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WOMEN AS LEGAL ACTORS IN EARLY ISLAMIC LAW:
Settlement and Dispute Resolution in Practice

Alshaymaa Alharbi

Abstract

This Article examines women's legal agency in peacebuilding and dispute resolution in early Islamic history. Anchored in Qur'anic commitments to justice and reconciliation (*sulh*) and in the Sunnah as lived institutional practice, it traces how early Muslim communities drew on and reshaped prevailing Arabian dispute-resolution norms, including consultation (*shura*/*mushawara*), arbitration (*tahkim*), and informal mediation. The Article then identifies the socio-legal constraints that limited women's participation as juristic discourse developed, including gendered assumptions about authority and credibility that were later naturalized as doctrine. Through two case studies, Umm Salama and Aisha bint Abu Bakr, it shows women acting as advisers, mediators, and public reasoners at moments when communal cohesion and legitimacy were under strain, even within patriarchal structures. Situating these episodes within Islamic legal and ethical reasoning, the paper argues that women's contributions were not marginal to the legal order but part of the architecture through which peace was made and maintained. For feminist readers, the intervention is direct: what looks like "religious tradition" is often the product of contestable interpretive choices. The early record preserves resources for an analysis of gender, authority, and inclusion that does not treat women's exclusion as inevitable.

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I. Introduction

The role of women in early Islamic legal systems presents a compelling intersection of jurisprudence, history, and gender dynamics. This paper examines their multifaceted contributions to peacebuilding and dispute resolution during a formative period in Islamic history. By situating women's roles within the broader frameworks of the Quran, Sunnah, and prevailing Arabian tribal customs, it explores the ways in which they influenced and were influenced by the socio-legal structures of the time. This inquiry not only seeks to uncover the legal mechanisms that enabled their participation but also critically examines the barriers erected by patriarchal interpretations and cultural norms.

Historical records challenge dominant narratives of women's marginalization in dispute resolution. From Umm Salama's pivotal role in the Treaty of Hudaybiyyah to Aisha bint Abu Bakr's complex engagement in political and military conflict, women demonstrated agency, intellect, and resilience. These instances highlight a tension between their active roles in shaping Islamic society and the subsequent attempts to curtail their public presence.

This study asks: How did early Islamic legal systems both empower and constrain women's public participation? The Quran and Sunnah provided a foundation for justice, reconciliation, and social harmony, principles that were ostensibly inclusive. Yet, the interpretative practices of Islamic jurists and the sociocultural milieu often resulted in the exclusion of women from positions of authority, particularly in areas like adjudication and leadership. This duality is not merely an artifact of history; it continues to resonate in contemporary debates on gender and Islamic law.

This paper is structured to address these complexities in a systematic manner. It begins by exploring the Quranic principles of dispute resolution and their practical implementation through the Sunnah of Prophet Muhammad (peace be upon him). The dynamic interplay between continuity and transformation in early Islamic governance is highlighted by contextualizing these teachings within prevailing Arabian tribal practices. Subsequently, the paper examines the legal frameworks that shaped women's roles, focusing on the mechanisms that

facilitated their inclusion as peacemakers and the barriers that limited their scope of influence.

The analysis is enriched by a detailed exploration of key historical figures whose lives exemplify the nuanced reality of women's participation in early Islamic society. The contributions of Umm Salama and Aisha bint Abu Bakr serve as focal points for understanding the possibilities and limitations of women's roles in conflict resolution and political leadership. These narratives are not merely historical accounts; they provide critical insights into the enduring debates about women's agency in Islamic jurisprudence and society.

By integrating legal analysis, historical context, and gender studies, this paper aims to provide a comprehensive understanding of women's roles in early Islamic legal systems. It aspires to move beyond reductive interpretations that either idealize or dismiss their contributions, offering instead a balanced perspective that acknowledges the complexity of their experiences. In doing so, it seeks to contribute to the ongoing discourse on gender and justice in Islamic thought, emphasizing the relevance of these historical insights to contemporary discussions on women's rights and leadership in Muslim societies.

This study is both historical and a call to reassess interpretations shaping Islamic law today. By revisiting the contributions of women to peacebuilding and dispute resolution, it underscores their indispensable role in the development of Islamic legal and ethical frameworks, challenging us to envision a more inclusive approach to the study and application of Islamic jurisprudence.

II. Dispute Resolution in Early Islamic History

The mechanisms of dispute resolution in early Islamic history reflect a synthesis of Quranic principles, Prophetic practices, and the deeply rooted customs of Arabian tribal society, aimed at fostering social justice and communal harmony.[1] Rooted in the Quran and Sunnah, these practices sought to balance divine guidance with practical considerations, underscoring Islam's commitment to equitable conflict resolution. Prioritizing reconciliation (*sulh*) over adversarial proceedings, Islamic teachings framed harmony as essential to preserving social cohesion and divine justice.[2] While the Quran established the ethical foundations for resolving disputes, the Sunnah provided pragmatic applications of these principles, which were further adapted within prevailing tribal norms. This interplay between divine guidance and societal practices laid the groundwork for Islamic jurisprudence, explored further in the discussions on the Quran and Sunnah.

1. Aida Othman, "*And Amicable Settlement is Best": Sulh and Dispute Resolution in Islamic Law*, 21(1) L. Q. 64, 66–70 (2005).
2. *Id.*

A. Dispute Resolution in the Quran

The Quranic framework for dispute resolution centers on *sulh* (amicable settlement), advocating it as a superior method for achieving ethical and religious harmony.[3] *Surah An-Nisa* (4:128) succinctly states, "*Sulh is best*,"[4] underscoring Islam's preference for negotiation over adversarial disputes to maintain social harmony.[5] The Quran emphasizes proactive reconciliation to restore community cohesion, as exemplified in *Surah Al-Hujurat* (49:9–10): "If two parties among the believers fall into a quarrel, make peace between them . . . "[6] This directive frames reconciliation as both an ethical mandate and a communal responsibility.[7]

Forgiveness and forbearance complement the pursuit of *sulh*. *Surah Ash-Shura* (42:40) highlights the moral elevation of pardoning grievances, aligning with Islam's emphasis on compassion and mutual respect: "*Repel [evil] with what is better*."[8] Such acts of magnanimity are not mere legal strategies but profound expressions of noble character that strengthen societal bonds.[9] The Quran further integrates procedural and ethical imperatives, balancing individual rights with communal harmony through principles of equity and restorative justice.[10]

While these teachings establish *sulh* as a cornerstone of Islamic dispute resolution, they represent a fraction of the Quran's broader guidance. Together, they form the legal and ethical foundation of early Islamic jurisprudence, setting the stage for their practical application in the Sunnah, as examined in the next section.[11]

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3. Harris Sadik Kirazli, Conflict Resolution and Peacemaking in Islam: Theory and Practice 77–80 (Khaled Abou El Fadl ed., Springer Nature 2024).

4. Quran 4:128 (exhorting spouses to consider conciliation terms and to treat one another magnanimously in cases of marital discord). *See also* Quran 4:35 (directing the community to appoint arbitrators from each spouse's family as a mechanism for facilitating reconciliation in marital disputes); Quran 8:1 (calling believers to resolve disputes over war spoils by deferring to divine authority and reconciling differences among themselves, illustrating *sulh* as a general principle applicable beyond the marital context); Quran 42:40 (affirming that pardoning and making reconciliation is morally superior to retaliation, grounding *sulh* in a divine ethical imperative).

5. Aida Othman, *"And Amicable Settlement Is Best": Sulh and Dispute Resolution in Islamic Law*, 21 *Arab L.Q.* 64, 65 (2007); Sadik Kirazli, *Conflict and Conflict Resolution in the Pre-Islamic Arab Society*, 50 Islamic Stud. 25, 44–45 (2011).

6. *See* Quran 49:10 ("The Believers are but a single Brotherhood: So make peace and reconciliation between your two (contending) brothers.").

7. Hani M. 'Atiyah, Qur'anic Text: Towards a Retrieval System 54–56 (International Institute of Islamic Thought 1996).

8. Quran 42:40; Kirazli, *supra* note 3, at 88–90.

9. Kirazli, *supra* note 3.

10. *See* Quran, 2:178, 5:8.

11. To understand the hermeneutically symbiotic relationship that existed between the Quran and Sunnah during the formative period of Islamic thought, *see* Muhammad Yousuf Guraya, *The Concept of Sunnah: A Historical Study*, 11 Islamic Stud. 13 (1972).

B. Dispute Resolution in Sunnah

Dispute resolution in Sunnah represents the practical realization of the ethical principles articulated in the Quran, grounded in the teachings and actions of Prophet Muhammad.[12] His life provides a profound example of how theoretical ideals were transformed into lived practices, ensuring justice and harmony within the community.[13] Unlike abstract legalistic formulations, Sunnah embodies a deeply human approach to resolving conflicts, emphasizing reconciliation, fairness, and compassion.[14]

As mediator and arbitrator, the Prophet exemplified the Islamic commitment to resolving disputes through fairness and unity.[15] His ability to navigate complex interpersonal and tribal conflicts revealed not only his deep understanding of human nature but also his unwavering dedication to fostering peace.[16] By uncovering the underlying interests of all parties and crafting solutions that promoted unity, his judgments earned respect, even from those outside the Muslim faith.[17]

Forgiveness was central to the Prophet's approach, demonstrating his belief in compassion as a transformative force in conflict resolution.[18] His magnanimity, particularly after the conquest of Mecca when forgiveness replaced retribution, underscored reconciliation as a moral imperative essential to sustaining social harmony.[19]

Justice in the Sunnah balances empathy with an acute awareness of the social dynamics underpinning disputes.[20] The Prophet's resolutions often prioritized repairing relationships over punitive measures, reflecting a commitment to restorative justice.[21] For instance, his patient diplomacy during the Treaty of Hudaybiyyah illustrated the value of deliberate decision-making in achieving lasting stability.[22]

In addition to resolving disputes, the Sunnah emphasizes prevention by promoting ethical conduct and mindfulness. By discouraging behaviors like slander and backbiting, it fosters an environment less prone to conflict.[23] This proactive

12. Kirazli, *supra* note 3, at 115–18.
13. *Id.* at 118–19.
14. *Id.* at 124–25.
15. Aida Othman, And Sulh is Best: Amicable Settlement and Dispute Resolution in Islamic Law 58–123 (2005) (unpublished Ph.D. dissertation, Harvard University) (on file with The Center for Middle Eastern Studies, Harvard University).
16. Kirazli, *supra* note 3, at 118–20, 124–26.
17. *Id.* at 50–51.
18. Kirazli, *supra* note 3, at 125–26.
19. Othman, *supra* note 1, at 81–86.
20. Kirazli, *supra* note 3, at 127–29.
21. Othman, *supra* note 1.
22. *See infra* Section A (providing a detailed discussion of the Treaty of Hudaybiyyah and its significance in conflict resolution).
23. Kirazli, *supra* note 3, at 132–33.

dimension complements reactive mechanisms, reinforcing the interconnectedness of morality and justice in Islamic thought.[24]

This integration of Quranic principles into the lived realities of the community established a culture of justice and reconciliation, ensuring the enduring relevance of these principles across contexts and generations.[25] As Islamic teachings continued to influence dispute resolution practices, they also interacted with and redefined prevailing Arabian tribal customs, a relationship explored in the following section.

C. Influence of Prevailing Arabian Tribal Practices

Prevailing Arabian tribal practices significantly influenced the evolution of dispute resolution in early Islamic history, reflecting a nuanced process of adaptation and transformation.[26] Islam introduced transformative ethical and legal principles while retaining and refining the dispute resolution mechanisms rooted in tribal society to ensure alignment with its ideals of justice, equity, and social harmony.[27]

Pre-Islamic Arabian society relied heavily on negotiation, mediation, and arbitration to resolve disputes.[28] Central to this process was the *hakam*, a neutral arbitrator whose flexible and informal methods resonated with Islamic principles of reconciliation.[29] The Prophet Muhammad's recognition of these methods reinforced their continued relevance, as he validated their utility while modifying their application to conform to Islamic ethical imperatives of fairness, compassion, and accountability.[30]

Sulh, or amicable settlement, exemplifies this synthesis, bridging tribal customs and Islamic ethical imperatives. For instance, while pre-Islamic arbitration often invoked oaths to pagan deities, Islam reoriented this practice by replacing these invocations with oaths to Allah, marking a broader shift toward monotheistic principles.[31] These modifications preserved the functional essence of tribal customs while embedding them in an Islamic ethical framework.

Pre-Islamic tribal norms, such as *'asabiyyah* (group solidarity), both supported internal cohesion and challenged Islam's vision of a unified *ummah*.[32]

24. *Id.*

25. *Id.*

26. *Id.* at 16 ("Pre-Islamic Arabian customary law (*'urf*) was the foundation from which, in part, the Islamic legal system arose. Customary law was regarded as one of the secondary sources of Islamic law.").

27. Ilkka Lindstedt, *Pre-Islamic Arabia and Early Islam*, in Routledge Handbook on Early Islam 159, 162–63 (Herbert Berg ed., Routledge 2017).

28. Bernard Lewis, The Arabs in History 24 (6th ed. Oxford Univ. Press 1993).

29. Kirazli, *supra* note 3, at 44.

30. *Id.* at 15–17.

31. *See* Abu al-'Abbas Thalab, Sharh Diwan Zuhayr ibn Abi Salma 66–67 (Dar al-Afaq al-Jadidah 1982).

32. W. Montgomery Watt, Muhammad at Mecca 17 (Oxford Univ. Press 1956); Fred

While tribal loyalties maintained cohesion within clans, they often fueled inter-tribal conflicts.[33] Islam sought to mitigate these divisive tendencies by emphasizing universal brotherhood and equality before God.[34] Despite these efforts, traces of tribalism persisted, influencing disputes and their resolution, highlighting the tension between the tribal and Islamic ideals of unity.[35]

The interplay of continuity and transformation in early Islamic dispute resolution highlights the pragmatic integration of tribal customs into a higher ethical framework guided by Islamic governance. By selectively adapting these customs, Islam reconciled immediate societal needs with its broader vision of justice, unity, and moral accountability.

This sophisticated system also prompts critical questions about the roles of various societal members, particularly women, within its evolving legal and cultural structures. The following sections explore how these dynamics shaped women's opportunities and limitations as negotiators, mediators, and community leaders, illuminating the interplay between legal norms, cultural practices, and gendered expectations in early Islamic history.

III. Legal Frameworks: Supporting and Constraining Women in Early Islamic Dispute Resolution

A. Mechanisms of Support: Legal Principles That Empowered Women as Peacemakers

Islamic teachings established a framework for conflict resolution and peace-making that, while not explicitly focused on women, created avenues for their meaningful participation. Core principles such as consultation (*mushawarah*), reconciliation (*sulh*), patronage-mediation (*wasta*), and arbitration (*tahkim*) inherently support inclusive practices in fostering peace and resolving disputes, as emphasized in the Quran and Sunnah.

The absence of explicit prohibitions in the Quran or Sunnah regarding women serving as judges or arbitrators forms a key argument in favor of their eligibility within Islamic jurisprudence.[36] Grounded in the principle that all actions are permitted unless explicitly forbidden, Islamic law supports the legal permissibility of women serving as neutral conflict resolvers, a view upheld by numerous scholars.[37] As one scholar notes, "*No jurist is able to point to an*

M. Donner, The Early Islamic Conquests 39–40 (Princeton Univ. Press 1981).

33. *Id.*

34. Kirazli, *supra* note 3, at 28–32.

35. *Id.*

36. Engy Abdelkader, *To Judge or Not to Judge: A Comparative Analysis of Islamic Jurisprudential Approaches to Female Judges in the Muslim World (Indonesia, Egypt, and Iran)*, 37 Fordham Int'l L. J. 310, 310–16 (2014).

37. *Id.*

explicit text in the Quran that categorically excludes women from any lawful type of employment, including the judiciary."[38] This interpretive openness highlights the flexibility of Islamic legal tradition, allowing for the inclusion of women in roles aligned with its principles of justice and social harmony.

Historical records of *hukkam* (arbitrators) include women whose mediation fostered communal cohesion and justice, reflecting their recognized competence in such roles.[39] Although these references are limited, they signify continuity between pre-Islamic tribal traditions and Islamic emphasis on equity and reconciliation. By validating women's potential to arbitrate and mediate disputes, Islamic legal frameworks reinforced the integration of these historical roles into an evolving system that prioritized competence over restrictive interpretations of gendered roles.[40]

The involvement of Aisha bint Abu Bakr, who issued *fatwas* and served as a source of legal and moral guidance, further underscores the historical precedent for female authority in early Islamic jurisprudence.[41] Contemporary Muslim feminists frequently invoke this example to validate women's roles as legal actors, particularly in arbitration and mediation.

While less explicitly documented, the integration of pre-Islamic tribal practices into the Islamic legal framework likely retained and modified women's traditional roles as peacemakers. The recognition of *hukkam*, including women, in pre-Islamic Arabia suggests an enduring acknowledgment of their capacity to mediate and resolve conflicts.[42]

These mechanisms illustrate a nuanced framework that, despite historical and cultural constraints, enabled women to contribute significantly to peacemaking and dispute resolution. They highlight the potential within Islamic legal principles to support gender-inclusive practices, laying the groundwork for the subsequent analysis of barriers women faced in these roles.

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38. Mohammad Hashim Kamali, Principles of Islamic Jurisprudence 31 (3rd ed., Islamic Texts Society 2005).

39. Kirazli, *supra* note 3, at 45. ("Several sources provide a list of *ḥukkām* including women, who lived in the pre-Islamic period. For example, al-Af'ā al-Jurhumī is regarded as one of the earliest of the pre-Islamic Arabian arbiters.").

40. Aishath Muneenza, *Appointment of Female Judges in Muslim Countries*, 16 Eur. J. L. Reform 317, 317–19, 322–23 (2014).

41. *See, e.g.,* Maulana Abdus-Salam Nadvi et al., Biographies of The Women Companions of The Holy Prophet And The Ways of Their Sacred Lives 42 (Islamic Book Service 2000) ("[Aisha] used to issue '*FATWA*' (legal decision under Islamic jurisprudence) during the Caliphates of Hazrat Abu Bakr, Hazrat Umar and Hazrat Uthman.").

42. *See* Kirazli, *supra* note 3, at 44–48.

B. Barriers To Participation: Legal And Social Constraints On Women's Roles

In early Islamic history, women's roles in peacemaking and conflict resolution were influenced by a combination of legal interpretations and socio-cultural norms. While Islamic principles provided a framework for supporting women's participation in public and legal spheres, patriarchal readings of religious texts and societal pressures often constrained these opportunities.

A significant barrier to women's participation in legal and public life stems from varying interpretations of Islamic jurisprudence regarding their eligibility to serve as judges.[43] Hanafi scholars, for instance, permit women to adjudicate in civil matters but exclude them from cases involving *hudud* (prescribed punishments) and *qisas* (retaliation).[44] This distinction arises from evidentiary requirements, as women's testimony is traditionally deemed inadmissible in criminal cases.[45] Despite these limitations, women's eligibility to adjudicate civil disputes reflects a nuanced approach within Islamic legal frameworks, balancing inclusivity with classical evidentiary standards.

The concept of *qawama* (guardianship), rooted in Quranic verses such as *Surah An-Nisa* (4:34), has also been invoked to justify male leadership roles.[46] Historically, this concept has been interpreted as granting men authority due to their financial and physical responsibilities.[47] However, scholars like Asma Afsaruddin argue that this interpretation reflects cultural biases rather than the egalitarian ethos of early Islam.[48] The Quran explicitly affirms the moral and intellectual equality of men and women in *Surah Al-Ahzab* (33:35), challenging claims that women lack the competence for leadership or judicial roles.[49]

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43. Yousuf Ali, *The Appointment of Muslim Women as Judges in the Courts: A Textual Analysis from Islamic Perspective*, in 17 The Second International Conference on Humanities, Historical and Social Sciences 200, 200–05 (2011).

44. Parwiz Stanekzai & Wazir Mohammad Saeedi, *Judge and Women's Judgement in Islamic Sharia and the Laws of Afghanistan*, 7 J. Positive Sch. Psych. 218, 227 (2023).

45. *Id.*

46. "There are verses that have provided the basis on which to build gender hierarchies. Out of a total of 6,660 verses in the Qur'an, it has been argued that only six establish some kind of male authority over women." The six verses are 2:221, 2:228, 2:282, 4:3, 4:34, 24:30. Judith E. Tucker, Themes in Islamic Law: Women, Family, and Gender in Islamic Law 24 (Wael B. Hallaq ed., 2008).

47. *See id.*

48. *See* Asma Afsaruddin, *Reading the Qur'an through a Gendered, Egalitarian Lens*, in *Islamic Interpretive Tradition and Gender Justice: Processes of Canonization, Subversion, and Change* 100, 102, 113–14 (Nevin Reda & Yasmin Amin eds., McGill-Queen's Univ. Press 2020) (arguing that patriarchal exegeses of Q. 4:34 reflect cultural biases absorbed from Persian, Greek, and Byzantine notions of gender hierarchy rather than the Qur'an's egalitarian ethos).

49. *Id.* at 100–01.

A frequently cited hadith, narrated by Abu Bakrah, states: "*When the Messenger of Allah, peace be upon him, learned that the people of Persia had appointed the daughter of Kisra as their leader, he said, 'A people will never succeed if they entrust their affairs to a woman*.'"[50] This statement is often interpreted as a prohibition against women holding leadership positions, including judicial roles.[51] However, critical scholarship highlights the historical specificity of this remark, suggesting it critiqued the political turmoil in Persia rather than imposing a universal restriction.[52] The Quranic account of Queen Bilqis of Sheba, praised for her wisdom and effective governance, offers a compelling counterpoint.[53] *Surah An-Naml* celebrates her leadership, characterized by consultation and sound decision-making, illustrating the Quran's acknowledgment of women's potential for governance and public authority.[54]

Similarly, the Quranic verse 2:282, addressing contractual witnessing, has been widely misunderstood as a reflection of women's intellectual inferiority. In reality, the verse responds to the socio-economic context of pre-Islamic Arabia, where women were often excluded from financial dealings.[55] By requiring two women to witness a contract, the verse ensures reliability without implying an inherent deficiency in women's intellect.[56] This contextual understanding aligns with broader Islamic principles emphasizing equity and fairness in legal matters.[57]

Another hadith, narrated by Abu Sa'id Al-Khudri, recounts the Prophet addressing women during Eid, stating that women constituted the majority of the inhabitants of Hell due to frequent cursing and ingratitude.[58] This narration has been used by some scholars to question women's intellectual and religious capacities.[59] However, critical analysis underscores the rhetorical nature of this statement as one intended to encourage moral reflection rather than to prescribe immutable roles.[60] Furthermore, Islamic legal traditions accept rulings and testimonies based on credibility, regardless of gender.[61] For instance, the sighting of the crescent moon marking Ramadan's start is valid whether reported by a man

50. Sahih al-Bukhari, Hadith No. 4425; Ahmad Ibn Shu'ayb Al-Nasa'i, Al-Sunan Al-Sughra (The Minor Book Of Sunan), at 8:227 (Dar al-Ma'arif 1990).

51. *See id.* (noting that the hadith was mentioned under the section titled "Prohibition of Using Women in Governance").

52. Ali Muhammad Al-Sallabi, The Parliament in the Modern Muslim State 225–27 (Dar Al-Ma'rifah, Beirut, Leb., n.d.).

53. *Id.* at 226.

54. Quran 27:32.

55. Mufti Muhammad Shafi, Ma'ariful Qur'an 709–12 (Maktaba Darul-Uloom Karachi 2011).

56. *Id.* at 711.

57. *Id.* at 712.

58. Sahih al-Bukhari, Hadith No. 304.

59. Stanekzai & Saeedi, *supra* note 44, at 226.

60. *See generally* Al-Sallabi, *supra* note 52.

61. Shafi, *supra* note 55, at 711–12.

or a woman. Similarly, hadith narration—arguably the most significant form of testimony in Islamic tradition—does not discriminate by gender.[62]

Proponents of restricting women from judicial roles often cite another hadith, wherein the Prophet categorizes judges into three types: one destined for Paradise and two for Hellfire, emphasizing the severe consequences of unjust rulings.[63] These scholars point to the Prophet's use of the word *rajul* (man) to argue that only men are qualified to serve as judges.[64] However, this interpretation overlooks the broader emphasis in Islamic jurisprudence on justice, competence, and fairness as qualifications for judicial authority, irrespective of gender.[65]

The barriers to women's participation in peacemaking and conflict resolution reflect the complex interplay of jurisprudential interpretations, cultural biases, and historical contexts. While patriarchal readings often constrained women's roles, the Quran and Sunnah, when holistically interpreted, offer a robust framework for gender equity and inclusivity. These principles underscore the potential for women's active contributions to Islamic legal and societal frameworks.

As the next section will illustrate, historical examples of women's involvement in conflict resolution reveal their ability to transcend these constraints. Figures such as Umm Salama and Aisha bint Abu Bakr exemplify the critical roles women played in fostering justice and reconciliation, leaving enduring legacies within Islamic history.

IV. Key Historical Figures and Their Roles in Early Islamic Society

A. Umm Salama's Contribution to the Treaty of Hudaybiyyah

Umm Salama (Hind bint Abi Umayya) stands as a multifaceted figure in early Islamic history, embodying piety, wisdom, and active participation in shaping the Muslim community. Revered in both Sunni and Shia traditions, her contributions extended far beyond her role as a wife of the Prophet Muhammad (PBUH). She played a critical role in the preservation and dissemination of Islamic teachings, the resolution of communal conflicts, and the intellectual discourse of her time, embodying the Islamic principle of *mushawarah* (consultation), which did not discriminate based on gender.

As a prolific narrator of hadith, Umm Salama transmitted 331 narrations in Sunni collections and 158 in Shia compilations, underscoring her indispensable role in preserving the Prophet's teachings.[66] Her narrations addressed a broad

62. *Id.* at 711–14.

63. Abū Jaʿfar Aḥmad Ibn Muḥammad Al-Ṭaḥāwī, 9 Sharḥ Mushkil Al-Āthār [Explanation Of Difficult Hadiths] 209 (Shuʿayb al-Arnaʾūṭ ed., 1st ed., Muʾassasat al-Risālah 1994).

64. Stanekzai & Saeedi, *supra* note 44, at 227.

65. *See generally* Al-Sallabi, *supra* note 52.

66. Yasmin Amin, Umm Salama and Her Hadith 223 (M.A. thesis, Am. Univ. in Cairo

spectrum of topics, particularly practical conduct (*muʿāmalāt*) and women's issues, reflecting her deep concern for the day-to-day lives and well-being of the Muslim community.[67] These contributions not only clarified Islamic principles but also cemented her legacy as a juristic authority and educator, challenging restrictive interpretations of women's roles in religious scholarship.[68]

Her personality was marked by a peace-loving and level-headed nature, traits that became particularly evident during moments of crisis.[69] She consistently advocated for resolution and harmony, advising against divisive actions.[70] This commitment to unity was most strikingly demonstrated during the Treaty of Hudaybiyyah, where her counsel transformed a critical impasse into a turning point for the Muslim community.

Umm Salama was also a witness to many pivotal moments in early Islamic history, including revelations received in the Prophet's household.[71] Her proximity to these events allowed her to contextualize Quranic verses and deepen the understanding of Islamic teachings. Moreover, her active engagement in political discourse, including correspondence with Caliph Uthman ibn ʿAffān, the third caliph to rule after the death of the Prophet Muhammad, highlighted her broader involvement in shaping the sociopolitical landscape of the Muslim community.[72]

Her legacy is one of enduring significance. As a trusted advisor to the Prophet and subsequent leaders, a preserver of Islamic tradition, and an advocate for women's issues, Umm Salama exemplified the intellectual and social contributions women made in early Islam. Her piety, intelligence, and compassion remain a source of inspiration, showcasing how women played vital roles in the intellectual and spiritual development of the Islamic tradition.

Umm Salama played a pivotal role during one of the most defining moments in early Islamic history: the negotiations and aftermath of the Treaty of Hudaybiyyah.[73] This treaty, concluded in the sixth year of Hijra, sought to establish a ten-year truce between the Muslim community and the Quraysh of Mecca.[74] Despite its eventual strategic significance, the treaty's terms initially sparked profound discontent among the Prophet's companions, who perceived it

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2021) (on file with the American University in Cairo Library).

67. *Id.* at 232–33.

68. *Id.* at 253–54.

69. *See* Kirazli, *supra* note 3, at 97–100.

70. Amin, *supra* note 66, at 108–13.

71. *Id.* at 115–16.

72. Tayfur reports that Uthman responded to her: "You have spoken, and I have understood; you have advised, and I have accepted." Abi-Tahir Ahmad ibn Abi Tahir al-Tayfur, The Eloquence of Women 439 (Maṭbaʿat Madrasat Walidat Abbas al-Awwal 1908).

73. The significance of the Treaty of Hudaybiyyah became evident to the Muslim community when, on their return to Medina, Surah al-Fath declared the treaty as a "clear victory." Quran 48:1.

74. Sahih al-Bukhari, Hadith Nos. 875–78.

as a humiliating concession.[75] Amid this tense and emotionally charged atmosphere, Umm Salama's counsel proved instrumental in transforming discontent into unity.[76]

The Treaty of Hudaybiyyah itself arose from Prophet Muhammad's vision to perform the pilgrimage to the Ka'bah.[77] With 1,500 of his companions, the Prophet set out for Mecca, armed only with peaceful intent.[78] However, the Quraysh, suspecting ulterior motives, blocked the Muslims' entry.[79] After protracted negotiations with Suhayl b. 'Amr, the Quraysh's representative, the treaty's terms were finalized: a ten-year truce, deferral of the pilgrimage to the following year, and an agreement not to accept defectors from either party.[80] For the companions, these terms felt like a blow to their dignity, leading even steadfast figures like 'Umar ibn al-Khattab to question the Prophet's decision.[81]

The emotional turmoil peaked when the Prophet instructed his followers to complete the symbolic rituals of the pilgrimage, including the slaughtering of sacrificial animals and shaving of their heads.[82] Their collective silence, born of disappointment, left the Prophet visibly distressed.[83] It was in this moment of tension that Umm Salama's wisdom emerged. Recognizing the gravity of the situation, she advised the Prophet to lead by example—perform the rites himself and allow his companions to witness his unwavering commitment.[84]

Heeding her advice, the Prophet publicly performed the sacrificial rites.[85] His actions immediately galvanized the companions, who followed suit, breaking the stalemate and restoring unity among the group.[86] This episode not only resolved the immediate impasse but also underscored the Prophet's ability to lead with humility and foresight—a leadership that was fortified by Umm Salama's counsel.

Umm Salama's intervention was not merely a practical solution; it reflected her deep understanding of human psychology and her strategic insight into group dynamics. Her ability to navigate this critical juncture highlighted the indispensable role women could play in shaping pivotal moments in Islamic history. Later scholars, such as Al-Juwaynī, recognized her wisdom, encapsulating her legacy

75. Muhammad Ahmed Bashmil, Sulh al-Hudaybiyyah 263–68 (4th ed., Dar al-Fikr, 1983).

76. *See* Kirazli, *supra* note 3, at 97–100.

77. *See generally* Bashmil, *supra* note 75.

78. *Id.* at 128–35.

79. *Id.* at 136–41.

80. Kirazli, *supra* note 3, at 196.

81. *Id.* at 197.

82. *Id.* at 197–98.

83. *Id.*

84. Aḥmad ibn Ḥanbal, 31 Musnad al-Imām Aḥmad ibn Ḥanbal 220 (Shuʿayb al-Arnaʾūṭ & Ibrāhīm al-Zaybaq eds., Dār al-Risālah 855).

85. *Id.*

86. *Id.*

in the saying: "We have not known any other woman who offered advice and it turned out to be correct except for Umm Salama."[87]

As one of the four women present at Hudaybiyyah, alongside Umm ʿUmāra, Umm Hānī, and Umm Amīr al-Ashhaliyah, Umm Salama's participation underscores the inclusive potential of early Islamic legal and ethical frameworks.[88] Her involvement demonstrates how Islamic principles, such as *mushawarah* and *sulh*, transcend gender-based distinctions, affirming the universal applicability of justice, equity, and reconciliation. Her contributions remain a powerful illustration of how women's wisdom and insight shaped the course of Islamic history and offer enduring lessons for contemporary discussions on gender equity in Islamic thought.

B. Aisha bint Abu Bakr: Navigating Political Tensions and Conflict Resolution in Early Islam

Aisha bint Abu Bakr (c. 614–678 CE), a revered figure in Islamic history, was renowned for her intellect, leadership, and commitment to the well-being of the Muslim community.[89] As the wife of the Prophet Muhammad (PBUH) and the daughter of the first Caliph, Abu Bakr, Aisha's position afforded her unique access to the formative years of Islam and its evolving legal and political systems.[90] Her extensive knowledge of the Quran, hadith, and Islamic jurisprudence made her one of the most influential female figures in early Islamic society.[91] Beyond her scholarly contributions, Aisha played a critical role in conflict resolution and peacemaking, often intervening in disputes to preserve the unity and stability of the Muslim ummah.[92] Despite controversies surrounding her political involvement, her actions reflect a profound dedication to justice and reconciliation during a time of significant upheaval.[93]

During the Caliphate of Uthman, rising tensions between the caliph and segments of the Muslim community presented a significant challenge to the nascent Islamic polity.[94] Aisha emerged as an intermediary for those aggrieved by Uthman's governance.[95] Her respected position as the Prophet Muhammad's wife and her unparalleled knowledge of Islamic teachings enabled her to engage

87. Ibn Hajar al-'Asqalani, 5 Fath al-Bari: Sahih al-Bukhari 347 (Dar al-Ma'rifah n.d.).

88. *See* Amin, *supra* note 66, at 97.

89. Shahla Haeri, The Unforgettable Queens of Islam: Succession, Authority, Gender 51–53 (Cambridge University Press 2020).

90. Engy Abdelkader, *From Aisha Bint Abu Bakr to Asmaa Mahfouz: The Legacy of Muslim Women in Populist Revolutions*, 16 Y. B. Islamic & Middle E. L. 53, 57 (2010–2011).

91. *Id.* at 57.

92. Haeri, *supra* note 89, at 51–55.

93. *See id.* at 62–69.

94. Abdelkader, *supra* note 90, at 58.

95. *Id.*; Haeri, *supra* note 89, at 55–62.

constructively with dissenting factions.[96] While her efforts ultimately could not prevent Uthman's assassination, they underscore her role as a mediator striving to prevent escalating conflict.[97]

The period leading to the Battle of the Camel saw Aisha attempting to navigate the volatile political landscape following Caliph Uthman's assassination. As disputes emerged over leadership and justice for the caliph's murder, Aisha advocated for holding the perpetrators accountable to restore order and cohesion within the community.[98] Despite her decision to lead an opposition force against Ali ibn Abi Talib, she took active steps to resolve internal divisions among her allies.[99] For instance, when disagreements arose between Talha bin Ubaid Allah and Al-Zubayr ibn al-Awwam regarding prayer leadership, Aisha intervened to mediate, ultimately selecting al-Zubayr's son as a compromise, thereby preventing further discord within their camp.[100]

On the battlefield itself, Aisha displayed a commitment to minimizing bloodshed, even as tensions ran high. Engaging in dialogue with opposing soldiers, she sought to remind them of their shared faith and familial ties, emphasizing the importance of unity and reconciliation over violence.[101] Her efforts reflected an understanding that conflict resolution required not only addressing immediate grievances but also preserving the social fabric of the Muslim community.

Following the battle, Aisha actively promoted reconciliation among the fractured Muslim community. In her farewell address to the people of Basra, she urged forgiveness and unity, emphasizing the need to move beyond past grievances.[102] She declared, "By Allah! There was never anything in the past between me and Ali other than what usually happens between a woman and her male in-laws,"[103] framing the conflict as a personal misunderstanding rather than a broader political divide. This statement sought to de-escalate lingering tensions and reframe the narrative around the conflict.[104] Ali, in turn, reciprocated her conciliatory efforts, publicly affirming her status as the "wife of your Prophet now and forever."[105] His acknowledgment of her integrity and respected position

96. Haeri, *supra* note 89, at 55–62.

97. For a detailed account of the opposition to Caliph Uthman and Aisha's role in it, *see generally* Muḥammad Ibn Jarīr Al-Ṭabarī, Tārīkh Al-Rusul Wa-L-Mulūk [History Of The Prophets And Kings] (Ehsan Yar-Shater ed., Franz Rosenthal trans., State Univ. of N.Y. Press 1990); Nabīhah Abbott, *Women and the State in Early Islam*, 1 J. of Near Eastern Stud. 106, 125–26 (1942).

98. Abdelkader, *supra* note 90, at 58.

99. Haeri, *supra* note 89, at 62–69.

100. *Id.*

101. *Id.*

102. Al-Ṭabarī, *supra* note 97, at 170; Nabia Abbott, Aishah, the Beloved of Mohammed 165 (Univ. of Chi. Press 1942).

103. Al-Ṭabarī, *supra* note 97, at 170; *see also* Abbott, *supra* note 102, at 165.

104. *See* Haeri, *supra* note 89, at 69–76.

105. Al-Ṭabarī, *supra* note 97, at 170; Abbott, *supra* note 102, at 165.

within the community facilitated the reintegration of her supporters and symbolized a broader commitment to healing the divisions that had emerged during the conflict.[106]

Aisha's contributions to peacemaking and conflict resolution are an enduring testament to her influence in early Islamic society. Her actions highlight the potential for individuals, regardless of gender, to engage in meaningful efforts to resolve disputes and foster unity within their communities. While her involvement in the Battle of the Camel remains a subject of debate, her attempts to mediate disputes and promote reconciliation reflect a commitment to principles of justice and cohesion central to the Islamic tradition. By navigating complex political and social dynamics, Aisha exemplified the critical role of women in shaping the trajectory of early Islamic governance and community-building.

V. Conclusion

The historical and legal analysis of women's roles in early Islamic peacebuilding and dispute resolution underscores their significant yet often underappreciated contributions to the development of Islamic legal and ethical systems. Women such as Umm Salama and Aisha bint Abu Bakr demonstrated profound agency, intellectual acumen, and strategic insight, navigating societal and legal frameworks that both empowered and constrained them. Their participation not only shaped pivotal moments in early Islamic history but also set precedents that continue to inspire contemporary discussions on gender equity within Islamic jurisprudence.

This paper has explored the multifaceted ways in which the Quran and Sunnah provided a foundation for inclusive conflict resolution mechanisms, emphasizing principles such as reconciliation (*sulh*), fairness, and social harmony. At the same time, it has critically examined the interpretative practices and sociocultural norms that historically limited women's participation in judicial and leadership roles. The nuanced interplay between legal principles and patriarchal structures reveals a dynamic tension that is as relevant today as it was in the formative years of Islamic society.

By situating women's roles within the broader historical and jurisprudential context, this study highlights a critical duality: while Islamic teachings inherently support justice and equity, their application has often been shaped by cultural biases and patriarchal interpretations. This duality invites scholars, practitioners, and policymakers to revisit these foundational principles with a view to fostering a more inclusive understanding of Islamic law.

The narratives of early Islamic women demonstrate that their contributions were not anomalies but integral to the ethical and social fabric of their time. Their experiences challenge contemporary assumptions about women's roles in Islamic

106. *See* Haeri, *supra* note 89, at 69–76.

law and provide a lens through which to critique and refine current practices. For example, the principles of justice, consultation (*mushawarah*), and equity, as embodied in the Quran and Sunnah, offer a robust framework for rethinking the limitations imposed on women in legal and societal spheres today.

This research also underscores the importance of historical context in interpreting Islamic law. The dynamic synthesis of Quranic principles, Prophetic practices, and prevailing tribal customs in early Islamic history illustrates the adaptability and inclusivity of Islamic jurisprudence. By engaging with these precedents, contemporary Islamic legal systems have the opportunity to reconcile tradition with modern demands for gender equity and social justice.

Ultimately, the study of women's roles in early Islamic dispute resolution and peacebuilding is not merely an academic exercise but a call to action. It compels us to re-evaluate entrenched assumptions, challenge restrictive interpretations, and reclaim the inclusive spirit of Islamic teachings. By doing so, we honor the legacy of women like Umm Salama and Aisha bint Abu Bakr, whose contributions to justice and reconciliation remain profoundly relevant in our quest for a more equitable and harmonious society.

This conclusion reaffirms the paper's central thesis: women in early Islamic legal systems played indispensable roles in shaping the trajectory of Islamic thought and practice. Their legacy, though often obscured, continues to inform and inspire debates about justice, gender, and governance in the modern era. As such, this study serves as both a tribute to their enduring impact and a foundation for future scholarship aimed at realizing the full potential of Islamic jurisprudence to promote equity and inclusivity.