increasingly conceptually conflated with the concept of sunna. See Duderija, *Constructing*.

82 Cf. Lauziere, 'The Construction of Salafīyya'.

83 In Sunnism defined as any believing adult Muslim who, even for a moment saw the Prophet. M. Al-Bukhari, *Sahih al-Bukhari, Kitab fada'il al-sahaba*, bab 1.

84 M.S. Mathnee, *Critical Reading of Fazrul Rahman's Islamic Methodology in History*, M.A. Study, University of Cape Town, 2005.

end of the second Islamic century this *Salafī*-embedded worldview started to shape the epistemological boundaries of the Islamic thought soon becoming a norm for reasons outlined above in relation to the increased importance of Sunna and its documentation and the socio-politically chaotic nature of early Islam. This is evident, for example, from the fact that the founders or initiators of the various Islamic sciences sought the ideas and the views among the *as-salaf as-salih* as intellectual antecedents in order to bestow legitimacy to their respective disciplines.⁸⁵ In this context Goldziher asserts that

As such the imitation of the *salaf*, the pious ancestors who formed their habits under the eyes and on the example of the prophet, became the ideal of pious Muslims. Gradually *Salafī*, i.e. the one who imitates his ancestors, becomes the supreme title of praise in pious society.⁸⁶

The concept of *Salafism* as “an invariable element within the Islamic conscience”, to borrow Chaumont’s phrase,⁸⁷ has also formed the conceptual foundation for the adoption of the *madhhab* and *ahl-hadith* based approaches to the Islamic tradition.” The former, termed ‘genuine traditionalism’ by Chaumont,⁸⁸ attempts “to neutralise the evolutionary effects linked with the tension between an ideal past and a present always on this side of the ideal past” and the latter, termed by Chaumont *Salafīyya*,⁸⁹ ancient and modern, which

continually endeavours to update the changes—conceived as necessary alterations in relation to deviations and innovations (*bid’ah*),—believed to be necessary in view of restoration in all respects of the ideal past (more or less freely defined in relation to demands of each particular period) of the *salaf*.⁹⁰

As such these two approaches constantly challenged and continue to challenge each-other to the present times competing for ‘authenticity’ (*asala*) as evident in the contemporary debates between the so called ‘khalaf’ or *madhhab*-based scholars and that of the ‘salaf’ or the *ahl-hadith* based scholars.

85 E. Chaumont, ‘al-Salaf wa’l-Khalaf’, E12, op. cit., 901. cf. Mourad, *Early Islam*, op. cit., 199.

86 Goldziher, *Muslim Studies*, op. cit., 31.

87 Chaumont, ‘al-Salaf wa’l-Khalaf’, 901.

88 In this article termed the *madhhab*-based approach or Sunni traditionalism.

89 In this article referred to as *ahl-hadith manhaj*.

90 Chaumont, ‘Al-Salaf wa’l-Khalaf’, 901.

The concept of Salafism in pre-modern Islamic thought is also embedded in a particular understanding of time and history, and their relation to the present (and future). This notion is derived from a reading of few hadith going back to the Prophet Muhammad in which he reportedly asserted that the best people were his generation and then the next and then the following and so on and that there was no year or day except that which followed was worse than it.⁹¹ According to this understanding:

In was the Sunna, rather than the Kur'an, which instituted one of the most characteristic traits of the Islamic vision of history by imposing the idea a priori that this history was said to have been inevitably followed by a period of relaxation of standards, deviation and finally of division.⁹²

This Salafi-embedded worldview evident in both the *madhhab* and *ahl-hadith*—based thought, therefore, sees the past to provide all the answers and constantly imposes itself upon the present.

From the above discussion on Salafism we can conclude that the concept refers to several interrelated phenomena. Firstly, it signifies a particular methodology of interpreting the Islamic tradition as a way of distinguishing it from other approaches considered not to be based on the (supposedly) *as-salaf as-salih manhāj*. Secondly, it is a political doctrine purporting to bestow an amnesty on all of the Companions of the Prophet in the midst of socio-political chaos that characterised early Islam and the need to preserve the sunna via means of sound hadith. Lastly, it denotes an approach to conceptualizing the Islamic tradition premised on a pre-supposition of a regressive view of the nature of history and time.

3.2 *Saudi Arabian Scholars as proponents of Ahl-hadith manhāj*

Even a brief examination of the writings of the Saudi Arabian scholars clearly demonstrates that they are the intellectual inheritors of the pre-modern ahl-ḥadīth madhhab because, as shall be demonstrated below, of their view that this school of thought is the only sect whose manhāj has remained true to the Qur'an and Sunna and that of the *salaf as sāliḥ*.⁹³ Saudi scholars also embrace the concept of Salafism in its particular version by linking the manhāj of

91 The first hadith is found in Al-Bukhari and Muslim hadith collections and the second one in Al-Tirmidhi collection.

92 Chaumont, 'al-Salaf wa'l-Khalaf', 900.

93 For an excellent historical Study of the revival of the ahl-hadith methodology in the modern period starting with Ibn Al-Wahhab, see B. Nafi, Teacher of Ibn Abd Al Wahhab,

salaf as sāliḥ to that of the pre-modern ahl-ḥadīth *manḥāj*. As part of their overall claim to be the sole custodians of the *salaf as sāliḥ*'s understanding of the scope and the nature of the concept of sunna, Saudi Arabian scholars also maintain that the way in which the nature and the scope of the Qurʾān and Sunna indicants (*ʿadilla*) were understood and interpreted from the time of the Prophet until now remained the same and is adhered to in its original form by the ahl-ḥadīth. This is the view of Al-Madkhalī, for example, who in the chapter of his book on “Who is the Ahl-Hadeeth”?, writes: “They[ahl-ḥadīth] after all of the Companions—and the head of them the rightly guided Caliphs—are the leaders of the taabiʿeen and at the head of them [sic].”⁹⁴ We are then told that the following authorities amongst the second generation of Muslims belonged to the ahl-ḥadīth movement:⁹⁵

Al-Musayyib (d. 90 A.H.), M. ibn Hanafiyah (d. 80 A.H.), Ibn Masʿood (d. 94 A.H.), Al-Basri (d. 110 A.H.), Umar ibn Abdul Aziz (d. 101 A.H.) and Al-Zuhri (d. 125 A.H.). Finally, among the followers of tabiʿin (*atbaʿat—tabiʿin*), or the third generation of Muslims being faithful to the ahl-ḥadīth methodology of interpretation of Qurʾān and Sunna, the following people are included: Imam Malik (d. 179 A.H.); Awzaʿi (d. 157 A.H.) and Abu Hanifah (d. 150 A.H.). Al-Madkhalee also mentions people belonging to subsequent generations who, according to him, follow in the footsteps of previously stated authorities, including scholars such as Shafīʿi (d. 204 A.H.), Ibn Hanbal (d. 241 A.H.), Bukhari (d. 256 A.H.), Muslim (d. 261 A.H.), Ibn Salah (d. 643 A.H.) and Ibn Taymiyyah (d. 728 A.H.).⁹⁶

Al-Madkhalī and Al-Atharī describe the methodologies of those Muslims from the past and the present, including the followers of the major Sunnī *madhāhib* who do not follow or oppose the ahl-ḥadīth *manḥāj* as guilty of *bidʿa* (reprehensible innovations in religious matters). For example, Al-Atharī states that “whoever hates Ahlul-Ḥadīth, ancient and new, old and young, then he is upon innovation”. Elsewhere he quotes Shah Walli Allah (d. 1762 AD), a noted ḥadīth scholar from India, who in his book on the history of the ahl-ḥadīth accuses the *madhāhib* of being innovators.⁹⁷ Similarly, Al-Madkhalī includes a number

Muhamad Hayat Al-Sindi and the Revival of Ashab al Hadith Methodology, *Islamic Law and Society*, 13.2.2006, 208–241.

94 Al-Madkhalee, *The Status*, 10.

95 For the full list see *Ibid.*, 11–12.

96 *Ibid.* Al-Atharee, *Clarification*, 178–182.

97 Al-Atharee, *Clarification*, 32, 71–2.

of other Muslim groups such as the "Khawarij", the "Rawafid" (i.e. the Shi'a), the "Sufis" and the *ahl-kalām* as those who belong to the innovators based on their *manhāj*.⁹⁸ Hence, Saudi scholars claim that by adhering to the ahl-ḥadīth *manhāj* of sunna they automatically hold on to the salafī *manhāj* of the same.

As briefly discussed in the previous section above another important aspect of the debates that have unfolded in history in relation to the relative status of the various sources of legal authority and their authenticity is the legitimacy and the scope of non-textual sources in conceptualizing and interpreting the Islamic tradition which affected the definition of what constitutes valid or legitimate religious knowledge and its sources (*ilm*). In relation to this question Saudi Arabian scholars also faithfully represent the ahl-ḥadīth madhhab. Saudi Arabian scholars, in essence, restrict the concept of *ilm* to the Qur'ān and ḥadīth texts *only* as interpreted by the proponents of the ahl-ḥadīth *manhāj*. For example, this concept of *ilm* is evident in the thinking of Al-Uthaymīn in his book "*A Reply to the Doubts of the Qutubīyyah Concerning Ascription to Sunna and Salafīyyah*". There he argues that the legitimate religious knowledge and its sources are restricted to the following: the Qur'ān, the pre-modern sciences governing the process of its explication and interpretation, the "authentic" ḥadīth and the consensus of Muslim scholars who have remained faithful to the ahl-ḥadīth *manhāj*.⁹⁹ Similarly, Al-Albānī restricts the definition of *ilm*, apart from the Qur'ān, only to ḥadīth and calls for the legal process to be purged of reason and replaced entirely by ḥadīth.¹⁰⁰ He refers to this jurisprudence as *fiqh al-ḥadīth*.¹⁰¹ Bin Bāz in his booklet titled "*The Obligation of Acting Upon the Sunna of the Messenger and the Unbelief of Those Who Reject It*" echoes these views by quoting the words of Al-Bayhaqī, a well-known Sunnī ḥadīth expert (d. 384 A.H.), who in turn quotes Sufiān Al-Thawrī¹⁰² as having said that "The whole of knowledge is knowledge of the narrations (i.e. ḥadīth)".¹⁰³ According to this view the science of jurisprudence (*fiqh*) is synonymous with and therefore restricted to that of ḥadīth.¹⁰⁴ Al-Albānī forms this view when relying on the opinion of Ibn Hanbal who is reported to have

98 Al-Madkhalee, *The Methodology*, 46.

99 Al-Uthaymeen, *A Reply*, 88.

100 M. Al-Majdub, *'Ulama' wa mufakkirun 'araftuhum: al-juz al-awwal*, Cairo dar al 'Itisam, 1980, 290.

101 See A. Ibn Muhammad al-Shamrani, *Thabatu mu'allafat al-muhaddith al-kabir al-imam Muhammad Nasir al-Din al-Albani*, from www.dorar.net, p. 17, accessed last 15.01.2011.

102 Sufyan al-Thawri ibn Said (d. 161 A.H.) belon successor Islamic scholar, hafiz and jurist, founder of the now extinct Thawri madhhab. He was also a hadith compiler.

103 Translated by Abu Talhah Dawood, Minhaj As-Sunna Publications, Birmingham, 2004, 22.

104 Al-Atharee, *Clarification*, 108–111.

said that the opinions of the major *madhhab* scholars were simply opinions and that the evidence was only found in the narrations (athār/ ḥadīth).¹⁰⁵ The view that *‘ilm* is entirely textually based is also expressed by Al-Madkhalī who quotes several authorities from the past¹⁰⁶ stating: “The religion of the prophet Muhammad is the narrations”; “the knowledge that is followed is that what contains ‘*qalaa haddathana*’¹⁰⁷ and everything else is whispers from the Shaytaan”; “the knowledge is what contains ‘*qalaa haddathana*’ and everything else is error and darkness.”¹⁰⁸ Likewise, Al-Madkhalī restricts *‘ilm* to textual sources only. This is evident in his argument against the types of *qiyās* employed by the “People of Rhetoric” (*ahl-kalām*)—whose fundamentals of Religion are said to be derived through the reasoning (*qiyās*) of the intellect—and the *fuqahā’* belonging to the *madhāhib*—who are said to be in large part also depending on *qiyās* for religious legislation. Furthermore, he states that the contours of *‘ilm* according to ahl-ḥadīth are confined to “the texts and the narrations of the Companions on all events in their basic and implied or deeper¹⁰⁹ meaning.¹¹⁰ Like the pre-modern ahl-ḥadīth, believe in the normative value of *aḥad* ḥadīth as sources of *‘ilm* in all spheres of the Islamic tradition.¹¹¹ Thus, aḥad ḥadīth constitute *‘ilm* upon which it is obligatory to act.¹¹²

Saudi rabian scholars, like the pre modern ahl-ḥadīth also oppose the doctrines of Sunnī traditionalists including *taqlīd*, *ijtihād* in presence of text (i.e. the Qur’ān and ḥadīth), *istiḥsān*, *qaṣd*, *maslaḥa mursala*, *ra’y* and *qiyās*.¹¹³ Instead, they advocate for and promote the institution of *ittiba’* defined as unflinching adherence to ‘authentic’ ḥadīth. According to the NTS community of interpretation non-textual sources of knowledge can be used only if “there

105 Al-Albānee, *The Principals*, 81.

106 Mainly hadith experts such as Al-Rāzī (d. 264) and Al-Asbahānī (d. 430).

107 This is a standard formula used in front of the actual content of the hadith implying usually oral transmission of knowledge via a chain of narrators reportedly going back to the Prophet or in some cases the Companions only.

108 Al-Madkhalee, *The Methodology*, 193–194.

109 Here he makes a distinction between ahl- ḥadīth and *Zāhirī madhhab* who differ from the former in their acceptance of only the basic or literal meaning and not what is implied by it. On Zāhirī’s see A. Osman, *The Zāhirī Madhhab: A Textualist Theory of Islamic Law*, Brill, 2014.

110 Al-Madkhalee, *The Methodology*, 156–157.

111 Al-Albānee, *The Hadith is Proof itself in Belief and Laws*, The Daar of Islamic heritage Publication, 1996.

112 Al-Albānee, *The Principles*, 35–36.

113 N. Al-Albānee, *The Hadith*; A. Al-Dawish, (ed.) *Fatawa al-lajna al-da’ima lil-buhuth al ‘ilm- iyya wal ifta’*, Maktabat al-Ma’arif, Riyadh, 1412, 20 vol., vol. 4, p. 176.

is no clear and explicit text which would allow the verification of the correctness of various opinions."¹¹⁴ Furthermore, according to the NTS *manhāj*, reason and reason-based sources of knowledge, which are relied on to some extent in the broader *madhhab*-based traditional Islamic scholarship,¹¹⁵ are considered to function outside the scope of the 'valid' religious knowledge contained in the Qur'ān and the ḥadīth-based Sunna. In this context an NTS scholar Al-Madaneer asserts:

One who puts forward his ijtihad in a matter of fiqh, or analogy (qiyās) from the intellect, or an opinion derived from philosophy, or ta'weel, or tahreef, or a belief of shirk, or an innovated desire in the belief, statement or action—over even the smallest of clear established Prophetic Sunna found in the authorised reliable books of ahaadeeth, after coming across it in them—then he is not from the Saved Sect which the truthful Messenger specified.¹¹⁶

Al-Madaneer, quotes the opinion of a classical scholar Al-Mālikī (d. 390 A.H.) to support the view that *taqlīd* is forbidden and that *ittiba'* is considered one of the foundations of the Islamic religion.¹¹⁷ Bin Bāz echoes this view by listing narrations of the Imams of the four Sunnī *madhāhib* which imply that the 'blind following' of their opinions is not warranted by the Imams themselves and that they prefer ḥadīth over their own opinions.¹¹⁸

This view of *'ilm* results in Saudi Arabian scholars adopting a unique and wide-ranging concept of *bid'a* which is conceptualised as an antonym of Sunna and basically covers everything that falls outside of their definition of *'ilm* as defined above.

To sum up, Saudi scholars can be considered as the contemporary incarnation of the pre-modern ahl-ḥadīth school of thought in relation to how they conceptualise the concepts of *'ilm*, Salafism, Sunna and the relative status in relation to the Qur'ān and ḥadīth bodies of knowledge as well as in relation to non-textual sources of knowledge relied on by Sunnī traditionalists in various forms and to various degrees such as *'aql*, *taqlīd*, *ijtihād* in presence of text (i.e. the Qur'ān and ḥadīth), *istihsān*, *qaṣd*, *maslaḥa mursala*, *ra'y* and

114 That is either a qur'anic verse or an "authentic" hadith. See Uthaimin, *A Reply*, 88.

115 See for example Hallaq, *The Origins*, op. cit.

116 Al-Madaneer, *The History of Ahl-Hadith—A Study of the Saved Sect and that it is The People of Hadeeth*, trans. by Aboo 'Ubaidah ibn Basheer, Salafi Publications, Birmingham 2005, 136.

117 Al-Madaneer, *The History*, 133.

118 Bin Baz, *The Obligation*, 23.; cf. Albani, *The Hadith*, 88–89.

qiyās to name but a prominent few. They advocate a completely textual legal hermeneutic expressed best in their definition of *ittibaʿ* as an unflinching adherence to ‘authentic’ ḥadīth which, in turn, is conflated with following the true salafi Qurʾān—Sunna *manhāj*.

3.3 *Arguments behind all pervasive Gender Segregation in Ahl-ḥadīth madhhab*

Gender segregation in traditional Islamic jurisprudence is based on particular conceptualization of the nature of the normative male and female, especially the nature of their respective sexualities that is, in essence, shared by both Sunnī traditionalists and the proponents of ahl-hadīth *manhāj*. Female sexuality is considered as being irresistibly enticing and fatally powerful to men so much so that it requires extensive regulation and curtailment through a wide range of mechanisms as embodied in practices such as comprehensive gender segregation, curtailment of women’s movement and their constant surveillance and veiling. Such a view of female sexuality considers them as sources and causes of ‘fitna’ which in this case translates into forces of social and/or moral chaos.¹¹⁹ In the words of El-Fadl, “women are seen as walking, breathing bundles of fitna” and womanhood is artificially constructed into the embodiment of seduction.¹²⁰ Thus, as a result of this view of female sexuality, women become symbolic of fitna and are considered anti-divine and anti-social forces whose realm of existence is to be almost exclusively restricted to the private sphere.

The centrality of this ‘women-as-sources-of-fitna—discourse’ in the (neo)-traditional Arabo-Muslim worldview is argued by a number of scholars.¹²¹ For example, El Cheikh states that this discourse “is a key concept defining the dangers that women, and more particularly their bodies, provoked in men and is a constant theme in Arabo-Islamic literary tradition.”¹²²

119 For more on fitna as insatiable female sexuality causing socio-political disorder see F. Malti-Douglas, *Woman’s Body, Woman’s Word: Gender and Discourse in Arabo-Islamic Writing*, Princeton University Press, 1991, Chapter 3.

120 Khaled El-Fadl, *Speaking in God’s name: Islamic Law, Authority and Women*. Oxford: Oneworld Publications, 2001, 245.

121 Nadia, El-Cheikh, “Describing the Other to Get at the Self: Byzantine Women in Arabic Sources (8th–11th Centuries)”, *Journal of the Economic and Social History of the Orient* 40 (1997): 239–250. Fatima, Mernissi, *The Veil and the Male Elite- A Feminist Interpretation of Women’s Rights in Islam*. Cambridge, MA: Perseus Books, 1991; F. Sabbah, *Women in the Muslim Unconscious*; Abou El Fadl, *Speaking in God’s Name*.

122 El-Cheikh, “Describing the Other to Get at the Self”, 240.

This concept of women as *fitna* is, in turn, constructed on the idea of women's superior sexual desire (*shahvat*) to that of men which, according to several ḥadīth, God supposedly endowed upon women but counterbalanced it with higher levels of modesty.¹²³ These types of ḥadīth have found expression in and have been accepted as normative by both *Shīrī* and *Sunnī* branches of Islam on the basis of which certain 'modesty laws' such as gender segregation, veiling (in form of either *hijāb* and *niqāb*), public invisibility of women and their constant surveillance were/are (being) upheld as the religious ideal.¹²⁴

The woman as embodiment of *fitna* discourse is particularly prominent among contemporary Saudi Arabian scholars and is used to justify all pervasive gender segregation policies in the Kingdom. For example, based on the women as sources of *fitnah* argument, a Saudi Arabian scholar Al-Maymanī considers unlawful for women to drive cars, walk in the middle of the road, travel alone, or work in radio or television stations.¹²⁵ In the same vein Ibn Jibrīn forbids, on the basis of the temptation argument any kind of correspondence between men and women, including exchange of letters, looking at non-mahram men/women (even on television), speaking over the phone because "correspondence between men and women is a great temptation and something very much to be avoided."¹²⁶ Sheikh Ibn Bāz uses the same reasoning to argue that women are not allowed to drive cars or work alongside men.¹²⁷

There are a number of ḥadīth which directly link women to the concept of *fitna* some of which will be quoted below. Although they are not of the highest authenticity even by the classical ḥadīth criticism standards,

123 Muhammad Ibn Ya'qub Al-Kulayni, *Kitāb al-Kāfi*, (Beirut: Manshurat al-Fajr, 2007), Vol. 5, 203. In *Lali al-Akhbar* it is quoted that Imam Ali said: What motivates the beasts of prey is their hunger, and what motivates women and draws them to men is to extinguish the fire of their desire (*shahvat*). Modesty (*ḥayā*) has ten parts, of which nine parts are in women and one part in men. Then, when a woman is asked for in marriage, one part of her modesty goes; when she is contracted in marriage, another part goes; when she gives birth, another part goes; when her husband has intercourse with her, another part goes; she is left with five parts, and if she commits the hideous act of *zinā*, all her *ḥayā* is removed. Pity the people, when all *ḥayā* is taken from women". As cited by Ziba, Mir Hosseini, "Sexuality, Rights and Islam, Competing gender Discourses in Postrevolutionary Iran", In *Women in Iran from 1800 to the Islamic Republic*, ed. Lois Beck, Guity Nasha, (Urbana, Ill.: University of Illinois Press, 2004), 3.

124 Duderija, *Constructing*.

125 W. Maymani, *Qa'idah al-Dhara'i*, 1st ed. Jeddah, dar al-Mujtama', 2000, 22, 32, 50.

126 Compiled by M. Al-Musnad, *Islamic Fatawa Regarding Women*, tr. By J. Zarabozo, Darrussalam, Riyadh, 1996, 181–182, 209.

127 *Ibid.*, 309–317.

These traditions lay the foundation for most of the determinations regulating a woman's appearance and conduct. . . become[ing] the vehicle for symbolisms placing women in the role of the distrusted or treacherous, and for associating them with the construct of a menace that must be restrained.¹²⁸

In addition to this even if these aḥad ḥadīth are not considered as "saḥīh"¹²⁹ for the legal purposes both are deemed by the ahl-ḥadīth based man as probative on issues of morality, ethics and theology.¹³⁰ Here are several:

Abu Sa'īd al-Khudri narrated that the Prophet said: . . . When it comes to [the temptations of] this world be cautious, and as to women be cautious [as well] for the first fitna that befell the Israelites was [the fitna of] women.

Abd Allah b. Masood narrated that the Prophet said, [The whole of] the women are 'awra and so if she goes out, the devil makes her the source of seduction.

Abd Allah b. Umar narrated that the Prophet said, I have not left in my people a fitnah more harmful to men than women.

For example, Ibn Ismail a contemporary Egyptian ahl-ḥadīth scholar in his book "The Veil: Evidence of Niqāb", uses verse 14 in Sura Al-'Imrān,¹³¹ An-Nūr, verse 2,¹³² At-Taghābun, verse 14¹³³ and Yūsuf, verse 28 in order to prove that "The Qur'ān has pointed to the danger of the temptations of women".¹³⁴ Ibn Bāz cites Al-Khudri's and Abd Allah bin Umar's second ḥadīth to warn men

128 El-Fadl, *Speaking*, p. 236.

129 According to the NTS manhāj, these aḥad ḥadīth are considered as 'legally' binding. See our discussion on hadith and sunna in the last section of the article.

130 El-Fadl, *Speaking*, p. 221.

131 Fair in the eyes of men is the love of things they covet: Women and sons; Heaped-up hoards of gold and silver; horses branded (for blood and excellence); and (wealth of) cattle and well-tilled land. Such are the possessions of this world's life; but in nearness to Allah is the best of the goals (To return to).

132 The woman and the man guilty of adultery or fornication,- flog each of them with a hundred stripes: Let not compassion move you in their case, in a matter prescribed by Allah, if ye believe in Allah and the Last Day: and let a party of the Believers witness their punishment.

133 O ye who believe! Truly, among your wives and your children are (some that are) enemies to yourselves: so beware of them!

134 M.A. Ibn Ismail Al Muqaddam, *The Veil-Evidence of Niqab*, trans. By Abdallah Elaceri, Al-Firdous, London, pp. 24, 25, 30.

not to sit in privacy with women, to visit them privately and to travel with them without having any male-guardian present.¹³⁵ He adds that all of this leads to immorality and temptation.¹³⁶ Al-Madkhalī cites the first ḥadīth on the authority of Abd Allah b. Masūd and concurs with this opinion.¹³⁷

Saudi Arabian scholars use additional evidence as arguments for gender segregation as normative which I present below.

i.) Qur'ān

33:32–33

O Consorts of the Prophet! Ye are not like any of the (other) women: if ye do fear (God), be not too complacent of speech, lest one in whose heart is a disease should be moved with desire: but speak ye a speech (that is) just. And stay quietly in your houses, and make not a dazzling display, like that of the former Times of Ignorance; and establish regular Prayer, and give regular Charity; and obey God and His Messenger. And God only wishes to remove all abomination from you, ye Members of the Family, and to make you pure and spotless.

33:53

And when ye ask (his ladies) for anything ye want ask them from before a screen: that makes for greater purity for your hearts and for theirs. Nor is it right for you that ye should annoy Allah's Apostle or that ye should marry his widows after him at any time. Truly such a thing is in Allah's sight an enormity.

b.) Ḥadīth:

Narrated by Abd Allah b. Umar that the prophet said:

The prayer of a woman in her room is better than her prayer in her house and her prayer in a dark closet is better than her prayer in her room.

Narrated by Abu Bakrah, the Prophet is reported to have said:

Those who entrust their [socio-political] affairs to a woman will never know prosperity."

Narrated Abu Hurraira that the Messenger of Allah, may Allah bless him and grant him peace, said, "It is not halal for a woman who believes

135 A. Ibn Baz, M. Al-Uthaymeen and Z. Al-Madkhalee, *Three Essays on the Obligation of Veiling*, tr. By. Abu Maryam Isma'eel Alacron, Al-Ibaanah, 2003, 22.

136 Ibn Baz et al., *Ibid.*

137 *Ibid.*, 69.

in Allah and the Last Day to travel the distance of a day and night without a man who is her mahram.

Basing himself on the above and similar other Qur'ān- ḥadīth evidence the above graduate thesis on fiqh presented to Imam Saud Islamic University in Riyadh entitled *Wilayah al-mar'a fi al-Fiqh al-Islamī (Leadership of Women in the Islamic Law)* written by H. Anwar, considers that wilāyat of women is to be restricted only to women's responsibility over their own money, women working in specific gender segregated educational or medical jobs and women leading other women in prayer. Leadership roles in areas of social, political, economic, legal, judicial, and educational and media are rendered unlawful.¹³⁸ He does so on the basis of, among others, the ḥadīth of Abu Bakra cited above. Ibn Bāz¹³⁹ cites the ḥadīth of Abu Hurraira as support to prevent free mixing of men and women which can lead to spread of immorality. Similarly, Al-Uthaymīn prohibits women from assuming political roles on the basis of the ḥadīth according to which the Prophet had reportedly stated that women were inferior in intellect and religion and the historical evidence that women did not participate in the election of any of the caliphs.¹⁴⁰

3.3 *Evidence Presented for Obligatory Nature of Niqāb in ahl-ḥadīth madhhab*

The obligatory nature of niqāb by Saudi ahl-ḥadīth scholars is also linked to the idea of women as sources of *fitna* discourse and is justified on the basis of a number of Qur'ānic verses and ḥadīth.

For example, in relation to the mandatory nature of face-covering for women Shaikh Ibn Jibrīn quotes Qur'ān 24:30–31 and makes a following observation:

Allah has ordered them [in the verse above] to lower their head-covering from their heads over the opening in front of their chest. It comes down from the head, it covers both the face and the neck and front chest area.¹⁴¹

138 H. Anwar, *Wilayah al-mar'ah fi al-Fiqh al-Islami*, Master's thesis, Imam Saud Islamic University, Dar Balansiyah, 1999, p. 107.

139 Ibn Baz et al., *Three Essays*, 21.

140 <http://www.calgaryislam.com/articles/islaamic/current-affairs/563-women-in-masjids-and-politics.html>, last accessed, 14.01.2011.

141 Al-Musnad, *Islamic Fatawa Regarding Women*, 295.

Ibn Bāz in turn cites verses 33:59–60, 33:32–33 and 33:53 to argue that the Qurʾān commands all believing women and not just prophet's wives to stay in their homes and forbids them from indecently exposing themselves as the women would do in the Days of Ignorance. He defines indecent exposure of believing women to include the bodily features such as "the head, the face, the neck, the chest, the forearm, the shin and so on". As a reason for this Ibn Bāz considers that exposing of these parts of the body by women leads to "great mischief, overwhelming temptation and an incitement of male hearts towards embarking on the means of fornication."¹⁴² In relation to 24:30–31 Ibn Bāz defines the operative word *jilbāb* (in 33:59–60) to include all of the women's body including the hair and the face "so that they may be known for their chastity."¹⁴³

In a similar vein Al-Uthaymīn and Al-Madkhalī cite 24:30–31, 24:60, 33:55–60 in support of the veiling of women including the face by stating that wearing of what the Qurʾān refers to as 'khimār' over the 'juyūb' entails covering of the face because wearing of "khimār necessitates that or because it is understood from general reasoning."¹⁴⁴

ii.) Ḥadīth:

In the booklet on the obligation of veiling authored by leading Saudi Arabian scholars Ibn Bāz, Al-Uthaymīn and Al-Madkhalī, a number of ḥadīth are cited to argue in favour of obligation of veiling for women including the covering of their face.¹⁴⁵

- i.) Ali bin Abee Talhah reported from Ibn Abbas that he said:
Allah has commanded the believing women, when they come out of their homes due to a necessity, to cover their faces by placing their *jalaabees* over their heads, and only exposing one eye.¹⁴⁶

¹⁴² Bin Baz et al., *Three Essays*, 9–11.

¹⁴³ Ibid.

¹⁴⁴ Ibid., 32, 65–74.

¹⁴⁵ Even the majority view within the traditional Hanafī madhhab seems to favour this view: <http://www.deoband.org/2009/04/fiqh/miscellaneous/the-niqab-and-its-obligation-in-the-Hanafi-madhhab/>. For a contrary view and legal arguments adduced see: <http://www.suhaibwebb.com/ummah/women/hijab-niqab/is-wearing-the-niqab-obligatory-for-women-part-1-of-2-by-yusuf-al-qara%E1%B8%8Dawi-translated-by-u-%CA%BFabdullah/>.

¹⁴⁶ Ibid., (Ibn Baz) 14.

- ii.) 'Aisha in the story of the great Slander against her, veiled her face (with her khimaar) when she heard the voice of Safwaan bin al-Mu'attal As-Sulamee'.¹⁴⁷
- iii.) Prophet said: there are two types of people from the dwellers of the Fire that I have never seen before. [The first is] women who will be clothed yet naked. . . .¹⁴⁸
- iv.) Prophet said : The eyes commit zinaa (fornication) and their zinaa is looking. The heart ardently desires and waits, and private parts either confirm it or deny it.¹⁴⁹
- v.) Abu Hameed reported that the Prophet said : When one of you (believers) intends to marry a woman, there is no sin on him if he looks at her, so long his looking at her is only for the purpose of the intention of marriage. And this is even if she is unaware of it.¹⁵⁰
- vi.) After commanding the women to come out of the musalla (place of prayer) for 'Eid, the prophet was asked by one of the women (Umm 'Aatiyah): o Messenger of Allah ! If a woman has no veil, is there any sin if she does not come out (on 'Eid day)? The Prophet said: Let her sister (in Islam) cover her with her jilbaab (veil), and the women should participate in the good deeds and in the religious gatherings of the believers.¹⁵¹
- vii.) 'Aa'ishah reported what has been confirmed in the two saheeh collections that:
The Prophet would offer the fajr prayer (in congregation) and then witness that the believing women, wrapped up with their shawls, has prayed with him. They would return to their homes, and no one would recognize them due to the darkness (of dawn). Then 'Aa'ishah said: if the Prophet would see the women that I see (in my time), he would have surely restricted them from going to the masjid, just as women of the tribe of Israa'eel were restricted.
- xiii.) Ibn 'Umar reported that the prophet said: Whoever trails his garment out of pride, Allah will not look at him on the Day of Judgment." So Umm Salamah asked; Then what should the women do with hems of their dresses? The Prophet said: Let them extend their hems the length of a

147 Ibid., (Ibn Baz) 21.

148 Ibid., (Ibn Baz) 22.

149 Ibid., (Al-Uthaymeen), 31.

150 Ibid., (Al-Uthaymeen), 38.

151 Ibid., (Al-Uthaymeen), 40.

- hand span. She said: But their feet would still be exposed. So he replied: Then let them extend it a forearm's length and no more.¹⁵²
- ix.) 'Aa'ishah said: male raiders would pass by us while we (wives of the prophet) were in the state of ihram with the messenger of Allaah. When they would approach us, (each) one of us would let her jilbāb fall down from (the top of) her head over her face. And when they had passed on, we would uncover our faces.¹⁵³
- x.) Prophet said: Muhrimah shouldn't wear the face veil or gloves.¹⁵⁴
- xi.) Abd Allah b. Masood narrated that the Prophet said, [The whole of] the women are 'awra and so if she goes out, the devil makes her the source of seduction.¹⁵⁵

Ibn Bāz cites ḥadīth i.) to argue for the obligatory nature of veiling that includes that of the face by asserting, on the authority of M. Ibn Sireen and 'Ubaydah as-Salmani that the words "to cast their jalaabeeb upon themselves" (judninā 'alayhinna min jalābibihiinna) in 33:59 means veiling the face and head and exposing only one eye.; Ibn Bāz cites ḥadīth ii.) to argue that after the ayah of hijab was revealed (referring to 33:59) the women were not able to be recognised because of the veiling of their faces. Finally Ibn Bāz cites ḥadīth iii.) in conjunction with ḥadīth given in previous section dealing with the nature of female sexuality to chastise Muslim women who 'imitate disbelieving women, such as Christians by wearing short garments, exposing hair and other body parts, getting hairstyles according to the fashion of the people of disbelief and wickedness, adding hair extensions and wearing manufactured hairpieces, known as wigs."¹⁵⁶

Al-Uthaymīn on the other hand uses the ḥadīth iv.) as a commentary and explanation/clarification of 24:30 to argue that "the means that lead to guarding the private parts is the veiling of the face" as this can lead to finding pleasure in looking at the attractive features of the face and possible communication and intercourse between men and women.¹⁵⁷ Al-Uthaymīn cites the ḥadīth v.) to assert that beauty is the suitor's objective when wishing to marry and that face is the main aspect of beauty. To support this claim he cites another ḥadīth on the authority of bin Shu'aba in which the Prophet suggested to bin Shu'aba

152 Ibid., (Al-Uthaymeen), 44.

153 Ibid., Al-Uthaymeen, 45.

154 Ibid., 46.

155 Ibid., 69.

156 Ibid., (Ibn Baz), p. 23.

157 Ibid., (Al-Uthaymeen), 31.

to look at his future wife prior to proposing to marry her.¹⁵⁸ Basing himself on ḥadīth vi.) and vii.) Al-Uthaymīn forms the view that hijab and covering of the face was the customary practice of the female companions of the prophet who are the role models of all Muslims so it is also incumbent on Muslim women to follow this example.¹⁵⁹ Al-Uthaymīn considers that ḥadīth viii.) mandates the obligatory covering of the feet for women. Al-Uthaymīn cites ḥadīth ix and x.) and defers to the opinion of Ibn Taymiyya to argue for the obligatory nature of covering the face and wearing of gloves for women when not on pilgrimage.¹⁶⁰ Al-Madkhalī cites ḥadīth xi.o) to support his view that women ought to cover all parts of their body, including the face and the gloves “as they are sought after by men and the areas of enticement from women.”¹⁶¹ Al-Uthaymīn also uses what he calls evidence from general analogy mainly based on the fitnah argument described above and supported by ḥadīth evidence.¹⁶² In addition he further supports his view of the obligatory nature of veiling including that of the face by referring to opinions of Ibn Taymiyya, later Hanbalī scholars such as Ibn al-Najjar al-Futuhī (d. 980 AH), Al-Hanbalī (d. 1051 AH) and Shafīʿī scholar Al-Shawkanī (1834 CE).¹⁶³ Al-Uthaymīn also refutes the evidence employed by other madhāhib, mainly in form of ḥadīth, used for non-obligatory nature of covering of the face, hands and feet as in the Hanafī madhhab.¹⁶⁴

3.4 *Evidence presented by neo-ahl ḥadīth scholars for permissibility of sexual slavery of women captives of war*

As discussed above sexual enslavement of pagan women is a practice justified by IS as legitimate under Islamic law. Saudi Arabian scholars such as Al-Fawzān and Al-Munājjiid have expressed views which provide a religious justification for the continuation of these practices. For example, Al-Fawzān is reported to have said that slavery was part of Islam and jihād and it will remain being so as long as Islam exists. He has also asserted that those who hold contrary opinions are ‘ignorant’ and ‘not scholars’.¹⁶⁵

Similarly, Al-Munājjiid holds the classical Islamic jurisprudence view that in the context of war captives women come under the ‘*mā malaka aymānukum*’

158 Ibid., pp. 39–40.

159 Ibid., pp. 41–44.

160 Ibid., p. 46.

161 Ibid., p. 69.

162 Ibid., pp. 46–49.

163 Ibid., pp. 49–52.

164 Ibid., pp. 52–59.

165 <http://www.wnd.com/2003/11/21700/>.

category who are to be distributed by certain rules to the mujahidin. He cites a Mauritanian neo-ahl ḥadīth scholar Al-Shanqitī, a teacher of Bin Bāz and Al-Uthaymīn in support of this opinion.¹⁶⁶ He goes on to assert as follows:

Islam limited the sources of slaves which existed before the mission of the Prophet (peace and blessings of Allaah be upon him) to just one source, namely slavery resulting from capturing prisoners from among the kuffaar. Islam treated female slaves more kindly in their enslavement than other cultures did. Their honour was not considered to be permissible to anyone by way of prostitution, which was the fate of female prisoners of war in most cases. Rather Islam made them the property of their masters alone, and forbade anyone else to also have intercourse with them, even if that was his son.¹⁶⁷

Citing a ḥadīth found in Abu Dawud's collection of ḥadīth as authenticated by Al-Albanī as 'ḥasan', Al-Munājīd adds that a "mujaahid does not have to be married in order to gain possession of a "slave whom one's right hand possesses," that it is permissible for him to have sexual intercourse and to sell them.¹⁶⁸ Similarly, in the context of evaluating the conditions making polygamy permissible, Ibn Baz makes reference to the institution of slavery by maintaining that "If a person fears that he will not do justice [between wives], then he may only marry one wife in addition to having slaves."¹⁶⁹

Al-Munājīd goes on to assert in a disparaging manner that sexual slavery is rare these days because Muslims have illegitimately abandoned the obligation to engage in jihād with the unbelievers and because they became party to protocols which expressly forbid.¹⁷⁰

Indeed, Ali aptly notes that in the official corpus of the contemporary Saudi Arabian fat was there is a reiteration of classical doctrines concerning slavery and concubinage "as though slavery had never been abolished by [Muslim majority] national governments."¹⁷¹

In summary, in all three cases studies, the obligatory nature of niqāb, all pervasive gender segregation and permissibility of sexual enslavement of women,

166 <http://islamqa.info/en/12562>.

167 <http://islamqa.info/en/12562>.

168 Ibid.

169 Ibn Baz, "Concerning Polygyny," in Ibn Baz et al., *Islamic Fatawa Regarding Women*, Riyadh: Dar as salam, 1996, p. 178.

170 Ibid.

171 Ali, *Sexual Ethics and Islam*, 52.

we find complete agreement between the practices imposed by the IS and the views held by senior Saudi scholars. The evidence for these practices are based on a body of evidence that comes from Qurʾān and ḥadīth interpreted through a particular lens of the nature of male and female sexuality as well as on a certain methodology.

In what follows I purport to deconstruct some assumptions underpinning the neo-ahl ḥadīth approach to interpretation and explain how it is responsible for them adopting these views on gender under discussion.

4 Deconstruction of Ahl-ḥadīth manhāj and its interpretational Assumptions

The differences in methodologies of interpretation of the Qurʾān and Sunna relate to many factors and are based on certain interpretational assumptions. I have dealt with them in some detail elsewhere and for the purposes of this article will focus on the following three as they can help us understand the adoption of these gender polities by IS (and the senior Saudi scholars), it is hoped, particularly well, namely:

- Relationship between text and context and the role of teleological hermeneutics
- Sunna-ḥadīth dynamics

4.1 *Relationship between Text and Context and the Role of Teleological Hermeneutics*

Ahl-ḥadīth based approach to interpretation of the Qurʾān and ḥadīth texts, much like that of the classical *madhāhib*, is at best semi-contextualist in nature.¹⁷² While it does recognise elements of historical character of the revealed texts associated with the classical disciplines such as occasions behind

¹⁷² Duderija, *Constructing*. This is amply evident in the realm of Islamic jurisprudence and ethics. For example, as noted above, in the Open Letter to Baghdadi document there is explicit agreement with the IS belief in the immutability of the corporal punishments as found in classical Islamic law. The Sunnī traditionalists merely disagree with the conditions and circumstances under which they are to be administered. Also Sunnī traditionalists uphold the in the view of religiously obligatory nature of veiling, mainly in form of hijāb which is basically justified on the same interpretation of the Qurʾān-hadith evidence as that of the ahl-ḥadīth manhāj in addition to subscription to same gender ideologies and nature of female sexuality as encapsulated in the concept of women as sources of fitna.

revelations (*asbāb—ul nuzūl*) or abrogation (*nash*) as contained in ḥadīth/sīra/tarīkh literature they did not translate them into concrete interpretational models which would utilise them to a their full extent. By this I mean that they did not recognise the full interpretational implications of the context behind certain Qurʾānic and/or ḥadīth-based injunctions. Hence, from a contextualist approach perspective, this approach is unable to hermeneutically distinguishing, in a systematic manner, between the non-contextually and contextually contingent elements of the texts. Put differently, and from the same contextualist perspective, this approach would consider historically contingent dimension of Revelation as part of its universal dimension.

The IS policy of continued permissibility of sexual enslavement of ‘pagan’ female war captives, a view as we saw endorsed by prominent Saudi scholars, is based on such an approach. As noted above, in their Dabiq article the authors point to the existence of the Qurʾānic verse that talks about the category of *mā malakat aymānukum* (4:24) and cite the precedents of the Prophet and his Companions as well as early Muslim conquests found in ḥadīth literature in support of this view. The idea that neither the Qurʾān nor the Prophet did not *explicitly* abolish these practices is hermeneutically employed to argue that any such action would be deemed going against the ‘clear’ Qurʾān-Sunna teachings. This view is also clearly evident in the case of Al-Munājjid who as we saw bemoans the fact that Muslims majority stated have abandoned jihād against the kuffār, hence depriving Muslim mujahidīn of the opportunity to enslave female captives of war of the kuffār.

There is no attempt to contextualise the question of slavery in the Qurʾān and Sunna and employ it hermeneutically beyond this point. A contextualist approach on the other hand is based on the hermeneutical recognition of the intrinsic contextuality of the socio-legal injunctions found in the Qurʾān and ḥadīth texts and their customary (‘urfi) nature. One element of this contextualist approach means investigating, in a methodical manner, the role of context in the shaping of the very content of the Qurʾān and its worldview.¹⁷³ One aspect of his Qurʾānically assumed operational discourse must be seen as often *reflecting* (in contrast to *initiating*) the prevalent religious, cultural, social, political and economic situation of its direct audience, its first community of listeners and participants upon which a dialogical nature of the Qurʾān’s discourse is premised. Hence, the idea that the Qurʾān was revealed

173 Adis Duderija, “The Hermeneutical Importance of Qurʾānic Assumptions in the Development of a Values Based and Purposive Oriented Qurʾān-Sunna Hermeneutic: Case Study of Patriarchy and Slavery”, *HAWWA-Journal of Women in the Middle East and the Muslim World* 11 (1, 2013): 58–87.

in a society in which slavery and sexual enslavement of non-Muslim female captives of war was accepted as part of socio-cultural practices and that these practices were adopted by early Muslim generations, including the Prophet, do not automatically imply that these practices are part of normative Qurʾān-Sunna teachings as in the case of the proponents of the ahl-ḥadīth manhāj. Classical Islamic scholarship which today includes the proponents of both Sunnī traditionalism as well as those belonging to the ahl-ḥadīth manhāj, considered that the socio-legal injunctions in the Qurʾān and the ḥadīth are not simply ‘urfī (customary) but *tawqīfī* or *taʾabudī* (ie. religiously normative and hence immutable) in nature.¹⁷⁴

A related hermeneutical principle that arises from contextual approach to the Qurʾān and Sunna is premised on the idea that the actual nature and character of the discourse in the Qurʾān and Sunna seek to realize and reach an underlying objective (*qaṣd*) in the form of certain ethico-religious values understood in an ethically objective manner whose identification and subsequent hermeneutical employment would be hermeneutically privileged over the literal meaning of texts. This is so because, if interpreted holistically, all of the Qurʾānic legal injunctions and the ethical legacy of the Prophet as a whole (Sunna)¹⁷⁵ point to certain moral trajectories and ideals, to use Wadud’s apt phrase, which *project* a world without slavery and slavery related practices as an ideal to be attained and work toward. This hermeneutical mechanism is akin to Gadamer’s concept of *teleological hermeneutics* in which the text is interpreted in terms of the world it *projects*¹⁷⁶ to the interpreter.¹⁷⁷ However, the entire edifice of Islamic Law and its legal theory, especially in the ahl-ḥadīth version, largely if not entirely overlooked the hermeneutical importance of these trajectories.¹⁷⁸ This is so because of their subscription to the Salafī worldview alluded to above, a particular understanding of the concept of sunna (discussed below) and a heavily textualist approach to Qurʾānic interpretation discussed above which rendered these practices as universalist and non-negotiable elements of normative Islam.

174 L. Zakariyya, “Custom and Society in Islamic Criminal Law: A Critical Appraisal of the Maxim ‘al-ʿĀdah Muḥakkamah’ (Custom is Authoritative) and its Sisters in Islamic Legal Procedures”, *Arab Law Quarterly*, 26, 1 (2012), 75–97.

175 In contrast to individual ḥadīth.

176 See footnote 60.

177 Gadamer, *Truth and Method*.

178 Duderija, “The Hermeneutical Importance.”

4.2 *The Sunna-Ḥadīth Dynamics*

In the previous section in the context of outlining the contours of ahl-ḥadīth madhhab we explained how the contemporary proponents of the ahl-ḥadīth madhhab, namely the Saudi Arabian scholars, distinguish their manhāj from other Muslim groups and especially the Sunnī traditionalists for example by advocating the abandonment of taqlīd in favour of ittibaʿ.

We also briefly outlined another major 'sticking point' in Islamic history between the proponents of Sunnī traditionalism and the ahl-ḥadīth madhhab namely, the one pertaining to the nature and the scope of the concept of sunna. In this regard there has always been tension between, on the one hand, the epistemologically and methodologically ḥadīth *dependent* concept of sunna¹⁷⁹ of the muḥaddithūn, some *fuqahā'* and those who subscribed to the *ahl-ḥadīth* concept of sunna (in distinction to ahl-ra'y) and on the other hand the Mu'tazila¹⁸⁰ and some of the Hanafī¹⁸¹ and Mālikī¹⁸² legal theorists (uṣūliyyūn).

The ahl-ḥadīth based approach to the concept of sunna is based on that of the methodology of the early ḥadīth masters (such as such as Al-Bukharī and Muslim).¹⁸³ This concept of Sunna is premised on a number of assumptions two of which are particularly significant for us in the article. Firstly, it assumes that the scope of sunna is epistemologically dependent upon and constrained by ḥadīth, i.e. that it's epistemological value is the same as that of each "authentic" ḥadīth and that the existent 'authentic' ḥadīth body of literature is the sole depository of sunna and its only vehicle of perpetuation. Secondly, it assumes that Sunna is methodologically dependent upon ḥadīth. By methodologically

179 Defined below.

180 Racha El-Omari, "Accommodation and Resistance: Classical Mu'tazilites on Ḥadīth", *Journal of Near Eastern Studies*, Vol. 71, No. 2 (October 2012), 231–256.

181 V. I. Stodolsky, *A New Historical Model and Periodization for the Perception of the Sunnah and his Companions*, (Ph.D. thesis, University of Chicago, 2012).

182 On Malikī madhhab see Umar F. Abd-Allah Wymann Landgraf, *Malik and Medina-Islamic Reasoning in the Formative Period*, (Brill, Leiden: 2013),

183 F. Al-Atharee, *Clarification that the Ahlul-Hadeeth are the Saved Sect and Victorious Group*. T.R.O.I.D., Toronto, Canada, 2003; A. ibn Muhammad Ad-Dehlawee Al-Madane'e, *A History of the Ahlul-Hadeeth—A Study of the Saved Sect and that it is The People of Hadeeth*, trans. by Aboo 'Ubaidah ibn Basheer, Salafi Publications, Birmingham 2005; R. Al-Madkhalee, *The Methodology of Ahlus-Sunnah Wal-Jama'ah on Criticising Individuals, Books and Groups*, tr. by Abu Maryam Isma'eel Alacron, Al-Ibaanah Publishing, 2005. *The Status of the People of Hadeeth (the Ahlul-Hadeeth): Their Feats and Praiseworthy Effects in the Religion*, tr by Abu Hakeem Bilal Davis, Salafi Publications, UK; N. Al-Albanī, *The ḥadīth is Proof itself in Belief and Laws*, Premier Book Centre, India, n.d.

dependent on ḥadīth it is meant that the Sunna compliance (or otherwise) of certain (legal, ethical or theological) practices or principles, is and can only be determined by sifting through numerous narratives reportedly going back to Prophet Muhammad via an authentic chain of narrators (*isnād*). Ahl-ḥadīth concept of sunna rejects the concept of sunna in Mālikī and Hanafī madhāhib.¹⁸⁴ Importantly, ahl-ḥadīth based concept of sunna, considers the isolated or solitary ḥadīth reports (*khabar al-wāḥid*), to have the legal probity to specify the general terms (*takhṣīṣ al-'umūm bi-khabar al-wāḥid*) in the Qur'ān or the sunna. The Ḥanafīs, however, do not give this authority to the solitary report.¹⁸⁵

The interpretational implication of this is that if a ḥadīth, even a solitary one,¹⁸⁶ is found to be authentic according to traditional Muslim sciences the value of sunna is bestowed on it and is, therefore, to be considered part of Islamic law. This concept of sunna, in addition to the other two discussed aspects of ahl-ḥadīth manhāj, explains why ahl-ḥadīth scholars mentioned above (and their ideological proponents) consider the niqāb to be obligatory in nature given that are a number of ḥadīth listed above which seem point to the practice as being prevalent at the time of the Prophet and early Muslim community. Hence they considered them as coming under the aegis of the concept of Sunna. These ḥadīth are also used to specify the operative Qur'ānic terms such as *khimār*, *jilbāb* and *juyūb* to argue that these words when understood in light of the ḥadīth necessitate the covering of the face. As noted above the ḥadīth which explicitly allow women to leave their faces and hands uncovered are dismissed as weak (*da'if ḥadīth*).¹⁸⁷

Finally, it is important to note that in many hermetically crucial ways the modern Sunnī traditionalists' textual hermeneutics is simply a minor variation of the classical literalist bound Islamic hermeneutics which includes that of the ahl-hadith (or vice versa).¹⁸⁸ Sunnī traditionalists also, in substance, subscribe to same gender ideologies pertaining to the nature of female

184 Ibid.

185 Abū Bakr Aḥmad b. 'Alī al-Jaṣṣāṣ al-Rāzī, *Uṣūl al-Jaṣṣāṣ al-musamma Al-Fuṣūl fī al-uṣūl*, ed. Muḥammad Muḥammad Tāmir (Beirut: Dār al-Kutub al-'Ilmiyyah, 2000), 1:74.

186 The vast majority if not all of the ḥadīth in classical ḥadīth collections are essentially aḥad. See, Adis Duderija, "The evolution in the canonical Sunnī Hadith body of literature and the concept of an authentic hadith during the formative period of Islamic thought as based on recent Western scholarship," *Arab Law Quarterly*, 23, 4, 2009, 1–27.

187 See footnote 95.

188 Robert, Gleave: *Islam and Literalism: Literal Meaning and Interpretation in Islamic Legal Theory*. Edinburgh, UK: Edinburgh University Press, 2013, p. 3, 24.

sexuality which is used as *raison d'être* for advocating women's confinement, seclusion and /gender segregation.¹⁸⁹

This is amply evident in the realm of Islamic jurisprudence and ethics. For example, as noted above, in the Open Letter to Baghdadi document there is explicit agreement with the IS belief in the immutability of the corporal punishments as found in classical Islamic law. The Sunnī traditionalists merely disagree with the conditions and circumstances under which they are to be administered. Also, the Sunnī traditionalists uphold the view of religiously obligatory nature of veiling, but, perhaps, mainly in form of hijāb which is basically justified on the same interpretation of the Qur'an-hadith evidence as that of the ahl-ḥadīth manhāj.¹⁹⁰ The same could be said about the institution of slavery and concubinage which were never formally abolished even at the end of Ottoman Empire (as the last symbol of the Islamic caliphate and the guardian of the classical Islamic law tradition) because of sensitivity to Muslim sentiments and perceived loyalty to classical Islamic law.¹⁹¹

5 Conclusion

When it comes to gender policies imposed by the IS under discussion in this article there is no doubt that they most faithfully represent the views of the senior Saudi Arabian scholars whose manhāj is inherited from that of the ahl-ḥadīth madhhab as distinct from that of what we termed here Sunnī traditionalism. The Open Letter to Baghdadi has highlighted not only the nature of the ongoing disagreements pertaining to the relative status and authenticity of the various sources of legal authority in the Islamic legal tradition,

189 Mahallati, Amineh "Women in traditional Shari'a: a list of differences between men and women in Muslim tradition," *Journal of Muslim Law and Culture*, 12(1): 1–9. A. Barlas' *Believing Women in Islam—Unreading Patriarchal Interpretations of the Qur'an*, University of Texas press, Austin, 2002.

190 But even in relation to this issue there is much controversy and differences of opinions. For example, the Deobandi Mufi, *Husain Kadodia*, categorically states that niqāb is obligatory for women according to the largest traditional school of thought, the Hanafi madhhab and provides a long list of Hanafi scholars who share this view. <http://www.deoband.org/2009/04/fiqh/miscellaneous/the-niqab-and-its-obligation-in-the-hanafi-madhhab/>. For opposite view by Y. Al-Qaradawi, see <http://www.suhaibwebb.com/ummah/women/hijab-niqab/is-wearing-the-niqab-obligatory-for-women-part-1-of-2-by-yusuf-al-qara%E1%B8%8Dawi-translated-by-u-%CA%BFabdullah/>.

191 Y. Hakan Erdem. *Slavery in the Ottoman Empire and its Demise, 1800–1909*. London: Macmillan, 1996.

between the proponents of Sunnī traditionalism and the ahl-ḥadīth scholars, some of which were discussed in this paper, but also how much they have in common from a methodology of interpretation point of view. As shown in the final section the ahl-ḥadīth manhāj on the basis of which the IS, much like the senior Saudi scholars, religiously justifies the practices of obligatory nature of the niqāb, the all-pervasive gender segregation and permissibility of enslavement of pagan women is characterized by a semi-contextualist and ḥadīth based Qurʾān-Sunna hermeneutic that is in large proportion and in terms of many hermeneutically crucial presuppositions on gender issues is shared by the Sunnī traditionalists. This is nowhere better evident than in their shared belief in the immutability of the corporal punishments which feature in classical Islamic law as well as their common understanding of the nature of male and female sexuality on which practices such as veiling, and gender segregation, albeit in more flexible forms, are premised.