MULTIPLE WAYS TO INTERPRET ISLAMIC TRADITIONS

Professor of Islamic Studies at Huron University College at the University of Western Ontario, **Dr. Ingrid Mattson** has taught at Hartford Seminary in Connecticut and served as the first woman president of the Islamic Society of North America, the largest Muslim organization on the continent.

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La tolérance à contrecœur est moins robuste que le respect et l'acceptation, mais elle doit être suffisante pour que l'État accepte. Je n'ai aucun problème avec les chrétiens évangéliques qui croient que j'irai en enfer dans ma prochaine vie, tant qu'ils n'essaient pas de subvertir mes droits dans cette vie. Insister sur le fait que l'égalité des sexes signifie de dépouiller les femmes musulmanes de leurs vêtements à la plage est une pente dangereuse vers l'uniformité culturelle et, dans son expression extrême, vers le totalitarisme.

There is a Canadian woman I follow on Twitter who calls herself, "The Salafi Feminist." She describes herself as "A Goth, (Steam)Punk, wannabe-biker niqaabi feminist who may or may not be a Salafi according to your definition thereof." She is a Canadian woman living on the West coast. Here in Toronto, El-Tawhid Juma Circle a.k.a. the Unity Mosque, "is a gender-equal, LGBTQI2S affirming mosque, that's welcoming of everyone regardless of sexual orientation, gender, sexual identity, or faith background." In 2009, Pakistan became one of the first countries in the world to issue identity cards indicating "third gender" to individuals who identity neither as male nor female.[1] The 2017-18 budget of the Khyber Pakhtunkhwa provincial government, centered in Peshawar, Pakistan, includes funds to establish a skills training center for transgender people.[2] Islamic law has always recognized the *mukhannath* as a person who does not fit male-female binary gender identities. Across Muslim cultures this identity was held by people who might be identified in modern Canada as transgender, asexual, or transsexual. While the United States has yet to elect a female head of state, the Muslim majority countries of Indonesia, Turkey, Pakistan, Bangladesh, Kosovo, Senegal, Kyrgyzstan, Mali and Mauritius have all had female heads of state. The president of Singapore is a hijab-wearing Muslim woman, Halima Yacob.

1 www.dawn.com/news/1341545.

2 Sadia Qasim Shah, "Welfare initiative for transgender persons announced," *Dawn*, 6/8/2017; accessed at: https://epaper.dawn.com/DetailImage.php?StoryImage=08_06_2017_181_011.

I do not list these facts to suggest that the vast majority of Muslims in the world believe in absolute gender equality or in equal rights for gay or non-gender conforming people. I would argue that no one really knows what the vast majority of Muslims think about these issues. Because without freedom of conscience and expression, which so many Muslims are fighting for across the world, and have suffered imprisonment, torture or death for their beliefs and activism, we simply cannot know what most Muslims really think. We might have a better idea by noting their political views and behaviour when they live in free and democratic nations.

In 2017 in Germany, 226 members of parliament — "Western" people — the majority of the Christian Democratic parties voted against marriage equality; 393 members, including all six Muslim MPs in the Bundestag, voted for marriage equality.[3]

In 2007, just 27 per cent of American Muslims said society should approve of homosexuality. In 2017 "more than half, 52 per cent said the same."[4]

Without further study, we cannot know what "approve of" really means — for example, would this majority accept that same-sex marriage could be lawful for a practicing Muslim? What is evident, nevertheless, from these examples, from other studies, and from many conversations with my Muslim students and communities, is that most Western Muslims believe in fairness and reciprocity as core ethical principles. Muslims want to be free to practice their religion and to follow their consciences as minorities in democratic societies, and will therefore support the rights of others to do the same. I have heard critics of Islam say that these Muslims are supporting minority rights only because they are minorities here, but where they are majorities, they would not support the rights of other minorities.

And certainly we see many Muslim majority nations where minorities of all kinds are oppressed. But generally, in these contemporary nations, the majority Muslim population also lacks political freedom and even the freedom to practice Islam as they understand it. Historically, Muslim rulers understood Islamic law to require them to allow non-Muslim communities to follow their own laws, including the laws of marriage, divorce, inheritance and the like. The dominant schools of Islamic theology supported divine command theory, eschewing natural law. This meant that even where a religious tradition permitted a practice that "seemed" wrong to Muslims, such as the Zoroastrian approval of the marriage of a man and his niece among the elite castes, the communal right to religious freedom overruled such feelings.[5] This historical ruling is one of the proofs some contemporary conservative Muslim scholars give to argue that Muslims must support the rights of at least "other" religious communities, or communities of conscience, to same sex marriage.

Islam is a complex and diverse tradition with core principles and values that require scholars to change rules according to new science and social context. We must resist affording semiotic privilege to the state, to radical secularists and to religious fundamentalists; most Muslims – in 2017, 64 per cent of American Muslims – believe that there is more than one way to interpret Islamic traditions.[6]

This is not a new idea. One of the most commonly cited statements attributed to the Prophet Muhammad is "difference of opinion within my community is a source of mercy." Modern fundamentalists should never be seen as the protectors of traditional Islam. Rather, they have adopted the centralizing, homogenizing, nationalizing tendencies of modernity, the cooptation of religious institutions by European colonial powers, the linear thinking of the so-called Enlightenment. In our post-modern period, many Muslims are rediscovering older ways of embracing complex identities that were lost through colonial trauma and the self-inflicted wounds of extreme nationalism.

Yesterday was "Person's Day" in Canada — in recognition of the decision on October 18, 1929 that gave women the right to be appointed to the Senate. In most places in Canada, women were given the right to vote just a decade earlier (while Quebec held out until 1940). It was not until the late 19th century that colonial women began to be given the right to own property and/or keep their wages. That is a right women have always possessed in Islamic law. It was the European colonialists who could not comprehend the complexity of Muslim families whereby a woman could have a husband, but still keep her own name, lineage and personal property.

This does not mean that premodern Islamic societies were bastions of women's empowerment or gay rights. We cannot romanticize the past or deny injustices where we find them. But even an Islamic traditionalist does not simply repeat the past; rather, tradition requires a change in norms when there is a change in circumstances. A simple example is the increase in the minimum age for marriage to eighteen in most Muslim countries, so young people can be prepared for the

3 www.independent.co.uk/news/world/europe/angela-merkel-chancellor-germany-same-sex-marriage-vote-lgbt-muslim-mps-berlin-bundestag-cdu-sdp-a7819391.html.

4 www.cnn.com/2017/07/26/us/pew-muslim-american-survey/index.html.

5 Sherman Jackson, *Islam and the Blackamerican: Looking Toward the Third Ressurrection* (New York: Oxford University Press, 2011), 144-45.

6 www.cnn.com/2017/07/26/us/pew-muslim-american-survey/index.html.

complexity of modern life.

Many Muslims believe that an ethical reading of the Qur'an should be progressive, uplifting values and principles, all with the goal in mind of removing obstacles from the spiritual path and to engage with others from an ethical stance founded in respect, reciprocity and mercy. Of course, not everyone agrees. There are those who have a more literal, less contextualized and less ecumenical view of Islam. Some wish to uphold patriarchy and male privilege. Many argue that same sex intimacy is not only sinful but, picking up Catholic "natural law" discourse, harmful to society. How should we deal with such views stated to be grounded in some form of religious belief or identity in our diverse society?

DIFFERENT PERSPECTIVES/CULTURES/DISCOURSES/ HISTORICAL SOLUTIONS

The more diverse a society is in terms of its cultures, languages, faith traditions, national origins, and personal identities, the more opportunities an individual has to strengthen their capacity to make a connection with others. If a person initially does not like or is uncomfortable with one aspect of another's identity, they usually can find a way to get along by looking at them through another lens — as their neighbor, or as their elder, or as a friend of a friend. And once some connection has been made, they just might, and often do, start to change their opinion about the identity they initially rejected or that made them uncomfortable. These opportunities exist not just because of the accidental encounters of diverse peoples, but because the law restrains individuals from translating their initial biases into discriminatory or harmful behaviour. Diversity alone is not enough; legal protection for diversity is necessary — as is legal protection for equality. We have those legal protections here in Canada. But let's not pretend it always has been so. Too often we are presented with an essentialized, enlightened West contrasted with a reductive view of Islam in its most rigid and exclusive form. In the real world, individuals and communities, through trial and error, through oppression and correction, through resentment and reconciliation struggle to make their actions, their communities and their laws in harmony with principles and values with which we all can live.

We cannot demand that all people love and accept each other, if we are speaking about beliefs and feelings. Personally, I do believe that in the end, love is the only thing that matters and that love is a word for the only eternal reality. But that is my spiritual belief. It is not for the state, nor for the institutions of the state to compel feelings and beliefs. Grudging tolerance is certainly less robust than respect and acceptance, but it must be enough for the state to accept. I have no problem, for example, with Christian evangelicals thinking I'm going to hell in the next life as long as they do not try to subvert my rights in this life.

This panel is about "balancing" rights — balancing the religious freedom of those, for example, who believe in covering certain parts of the body in a mixed gender setting with "gender equality" is the whole point of accommodation — to allow, for example, the wearing of burkinis or having gender-separated swimming lessons for those who want them. To insist that gender equality means stripping Muslim women at the beach of their clothes is a slippery slope to cultural uniformity and, in its extreme expression, totalitarianism. Last year, I would have said that invoking such a term in a panel like this is overkill. But having seen the empowering of white supremacy and other violent right-wing extremist groups in the West in the last few years, we can no longer be in denial.