

Article

Muslim Women Travelling Alone

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Abstract: Whether women can travel alone has been debated for centuries in Islamic law. This article examines the Islamic legal principles concerning women travelling alone, whether it be for *Hajj* (pilgrimage to Mecca) or any journeys. Despite the explicit Quranic order about the duty of *Hajj* for all believers, depending upon the fulfilment of specific conditions, Sunni scholars have introduced additional criteria, particularly related to women, which have led to the establishment of gender-specific regulations. These interpretations are based on the *ḥadīth* of the Prophet rather than explicit verses from the Qur'an. The view that prevents women from travelling alone has gained dominance among Sunni scholars, and a *maḥram* (a male relative) becomes a requirement for a journey. However, Ibn Ḥazm of Cordoba (d. 1064) presents an opposing perspective that significantly differs from this consensus. Ibn Ḥazm believes that women can travel and participate in the *Hajj* without a *maḥram*, emphasising the importance of *Hajj* as a personal responsibility in terms of the religious obligation. This article provides a comprehensive analysis of the *ḥadīth* concerning women's travel alone, the varying opinions of Sunni scholars, and the distinctive position adopted by Ibn Ḥazm. The text explains that Ibn Ḥazm's analysis mainly based on a preference for reasonable arguments and egalitarian principles, prioritising them over literal interpretations of the *ḥadīths* regarding the topic.

Keywords: *Hajj*; Ibn Ḥazm of Cordoba; Islamic legal theory; *maḥram*; religious practice; travel; women



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1. Introduction

The Qur'an makes the *Hajj* (a pilgrimage to Mecca) obligatory for both men and women if certain minimum prerequisites are satisfied (Wensinck and Lewis 2012). According to Asma Sayeed, Sunni scholars expanded on Qur'anic requirements to state the five qualifications that apply to both genders: being Muslim, being sane, attaining the age of legal majority (*bulūgh*), being free from bondage and having the financial and physical means to travel. The majority of traditional Sunni jurists set extra criteria for women. These gender-based preconditions, and other woman-specific regulations and customs, have significantly affected how women fulfil this commitment and the chances for religious engagement that the *Hajj* provides (Sayeed 2016, p. 6).

Two issues concerning women were considered by the scholars. One was whether a woman had completed the legally prescribed waiting time, *'idda*, following the death of her spouse or after an irrevocable divorce. The second problem is her safety while on pilgrimage. Many jurists believed that only the presence of a guardian could assure this; if a woman did not have one, she was compelled to go in the company of a group of women. The complexities of the problem of women's safety prompted significant debates concerning the circumstances that make the *Hajj* obligatory for women. In consequence, Islamic legal advice has significant implications not only for women's autonomy on *Hajj*, but also in the assessment of its obligations (Wensinck and Lewis 2012).

The question whether a woman can go on *any* journey, the *Hajj* or any other, without a *maḥram*¹ has also been discussed among Sunni scholars. Muhammed Hüsnü Çiftçi states that different views and interpretations have mainly been based on the *ḥadīth* narrated by the companions of the Prophet, since no verse in the Qur'an specifies a minimum period

that counts as travel or requires permission for a journey without a *maḥram* (Çiftçi 2019, p. 205). Some *ḥadīths* state that women cannot make any journey unaccompanied, while others place time limits based on one stage of the postal service (*barīd*): one, two or three days. Moreover, the absolute prohibition on women's travel without a *maḥram* is mainly supported by prophetic *ḥadīths*: the *ḥadīths* in the canonical collections do not allow women to go on *Hajj* without a *maḥram* (Muslim 2007; 'Abū Dāwūd 2012, p. 2; Al-Bukhārī 1979, pp. 85, 192–94).

Even though Sunni scholars of the 9th to the 11th centuries have somewhat varied readings of the *ḥadīths* that restrict or even prevent women from travelling, they reached a consensus of sorts: women could not go on a journey without a *maḥram*. In addition, they divided 'journeys' into two main categories as applied to women: the *Hajj* and other journeys (Ibn Rushd 1994, pp. 1, 379–81). Accordingly, they have different ideas depending on whether a woman is going on *Hajj* or simply travelling. Mihriye Nur Tufenk states that, if a woman does not have a *maḥram*, Shāfi'ī and Mālikī scholars argue that she may only go on *Hajj* with a trustworthy group of other women, while Ḥanafī and Ḥanbalī scholars mostly limit women to a radius of three days' travel (Tufenk 2021, p. 25).

Ibn Ḥazm (d. 1064), who lived in the 11th century in al-Andalus, distinctly differs from all Sunni scholars in his thinking and how he explains the topic.² He considers that a woman who does not have a husband or *maḥram* is allowed to meet her commitment to go on *Hajj* unaccompanied. If a woman has a male guardian, he is required to accompany her, and refusing to do so is a sin. If her husband is unwilling to cooperate, the woman may travel without him. Finally, Ibn Ḥazm argues that a husband could not forbid his wife to undertake the required *Hajj* (Ibn Ḥazm 1969, vol. 5, p. 19). However, if she later decides to perform a second or subsequent *Hajj*, he may refuse her permission. As a result, Ibn Ḥazm emphasises the significance of the *Hajj* ritual for women and not making its fulfilment contingent on the presence of a *maḥram* (Ibn Ḥazm 1983, vol. 2, p. 27). This, he claims, is a privilege granted to them by God. On the one hand, his understanding of verses differs from that of previous scholars, although he cites nearly the same verses as they do; on the other hand, he departs from them directly by refusing to accept the *ḥadīth* on the issue.

While there are no verses specifically on the subject in the Qur'an, most scholars start to discuss and analyse women's journeys from verses on the *Hajj*. Two main verses from the Quran are cited: '[p]ilgrimage to this House is an obligation by Allah upon whoever is able among the people' and '[c]omplete the pilgrimage and minor pilgrimage for Allah' (The Qur'an, 3:97; 2:196). Although no verse in the Qur'an sets a minimum duration to qualify as 'travel' or covers the journey of a woman alone, there are quite different specifications in *ḥadīth* sources.

In this article, I argue that Ibn Ḥazm's interpretation of the topic is unique, since by stating that women may go on *Hajj* without a *maḥram* he goes against the apparent meaning of a *ḥadīth* that appears in the canonical collections, mainly ignores a prophetic *ḥadīth* and uses companions' *ḥadīths* to support his argument. Thus, his view does not derive from a literal reading of the sources, i.e., mainly the *ḥadīths* relating to the topic. Instead, he reaches his conclusion by drawing on an overriding argument that believers are equal, and thus two sexes have the same responsibilities to God. While Ibn Ḥazm does analyse the topic, he chiefly uses rational arguments to refute his opponents' ideas and draws on the narration that came from 'Ā'isha instead of the main body of *ḥadīth* on the topic. One of his arguments based on 'Ā'isha's narration simply states that 'not every woman can find a *maḥram* for a journey'. In addition, in analysing Sunni scholars' ideas, Ibn Ḥazm moves away from his more usual literalist methodology (*Zāhirism*): he does not read the *ḥadīths* in terms of their apparent meanings and concludes that Ḥanafī approaches are illogical. Central to his criticism is that nobody may prevent women from attending mosques. Finally, Ibn Ḥazm appears to have ignored the common meaning in his interpretation of one *ḥadīth*, nearly turning it on its head. This shows that Ibn Ḥazm's egalitarian principle is the main agenda behind these discussions.³ I argue that Ibn Ḥazm goes beyond the methodology in certain

points because certain overarching ideas lead him to ignore the main sense of a *ḥadīth* and try to solve the problem without his usual methodology.

In this article, in the first part, I will outline the *ḥadīths* prohibiting women's travelling with or without *maḥram*, to point out the main roots for discussions. In the second section, I will outline Sunni scholars' ideas on whether women can make journeys alone. I outline four Sunni schools of law in terms of their approach to women's travelling without *maḥram*. I analyse Sunni scholars' ideas on the topic by reference to safety on the journey, and the limiting of women's travel to a three-day radius. In the third section, I analyse the topic, show how Ibn Ḥazm critiques his opponents and explain his main arguments. I examine his ideas and methods on women's journeys, and on women going on *Hajj* (alone or without *maḥram*) as an illustration of the way in which Ibn Ḥazm tries to prove his idea without his usual literalism or his methodology, *Zāhirism*.

2. The Root of the Discussions: The *ḥadīth* Collections

Ibn Ḥazm was fully aware of the *ḥadīth* collections that were compiled before his day, mostly in the 9th and 10th centuries. I have used al-Bukhārī's (d. 870) famous work the *Ṣaḥīḥ*, and Muslim's (d. 875) *al-Djāmi' al-ṣaḥīḥ* (Robson 2012a; Juynboll 2012), as sources for this section, since they were accepted as the most prestigious collections in the Islamic tradition. Works on *ḥadīth* traditions by al-Tirmidhī (d. 892) (Marquet 2012) and 'Abū Dāwūd al-Sijistānī (d. 889) (Melchert 2008) are other main sources. The *Kitāb al-Sunan* of al-Dāraḥuṭnī (d. 995) is another primary source because he made a significant contribution to the development of the critical study of Muslim traditions (Robson 2012b). For background on the topic, the *K. Ma'ānī 'l-āthār* by al-Ṭaḥāwī (d. 933) must be indented and is admired in the Ḥanafī tradition and so is another source for this section (see Al-Ṭaḥāwī 2021, the chapter on *Hajj*. See also Calder 2012).

In the *ḥadīth* sources, the sections about women's journeys are generally in the chapters about the shortened prayers (*qasr Ṣalāt*) and the *Hajj*. Shortening prayers is seen by Islamic law as a convenience for travellers. The *Hajj* includes a sort of journey and for this reason the topic of women's pilgrimage is mostly in these two chapters. The *ḥadīths* on this subject explicitly prohibit a woman from travelling without her husband or a *maḥram*. While most *ḥadīths* express an absolute prohibition without reference to time or distance, some prohibit women from travelling for a stated distance or time, from the *barīd* (approximately half day-distance) to 'three days' distance'. In addition, in some of these narrations, it is stated that the Prophet did not allow a woman to travel alone, even to go on a pilgrimage. Although all these narrations prohibit a woman from making a journey without a *maḥram*, one controversial *ḥadīth* can be interpreted as indicating that a woman may travel without a *maḥram*.

The collections include a group of *ḥadīths* narrated by the companions of the Prophet, such as 'Abū Hurayra, Ibn 'Umar, 'Abū Sa'īd al-Khudrī, Ibn 'Abbās and 'Adī ibn Ḥātim (Al-Bukhārī 1979, vol. 2, p. 26). It is possible to categorise these statements into two groups: the first prohibits women from travelling at all, with no reference to time or distance, and the second prohibits women from travelling alone on *Hajj* (Al-Ṭaḥāwī 2021). This part is mainly based on *ḥadīths* on the subject and their analysis. The first group prohibits women from journeying further than time-distance limits extend (*barīd*, one day, two days, three days), or from travelling at all. The second group consists in statements on women's travelling on the *Hajj*.

2.1. *Ḥadīths* Prohibiting Women from Journeys without *Maḥram*

The first category of *ḥadīths* prohibits women without a *maḥram* from travelling further than one *barīd*, a stage of the postal service,⁴ approximately 12 miles (22 km). The stages, which are defined in the sources as the distance travelled in half a day and which make up the concept of *barīd*, were specified by 'Abū Hurayra and Sa'īd ibn 'Abū Sa'īd al-Maqburī, with minor wording differences. For example, 'Abū Dāwūd quotes 'Abū Hurayra as saying: '[t]he Messenger of Allah said: "It is not permitted for a Muslim woman to travel

the distance [that can be covered in] a night [half-day] except where she has a man with her who she is prohibited from marrying.”’ (‘Abū Dāwūd 2012, p. 2). Al-Ṭaḥāwī states that another *ḥadīth* was spoken by ‘Abū Hurayra: ‘A woman may not travel a distance of one *barīd* without her husband or *maḥram* with her!’ (al-Ṭaḥāwī 2021, p. 111).

The second category of *ḥadīths* mainly aims to restrict women to travelling the distance that may be covered in ‘one day or one night’. In the *ḥadīth* sources, statements that apply this limit to women were also made by ‘Abū Hurayra with minor word differences. For instance, al-Bukhārī reports ‘Abū Hurayra as saying: ‘[t]he Prophet said, “It is not permissible for a woman who believes in Allah and the Last Day to travel for one day and night except with a *Maḥram*.”’ (al-Bukhārī 1979, bāb taqṣīr ṣalāt; Muslim 2007, vol. 7, p. 74). Al-Ṭaḥāwī presents a similar example from *ḥadīth* sources, narrated by ‘Abū Hurayra: ‘[i]t is not permissible for a woman who believes in Allah and the Last Day to travel for one day and night except with a *Maḥram*’ (Al-Ṭaḥāwī 2021, p. 112).

‘Abū Dāwūd states that ‘Abū Hurayra reports: ‘[t]he Messenger of Allah said: “It is not permitted for a Muslim woman to travel the distance [that can be covered in] a night except where she has a man with her who she is prohibited from marrying.”’ (‘Abū Dāwūd 2012, p. 2). Ibn ‘Abī Shayba (*d.* 849) says that ‘Abū Hurayra stated ‘[a] woman should not travel for a day without her *maḥram* with her!’ (Ibn ‘Abī Shayba 2004, vol. 4, p. 478). Likewise, al-Ṭaḥāwī reports that ‘Abū Hurayra said: ‘[i]t is not permissible for a woman to travel a distance [that would require] one day or more without her *maḥram*’ (Al-Ṭaḥāwī 2021, p. 110).

The third group of *ḥadīths* mainly seeks to prevent women from travelling alone from more than ‘two days’ or two nights’ distance’. In the *ḥadīth* sources, statements that limit women to a journey lasting ‘two days’ or ‘two nights’, with minor wording differences, are reported by ‘Abū Sa‘īd al-Khudrī. For instance, he wrote ‘I heard four things from Allah’s Messenger which impressed me and captivated me (and one of these is this): that he forbade a woman to undertake a journey extending over two days except with her husband, or with a *Maḥram*; and he then recited the rest of the *ḥadīth*’ (Al-Bukhārī 1979, pp. 29, 72; Muslim 2007, vol. 7, p. 64). Al-Ṭaḥāwī reports ‘Abū Sa‘īd al-Khudrī as saying: ‘[a] woman should not travel a distance [requiring] two nights without her husband or *maḥram* with her!’ (Al-Ṭaḥāwī 2021, vol. 2, p. 112). ‘Abū Yūsuf (*d.* 798) provides another example from *ḥadīth* sources: ‘Abū Sa‘īd al-Khudrī saying, ‘[a] woman should not travel a distance [requiring] two days without her husband or *maḥram* with her!’ (Shaybānī 2011, vol. 1, p. 261).

The fourth category of *ḥadīths* predominantly seeks to prevent women from travelling alone for ‘three days’ or three nights’ distance’. In the *ḥadīth* sources, such statements (with minor wording differences) were made mostly by ‘Abdullāh ibn ‘Umar. For instance, al-Bukhārī states that ibn ‘Umar reported Allah’s Messenger as saying: ‘[a] woman should not set out on three (days’ journey) except when she has a *Maḥram* with her’ (Al-Bukhārī 1979, p. 288). Al-Ṭaḥāwī provides another example, where ibn ‘Umar said: ‘[i]t is not permissible for a woman to go on a three-day journey without her *maḥram*’ (Al-Ṭaḥāwī 2021, p. 113). Muslim reports that ‘Abdullāh ibn ‘Umar quoted God’s messenger as saying: ‘[i]t is not lawful for a woman who believes in Allah and the Hereafter to travel for more than three nights’ journey except when there is a *Maḥram* with her’ (Muslim 2007, vol. 7, p. 74).

‘Abū Sa‘īd al-Khudrī is reported as stating: ‘[a] woman should not travel a distance [requiring] three days or more without her husband, son, brother or any *maḥram* with her!’. Muslim reports this as meaning that it is not lawful for a woman believing in Allah and the Hereafter to make a journey extending over three days or more, except in the company of her father, her son, her husband, her brother or any other *maḥram* (Muslim 2007, vol. 7, p. 74).

The fifth category of *ḥadīth* explicitly prohibits women from making any journeys alone, without any time or distance limitation. In addition to the prohibitions based on distance in the sources, there are traditions in the *ḥadīth* collections attributed to ibn ‘Abbās

and ibn 'Umar that make no time or distance restriction. For example, al-Bukhārī and Muslim state that ibn 'Abbās stated, '[t]he Prophet said: "A woman should not travel except with a *Maḥram*, and no man may visit her except in the presence of a *Maḥram*". A man got up and said, "O Allah's Messenger, I intend to go to such and such an army and my wife wants to perform *Hajj*." The Prophet said (to him), "Go along with her (on *Hajj*)".' (Al-Bukhārī 1979, Chp. 21, p. 288). Another example from the sources was stated by ibn 'Abbās: '[a] woman may go on a journey only with her *maḥram*'. Similarly, ibn 'Umar said: '[a] woman should not go on a journey unless she has a *maḥram* with her!' (Muslim 2007, vol. 7, p. 77).

2.2. *Ḥadīths on Women's Travelling on Hajj alone*

The *ḥadīths* that deal with women's travelling on *Hajj* mainly state that she may not go alone. The first category of *ḥadīth*, in this section, mainly prohibits women from going alone on *Hajj*. For example, ibn 'Abī Shayba mentions thirteen statements about a woman travelling with her *maḥram*. These mainly forbid a woman from journeying alone and some also prohibit women from going on pilgrimage without a *maḥram* (Ibn 'Abī Shayba 2004, vol. 4, p. 478). Al-Dāraḩuṭnī reports ibn 'Abbās as saying: '[w]omen may not make pilgrimage without a *maḥram*' (Al-Dāraḩuṭnī 2003, pp. 2, 300). In another example, ibn 'Abī Shayba quotes Ḥasan al-Baṣrī as saying: '[a] woman may perform pilgrimage only with her *maḥram*'. He also quoted Ṭāwūs ibn Kaysān: '[a] woman may go on pilgrimage only with her husband or *maḥram*' (Ibn 'Abī Shayba 2004, vol. 4, p. 480). According to al-Ṭabarānī (d. 918), reporting 'Abū Umāma al-Bāḩilī, '... [i]t is not permissible for a Muslim woman to make pilgrimage without her husband or *maḥram*' (Ṭabarānī 2011, p. 261).

The only *ḥadīth* in the *ḥadīth* sources that is interpreted as permitting women to go on *Hajj* unaccompanied is attributed to 'Adī ibn Ḥātim, one of the Companions of the Prophet. This *ḥadīth* is given in the chapter '*Manāḩib*' (Virtues and Merits of the Prophet) in the *Ṣaḩīḩ* of al-Bukhārī, and it does not relate directly to women's journeys or to *Hajj*. The *ḥadīth* runs:

'While I was in the city of the Prophet, a man came and complained to him (the Prophet) of poverty. Then another man came and complained of robbery (by highwaymen). The Prophet said, 'Adī! Have you been to al-hira?' I said, 'I haven't been there, but I was told about it'. He said, 'If you should live a long time, you will certainly see that a lady in a howdah travelling from al-Hira will (safely reach Mecca and) perform the Tawaf of the Ka'ba, fearing none but Allah'.

This *ḥadīth* seems to deal with future events, not with circumstances current in the days of the Prophet. The main gist of it relates to safety on the road. Since the main idea of the *ḥadīth* is not based on women journeying, it has not been discussed in relation to women travelling alone (Al-Bukhārī 1979, vol. 4, p. 793. See also 'The Virtues and Merits of the Prophet').

Nonetheless, one key point in the *ḥadīth* is that the Prophet linked a woman's journey on *Hajj* with the safety of the roads. This key point has attracted the interest of Sunni scholars and will be analysed later in this paper. However, it has not been taken into account in the legal discussion of women's journeys on *Hajj*. Most Sunni jurists that have examined this *ḥadīth* give it a different meaning, not relating to women going on *Hajj* unaccompanied. Since the Prophet talks of the future in it, Sunni scholars have associated the *ḥadīth* with women journeying.

3. Sunni Scholars' Approach to Women's Travelling Alone, until the 11th Century

As a legal problem, whether a woman could travel without a *maḥram* has been discussed since the early days of Islam (Çiftçi 2019, p. 208). Based on the *ḥadīth* discussed in the previous section, jurists of the four Sunni *madhabs* refer to the *ḥadīths* expressing this prohibition, and state that it is not permissible for a woman to go on journeys of a certain length without a *maḥram*, except for the pilgrimage in specific conditions. In addition, since different limits are set to the permitted journey in various *ḥadīths*, different opinions arose

among the jurists on this issue (Koçak 2013, p. 79). Jurists held that every woman must be accompanied by her husband or a close male relative (brother, son, etc.). Some held that a woman must make the *Hajj* even if she does not have such a protector. Most Sunni scholars, taking their stand on the *ḥadīths* mentioned in this part, saw these prohibitions as applying only to the woman's journey and, accordingly, argued that women's travel on *Hajj* may be permissible under certain conditions (Koçak 2013, p. 107).

In this part, I summarise this old debate among Sunni scholars and also their approach to the issue. The discussion of going on *Hajj* is part of the topic. First, I would like to focus on how safety on the road and the concept of companionship of trustworthy women affected the discussions which arose among Shāfi'ī and Mālikī scholars. I analyse the ideas of Shāfi'ī and Mālikī jurists, in this part, on whether women can make a journey/go on *Hajj* unaccompanied or not, and the alternatives of a trustworthy group of women or a *maḥram* as a condition. Second, I focus on the three-day time/distance limit, since the idea arose among Ḥanafī scholars. In this part, Ḥanafī and Ḥanbalī jurists' ideas will be analysed.

I discuss the legal literature on women travelling with or without *maḥram* using the key juristic books. For example, under the title 'women travel to the mosque', Imām Shāfi'ī (d. 820) addresses the contradictory statements concerning a woman's journey without a *maḥram* in his book, *K. al Umm* (Al-Shāfi'ī 1990, pp. 9, 530–647). Imām Mālik (d. 796) also explores the pilgrimage of a woman without a *maḥram* in his *al-Muwaṭṭa'*, under the title 'A woman without a *maḥram* performs the *Hajj*'. To expound the Mālikī discussions, I use the book on Islamic legal theory by Ibn Rushd (d. 1198). In *Bidāyat al-Mujtahid*, he addresses women's journeying without a *maḥram* in terms of the notion *istiṭā'a* (ability) and expands on Imām Mālik's explanations. As background to the topic, al-Ṭahāwī's *Ma'ānī al-Āthār* is also admired in the Ḥanafī tradition and thus serves as another source for this part.

Generally speaking, Ḥanafī and Ḥanbalī jurists mostly agreed that it is not permissible for a woman to travel for three days or more without a *maḥram*, such as her husband, father, brother or son (Çiftçi 2019, p. 215). Koçak maintains that Shāfi'ī and Mālikī scholars agreed that a woman may not travel without a *maḥram* unless accompanied by a trustworthy group of women (Koçak 2013, p. 109). However, as Yılmaz states, disputes over whether *Hajj* and 'umra travel are included in this prohibition have been recorded. Accordingly, jurists accepted women's journey on *Hajj* in certain situations and drew a clear distinction between the *Hajj* and other journeys (Yılmaz 2022, p. 278).

3.1. Safety on the Road and the Company of a Trustworthy Group of Women: Shāfi'ī and Mālikī Scholars

For a woman who meets the general conditions for going on pilgrimage, is it obligatory to find a *maḥram* before she may go on *Hajj*? According to Çiftçi, there are two main views on this subject. The first sees a *maḥram* as an obligation. In this view, *Hajj* is obligatory for a woman with a husband or a *maḥram* to accompany her, but not *farḍ* (an obligation) otherwise. Ḥanafīs and Ḥanbalīs mainly accept this view. Conversely, Mālikīs and Shāfi'īs accept that a *maḥram* is not an obligation (Ateş 2020, p. 223). Imām Mālik, in his *Muwaṭṭa'*, said about a woman who has never made pilgrimage, has not yet married, and does not have a *maḥram* to accompany her, '[s]he does not abandon the pilgrimage that Allah has made obligatory on her, let her go on *Hajj* with a group of women'. Moreover, if a woman meets the other conditions for pilgrimage, she will not be exempt from the obligation just because she does not have a *maḥram* (Mālik ibn Anas 2008, pp. 2, 20). Ibn Rushd writes that 'Mālik and al-Shāfi'ī said that this is not one of the conditions; a woman goes on pilgrimage when she finds reliable companions' (Ibn Rushd 1994, vol. 1, pp. 379–81).

Safety on the road has played an essential role in the discussions on women travelling alone. Shāfi'ī and Mālikī scholars consider the *ḥadīth* narrated by Ḥātim as a basis for taking safety as a condition for travel (Tufenk 2021, p. 86). According to those who hold this view, the fact that the Prophet mentions that the woman in the *ḥadīth* will make a pilgrimage in the future, by way of praise and to give good news of the rise of Islam, indicates that this scenario is clearly envisaged for the future and this *ḥadīth* conveys a sort of permission

for women. The *ḥadīth* was mainly describing safety on the road, but Sunni scholars, for example Shāfiʿī and Mālikī scholars, interpret the woman as likely to make her *Hajj* without a *maḥram*. Since the *ḥadīth* does not explicitly say that she will do so, Sunni scholars make a connection between women travelling and road safety. As a result, as Ciftci states, Shāfiʿī and Mālikī scholars believe that the road will be safe for a woman who travels with a trustworthy group of women even if she does not have a *maḥram* with her (Çiftçi 2019, p. 221).

Imām Shāfiʿī defends the view that a woman who does not have a *maḥram* can only go on pilgrimage with a reliable, trustworthy (*thiqa*) community of women. His argument relies on the interpretation of a verse about the *Hajj*, in the Qurʾanic chapter on women's pilgrimage. The verse mainly says that '[i]t is Allah's right over people [seeking to] visit the house of God to find a way for those who can afford it' (The Qurʾan, 3:97) and according to al-Shāfiʿī, this establishes the obligation to make the pilgrimage. Al-Shāfiʿī explains his ideas in interpreting the word *sabīl* in the verse. In his explanation, he says that 'it is stated by ibn ʿUmar: "When the above-mentioned verse was revealed, a man stood up and asked: 'what is the *sabīl* mentioned in the verse, O Messenger of Allah?'. He said: 'It is a food provisions and a riding animal'.'" Pointing to the *ḥadīth*, he argues that the word *sabīl*, as explained by the Prophet, means that a woman without *maḥram* can go on a pilgrimage, which is obligatory under the supervision of a trustworthy woman or more than one woman in a group (Al-Shāfiʿī 1990, vol. 3, pp. 290–96). According to Imām Shāfiʿī's interpretation of the word, *sabīl* conveys a sort of safety on the road. This is the main reason, he states, why a woman can go on *Hajj* under the supervision of a group of trustworthy women since the group provides the safety.

In his book, Imām Shāfiʿī also deals with a woman's journey without a *maḥram* under the heading 'women go to the mosque' in the chapter 'conflicting statements' (Al-Shāfiʿī 1990, vol. 10, pp. 127–33). First, he cites the *ḥadīth* 'do not prevent the servants of Allah from [going to] the mosques of Allah', then mentions the *ḥadīth* 'if your wives ask for permission to go to the mosque, let her go /or/ not prevent her' and states that the permission in question in these narrations is general (*āmm*). After these *ḥadīths*, al-Shāfiʿī mentions the *ḥadīth* introducing the 'one day and one night' limit, and then the statement about 'a companion of the Prophet who was asked to accompany his wife who went on pilgrimage'. The Imām expresses his opinion that a woman cannot go on a journey unaccompanied and, by putting forward evidence to this end, he opens several issues for discussion. He also discusses women's unaccompanied journeys in the chapter 'the journey for the pilgrimage'. While dealing with the statement 'do not forbid the servants of Allah from the mosque', Imām Shāfiʿī draws attention to the fact that the *masjid* in that *ḥadīth* is the Masjid al-Ḥarām. In his view, the *Hajj* should not be prevented: it is a compulsory journey. Thus, Imām Shāfiʿī is of the opinion that a woman may go on a journey without a *maḥram* only to meet the obligation of *Hajj* and if accompanied by a trustworthy group of women; she may not make any other journeys without a *maḥram* (Al-Shāfiʿī 1990, vol. 10, p. 130).

There are different views in Shāfiʿī *madhab* regarding women journeying to the *Hajj* (Koçak 2013, p. 118). For instance, Ciftci cites Qaffal al-Shāshī (d. 1026) as offering the view that women can go on *Hajj* without *maḥram* if it takes less than three days, since the *Hajj* is a compulsory journey, and it is an obligation on them (Çiftçi 2019, p. 219). In any case, according to al-Shāfiʿī, women are not required to have a *maḥram* to meet the obligation of *Hajj*; even if a woman does not have a *maḥram* to accompany her, if the road is safe she may travel for the obligatory pilgrimage. Al-Shāshī cites an alternative view, that a woman cannot go on a journey without a *maḥram* under any circumstances, and even that all the women in a community who wish to go on pilgrimage should travel in a group, with their *maḥrams*. This idea is supported by referring to Imām Shāfiʿī's legal opinion that 'it is not permissible for a man (alone) to lead in prayer a woman who does not have a *maḥram* with her' (Çiftçi 2019, p. 220). The other example given is al-Bayhaqī (d. 1066), one of the Muḥaddith and Shāfiʿī jurists (Dickinson 2008), who states the *ḥadīths* require *maḥram* for short- or long-distance travel (Yilmaz 2022, p. 272). As a matter of fact, al-Bayhaqī

confirms this view with several citations collected in the chapter ‘Preventing a woman every time she goes out without a *maḥram*’ in his *Kitāb al-sunan al Kubrā* (Baihaqī 1994). In addition, Yilmaz argues that Shāfiī scholars mainly eliminated the *maḥram* condition and replaced it with the ‘trustworthy group’ requirement for the *Hajj*, although this was nowhere mentioned, because they considered a woman should be safe either with a *maḥram* or with a trustworthy group of women (Yilmaz 2022, p. 227).

Imām Mālik discusses the pilgrimage of a woman without a *maḥram* in *al-Muwattaʿa*, as mentioned at the head of this section. In his view, even if a woman does not have a *maḥram*, she is still obliged to go on pilgrimage. This also applies, according to Imām Mālik, if she has a *maḥram* but he cannot accompany her; in both cases, she remains obliged to go on pilgrimage (Mālik ibn Anas 2008, vol. 2, p. 22). For this reason, Ates claims, Mālik states that she should make the pilgrimage with a group of women (Ateş 2020, p. 209). After mentioning the verse about pilgrimage, al-Bājī states that the rule in the verse is general, and that the absence of a *maḥram* will not affect the general applicability of the rule for a woman. He says that this general rule will be restricted only if there is evidence (Al-Bājī 2010, pp. 3, 85). Al-Bājī says that the obligation is not affected by whether a woman has a *maḥram* with her or not, so a woman without a *maḥram* should go on pilgrimage with a reliable group of women. He also maintains that the prohibition on travelling without a *maḥram* is for young women, and old women who are no longer desired may go on any journeys without a husband or a *maḥram* (Al-Bājī 2010, pp. 86–88). Katz states that Imām Mālik is stated to have confirmed that an old woman may travel to Mecca without a male guardian as long as she is accompanied by a group of trustworthy women (Katz 2014, p. 29).

Ibn Rushd examined a woman’s journey without a *maḥram* in terms of *istiṭāʿa* and continued the explanations of Imām Mālik in general. He states that it is sufficient, for *Hajj* to be *farḍ* for a woman, for the road to be safe and to have companions (a group of women). Ibn Rushd says that the verses are clear: a woman can perform *Hajj* without a *maḥram*. He says that jurists debated whether the obligation of *Hajj* requires a woman to have a husband or a *dhū maḥram* who is willing to accompany her on the journey. Ibn Rushd states that Mālik and al-Shāfiī agreed this is one alternative condition for the obligation. The other alternative is for a woman to perform the *Hajj* with a reliable female companion. According to ‘Abū Ḥanīfa (d. 767), Ahmad ibn Ḥanbal (d. 855) and a group of jurists, the availability of a willing spouse or *maḥram* is a condition for the obligation (Ibn Rushd 1994, p. 378). Ibn Rushd states the main reason for the disagreement is the difference between the command to perform *Hajj* and travel to do so, and the proscription of a woman’s travelling alone when the Prophet stated that ‘a woman who believes in Allah and the Last Day is not permitted to go without a *maḥram*’. She may travel for *Hajj* even if she is not accompanied by a *maḥram*, according to those who gave precedence to the generality of the *Hajj* command, but only with a trustworthy group of women. She is not to travel for *Hajj* unless she is accompanied by a *maḥram*, according to those who limited the tradition’s wide application or believed it to be an elaboration of *istiṭāʿa* (Ibn Rushd 1994, pp. 279–80).

3.2. Combination of Statements on Distance: Ḥanafīs and Ḥanbalīs

Ḥanafī and Ḥanbalī *madhhab* scholars limited a woman’s journey without a *maḥram* to three days. According to these two *madhabs*, maintains Ciftci, authentic *ḥadīths* limit the evidence on this subject to three days. Because these statements are more famous and more common, and since the number ‘three’ includes ‘one’ and ‘two’, they are more precise and thus not subject to debate (Çiftçi 2019, p. 215). Al-Ṭaḥāwī stated that five different limits have been set to a woman’s journey without a *maḥram* and he gives space to the conflicting *ḥadīths* that relate each limit, one by one. When the statements he collates are grouped, taking into account the conflict in the *ḥadīths* in question, we can find the following regarding a woman’s journey:

- ‘A woman cannot make any journey, far or near, unless she has a *maḥram* with her’;
- The other versions limit the journey to one postal stage (the *barīd*);

- One day;
- Two days; or
- Three days (Al-Ṭaḥāwī 2021, p. 215).

Ates argues that the last of these, a three days' journey, is the *idjtihād* of the Ḥanafīs (Ateş 2020, p. 213). Drawing attention to interpretation 5, al-Ṭaḥāwī states that the Ḥanafīs' evidence for this is strongest (Al-Ṭaḥāwī 2021, p. 216). He resolves the conflict on the subject in the authentic *ḥadīths* by saying that some versions were favoured over others. In his account, it must be accepted that versions that appear later in the Qur'anic timeline supersede earlier ones. Similarly, if one *ḥadīth* was uttered later in time, then the later version overrides the *ḥadīths* that were uttered before it (Al-Ṭaḥāwī 2021, p. 217).

According to the Ḥanafī *madhhab*, as Ates states, it is not permissible for a free woman to travel for three days, even on *Hajj* or *umra*, without a *maḥram*, such as her husband, son or brother. Sufyān al-Thawrī (d. 778), al-A'mash (d. 765) and Ḥasan b. Ḥayy (d. 785) hold the opinions the Ḥanafīs later favoured (Ateş 2020, p. 214). Ḥanafīs see the prohibition of a woman from the road for three days as not prohibiting travel for two days or less. According to Yilmaz, it is stated that in the first days of Islam, when fear was dominant and Muslims were weak, the time–distance limit was set at one *barīd*, then increased in direct proportion to the increase in security. For this reason, it is reported that Ḥanafīs preferred the narrations from Ibn 'Umar about the three-day radius (Yilmaz 2022, p. 277).

Ates argues that statements by 'Abū Ḥanīfa and 'Abū Yūsuf (d. 798) say it is *makrūh* (disliked) for a woman to travel for one day. In addition, by establishing a connection between road safety and the time limit, Ḥanafī scholars stated that the versions collected in the *ḥadīths*, al-Bukhārī and Muslim confirm the prohibition on a woman's journey for one day or more without a *maḥram*. Scholars who accepted this view relied on these two Prophetic traditions: the first is 'three days' and the second is '[a] Companion gets up and says he would like to join the war, and the Prophet says, 'Go with her' (Ateş 2020, p. 220).

Despite this prohibition, as Ates claims, Ḥanafīs consider the pilgrimage of a woman who goes without *maḥram* to be valid, even though she sinned in performing it. Conversely, some Ḥanafī scholars, such as al-Nakha'ī (d. 717) and al-Sha'bī (d. 728), do not consider it permissible for a woman to travel without a *maḥram*, whether the distance is short or long (Ateş 2020, p. 223). The other scholars in this school also state that it is not permissible for a woman to travel a distance of more than one *barīd* without a *maḥram*, based on the *ḥadīth* reported as '*barīd*'. According to Ḥasan al-Baṣrī, and reported by Tufenk, based on the *ḥadīth* narrated by 'Abū Sa'īd al-Khudrī, a woman without a *maḥram* could travel only for two nights (Tufenk 2021, p. 58).

Ḥanbalī jurists, taking their stand on the *ḥadīths* that prohibit women from travelling at all without a *maḥram*, as some Ḥanafīs believe, are of the opinion that *Hajj* is not obligatory for women. For instance, Kocak writes that Ḥanbalīs have stated that if a woman has a *maḥram* with her, *Hajj* is necessary for her as it would be for men (Koçak 2013, p. 109). According to Ibn Qudāma (d. 1223) (Makdisi 2012), Aḥmad ibn Ḥanbal was asked whether the *Hajj* is necessary or not for a rich woman who does not have a *maḥram* with her, and replied that it is not necessary, as the *maḥram* condition is included in the concept of the road (*sabīl*) mentioned in the verse (Koçak 2013, pp. 120–21).

4. Ibn Ḥazm's Ideas on the Topic: Equality of Genders in Terms of Their Responsibilities

Women travelling with or without *maḥram* are analysed in two of Ibn Ḥazm's books: the chapter on pilgrimage in his *al-Muḥallā* and the chapter on '*ikhtilāf al-Ḥadīth*' in *al-Iḥkām*. In *al-Muḥallā*, Ibn Ḥazm addresses the topic in the sections 'Nothing prohibits a woman who is not with her husband or *maḥram* from performing *Hajj*' and 'It is permissible for a woman to wear *iḥram* in *mīkāt* or anywhere else without her husband's permission'.⁵ Ibn Ḥazm opens the subject by emphasising that a woman who does not have a *maḥram* may still go on *Hajj* unaccompanied. If a woman has a *maḥram*, it is compulsory for her *maḥram*, who will usually be her husband, to accompany her on *Hajj*.

Women's journeys, with or without *maḥram*, are also discussed and analysed in detail in Ibn Ḥazm's *al-Iḥkām*, in the chapter '*ikhtilāf al-Ḥ adīth*'. In his view, based on the general meaning of verses 3/97 and 2/196 in the Qur'an, the *Hajj*, which every Muslim who can do so is obliged to perform, is a journey that a woman can make without any *maḥram*. To support his opinion on this issue, he gives in evidence the *ḥadīth* of the Prophet that women should not be prevented from going to mosques. In that *ḥadīth*, the Prophet said, 'Do not prevent the (female) servants of Allah from coming to Allah's mosques!' Ibn Ḥazm is of the opinion that this statement means a woman cannot be prevented from making a journey, especially for worship.

The title Ibn Ḥazm uses for his section on women's journeys in the chapter on *Hajj* in *al-Muḥallā* conveys his opinion on the matter. He maintains that it is obvious that there is no prohibition on women travelling on *Hajj* alone or with no *maḥram*. Ibn Ḥazm states that if a woman does not have a *maḥram* (or a husband) to accompany her on *Hajj*, she can make the journey unaccompanied. If a woman asks her husband to accompany her and the husband refuses her demand, he is disobeying Allah (Ibn Ḥazm 1969, vol. 5, p. 19).

Ibn Ḥazm was aware of the evidence and methodologies used by Sunni scholars. He completely differs from their conclusions. He cites the same Qur'anic verses but claims that, while they have used the same evidence, their approach and results were incorrect owing to the techniques they adopted. However, he uses the Companions' statements to support the ideas in his discussion of the topic, although not the same *ḥadīth* of the Prophet. He mainly ignores the sources (the Prophetic *ḥadīth* cited by Sunni scholars) and uses Companions' narrations to clarify his ideas, since he has an overarching interpretation fundamentally related to the equality of believers, and thus of both genders. In his view, everybody has the same duties to God. This point is central to his discussion of the topic. The other fact that is important for him is the certainty of religious texts, which, as sources for legal discussions, leave no space for uncertainty. In fact, according to Ibn Ḥazm, texts that may be seen as conflicting with each other are resolved by evaluating them holistically (Ibn Ḥazm 1983, vol. 2, p. 27).

In this part, I would like to outline how Ibn Ḥazm sets his ideas regarding a woman performing *Hajj* unaccompanied by her husband or *maḥram*. First, I would like to show how Ibn Ḥazm ignores the Prophetic *ḥadīths* that directly relate to the topic and are used by Sunni scholars, and how he deals with Companions' *ḥadīths* on the topic. At the end of his discussion, I would like to emphasise how he concluded that Ḥanafīs' conclusions on 'the question of time and distance' are illogical and wrong. It is also important that his explanation of 'Ā'ishah's statement 'not every woman can find a *maḥram*!' is used to refute opposing scholars' point of view. He has a different interpretation of a *ḥadīth* used by Sunni scholars that enjoins believers to 'go on *Hajj* with your wife'. Next, I would like to explain how Ibn Ḥazm uses the statement by Ibn 'Umar 'do not forbid women from mosques'. This is needed to elucidate his rational argumentation of the topic. After that, I would like to explain his indirect arguments, which are mainly based on obedience to God; for instance, he maintains: 'do not listen to your husband, if God orders you to do something'.

4.1. Rational Argument: 'Not Every Woman Can Find a *Maḥram*!'

Ibn Ḥazm mentions the views of opposing scholars, to refute those that contradict his own ideas. This refutation is usually based on the Companions' statements reinforced with his own rational arguments. Why is this important? Ibn Ḥazm generally criticises opponents for using hermeneutical tools, for instance reasoning by analogy (*qiyās*), that are not accepted by *Zāhirī* scholars. He usually bases his arguments on the obvious, clear meaning of a sacred text. But in this discussion, his opponents, especially *Ḥanafī* scholars, built their argumentation on specific *ḥadīths* of the Prophet. On the one hand, Ibn Ḥazm seems to ignore these in favour of building his argument on *ḥadīths* of the Companions. On the other hand, he uses rational arguments to refute and discuss opposing views. On one point, he also gives a different interpretation of a *ḥadīth* to theirs, to support his own idea.

Islam, according to Ibn Ḥazm, is complete and coherent: its law depends on the meaning of sacred texts, in all aspects. There is no conflict between the *ḥadīths* and the Qur'an, because he considers the verses in the Qur'an and the Prophet's words to be two parts of the same revelation; they must be clear and cohesive. As a result, he is able to reconcile these apparently disparate statements. Moreover, one source is no superior to the other in terms of credibility, according to Ibn Ḥazm; they are equal. In his view, Ḥanafī scholars' thoughts on the restriction are new; there was no dispute or disagreement among the Prophet's first generation of followers, the Companions. Ibn Ḥazm suggests two aspects here: first, that their thoughts, decision on the limitation and arguments are *bid'a*, and second, that the religion is complete, and if no knowledge passes via the *ṣaḥāba*, his opponents' argument is an exorbitant contradiction.

He criticises Sunni scholars for limiting the distance to three days' travel and requiring *maḥram* for a woman to perform *Hajj*. It is clearly evident in Ibn Ḥazm's analysis that he opposes Ḥanafī and Ḥanbalī academics for limiting women's travel distance at a theoretical level, and disagrees with Shāfi'ī and Mālikī scholars who demand the *maḥram* as a requirement for performing the *Hajj*. For example, at the beginning of one passage in *al-Muḥallā*, he mentions *ḥadīths* to show his opponents' main background, in order to criticise both of these ideas (Ibn Ḥazm 1969, vol. 5, p. 19). These *ḥadīths* are included in the main *ḥadīth* collections; the first he cites is: '[a] woman cannot travel [for] more than three nights without *maḥram*'; and the second is: 'Ikrimah was asked the question: "[may] a woman [perform] *Hajj* without her *maḥram* or without her husband?": 'Ikrima replied that "the Messenger of Allah forbade a woman to travel more than three [days' journey] without a *maḥram*".'

Ibn Ḥazm is critical of the Ḥanafīs' explanation of these, and specifically their conclusion that women travelling on *Hajj* without *maḥram* should be limited to a distance that could be covered in three days. The main and common idea in this commentary is: 'a women cannot travel alone or without *maḥram*', with which he does not agree. He immediately mentions the views of these *ḥadīths* expressed by 'Abū Ḥanīfa and Sufyān, which need to be taken into account at the beginning of the discussion (Ibn Ḥazm 1969, vol. 5, p. 19). Ibn Ḥazm criticises most Sunni scholars in general terms but specifically seeks to refute Ḥanafīs scholars on the limitation point. He says that the views of 'Abū Ḥanīfa and Sufyān, based on these Prophetic *ḥadīths*, mean that '[i]f a woman is less than three nights away from Mecca, she can perform the *Hajj* without her husband or *maḥram*. However, if she is more than three nights away, she cannot perform the *Hajj* without her husband or *maḥram*.' For Ibn Ḥazm, these conclusions are illogical and thus unacceptable.

When Ibn Ḥazm analyses the topic, if at first glance two statements appear to disagree, choosing one of them is not a solution. This suggests that Sunni scholars, particularly Ḥanafīs, had misunderstood the true meaning of the *ḥadīths*. For example, Ibn Ḥazm lists all traditions on the limitation of travelling distance, and says that Ḥanafīs and Ḥanbalīs claim to be sure it is *ḥarām* [proscribed or forbidden] for a woman to travel for three days; but they are not sure about shorter distances (measured in time). He maintains that Ḥanafīs show particular uncertainty on time limits, but decided on 'three days' distance/time'. Thus, there is no certainty on this point, and this is unacceptable, according to Ibn Ḥazm (Ibn Ḥazm 1969, vol. 5, p. 19). He analyses all issues on a specific ground, and this gives him a safe position to discuss the topic. For example, he claims to abandon what is suspect and grab what he is certain of. Accordingly, he views Ḥanafīs' conclusion on the three-day limit as suspect. In his view, there is no consensus on limiting women's journeys to three days (Ibn Ḥazm 1969, vol. 5, p. 22). Ibn Ḥazm criticizes Ḥanafīs' ideas on two different grounds. The first, he says, is that when Ḥanafīs accept three days' travel as a true narration, they harmonize all other versions. If all these statements are true, it is necessary to act on all of them. They should not act opportunistically. Ibn Ḥazm states that their proofs are contradictory, and Ḥanafīs harmonized the narrations. Ibn Ḥazm states that no statements on time limitation are superior to any others. They must accept the statement that includes no confusion or conflict more precisely, namely the report (from the Prophet) consistently

supported by *isnāds* (a *muḏṭarib* hadith report is one supported by contradictory *isnāds*) over which no disagreement is reported from the Companions (Ibn Ḥazm 1969, vol. 5, p. 23).

God's command, according to Ibn Ḥazm, is not restricted or limited by place, region or time. This is another basis for his criticism of Ḥanafī scholars, and is related to his idea that the *Hajj* is as obligatory as protecting one's life. Interestingly, Ibn Ḥazm compares fulfilling God's command (performing the *Hajj*) to defending a person's life. According to Ḥanafīs, a woman can travel for more than three days without *maḥram* if her life is not in danger. Consequently, his second critique is based on the idea that 'for a woman to travel for more than three days without her husband or *maḥram* "in order to survive" does not present a problem'. According to Ḥanafīs, he says, 'when conflict breaks out—insurrection, invasion by infidels, escaping from the fighters and so on—if they cannot find a safe place nearby, within three days' journey, but only in these circumstances, can they travel without a husband or a *maḥram*'. According to Ibn Ḥazm, this is not true. He makes a link between life and worship: 'just as it is obligatory for a woman to protect her life, it is obligatory to perform *Hajj* for Allah's sake' (Ibn Ḥazm 1969, vol. 5, p. 24).

Ibn Ḥazm also disagrees with Shāfi'ī and Mālikī scholars who demand the *maḥram* as a requirement for performing *Hajj* and criticises their view that a *maḥram* can be replaced with 'a reliable trustworthy group of women'. Even though Imām Shāfi'ī and Ibn Ḥazm adopt a similar methodology in their approach to conflict between canonical statements, they reach different conclusions. Shāfi'ī and Mālikī ask a woman to find a trustworthy group of women if she does not have a *maḥram* to go with her on *Hajj*, while Ibn Ḥazm denies that such a condition is needed, and states that a woman can go on *Hajj* unaccompanied (Ibn Ḥazm 1983, vol. 2, p. 30).

His approach to the problem is likewise grounded on a reality. The command of God is obvious for both men and women, but what if a woman does not have a *maḥram*? In this, he supports his thoughts with 'Ā'isha's statement, which is based on an explanation 'Ā'isha provided. The full statement reads: 'Ā'isha was asked whether a woman can travel without her husband/a *maḥram* or not? 'Ā'isha said that "not every woman can find a *maḥram*!". The sentence, 'not every woman can find a *maḥram*!' indicates the core idea that shows Ibn Ḥazm's approach to the topic. Ibn Ḥazm adduces the traditions that are the basis of opposing scholars' account (Ibn Ḥazm 1983, vol. 2, p. 31). The Prophet gave no special instruction to a woman who does not have a *maḥram*, in his view. This requirement for a *maḥram* is unreasonable because the Prophet would never impose such a requirement: it is common in life for a woman not to have a *maḥram*. Such a woman is still obliged to perform *Hajj*, because God's order to do so still applies to her (Ibn Ḥazm 1969, vol. 5, p. 26).

Ibn Ḥazm cites the statement of another Companion to support his ideas on the topic. The statement mainly reads: 'Abdallāh Ibn 'Umar was travelling with *ma'wālīs* [female dependents]; these women did not have a *maḥram* with them'. According to Ibn Ḥazm, none of the Companions is known to have disagreed either with the *ḥadīth* by 'Ā'isha outlined above or this by Ibn 'Umar. He follows by explaining, 'Mursal is like Musnad' [they are equally reliable].⁶ Both statements are reliable. 'Ā'isha's *ḥadīth* was narrated by the mother of the believers and the best example of *mursal* is by 'Ā'isha. He means that the statement 'not every woman can find a *maḥram*!' is also *mursal*, and that so is the statement that 'Umar was travelling with [women]; these women did not have a *maḥram* with them', but both *mursal* traditions must be treated as if they were *musnad*. This means that whoever argues against either statement is wrong, and has failed to understand the issue. Even Ḥanafīs have clear *ḥadīths* on the topic. In this way, he seeks to refute their arguments (Ibn Ḥazm 1969, vol. 5, p. 26).

4.2. Indirect Arguments: 'Do Not Forbid Women from Mosques!'

Ibn Ḥazm's approach is remarkable in that it differs from the mainstream of his day. Based on Ibn 'Umar's statement that women should not be prevented from going to mosques and the general thrust of the Qur'anic verse ordering pilgrimage, he concluded

that the *ḥadīths* prohibiting women from travelling were specific (*khaṣṣ*) statements, but the verse is general (*āmm*). Thus, Ibn Ḥazm makes a connection between women travelling on *Hajj* and the exclusion of women from mosques. He cites the statements about this issue, reporting that the Prophet said, '[d]o not forbid women of Allah from the mosques!', and also '[w]hen your women ask you for permission to go to the mosque, give them permission'. Ibn Ḥazm states that the Prophet ordered husbands and other *maḥram*(s) not to ban women from mosques. Moreover, He ordered people to allow women to go to *masjids*—and *Masjid al-Harām* is the most precious of these. Therefore, women must not be prohibited from journeying on *Hajj* (Ibn Ḥazm 1983, vol. 2, p. 30).

Ibn Ḥazm cites the verse from the Qur'an about the *Hajj* that reads: '... And *Hajj* (pilgrimage to Mecca) to the House (*Ka'ba*) is a duty that mankind owes to Allah, those who can afford the expenses (for one's conveyance, provision, and residence)' (The Qur'an, 3:97). He maintains that this verse meant journeys should be divided into two groups: compulsory journeys and non-compulsory journeys. In his view, there is no doubt whether a journey is compulsory: for example, the *Hajj* is a compulsory journey. Thus, the *Hajj* is obligatory for all women, even a woman who does not have a husband or a *maḥram* and lives further than three days (or any other time–distance limitation) from Mecca. Therefore, women can go on *Hajj* unaccompanied. They do not need a husband or *maḥram* for a compulsory journey. This is the only verse he cites in the discussion (Ibn Ḥazm 1969, vol. 5, p. 26).

He explains this thought in terms of the related verses, in which God's command to go on pilgrimage is a general address, while the travel restrictions in the *ḥadīths* apply in specific circumstances (Ibn Ḥazm 1983, vol. 2, p. 30). The verse in the Qur'an is another indirectly relevant proof that Ibn Ḥazm gives. But why does he cite the verse to support his idea on the topic? His interpretation of the verse as dividing journeys into two groups most probably needed strong argumentation, on the one hand. On the other hand, the 'duty that mankind owes to Allah' clearly helps Ibn Ḥazm argue his other central idea, that 'everybody (man and woman) is equal in their responsibilities to God'. Going on *Hajj* is a compulsory journey, and everybody (woman and man) must make it. Therefore, nobody can prevent women from going on *Hajj*.

It should be noted here that Ibn Ḥazm, whose approach is similar to that of Imām Shāfi'ī in terms of comparing *ḥadīth* with the verses 'do not forbid women of Allah from the mosques' and 'when your women ask you for permission to go to the mosque, give them permission', reaches a conclusion quite different from the Imām's. However, he states—unlike Shāfi'ī—that no journey to be made especially for worship can be prevented and concludes that a *maḥram* is not required, unlike Shāfi'ī.

Ibn Ḥazm turns to a discussion of two additional statements that deal indirectly with the question of women's travel on *Hajj*. These statements appear to limit the right of women to travel without a *maḥram*, but in this case, Ibn Ḥazm casts doubt on the chain of transmission. The first *ḥadīth* is 'a man came to Madīna, and the Prophet asked him: where did you stay? The man replied, "I stayed somewhere". The Prophet asked "Did you close the door on her? [did you stay with her alone?]" two times and [said] "a woman cannot perform the *Hajj* without husband or *maḥram*".' The second *ḥadīth* reads 'a man came from a battle and the Prophet said: "you stayed with a woman, and you closed the door"—two times'. According to Ibn Ḥazm, these are doubtful, and in any case neither *ḥadīth* is related to women journeying or to the *Hajj*. His critique is mainly based on the chain by which these *ḥadīth* were transmitted (Ibn Ḥazm 1969, vol. 2, p. 31).

4.3. A Possible Solution: 'Women Who Are Already on the Journey'

Ibn Ḥazm prefers to approach the subject by emphasising the obligation of the husband to accompany his wife on *Hajj* rather than restricting women from travelling on *Hajj*. He considers that both men and women must perform *Hajj*. Giving priority to the husband's responsibility (or a *maḥram*) has led Sunni scholars to a different conclusion. According to Ibn Ḥazm, the problem can be solved by relying on the statements in which the Prophet

says ‘leave the war and perform the Hajj with your wife’ and ‘go with her’ (Ibn Ḥazm 1969, vol. 2, p. 38). Ibn Ḥazm appears to have disregarded the common-sense interpretation of this *ḥadīth*, nearly turning it on its head.

The *ḥadīths* show, according to Ibn Ḥazm, that the Prophet did not look with disfavour on women travelling on *Hajj* unaccompanied. Ibn Ḥazm says the Prophet ordered the man to go on *Hajj* with his wife, and that the woman’s duty was to go on *Hajj*, with or without him. ‘Leave the battle and go on *Hajj* with your wife’ is a clear order given by the Prophet. Ibn Ḥazm maintains that the meaning of the *ḥadīth* is obvious, clear and true. Going on *Hajj* is compulsory for the man in this case. If he makes the pilgrimage with his wife, he will have fulfilled his duty as a husband. If he does not go on pilgrimage with her (If she goes on pilgrimage, but he does not accompany her), he will be rebelling against Allah. As the Prophet did not blame the woman in this case, the woman should go on pilgrimage. According to Ibn Ḥazm’s interpretation, the Prophet did not suggest in any way that she should not go on *Hajj* unless her husband accompanied her (Ibn Ḥazm 1969, vol. 5, p. 27).

5. Conclusions

Ibn Ḥazm’s understanding of ‘women travelling alone’ is unique, since he considers that women may go on *Hajj* without a *mahram*. He contradicts the apparent interpretation of the *ḥadīth* found in canonical collections. In his concept and presentation of the issue, Ibn Ḥazm distinctly differs from all other Sunni scholars. Although other Sunni scholars have somewhat differing interpretations of *ḥadīths* that prohibit women from travelling alone, by the 11th century they had reached a kind of consensus that women could not travel alone. According to Ibn Ḥazm, however, a woman who does not have a spouse or *mahram* may go on *Hajj* unaccompanied. If a woman has a male guardian, he must accompany her; if her spouse refuses to cooperate, the woman may travel alone. Finally, Ibn Ḥazm contends that a husband may not stop his wife from performing the obligatory *Hajj*.

When he explains and analyses the topic, he mainly bases his view on an overarching principle, which is raised when he discusses the topic. For one thing, in his view, all believers, men and women, are equal in their duty to God. It is also clear in his discussion of the topic that the religion is complete in itself and so no conflict among sacred texts must creep into interpretation. Moreover, the Qur’an and the *ḥadīth* are two parts of the revelation and no contradiction between them can exist. He reconciles the apparent difficulties in this case by regarding the Qur’anic verse on the *Hajj* as a general command and the *ḥadīths* prohibiting women from travelling alone as applying in specific ways.

Ibn Ḥazm approaches the topic differently from other Sunni scholars, emphasising the responsibility of the husband to accompany his wife on the *Hajj* rather than the prohibition on women travelling to perform it. He appears to have ignored the plain-language meaning of one particular *ḥadīth*, practically turning it on its head. Sunni scholars, according to Ibn Ḥazm, limit the distance that women may travel to three days’ journey and require *mahram* for a woman to perform *Hajj*. In his analysis, it is apparent that he criticises Ḥanafī and Ḥanbalī academics on a theoretical level for embracing such a restriction of women. He also disagrees with Shāfi‘ī and Mālikī scholars who insist on the *mahram* as a condition for undertaking the *Hajj*.

Ibn Ḥazm analyses each of these topics on a specific ground, which places him in a secure position to debate the issues. For instance, he claims to have abandoned any suspect doctrine and built his position on doctrine of which he is certain. As a result, he considers Ḥanafī acceptance of the three-day restriction to be inaccurate and illogical since they based their arguments on weak ground. There is apparently no consensus in *ḥadīth*, according to Ibn Ḥazm, that restricts women’s journeys to a three-day radius. He suggests that if consensus is reached on a topic there is certainty but, conversely, no consensus means no certainty. According to Ibn Ḥazm, the law and the meaning of the holy texts of Islam is comprehensive and cohesive in all their aspects. There is no disagreement between statements in *ḥadīth* and Qur’anic passages. Because he regards the Qur’anic verses and

the Prophet's statements as two components of the revelation, they must be clear and consistent.

Ibn Ḥazm also disagrees with Shāfi'i and Mālikī scholars who insist on the *maḥram* as a prerequisite for undertaking *Hajj*. He is also critical of Shāfi'i and Mālikī justifications for replacing the *maḥram* with a trustworthy and reliable group of women. Even though Imām Shāfi'i and Ibn Ḥazm use a similar methodology to examine the different sources of doctrine, their conclusions are completely different. Al-Shāfi'i and Mālikī request a woman who does not bring a *maḥram* with her to find a trustworthy group of women before going on *Hajj*, but Ibn Ḥazm makes no such requirement, stating that a woman may go on *Hajj* unaccompanied.

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Notes

- ¹ According to Islamic jurisprudence, a *maḥram* is a woman's husband or a man whom that woman is forbidden to marry.
- ² Ibn Ḥazm of Cordoba (d. 1064) is one of the most influential scholars of the *Zāhirī madhhab*, and his life is more documented than those of most mediaeval '*ulamā'* (scholars). Ibn Ḥazm has long been known in Western academic literature, mostly as the writer of *The Ring of the Dove* and a prime representative of *Zāhirism* after its eponymous founder Dāwūd al-Zāhirī (d. 884). Ibn Ḥazm was opposed to Ḥanafism and Shāfi'ism at a theoretical level, and a strong opponent of Mālikism, the dominant *madhhab* in al-Andalus at the time.
- ³ Ibn Ḥazm's egalitarian principle is mainly that 'everybody is equal in terms their responsibility to God.' This principle is one of my implications in my PhD dissertation and I do not explain it here in detail due to the limitations of the article.
- ⁴ The *barīd* operated from the Umayyad period, but the organisation of the post in the 'Abbāsīd period is sufficiently well known thanks to the works of Ibn Khurradādhbih and Qudāma, composed for the use of the secretaries of state in the periods of the 3rd–9th and 4th–10th centuries, respectively. These provide lists of stages. The empire contained no less than 930 stages (*sikka*, called *ribāṭ* in Iran and *markaz al-barīd* in Egypt), theoretically situated two *farsakhs* (12 km) apart in Iran and four (24 km) in Egypt. For further information see also Sourdél (2012).
- ⁵ The term *mikāt* is applied to the times for prayer and to places where those who enter the ḥaram are obliged to put on the *iḥrām* during the performance of *Hajj*.
- ⁶ These terms are related to the ḥadīth terminology. *Mursal* is an *isnād* in which between the Successor and the Prophet the name of the Companion is lacking. *Musnad* (plural *masānīd*), as a technical term in *ḥadīth* literature is, furthermore, used to describe a tradition collection organised on the basis of the first authority in the isnād above the Prophet, that is, the Companion (though here it means 'furnished with a complete isnād').

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