


RESEARCH ARTICLE

Women’s Political Leadership: One Question and Two Divergent *Fatwās*

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Abstract

Women’s political leadership is one of the abiding controversial issues among Muslim scholars. The question of whether a Muslim woman can lead in her country is generally answered negatively by Muslim scholars, but some modern scholars explicitly support women’s political leadership without any restriction. Where the scholars stand on the issue is influenced by their social context. With the intent of examining the interaction between social context and Islamic legal methodologies in *fatwās*—Islamic legal opinions—related to women, the author discusses as exemplary texts the *fatwās* issued by two well-known religious institutions, the Dār al-Iftā’ in Saudi Arabia and the Diyanet in Turkey. The institutions function in different social contexts: Saudi Arabia is a theocratic monarchy that applies Islamic law; Turkey is a democratic country whose legal system is based on a secular law. Through a detailed analysis of the spatio-temporal *fatwās* regarding women’s political leadership, the author provides insight into the influence of contextual elements during the process of issuing *fatwās*, suggesting that these differences of opinion among Muslim scholars and religious institutions will continue.

Keywords: Islamic law; women’s leadership; Diyanet; Dār al-Iftā’; Saudi Arabia; Turkey

Introduction

The issue of women’s political leadership is one of the controversial issues among Muslim scholars. Although most Muslim scholars maintain that a Muslim women cannot politically lead in her country, some modern scholars assert that women can assume political leadership roles. As Sümeýra Yakar has observed, the social contexts elements in which Muslim scholars live influence their perceptions—including those related to women—and are reflected in their *fatwās* (Islamic legal opinions).¹ To illustrate the interaction between social context and Islamic legal methodologies, I evaluate the *fatwās* issued by two well-known religious institutions, the Dār al-Iftā’ (General Presidency of Scholarly Research and Iftā’) in Saudi Arabia and the Diyanet (Presidency of Religious Affairs) in Turkey.

The Dār al-Iftā’ functions within an Islamic country whose legal system is based on Islamic law. Saudi Arabia’s social, cultural, and political features have been substantially

¹ Sümeýra Yakar, “The Usage of Custom in the Contemporary Legal System of Saudi Arabia: Divorce on Trial,” *Kilis 7 Aralık Üniversitesi İlahiyat Fakültesi Dergisi* 6, no. 11 (2019): 371–94, at 372.



shaped by the Salafī religious understanding that adopts a literal interpretative approach in construing the authoritative sources of Islamic law regarding women's issues.² Unlike the Dār al-Iftā', the Diyanet operates within a secular democratic state. The transition from sultanate to republicanism changed the sociocultural and sociopolitical realities of Turkey, and the republican system introduced new values that had an indelible impact on the Diyanet's *fatwās* related to women.

When evaluating the issue of female political leadership, the Muslim scholars within these two institutions referred to similar Islamic legal sources but applied divergent Islamic legal methodologies. As a result, their *fatwās* demonstrate different tendencies that reflect the connection between Islamic legal methodologies and social contexts. In what follows, I compare the *fatwās* regarding women's political leadership issued by the Dār al-Iftā' in Saudi Arabia and the Diyanet in Turkey to identify what impels the Muslim scholars in these two institutions to issue the diametrically opposed views on this controversial issue: the social perceptions of women in each society.

Saudi Arabia and Turkey represent two different social contexts: Saudi Arabia is a closed society ruled by a theocratic monarchy, while Turkey represents a cosmopolitan society whose administrative system is based on secular democracy. A detailed analysis of the *fatwās* regarding female political leadership that have been issued by the Dār al-Iftā' and the Diyanet provides insight into the influence of contextual elements during the process of issuing *fatwās* and suggests that such differences of opinion among Muslim scholars and religious institutions will continue.

Dār al-Iftā' (The General Presidency of Scholarly Research and Iftā')

After the discovery of oil in Saudi Arabia in 1937, the Saudi state attempted to modernize its administrative, institutional, and governmental structures. In the line with the modernizing policies, a broad institutionalization process began in the social, economic, legal, political, administrative, and bureaucratic systems of the country.³ This modernization and institutionalization process eventually encompassed Saudi religious scholars and affected their authoritative position within the state. In 1953, the Dār al-Iftā' was established to modernize the religious structure of the Kingdom of Saudi Arabia.⁴ The establishment of the Dār al-Iftā' changed the relationship between the government and religious scholars in a way that restricted the authority and independence of religious scholars. The formative royal decrees explicitly identify the limits of religious scholars' authority, allocate their appointment and dismissal to the king, and specify their procedure in the practice of *iftā'* (issuing *fatwās*). The incorporation of religious scholars into the state administration formally increased their influence in almost all legal and religious affairs but rendered them state-controlled religious functionaries.⁵ The establishment of the Dār al-Iftā' can therefore be acknowledged as a historic moment that symbolizes the incorporation of independent religious scholars into the Saudi state machinery.

In 1971, the Dār al-Iftā' was reconfigured in the direction of the Ten Point Program, which was the aspiration of King Faysal to redress some state institutions and administrative

² Yakar, "The Usage of Custom in the Contemporary Legal System of Saudi Arabia," 372; Sümeýra Yakar, *Islamic Jurisprudence and the Role of Custom: A Comparative Case Study of Saudi Arabia and Iran* (New Jersey: Gorgias Press, 2022), 72.

³ Muhammad al-Atawneh, *Wahhābī Islam Facing the Challenges of Modernity: Dār al-Iftā' in the Modern Saudi State* (Leiden: Brill, 2010), 8, 36.

⁴ Al-Atawneh, *Wahhābī Islam Facing the Challenges of Modernity*, 6.

⁵ Emine Enise Yakar and Sümeýra Yakar, "The Symbolic Relationship between 'Ulamā' and 'Umarā' in Contemporary Saudi Arabia," *Middle Eastern Studies* 13, no. 1 (2021): 23–46, at 32–34.

bodies.⁶ Two new agencies were constituted within the structure of the Dār al-Iftā' in accordance with Royal Decree A/137 on August 29, 1971:⁷ the Board of Senior 'Ulamā' (Hay'at Kibār al-'Ulamā') and the Permanent Committee for Scientific Research and Legal Opinion (al-Lajna al-Dā'ima lil- Buhūth al-'Ilmiyya wal-iftā'). The prestigious and eminent scholars of the kingdom were appointed to these public institutions to serve within the state administration, conduct religious research, and issue *fatwās* to the questions addressed to them by either the king and the Saudi government or the Saudi public. However, the process of formalizing the Dār al-Iftā' was not completed until 1993, with the reestablishment of the grand mufti's office, which had been suspended for almost twenty years after the death of Shaykh Muḥammad ibn Ibrāhīm Āl al-Shaykh, the first state grand mufti, in 1969.⁸ Today, the Board of Senior 'Ulamā' and the Permanent Committee for Scientific Research and Legal Opinion, which function together under the authority of the state grand mufti, constitute the Dār al-Iftā', which, as stated, is the highest religious official authority in interpreting the sources of Islamic law, conducting religious research, and issuing *fatwās*.

The Dār al-iftā' is more active and influential in the country's legal, judicial, and social spheres than are similar entities in other countries in the Middle East. Despite the fact that official *fatwās* issued by the Dār al-Iftā' are nonbinding, they can obtain sanctioning power within the Saudi legal system and society. The law of Saudi state identifies the organizational structure, legal status, mode of operation, and functions of the Dār al-Iftā'. Article 45 of the Basic Regulations of Governance (al-Nizām al-asāsī lil-ḥukm) states: "The Holy Qur'an and the Sunna (Traditions) of God Messenger shall be the source for fatwas (religious advisory rulings). The Law shall specify hierarchical organisation for the composition of the Council of Senior Ulema, the Research Administration, and the Office of Mufti, together with their function."⁹

Despite the formal dependence of the Dār al-Iftā' upon the state, its *fatwās* are influential in the formulation of both religious and legal regulations and social norms.¹⁰ As it is clearly specified in Articles 1, 7, and 23 of the Basic Regulations of Governance, the authority, government, and legislation of Saudi Arabia is based on Islam and its fundamental authoritative sources. For instance, Article 7 states: "The government in the Kingdom of Saudi Arabia derives its authority from the Book of God and the Sunnah of the Prophet ..., which are the ultimate sources of reference for this Law and the other laws of the State."¹¹

Thus, although they are nonbinding, because the Saudi state's legal system is grounded in Islamic law, official *fatwās* issued by the Dār al-iftā' have an authoritative and effective function in the Saudi legal system. For example, some *fatwās* issued by this institution can,

⁶ The Ten Point Program had the following aspirations: (1) to promulgate a Fundamental Law, establishing the relationship between the ruler and those being ruled, and to define State administration; (2) to regulate the provincial administration; (3) to establish a Ministry of Justice; (4) to establish an *iftā'* council; (5) to propagate Islam (*da'wa*); (6) to reform the Committee for Commanding Right and Forbidding Wrong; (7) to improve the nation's quality of life; (8) to issue new regulations accommodating new social developments and economic changes; (9) to promote financial and economic development; and (10) to abolish slavery in the kingdom. See "Ministerial Statement of 6 November 1962 by Prime Minister Amir Faysal of Saudi Arabia," *Middle East Journal* 17, no. 1/2 (1963): 161–62.

⁷ Al-Atawneh, *Wahhābī Islam Facing the Challenges of Modernity*, 17.

⁸ Shaykh Muḥammad ibn Ibrāhīm Āl al-Shaykh is one of the prominent religious figures who had a powerful influence upon the Saudi society, so until his death, King Faysal did not initiate any reform policy within the structure of the Dār al-Iftā'. To a great extent, Shaykh Ibrāhīm Āl al-Shaykh's charismatic religious personality and broad institutional power frustrated King Faysal's aspiration to restructure the Dār al-Iftā'. See Emine Enise Yakar, *Islamic Law and Society: The Practice of Iftā' and Religious Institutions* (New York: Routledge, 2022), 27–28, 52; Yakar and Yakar, "The Symbolic Relationship between 'Ulamā' and 'Umarā' in Contemporary Saudi Arabia," 33–38.

⁹ Royal Decree A/90, 1 March 1990, <https://www.saudiembassy.net/basic-law-governance>.

¹⁰ Al-Atawneh, *Wahhābī Islam Facing the Challenges of Modernity*, xiv.

¹¹ Royal Decree A/90, 1 March 1990.

subsequent to the king's approval, become legally binding state regulations.¹² For instance, the *fatwā* that prescribes appropriate penalties for abduction or usurpation and drug and alcohol crimes, the *fatwās* that refer to women's dress code, the *fatwā* that identifies the delay penalty for construction contractors who fail to complete work on time, and the *fatwā* that suggests limiting the number of students who study abroad were all transformed into legal regulations through royal decrees.¹³ The transformation of *fatwās* into legal regulations indicates that the Dār al-Iftā' assumes a pre-legislative mechanism role in the Saudi legal system. The Dār al-Iftā' also has an informal influence on the judiciary system: some *fatwās* are applied as legal evidence by judges, and because Saudi judges respect the religious scholars of the Dār al-Iftā', they have taken their *fatwās* into consideration when issuing a verdict in judicial processes.¹⁴ The percolation of official *fatwās* into the legislative and judicial process can be observed in especially controversial issues, such as criminal law procedures, ethical and social issues, family regulations, and ritual prescriptions.¹⁵

Moreover, official *fatwās* have an obligatory power in Saudi society. Since its establishment, the Committee for Encouraging Virtue and Preventing Vice—generally known as the Muṭawwi'a (religious police)—has been acting as an enforcement mechanism that seeks to implement the legal rulings of *fatwās* in Saudi Arabia.¹⁶ Over time, the boundaries of what is permissible and what is forbidden as delineated by the Dār al-Iftā' have become entrenched social values and perceptions through the hands of Muṭawwi'a. Thus the Dār al-Iftā' plays an important role in shaping the society's sociocultural dynamics. Even though *fatwās* are generally considered to be nonbinding religious opinion, official *fatwās* issued by the Dār al-Iftā' have a potential to constitute compulsory social and ethical norms that exert a considerable influence upon Saudi social, cultural, and legal values. The practice of *iftā'* therefore is a state mechanism shaping not only Saudi Arabia's laws and judicial matters, but also cultural values and social perceptions.

Diyabet (The Presidency of Religious Affairs)

After the demise of the Ottoman Sultanate, the Republic of Turkey was established in 1923. Although built upon the remnants of the Ottoman Sultanate, which had a wide range of religious, linguistic, and cultural diversity, the Turkish Republic sought to distance itself from its immediate past with the intent of creating a homogenous society. Unlike the religion-based political system of the Ottoman Sultanate, the Republic of Turkey was instituted on the basis of secular democracy.¹⁷ Within the borders of the Ottoman Sultanate, the office of the Shaykh al-Islam (Ottoman religious establishment) was responsible for organizing and conducting religious, judicial, and educational affairs.¹⁸ During the process of the transition from the Muslim-majority theocratic sultanate to the Muslim-majority secular democratic state, many reforms were introduced and implemented to diminish

¹² Al-Atawneh, *Wahhābī Islam Facing the Challenges of Modernity*, 21, 25, 42.

¹³ Yakar, *Islamic Law and Society*, 64–71.

¹⁴ Frank Vogel, *Islamic Law and Legal System: Studies of Saudi Arabia* (Leiden: Brill, 2000), 115–16; Yakar, "The Usage of Custom in the Contemporary Legal System of Saudi Arabia," 379, 385.

¹⁵ Al-Atawneh, *Wahhābī Islam Facing the Challenges of Modernity*, 41.

¹⁶ Al-Atawneh, 2, 147; Yakar, *Islamic Law and Society*, 225–26.

¹⁷ Yakar, *Islamic Law and Society*, 74–75.

¹⁸ On the changing functions and authority of the office of the Shaykh al-Islam during the Ottoman Sultanate, see Emine Enise Yakar, "A Critical Comparison between the Presidency of Religious Affairs (Diyabet İşleri Başkanlığı) and the Office of Shaykh al-Islām," *Kilis 7 Aralık Üniversitesi İlahiyat Fakültesi Dergisi* 6, no. 11 (2019): 421–52, at 422–33. For the political influence of *fatwās* issued by the *muftis* in the office of the Shaykh al-Islam, see also Reyhan Erdoğan Başaran, "Does Being Rafidi Mean Shi'ite? The Representation of the Kızılbaş Belief in the Sixteenth Century Ottoman Records," *Trabzon İlahiyat Dergisi* 6, no. 1 (2019): 11–35, at 19n27.

the influence of religion and, by implication, the office of the Shaykh al-Islam. Thus, over time, as the secular character of Turkey was consolidated through the enactment of laws that severed the connection of religion with the state, the authority, jurisdiction, and prerogative of the office of the Shaykh al-Islam were incrementally restricted.

The restriction of the office of the Shaykh al-Islam was implemented at two levels. In the first level, various reforms were actualized by Ottoman reformists to occlude the erosive and destructive influences of the late nineteenth-century's nationalist movements, but these reforms engendered a dichotomous structure within the legal and educational system of the former Ottoman Sultanate. The new assemblies, ministries, and Nizamiye courts (the first secular courts), along with the *sharī'a* courts were established to be part of the reform movements. The authority of the office of Shaykh al-Islam was limited through the division of some of its functions between it and the newly created institutions and ministries. For example, the responsibility and management of all *madrasas*, the state-independent educational institutions whose expenses met by the *waqfs* (endowments) were left to the office of the Shaykh al-Islam in 1917, while the supervision of all *mekteps* (state-dependent educational institutions) and other educational institutions were allocated to the Ministry of Education (Maârif-i Umûmiye Nezâreti), which had been established in 1857.¹⁹ The establishment of Nizamiye courts resulted not only in a dichotomy within the Ottoman legal system but also the diminished juridical power of the office of Shaykh al-Islam. As a result of these reform movements, the jurisdiction of the office of Shaykh al-Islam was limited to the management of religious affairs, the Shari'a courts, *waqfs*, and *madrasas*.²⁰ Its transformation into the Şer'iyye ve Evkaf Vekâleti (Ministry of Religious Affairs and Foundations) in 1920 provided this newly created ministry with an official political power, but the ministry was commissioned with only the management of religious affairs, issuance of *fatwās*, and supervision of *waqfs* and *madrasas*.²¹

Despite the fact that the authority of Şer'iyye ve Evkaf Vekâleti was gradually restricted to religious affairs, it still had political power because of its ministry status within the cabinet. In the second instance, when the Şer'iyye ve Evkaf Vekâleti was transformed into the Diyanet, the new body was stripped of its political authority. In this regard, the Shari'a Courts, which had been functioning on the basis of Islamic law, were closed; the Caliphate, which had assumed the religious and political leadership of the Muslim community all around the world, was abolished; and the Unity of Education Law (Tevhid-i Tedrisat Kanunu), which places all educational institutions under the control of the Ministry of Education, was enacted on March 3, 1924, when the Şer'iyye ve Evkaf Vekâleti was transformed into the Diyanet.²² The first article of Act 429, which was put into force in 1924,

¹⁹ Zeki Salih Zengin, "II. Meşrutiyet Döneminde Islahat Çalışmaları Çerçevesinde Medreselerin Kuruluş Sistemi ve İdari Teşkilatı" [Within the framework of reform activities the establishment system of madrasas and administrative organization in the constitutional period II], *Ankara Üniversitesi Osmanlı Tarihi Araştırma ve Uygulama Merkezi Dergisi*, no. 9 (1999): 431–49, at 436, 444–45; Arzu Güldöşüren, "İki Farklı Merkez İki Farklı Nizamname: 1914 Islâh-ı Medâris ve 1921 Medâris-i İlmiyye Nizamnamesi" [Two different centers, two different regulations: 1914 Reform of Madrasas and 1921 Regulation of Madrasas Science], in *Osmanlı Medreseleri Eğitim, Yönetim ve Finans* [Ottoman madrasas' education, administration and finance], ed. Fuat Aydın et al. (İstanbul: Mahya Yayıncılık, 2019), 491–520, at 499, 502–03.

²⁰ Ahmet Akman, "Tanzimat Sonrası Osmanlı Usûl Hukukundaki Gelişmeler" [Development in the Ottoman procedural law after the Tanzimat period], *Manas Sosyal Araştırmalar Dergisi* 8, no. 1 (2019): 431–50, at 433, 444–46; Yakar, "A Critical Comparison," 432–33.

²¹ These reforms can be regarded as the preparatory stage to declare the establishment of the Republic of Turkey. Ali Akyıldız, "Şer'iyye ve Evkaf Vekâleti" *Türkiye Diyanet Vakfı İslam Ansiklopedisi* [Turkish religious foundation of the *Encyclopedia of Islam*] (İstanbul: TDV Yayınları, 2010), 397–98; Yakar, "A Critical Comparison," 433, 442–43.

²² Yakar, "A Critical Comparison," 434.

states: “In the Republic of Turkey, the Grand National Assembly and the Cabinet, which is formed by the Grand National Assembly of Turkey, are responsible for the legislation and execution of provisions concerning the affairs of people, and an office (Diyanet İşleri Reisliği) has been formed to implement all provisions regarding the ritual practices (*‘ibādāt*) and faith (*i’tiqād*) of the religion of Islam and to administer [Islamic] religious organisations.”²³

This regulation unambiguously identifies the jurisdiction of the Diyanet as the management of religious affairs and worship places while nullifying the Diyanet’s political and legal power within the state’s affairs. The establishment of the Diyanet can therefore be seen as a symbol of the separation of religion and politics: the management of religious affairs was directly assigned to a constitutional body that has no political, legal, or educational authority or influence within the state’s secular democratic system.

During the first decades of the Republic of Turkey, a range of reforms was introduced to entrench the secularization and modernization process of the state. However, even after Islam’s constitutional status as the state religion was abolished in 1928 and the principle of secularism was placed into the Constitution in 1937, as a state-dependent religious establishment, the Diyanet retained (and still retains) its existence to engage in religious affairs. Despite the incorporation of such a religious institution into the state’s administration, secularism has been one of the indispensably defining features of the Turkish Republic. This was preserved by the irrevocable constitutional regulations. For example, Article 2 of the current constitution, which was put in place in 1982, clearly states: “The Republic of Turkey is a democratic, secular and social state governed by rule of law, within the notion of public peace, national solidarity and justice, respecting human rights, loyal to the nationalism of Atatürk.”²⁴

The irrevocable status of secularism is established by Article 4 of the same Constitution (“the characteristics of the Republic in Article 2 ... shall not be amended, nor shall their amendment be proposed”).²⁵ Despite the apparent secular nature of the state, the Diyanet has been acting as the official religious body under the auspices of the state since its establishment. The existence of such a religious institution suggests that the state is not purely secular as many people think, but neither is it religious. The Diyanet’s status as a state-dependent religious institution therefore lends a quite different significance to Turkish secularism.

Within the state administrative system, the Diyanet functions as a constitutional public institution whose functions, jurisdiction, and organizational structure have been identified by the constitutional laws and regulations. For instance, Act 633, which came into force in 1965, entrusted the institution with informing Turkish society about religion and consolidating the unity of the nation upon the basis of religion.²⁶ On July 10, 2010, the last constitutional regulation (Act 6002) related to the Diyanet introduced some changes in its structure, status, and service area. For example, the status of the institution was raised to the undersecretary level, and its organizational structure was reorganized by incorporating fourteen departments into its main body.²⁷ Also, the service area of the Diyanet was expanded beyond mosques and the Qur’anic courses, and it began to provide religious

²³ Act no. 429 dated 3 March 1924, *Resmi Gazete (Official Gazette)*, no. 63 (March 6, 1924), <https://www.resmigazete.gov.tr/arsiv/63.pdf>. Unless otherwise noted, all translations from the Turkish are the author’s.

²⁴ Constitution of the Republic of Turkey, 1982, article 2, https://global.tbmm.gov.tr/docs/constitution_en.pdf.

²⁵ Constitution of the Republic of Turkey, 1982, article 4.

²⁶ Act no. 633 dated 22 June 1965, *Resmi Gazete*, no. 12038 (July 2, 1965), <https://www.resmigazete.gov.tr/arsiv/12038.pdf>.

²⁷ Act no. 6002 dated 1 July 2010, *Resmi Gazete*, no. 27640 (July 13, 2010), <https://www.resmigazete.gov.tr/eskiler/2010/07/20100713-2.htm>.

services to other state institutions, including prisons, hospitals, and women's shelters.²⁸ The recent constitutional regulations slightly transform the Diyanet from a state-controlled institution to a more active and autonomous counterpart, but the institution still acts within the boundaries drawn by the constitutional laws and regulations.

The Diyanet has three main branches: the headquarters in Ankara, provincial branches across the country, and overseas branches. The headquarters in Ankara is the central body of the Diyanet, which includes the High Board of Religious Affairs. The Diyanet's provincial bodies provide religious services for Muslims resident in Turkey, while overseas branches seek to satisfy religious needs of Muslims (predominantly Turks) residing abroad.²⁹ Within the administrative and organizational structure of the Diyanet, the High Board of Religious Affairs is the highest consultative and decision-making body; it is commissioned with determining and developing the presidency's policies, providing decisions on religious matters, and answering religious questions that relate to Islamic law while considering the current needs and circumstances of Muslims resident in Turkey.³⁰

Even though the practice of *iftā'* is among the most respected duties of the Diyanet, official *fatwās* do not have any authoritative power and legal function within the secular legal system of Turkey. In issuing *fatwās*, the institution only imparts religious knowledge to those who seek it.³¹ In contrast to the constitutional laws, juridical decisions, and regulations, which are binding for all Turkish citizens, Act 93/4257 specifies that official *fatwās* and resolutions issued by the Diyanet have only informative and consultative character and are not binding for citizens.³² It is evident that *fatwās* issued by the Diyanet have only an informative and advisory character; they do not have, to any extent at all, statutory and sanctioning power within the legal system of Turkey. Obedience to these *fatwās* is left to the inner decision of individuals who ask questions with the intent of resolving their perplexities concerning Islamic belief and legal issues.³³ This suggests that the functionality of *fatwās* depends on the extent to which they persuade and satisfy individuals. If these *fatwās* have a high level of persuasive power, they might be espoused by many Muslims and even sometimes generate socially accepted norms and values within the Muslim-majority society.

In Turkey, the Diyanet is the official voice of Islam, and it issues *fatwās* under the auspices of the democratic secular system. However, this does not mean that the political authority is in a position to interfere in the issuance of *fatwās* in accordance with its demands and policies. This implies that the Diyanet has a relative autonomy in formulating and issuing *fatwās*. Despite the fact that the political authority does not have the right to force the Diyanet to issue a certain *fatwā* in harmony with its policies, it is possible to observe the percolation of Turkey's cultural, political, social, and legal realities and values in official *fatwās*. In particular, some *fatwās* evidence a reconciliatory approach between the values of secular law and Islamic law, so the institution generally seeks to issue applicable *fatwās* within the secular legal system while functioning within the triangle of state, society, and religion. The Diyanet therefore emerges as a versatile institution that enables the Muslim

²⁸ Act no. 6002 dated 1 July 2010.

²⁹ Yakar, *Islamic Law and Society*, 75.

³⁰ Yakar, *Islamic Law and Society*, 96–97, 99–100; Yaşar Yiğit et al., *Religious Affairs Presidency: High Religious Affairs Committee* (Ankara: Türkiye Diyanet Vakfı Yayın Matbaacılık ve Ticaret İşletmesi, 2010), 4.

³¹ Yakar, *Islamic Law and Society*, 92.

³² Act no. 93/4257 dated 19 February 1993, *Resmi Gazete*, no. 12567 (April 30, 1993), <https://www.resmigazete.gov.tr/arsiv/21567.pdf>.

³³ Yakar, *Islamic Law and Society*, 102; Joshua E. Thomas, "Improving Education through Devotion: A Religious Solution to Eastern Turkey's Gender Gap," *William & Mary Journal of Race, Gender, and Social Justice* 24, no. 3 (2018): 665–88, at 674.

community to retain an attachment to Islamic legal rulings and values within the democratic secular system of Turkey.

The Issue of Women's Political Leadership

Issues related to women's rights, status, and roles are among the most controversial subjects within the scope of Islamic law. Muslim scholars—the majority of them are male—generally handled these polemical issues from different perspectives, including androcentric, misogynous, moderate, inclusive, neutral, and feminist approaches. Legal opinions given by these scholars therefore evince differences of opinion stemming from the context of the particular societies in which those scholars grew up and lived. Within the scope of Islamic law, the majority of Muslim scholars have regarded women as legally unqualified to hold high public offices, with the consequence that women have been excluded from political authority and judicial posts. Although some scholars have deigned to permit women to assume judicial positions, the predominant Islamic legal view has excluded women from various social, political, and judicial positions of leadership. Over time, this exclusion became an entrenched legal ruling in Muslim societies.

Despite the fact that men have assumed religious, political, and legal leadership for much of Islamic history, over the last three decades the active participation of a few Muslim women in these leadership positions has reopened within the scope of Islamic law the question of the legitimacy of women's leadership. In particular, Amina Wadud's 2005 defiant leading of prayer for a mixed congregation of men and women in New York has galvanized opinion and sparked debate regarding the issue of female leadership in both prayer and politics.³⁴ Subsequent to Wadud's action, two theoretical approaches to the question of female leadership in prayer have been formulated. The first approach espouses the classical Islamic legal view prohibiting women from leading prayer in a mixed congregation (although occasionally alluding to some exceptional precedents in the time of the Prophet). The second approach endorses the possibility of females leading prayer in a mixed congregation by rereading Islamic history and reinterpreting the authoritative sources of Islamic law.³⁵ Within the scope of Islamic legal thought, the first approach represents the orthodox block while the second typifies the reformist block. Both the *Dār al-Iftā'* and the *Diyanet* can be placed within the orthodox block because they do not categorically assent to women's leading of prayer in a mixed congregation.³⁶ The *Dār al-Iftā'* briefly answers the question regarding the issue of women's leadership in prayer to men and states: "It is not permissible

³⁴ Simonetta Calderini, *Women as Imams: Classical Islamic Sources and Modern Debates on Leading Prayer* (London: Tauris, 2021), 13, 160.

³⁵ Calderini terms the first approach "conservative" and the second approach "progressive" in analyzing the issue of female prayer leadership to evidence the use of the tradition and the recovery of the past in building the present legal opinions. Calderini, *Women as Imams*, 7, 13, 166–71. Instead of using Calderini's denomination, I prefer to term the first approach "orthodox" for its predominant acceptance among majority Muslims and the second approach "reformist" because of its emphasis on a need of reform, especially in the realm of *'ibādāt* (ritual practices) whose forms, limits, and rulings were identified and fixed by the Prophet in a way that is not open to any change. A minority of Muslim scholars espouse the reformist approach.

³⁶ For the *Dār al-Iftā'*'s *fatwās* on this issue, see the following: *Fatwā* No. 2428, in *Fatwas of the Permanent Committee*, 7:391–92, accessed August 30, 2021, <https://www.alifta.gov.sa/En/IftaContents/PermanentCommittee/Pages/FatawaSubjects.aspx?cultStr=en&View=Page&HajjEntryID=0&HajjEntryName=&RamadanEntryID=0&RamadanEntryName=&NodeID=633&PageID=2552&SectionID=7&SubjectPageTitlesID=2593&MarkIndex=19&0#Isitpermissibleforawomanto>; *Fatwā* No. 2218, in *Fatwas of the Permanent Committee*, 7:392, accessed August 30, 2021, <https://www.alifta.gov.sa/En/IftaContents/PermanentCommittee/Pages/FatawaChapters.aspx?View=Page&PageID=2553&CultStr=&PageNo=1&NodeID=1&BookID=7>. For the *Diyanet*'s *fatwā*, see *Din İşleri Yüksek Kurulu, Fetvalar [Fatwās]* (Ankara: *Diyanet İşleri Başkanlığı Yayınları*, 2015), 169.

for women to lead men in Salah [prayer], as this contradicts the Shar'iah."³⁷ In another *fatwā* related to a woman's leadership in prayer to her husband and to her family which includes both men and women, the Dār al-Iftā' reiterates the illicitness of female leadership in such a prayer without opening room to the use of the *ḥadīth* that relates the delegation of Umm Waraqa to leadership in prayer for her family by the Prophet. In excluding the possibility of her leadership in prayer to her family that includes both men and women, the Umm Waraqa's prayer leadership is interpreted in a way that she was permitted to lead prayer only for the women in her house.³⁸ Nonetheless this, the Umm Waraqa *ḥadīth*, together with the *ḥadīths* that report that both 'A'isha and Umm Salama, two of the Prophet's wives, led prayers for women, is exclusively presented as evidence for the legitimacy of women leading women in prayer.³⁹

Like the Dār al-Iftā', the Diyanet does not approve female leadership of prayer in a mixed congregation, alluding to the consensus among all legal schools that for a prayer in a mixed congregation to be valid, the leader must be male. The Dār al-Iftā' refers to the possibility of Umm Waraqa's leadership of women in prayer; the Diyanet accepts that Umm Waraqa led her family—both men and women—in prayer.⁴⁰ However, Umm Waraqa's leading of prayer is linked to her specific situation. In referring to another *ḥadīth*, in which the Prophet uttered: "No woman should be appointed as Imam (prayer leader) over a man," the issue of female leadership of prayer is qualified as *bid'a* (innovation), which consequently must be neither introduced nor accepted in religion.⁴¹ In another *fatwā* regarding the permissibility of women leading other women in prayer, after the positions of the four Sunni legal schools—Ḥanafism, Mālikism, Shāfi'ism, and Ḥanbalism—are presented, it is indicated that in such a situation, the female leader of the prayer must be positioned in the middle of the first row,⁴² rather than in front of the first row, the place from which a male would lead the prayer. The Dār al-Iftā' and the Diyanet concur in emphasizing that being male is one of the necessary prerequisites for leading a mixed congregation in prayer as established by earlier Muslim scholars and jurists.

Even within the orthodox block, it is possible to observe the development of divergent approaches with regard to the issue of women's leadership in politics. Both the Dār al-Iftā' and the Diyanet engaged with this issue and promulgated their own *fatwās*. Both applied almost the same Islamic legal sources, but their interpretations of these sources demonstrate variation to a significant extent. Additionally, Islamic legal methodologies used in the *fatwās* evince divergences in accordance with the social context in which the Dār al-Iftā' and the Diyanet function. Scholars generally prefer to explain the reasons for such divergences among *fatwās* as differences in the interpretations of Islamic legal sources and application of Islamic legal methodologies. Within the scope of these valuable analyses, the question left unanswered is what leads Muslim scholars to interpret the same Islamic legal sources differently and to apply divergent Islamic legal methodologies.

Just as they did during the issuance of previous classical Islamic legal rulings prohibiting women from holding high public offices, so numerous cultural, political, social, and legal factors influenced the practice of *iftā'* related to women's leadership in politics. The *fatwās*

³⁷ Fatwā No. 2218.

³⁸ Fatwā No. 2428.

³⁹ Fatwā No. 2428. For further detail of the Umm Waraqa *ḥadīth*, see Calderini, *Women as Imams*, 99, 102–06.

⁴⁰ Din İşleri Yüksek Kurulu, *Fetvalar*, 169.

⁴¹ Din İşleri Yüksek Kurulu, 169.

⁴² Din İşleri Yüksek Kurulu, 168–69. The Ḥanafī school qualifies the women's leading women in prayer as a reprehensible act; the Mālikī school rejects such a position; and the Shāfi'ī and Ḥanbalī schools approve women leading women in prayer, applying the 'A'isha and Umm Salama *ḥadīths* as legal evidence. For details on the positions of the four schools, see Calderini, *Women as Imams*, 62–77.

regarding women's political leadership issued by the Dār al-Iftā' and the Diyanet exemplify the two extreme ends within the orthodox block of Islamic law, for they reflect the imprint of different contexts, in this case Saudi and Turkish societies. In my analysis, below, of these *fatwās* from both methodological and contextual perspectives, I provide evidence of the interconnection between Islamic legal methodologies and contextual elements.

Legal and Methodological Analysis of the Fatwās

The Dār al-Iftā' issued a *fatwā* that directly engages in women's political leadership. The *fatwā* was promulgated by a commission led by Shaykh 'Abd al-'Azīz ibn Bāz as chairman. Shaykh 'Abd al-Razzāq 'Afīfī was deputy chairman, and Shaykh 'Abd Allāh ibn 'Abd al-Rahmān al-Ghudayyān was a participant member.⁴³ The Dār al-Iftā'"s *fatwā* that directly addresses the issue of women's political leadership declares that it is not permitted, under any circumstances, for women to lead their communities or to assume judicial power. After this prohibition is stated, the authoritative sources are cited as evidence for the prohibition of women's assuming leadership roles in both politics and judiciary. According to the uncompromising position of the Dār al-Iftā', the prohibition against women's political leadership and judicial power leadership has its basis in the *āḥād ḥadīth* (solitary report)⁴⁴ narrated by an earlier transmitter, Abū Bakra, and the *ijmā'* (consensus of scholars), and it is supported further by historical reality.⁴⁵

On its part, the Diyanet engaged with the issue of women's political leadership under the heading "The Participation of Women in Business and Political Life," and the discussion culminated in a report of the same title, published by the Diyanet in 2002.⁴⁶ Unlike the Dār al-Iftā', the Diyanet seeks to promote the model of the active and energetic Muslim woman of the Prophet's time and acknowledges the participation of women in civil service, politics, and society. The report begins with a statement explaining the reasons for its publication, outlines the question, and then sets out the response with legal and religious precision. It is then stated that there is no difference between men and women as human beings and servants of God, so fundamental freedoms and rights apply to both men and women.⁴⁷ In issuing this assertion, the Diyanet is guided by the insight that men and women are equally accountable to God, irrespective of their gender. The conclusion that men and women share an innate spiritual equality enables the Diyanet to extend this initial premise to a series of basic rights and liberties. Whereas the Dār al-Iftā' assumes the inferiority of women, the Diyanet is concerned primarily with anchoring its egalitarian interpretation of gender in an ethical Islamic understanding.

⁴³ Fatwā No. 11780, in *Fatwas of the Permanent Committee*, 17:13–16, accessed May 5, 2022, <https://www.alifta.gov.sa/En/IftaContents/PermanentCommittee/Pages/FatawaChapters.aspx?cultStr=en&View=Page&PageID=6291&PageNo=1&BookID=7>.

⁴⁴ *Āḥād ḥadīth* means reports that were transmitted by a limited number of chains of transmission.

⁴⁵ Fatwā No. 11780.

⁴⁶ Diyanet, "Kadınların İş Hayatında ve Siyasette Yer Almaları" [The participation of women in business and political life], Din İşleri Yüksek Kurulu Dini Bilgilendirme Platformu, accessed August 27, 2015, <https://fetva.diyana.gov.tr/Karar-Mutalaa-Cevap/2913/kadinlarin-is-hayatinda-ve-yonetimde-yer-almalari>. Currently, this report is not available on the Diyanet's website, but it is available (in Turkish) at Sorularla İslamiyet (website): "Kadınların devlet başkanı, hakim ve vali olması ile ilgili, 'Bir kavmin başına kadın hükümdar gelirse, o kavim helak olmaya mahkumdur.' şeklinde bir hadis-i şerif var mıdır?" [With regard to appointing women as president, judge and governor, is there a hadith meaning that if a woman ruler is appointed to her community, this community is doomed to vanish?], Sorularla İslamiyet, accessed August 6, 2021, <https://sorularlaislamiet.com/kadinin-devlet-baskani-hakim-ve-vali-olmasi-ile-ilgili-bir-kavmin-basina-kadin-hukumdar-gelirse-o>. I provide translations of key passages of the Diyanet's report throughout my analysis.

⁴⁷ Diyanet, "Kadınların İş Hayatında ve Siyasette Yer Almaları."

The Dār al-Iftā' maintains that the prohibition against women's political leadership originates within the *āḥād ḥadīth* narrated by Abū Bakra ("Never will succeed such a people who place a woman in charge of their affairs.").⁴⁸ Many Muslim jurists and scholars apply, directly or indirectly, the Abū Bakra *ḥadīth* as the main legal authoritative source prohibiting women from holding any position of authority, whether political or judicial.⁴⁹ The Dār al-Iftā' justifies its reluctance to accept women as political leaders by referring to this *āḥād ḥadīth*'s general meaning and then elaborates the legal significance of "general term" (*al-lafẓ al-āmm*) and its precise function as a legal maxim. It observes: "The two words 'people' and 'woman' are mentioned as indefinite nouns that fall under negation, so they have general meanings according to the Shari'ah rule. [T]he general meaning of text supersedes the specific reason for which it was said."⁵⁰

The prohibition against female political leadership is clearly established by the general meaning of the *āḥād ḥadīth*. In interpreting the *āḥād ḥadīth*, the Dār al-Iftā' applies the legal maxim of *al-'ibrah fi 'umūm al-lafẓ lā khuṣūṣ al-sabab* (the superiority of the general rule over the specific reason). Using this legal maxim enables the institution to extend the general rule, extracted from the *āḥād ḥadīth* narrated by Abū Bakra, to all instances of the relevant concept.

While the legal influence of the *āḥād ḥadīth* continues to be debated by scholars of Islamic jurisprudence and within the various schools, it continues to function as an authoritative and predominant source for the Dār al-Iftā' that principally espouses the legal methodology of the Ḥanbalī school. Al-Atawneh, when explaining the approach of Dār al-Iftā' to the Sunna, observe: "[The Dār al-Iftā'] ... follows the traditional [Salafi] trend by holding the Sunna to be an extension of the authority of the Qur'ān, as based on divine witness ... Jurists tend to consider *ḥadīths* as authorized and valid; so long as the 'chain of transmitters' (*isnād*) is authentic, the *ḥadīth* must be accepted, whether its *isnād* is: (1) transmitted along multiple paths (*mutawātir*); (2) solitary (*āḥād*); (3) widespread (*mashhūr* or *mustafīd*); or (4) strange/rare (*gharīb*)."⁵¹

In initially engaging with the *āḥād ḥadīth* as legal evidence to warrant its position against women leading in politics, the institution demonstrates its adherence to the doctrine of the Ḥanbalī school, which places great emphasis on the authority of the *ḥadīth* and of the precedents that were set by the early generations of Muslims as a source of law. In his analysis of the epistemological and historical value of *ḥadīths* for the *ahl al-ḥadīth* (partisans of hadith), Jonathan Brown notes that Ahmad Ibn Hanbal, the eponym of the Ḥanbalī school, famously said: "A weak *ḥadīth* is dearer to me than the use of independent reason (*ra'y*)."⁵² Over time, this approach of Ibn Hanbal to *ḥadīths* (either sound or weak) turned into an

⁴⁸ Fatwā No. 11780. The *ḥadīth* states: "Never will succeed such a nation as makes a woman their ruler." Abū 'Abdullāh Muḥammad ibn Ismā'īl al-Buḥārī, *Hadīth* no. 7099, in *Mokhtasar Sahih al-Bukhari: Text and Translation*, vol. 9, trans. Ahmad Zidan and Dina Zidan (Cairo: Islamic Inc. Publishing, 1999), 1583. In the other version of the same hadith, Abū Bakra relates, "God benefited me during the days (of the battle) of *Al-Jamal* [Camel], Allāh benefited me with a word I heard from Allāh's Messenger after I had been about to join the companions of *Al-Jamal* (i.e., the camel) and fight along with them. When Allāh's Messenger was informed that the Persians had crowned the daughter of Kisra (Khosrau) as their ruler, he said, "Such people as ruled by a lady will never be successful." Al-Buḥārī, *Hadīth* no. 4425, in Zidan and Zidan, *Mokhtasar Ṣaḥīḥ al-Bukhārī*, vol. 5, 436.

⁴⁹ Beverly Dawn Metcalfe and Lulwa Mutlaq, "Women, Leadership and Development: Reappraising the Feminine in Leadership Theorising in the Middle East," in *Leadership Development in the Middle East*, ed. Beverly Dawn Metcalfe and Fouad Mimmouni (Cheltenham: Edward Elgar, 2011), 328–71, at 334.

⁵⁰ Fatwā No. 11780.

⁵¹ Muhammad al-Atawneh, "Wahhābī Legal Theory as Reflected in Modern Official Saudi *Fatwās*: *Ijtihād*, *Taqīd*, Sources, and Methodology," *Islamic Law and Society* 18, nos. 3–4 (2011): 327–55, at 346.

⁵² Jonathan A. C. Brown, "Did the Prophet Say It or Not? The Literal, Historical, and Effective Truth of *Ḥadīths* in Early Sunnism," *Journal of the American Oriental Society* 129, no. 2 (2009): 259–85, at 276.

entrenched legal methodology that prioritizes the derivation of legal rulings from the authoritative texts over consistency in legal analogy. However, the use of *āḥād ḥadīth* should be underpinned by other sources. The scholars of the Dār al-Iftā', in responding to a question relating to the application of *āḥād ḥadīth*, have further clarified this point. They state: "The Hadith-ul-Ahad that are Sahih (a Hadith that has been transmitted by people known for their uprightness and exactitude; free from eccentricity and blemish) can be used with certitude if they are supported by other evidence, otherwise they will indicate probability. In either case, this type of Hadith must be referred to in establishing creedal issues and all other Islamic legal rulings."⁵³

It is established that the *āḥād ḥadīth* has legal value in matters of *'aqīda* (belief) and law while the Dār al-Iftā' evaluates any issue that was directed to the institution.⁵⁴ In examining the issue of female leadership in politics, the Dār al-Iftā' therefore grants precedence to the Abū Bakra *ḥadīth* over the use of *ra'y* (independent legal reasoning) and *qiyās* (analogy) while rejecting their use to override this *ḥadīth*'s general legal ruling.

Contrary to the Dār al-Iftā''s text-based approach, the Diyanet initially seeks to identify the general Qur'anic principle regarding the issue. After the Prophet emigrated to Medina, Muslim women were empowered to participate actively in the process of enacting their obedience to the leader of their community. Presenting *bay'a* (oath of allegiance) alludes to a political process "through which the leader of an Islamic state is confirmed by the people."⁵⁵ The Diyanet refers to the Qur'an 60:12, which relates the participation of women in the political agreement between the Prophet and his people.⁵⁶ In recounting the necessity of presenting and accepting *bay'a* for the legitimacy of a political leader, Rahman and Memon state: "[*bay'a*] can be considered the election of the leader as without it the supposed leader has no legitimacy and cannot perform as the head of the state."⁵⁷ The Diyanet uses the Qur'an 60:12 as the main authoritative text that attests implicitly to the independent free will of women in presenting their *bay'a* to the Prophet during his lifetime.⁵⁸ In referencing the Qur'an 60:12, the general Qur'anic principle is established that women, like their male counterparts, have the same free will and right to participate in political life. The Diyanet scholars complement their initial allusion to women's free will with an emphasis upon juridical capacity (capacity to act). In grounding itself within *qiyās*, the report claims that the Prophet's acceptance of women's *bay'a* precisely establishes an *'illa* (discernible effective cause) for acknowledging women's independent free will in their political participation. The Diyanet's application to *qiyās* in adapting women's *bay'a* to their possession of free will most probably demotes the possibility of the use of *āḥād ḥadīth* as a legal evidence, while the preference for the relevant *āḥād ḥadīth* by the Dār al-Iftā' results in the use of *qiyās* as a legal basis being restricted to a minimum. Rather than applying wordings within their general

⁵³ Fatwā No. 5082, in *Fatwas of the Permanent Committee*, 4:364–65, accessed May 5, 2022, <https://www.alifta.gov.sa/En/IftaContents/PermanentCommittee/Pages/FatawaSubjects.aspx?cultStr=en&View=Page&HajjEntryID=0&HajjEntryName=&RamadanEntryID=0&RamadanEntryName=&NodeID=4046&PageID=1242&SectionID=7&SubjectPageTitleID=1246&MarkIndex=0&0#SomepeopleholdthatHadith-ul-Ahad>.

⁵⁴ Fatwā No. 5082.

⁵⁵ Farhat Naz Rahman and Kiran Memon, "Political Participation of Women: Contemporary Perspective of Gender and Islam," *Weber Sociology & Anthropology* 1, no. 1 (2015), 1–4, at 1 (article ID wsa_108, 50–53, 2015).

⁵⁶ The Qur'an 60:12 reads: "O Prophet! If believing women come to you, taking oath of allegiance to you that they will ascribe nothing as partner to Allah, and will neither steal, nor commit adultery, nor kill their children, nor produce any lie that they have devised between their hands and feet, nor disobey you in what is right, then accept their allegiance and ask Allah to forgive them. Allah is Forgiving, Merciful." Sahib Mustaqim Bleher, ed., *The Meaning of the Glorious Qur'an: An Explanatory Translation by Muhammad Marmaduke Pickthall* [...] (Istanbul: Islamic Dawah Centre International, 2015), 330.

⁵⁷ Rahman and Memon, "Political Participation of Women," 1.

⁵⁸ Diyanet, "Kadınların İş Hayatında ve Siyasette Yer Almaları."

meaning, the Diyanet instead adopts the legal maxim that holds that particular circumstances do not establish generality, or *takhṣiṣ al-‘amm* (specification of the general term) when interpreting the legal consequences of the Abū Bakra *ḥadīth*. In suggesting that the significance of the *āḥād ḥadīth* is restricted to the leadership of the Sassanid Empire during the time of the Prophet, the Diyanet scholars strongly imply that it does not provide a sufficiently strong legal basis for a general rule that operates within Islamic law. This explains why the Diyanet does not regard the *āḥād ḥadīth* as a legal foundation.

In contrast to the Dār al-iftā’, the Diyanet primarily uses *qiyās* and recognizes its value as an Islamic legal source when evaluating the issue of freedom and its specific relation to women’s will. The application of *qiyās* to justify and substantiate the independent free will of women within the sphere of politics clearly derives from the Diyanet’s debt to the legal methodology of the Ḥanafī school, which places greater emphasis on rational system, human logic, as a subsidiary foundational basis for legal discussion. Emir Kaya clarifies: “[Diyanet members’] bureau also houses a religious inquiries room (*fetva odası*). My experimentation in the room proved that, unless otherwise stated, a Hanafi approach is taken for granted. Shafii catechisms are availed of secondarily.”⁵⁹

As Kaya observes, the influence of the legal methodology and tradition of the Ḥanafī school are clearly evidenced within the Diyanet’s *fatwās*. In addition to this clear debt to the Ḥanafī school, it is noticeable that the Diyanet practices, to a substantial extent, a variation of collective *ijtihād* when addressing itself to the subject of women’s leadership. With regard to the issue, *ijtihād* by means of *takhrīj* (extraction) is presumably carried out by Diyanet members; as such, previously established legal views are evaluated in order to construct a new and practicable legal opinion compatible with contemporary Turkey’s political, social, and legal values. In this regard, the Diyanet states that while the majority of jurists argued that a woman cannot assume a judgeship, there were exceptions to this rule. It is stated that many Ḥanafī scholars and Abu Muḥammad Ibn Ḥazm al-Zahirī (d. 1064) approved that women could act as judges in a limited capacity that excluded criminal cases. The Diyanet then cites Muḥammad ibn Jarīr al-Tabarī (d. 923) and Ḥasan al-Basrī (d. 728), who deviated from the predominant position of the Ḥanafī school and permitted women to hold judgeships without restriction in the type of cases they could hear.⁶⁰ The reference to the variety of legal opinions regarding female judges not only illustrates the diverse positions within Islamic jurisprudence but also underscores the possibility of legal change in the sphere of *mu‘āmalāt* (social transactions). By doing so, the Diyanet implies the possibility of legal changes in Muslim scholars’ perceptions about the status and roles of women, thus echoing the sociocultural and legal factors of their times and contexts.⁶¹ In underlining the division between *‘ibādāt* and *mu‘āmalāt*, the issue of women’s political leadership is placed within the legal sphere in which change is possible in accordance with time and place. By considering the possibility of legal change, the Diyanet therefore primarily engages with the issue of female political leadership within the boundary of *mu‘āmalāt*.

In addition, both institutions present *ijmā‘* as legal evidence in their evaluation of the legitimacy of female political leadership, but their application to *ijmā‘* demonstrates variation toward two opposite ends. The Dār al-iftā’ uses *ijmā‘* as legal evidence to consolidate its position against women assuming political leadership while the Diyanet refers implicitly to the absence of *ijmā‘* on the illegitimacy of female political leadership. The resort to *ijmā‘* renders the Dār al-iftā’’s *fatwā* as a well-established and unchangeable rule that has been embraced by the *umma* (Muslim community). The term *umma* had been equated with “the

⁵⁹ Emir Kaya, “Balancing Interlegality through Realist Altruism: Diyanet Mediation in Turkey,” PhD diss., University of London, 2011, 124.

⁶⁰ Diyanet, “Kadınların İş Hayatında ve Siyasette Yer Almaları.”

⁶¹ Diyanet, “Kadınların İş Hayatında ve Siyasette Yer Almaları.”

people” during the time of the first four caliphs (Abū Bakr, ‘Umar b. al-Kaṭṭāb, ‘Uthmān b. ‘Affān, and ‘Alī b. Abī Ṭālib, respectively) and the *imāms* of the first three centuries. In the *fatwā*, it is stated: “The Ummah in the time of the Rightly-Guided Caliphs and the Imams of the early best three centuries practically agreed upon not assigning any power or judicial authority to women, despite the fact that they had well-educated women in various disciplines of religion.”⁶²

The extension of the literal meaning of the *āḥād ḥadīth* to the contemporary issue is strictly underpinned by means of *ijmā’*. The Dār al-Iftā’ accepts *ijmā’* to be the third fundamental source of law that determines or restricts legal regulations and rules. It states: “*Ijmā’* is one of the three fundamental *uṣūl* that must be obeyed: Qur’ān, authentic Sunna (*sunna ṣaḥīḥa*), and *ijmā’* of the *salaf* from among the Prophet’s *ṣaḥāba*, since disputes became widespread after them (amongst the later generations).”⁶³

The legal position within Islamic law on female political leadership is presented as having reached consensus: women can neither lead in politics nor assume judicial authority. This raises the question of how the Dār al-Iftā’ precisely manages to claim that the illegitimacy of female leadership depends on the *ijmā’*. A wealth of evidence is ignored or nullified when *ijmā’* is adduced as unequivocal evidence. For instance, Umm Salama Hint b. Abī Umayya and ‘Ā’isha bint Abī Bakr, the Prophet’s wives, are reported as having actively taken on leadership roles in the Battle of the Camel (656).⁶⁴ In this battle, ‘Ā’isha is reported as having actively assumed a leadership role and allied with Talha and Zubayr against ‘Alī, while Umm Salama is portrayed as being a dissident to ‘Ā’isha’s action in taking on a political public role exemplified by her participation in that battle.⁶⁵ These eventuated occurrences in the time of the fourth caliph refer to the absence of the *ijmā’* on the illegitimacy of female political and judicial leadership. Hence, the use of the *ijmā’* as an authoritative source by the Dār al-Iftā’ is problematized by these occurrences because they bring its very application to the specific problem (female political leadership) into clear question.

The Diyanet approaches *ijmā’* from a different perspective and underlines extant diverse opinions of scholars related to the legality of female judges. These legal opinions are the product of a given context that, in most cases, is formulated through a predominant hierarchical perception of gender. This is exemplified by the above-mentioned scholars’ legal views relating to women serving as judges, which range from legal to illegal.⁶⁶ In building on the contributions of these early Muslim scholars, the Diyanet takes the political and social circumstances of Turkey into account and then formulates its own Islamic legal view regarding female political leadership. The Diyanet examines different legal opinions within the area of Islamic law and occasionally uses this diversity to sketch alternative solutions for contemporary issues.⁶⁷ Şamil Dağcı observes: “As far as possible, [the Diyanet] draws advantage from the alternative solution suggestions that exist in the Islamic legal

⁶² Fatwā No. 11780.

⁶³ Al-Atawneh, “Wahhābī Legal Theory,” 348, as cited from Ahmad b. ‘Abd al-Rāziq al-Dawīsh, *Fatawā al-Lajna al-Dā’ima li al-Buḥūth al-‘Ilmiyya wa al-Iftā’ wa al-Da’wā wa al-Irshād* [Fatwās of the Permanent Committee for Scientific Research, Legal Opinion, Invitation and Guidance], vol. 13 (Riyadh: Maktabad al-‘Ibikān, 2000), 15.

⁶⁴ Cyril Glassé, s.v. “Battle of the Camel,” in *The New Encyclopedia of Islam: Revised Edition of the Concise Encyclopedia of Islam* (Walnut Creek: Altamira Press, 2001), 80; Al-Ṭabarī, “The Community Divided: The Caliphate of ‘Alī I A.D. 656–657/A.H. 35–36,” vol. 16 of *The History of al-Ṭabarī*, trans. Adrian Brockett (Albany: State University of New York Press, 1997), 125–73; James E. Lindsay, *Daily Life in the Medieval Islamic World* (Westport: Greenwood Press, 2005), 67–70.

⁶⁵ Calderini, *Women as Imams*, 56.

⁶⁶ Diyanet, “Kadınların İş Hayatında ve Siyasette Yer Almaları.”

⁶⁷ Yakar, *Islamic Law and Society*, 118–19.

legacy. [The Diyanet] therefore does pronounce its own views instead of presenting a legal opinion that belongs to any particular legal school.”⁶⁸

The Islamic legal heritage can be said to be an important reference point for the Diyanet’s practice of *iftā’*. In this regard, it may be argued, the Diyanet gives the appearance of having liberated itself from the shackles of the strict adherence to only one legal school. Evidently accepting the possibility of divergent views within the sphere of *mu’āmalāt*, the Diyanet asserts that like the legal views regarding female judicial leadership, legal discussions on female political leadership can reflect the social, political, legal, and cultural structure in which they were produced. In implicitly alluding to the existence of different legal opinions, the Diyanet opens an area in which it enjoys a greater degree of flexibility and freedom in interpreting the authoritative texts related to female political leadership. Referencing the existence of different opinions means the absence of *ijmā’* on this specific issue because *ijmā’* is frequently defined as the unanimous agreement of all qualified Muslim scholars in a given period on a particular ruling. David Jalajel states that legal theorists often define *ijmā’* as unanimous agreement of all competent legal scholars upon a particular ruling that relates to Islamic legal issues.⁶⁹ Whenever *ijmā’* occurs on a specific issue, the ruling becomes a matter of binding legal authority, and any disagreement on that issue is henceforth prohibited.⁷⁰ The Diyanet seeks to corroborate its argument relating to the absence of *ijmā’* upon women’s political leadership by adducing the fact that Umar b. al-Kaṭṭāb appointed al-Shifaa’ b. ‘Abd Allāh as an ombudsman within Medina’s marketplace.⁷¹ With the intent of further strengthening its argument, the Diyanet states that during the time of the Prophet and his Companions, women were employed in private and public service jobs and were also entitled to assert their legal opinions.⁷² The assertion of the absence of *ijmā’* therefore provides the Diyanet an opportunity to endorse the permissibility of female political leadership.

Rather than following the Dār al-Iftā’’s methodology, which adopts a decontextualized and literal reading of the relevant legal textual sources, the Diyanet offers a contextual reading that depicts the circumstances, conditions, environment, and historical context of the time of the Prophet and the Companions—a more temperate and flexible legal opinion that is compatible with Turkey’s political and social context. The Diyanet adopts the view that historical events that occurred during the time of the Prophet and the Companions do not, contra the position of the Dār al-Iftā’, justify the imposition of the supposed *ijmā’*, which prohibited women’s political leadership. Two forms of argument regarding *ijmā’* therefore collide. Of the two, the Diyanet’s position seems more sustainable because the Companions and the Successors do not appear to have commented extensively upon the ruling relating to women in political leadership position. In addressing women’s political leadership, Jalajel challenges the assertion of *ijmā’* on this specific issue. He observes:

The argument given for this claim is very weak, simply that no woman is known to have been appointed to a position of political leadership. This is not a case of silent

⁶⁸ Şamil Dağcı, “Din İşleri Yüksek Kurulu Kararlarına Fetva Konseptinde Bir Yaklaşım” [An approach to the *fatwā* concept of the High Board of Religious Affairs], *Diyanet İlmî Dergi* 38, no. 4 (2002): 5–20, at 11 (my translation).

⁶⁹ David Solomon Jalajel, *Women and Leadership in Islamic Law: A Critical Analysis of Classical Legal Texts* (New York: Routledge, 2017), 66.

⁷⁰ Jalajel, *Women and Leadership in Islamic Law*, 66.

⁷¹ John L. Esposito, *What Everyone Needs to Know about Islam: Answers to Frequently Asked Questions, from One of America’s Leading Experts*, 2nd ed. (New York: Oxford University Press, 2011), 105; Farid Younos, *Principles of Islamic Sociology* (Bloomington: AuthorHouse, 2011), 73; Jamal Badawi, *Gender Equity in Islam: Basic Principles* (Indiana: American Trust Publications, 1999), 18–19.

⁷² Diyanet, “Kadınların İş Hayatında ve Siyasette Yer Almaları.”

consensus, since this requires a positive statement or action to be carried out which the other jurists learn about and subsequently refrain from criticizing. The mere absence of a woman political appointee does not require the jurists to even think on the matter, let alone object to it. The most it could indicate is that it is permissible for women to be entirely absent from the high echelons of political authority at a given time and place.⁷³

In particular, the supposed *ijmā'* with regard to the prohibition of appointing of women to judicial posts by the *Dār al-Iftā'* cannot be presumed to be a powerful argument: although their appointments were restricted to non-capital cases by some scholars, women were permitted to act as judges in unlimited capacity by some scholars during the first three centuries of Islam.

Lastly, both institutions present the Qur'anic verses specifically relevant to the parable (*qiṣṣa*) of the Queen Bilqīs (known to Jews and Christians as the Queen of Sheba) and the Prophet Sulaymān as legal evidence with the intent of further underpinning their positions in the *fatwās*. Although reference to the parable by both institutions conceivably provides an authoritative legal basis that strengthens their legal opinions by rooting them within the Qur'anic text, their interpretations of these verses demonstrate variation towards two antipodal ends. The *Dār al-Iftā'* does focus on verifying the argument against women's political leadership by employing an antifemale, hermeneutical approach in interpreting the verses regarding the dialogue between Queen Bilqīs and the Prophet Sulaymān, both of whom were leaders of their communities. Rather than showing interest in Queen Bilqīs's political leadership competence, the *Dār al-Iftā'* draws attention her acceptance of Islam. Her submission to God is interestingly linked by the *Dār al-Iftā'* to her passion and weak character that originates in being female. In the *fatwā*, it is stated: "Given that kings and queens are often characterized by pride, exaltedness and a tendency to protect and keep their reign, she [Queen Bilqīs] resorted to trickery by means of money, acting like weak people, hoping to protect herself and her reign in this way. Apart from this, there was also astonishment that led her to be uncertain about her throne, and her full admiration for the reign of Sulayman (peace be upon him), which captured her hearth like all other women who tend to be influenced by external appearances because of their strong passion."⁷⁴

The relevant verses regarding Queen Bilqīs are interpreted within Saudi society in which women have been segregated and excluded through the hand of state and religious establishment. In the process of constructing a homogeneous nation, women, Madawi al-Raheed states, have been used as an emblem that embodies the religious character of the Saudi nation.⁷⁵ Over time, the Saudi patriarchal, tribal, and cultural values that ostracized women from public and social life have been transformed into entrenched legal and social norms through the policy of religious nationalism adopted by the Saudi state—consequently minimizing women's appearance in the public sphere and restricting their citizenship rights and political participation. The predominant patriarchal and antifemale perception in Saudi society resonates in the qualities of Queen Bilqīs as portrayed in the *fatwā*. For the *Dār al-Iftā'*, Queen Bilqīs's character flaws (emotional inclination, intellectual deficiency, lack of perspicacity, and propensity to forget) result in her surrendering to the Prophet Sulaymān, deferring to his *da'wa*, and submitting to Allāh.⁷⁶ Being a woman is therefore acknowledged as a disqualifying condition for political leadership. However, the *fatwā* includes a theoretical disconnect: the fact that women possess diminished mental capacity and emotional

⁷³ Jalajel, *Women and Leadership*, 66.

⁷⁴ *Fatwā* No. 11780.

⁷⁵ Madawi al-Rasheed, *A Most Masculine State: Gender, Politics, and Religion in Saudi Arabia* (Cambridge: Cambridge University Press, 2013), 16–17.

⁷⁶ *Fatwā* No. 11780.

tendencies may exclude them from judicial and political administration, but it is not denied the possibility that they may be well informed in the sciences of religion.⁷⁷ The *Dār al-Iftā'* asserts that though knowledgeable and pious Muslim women were consulted in the past, they never aspired to a political position.⁷⁸ The acknowledgment that women may possess authority within the sciences of religion admits the possibility of their participation in religious education, but it does not admit their political participation.

In contrast with the *Dār al-Iftā'*'s androcentric and patriarchal interpretation, the Diyanet places its focus upon the absence of any negativity in the Qur'an regarding the leadership of Queen Bilqīs and then identifies the general principles of Islamic law on this issue. Within the report, it is stated: "Alternatively, the Qur'an expresses no negativity in its mention of the Queen of Sheba, Bilqīs, and the countries whose leaders are women have been sustaining their powerful existence at the present time. These two realities then evidently demonstrate that this saying of the Prophet does not include the general ruling (*hukm*). In this regard, it is possible to assert that there is no unequivocal and binding premises (*naṣṣ*) in Islam which prohibits women from undertaking civil service."⁷⁹

The verses relating to Queen Bilqīs, read through the lenses of social and gender justice, are put forward by the Diyanet to support its argument in favor of female political leadership. Queen Bilqīs is referred to as a female ruler who exercises power and authority in her community. In grounding its argument within the authoritative source, the Diyanet interprets this paradigmatic figure as validating the understanding that nowhere in the Qur'an is there any prohibition of women's political leadership. Operating within the democratic and secular context of contemporary Turkey induces Diyanet members to apply a contextual and holistic reading of the authoritative sources in order to determine the general legal principles that related to political leadership. The identification of general legal principles possibly emerges as another legal consideration that can be explicitly drawn upon by the Diyanet during the process of the practice of *iftā'*. For the Diyanet, it is not class, race, or gender that is deemed to be the essential criterion; instead, capacity and qualifications are the essential attributes of a leader.⁸⁰ Both are identified as the fundamental principle of Islamic law for assuming political leadership. In invoking this general principle, the Diyanet explicitly states that these characteristics and qualifications are not restricted to men—accordingly, anybody who possesses these required attributes can be tasked with the duty of state leadership.⁸¹ The report therefore not only gives consent to the legitimacy of female political leadership but also reflects discourses of social justice, human rights, and gender equality that have pervasively percolated into the political, legal, and social values of Turkish society. Additionally, the presence of women politicians governing their countries is further used as a newly forged precedent for the acknowledgment of the legitimacy of female political authority. The Diyanet employs the recent past as legal evidence to assent to female political leadership. This introduces another legal basis that can be used as a resort. The survival of the states that are governed by women is presented as an implicit indication that *ijmā'* has not been achieved on the illegitimacy of female political leadership. The Diyanet's approach opens the way for evaluating women's political leadership in accordance with the needs and demands of contemporary societies and provides a legal perspective for the promotion of an inclusive vision toward gender issues.

⁷⁷ Fatwā No. 11780.

⁷⁸ Fatwā No. 11780.

⁷⁹ Diyanet, "Kadınların İş Hayatında ve Siyasette Yer Almaları."

⁸⁰ Diyanet, "Kadınların İş Hayatında ve Siyasette Yer Almaları."

⁸¹ Diyanet, "Kadınların İş Hayatında ve Siyasette Yer Almaları."

Contextual Analysis of the *Fatwās*

The two *fatwās* upon women's political leadership are replete with references to socially and culturally accepted gender roles for women, their legal capacity, and their status within Saudi and Turkish societies. In referring to the imprints of contextual factors on the issue of female leadership, Simonetta Calderini observes: "Because leadership, unlike enforced power, is reciprocal in the sense that it needs to be recognised as legitimate by the individuals and the community, it is woven into the social, legal and political structure in a given time and place. Hence, as far as female leadership is concerned, its expression, meanings and understanding are the product of a given context which, in most cases, is formulated through an explicitly and predominantly hierarchical gender discourse."⁸²

The application of different legal methodologies is not sufficient to explain the discrepancy between the two *fatwas* issued by the Dār al-Iftā' and the Diyanet unless they are seen through the lenses of contexts in broader social, political, legal, and cultural attitudes toward female status. A contextual analysis may therefore provide an important insight because it brings to light the interaction between Islamic legal methodologies applied in the *fatwās* and the social contexts from which the *fatwās* emerge.

Contextual factors that influence Islamic legal methodologies demonstrate a wide range of variety. In Saudi Arabia and Turkey, the predominant *madhhab* (school of Islamic law) affiliation, national policies relevant to women, legal regulations of women's rights, and social perceptions regarding gender roles are the most prominent contextual factors that can be identified in the *fatwās* regarding women's political leadership. For example, both the Dār al-Iftā' and the Diyanet primarily pursue the legal methodologies of the *madhhab* that are followed by the majority in their countries. The Dār al-Iftā' espouses the legal methodology of the Ḥanbalī *madhhab*, which is predominant in Saudi Arabia, while the Diyanet follows the legal methodology of the Ḥanafī *madhhab*, which is followed by the majority of Turkish people. In contrast to the use of *ra'y* within the Ḥanafī *madhhab*, the Ḥanbalī *madhhab* generally relies on the transmitted texts (*naql*) as the basis for arriving at legal opinions.⁸³ Both the Dār al-Iftā' and the Diyanet can be considered representatives of the predominant *madhhab* in their countries in terms of the application of legal methodologies when examining the issue of women's political leadership. The Dār al-Iftā' gives privilege to the use of transmitted texts and relies mainly on the first two sources of law (the Qur'an and Sunna) while the Diyanet prioritizes the use of independent legal reasoning, especially in evaluating the first two sources. This is particularly observable in the evaluation of the *āḥād ḥadīth* narrated by Abū Bakra as a legal authoritative source by both institutions. In a similar way to the legal methodology of the Ḥanbalī *madhhab*, the Dār al-Iftā', notwithstanding issues of authenticity, reliability, and historicity, acknowledges the *āḥād ḥadīth* as legal evidence.⁸⁴ The Diyanet cautiously approaches the use of the *āḥād ḥadīth* as legal evidence as it is in the legal methodology of the Ḥanafī *madhhab*.⁸⁵ After distinguishing between the historical accuracy and legal efficacy of the *ḥadīth*, the Diyanet accepts the *ḥadīth* to be historically accurate but still does not recognize it as an effective legal source. The

⁸² Calderini, *Women as Imams*, 28.

⁸³ Yakar, *Islamic Law and Society*, 186–90; Amalkhon Y. Azimova, "Political Participation and Political Repression: Women in Saudi Arabia" (master's thesis, University of Denver, 2016), 19.

⁸⁴ Within the legal methodology of the Hanbali *madhhab*, a *ḥadīth*—whether it is transmitted along multiple paths (*mutawātir*), solitary (*āḥād*), widespread (*mashhūr* or *mustafīd*), or strange or rare (*gharīb*)—constitutes an invaluable and indispensable legal source. Yakar, *Islamic Law and Society*, 186–87.

⁸⁵ In applying *āḥād ḥadīths* as legal evidence, the Ḥanafī *madhhab* identifies some conditions, so the probative value of these *ḥadīths* is controversial within the legal methodology of this *madhhab*. Yakar, *Islamic Law and Society*, 189–90.

evaluation of the probative value of the *āḥād ḥadīth* is therefore not fixed but fluctuates in accordance with the legal methodologies espoused by the Dār al-Iftā' and the Diyanet.

In the second instance, national policies relevant to women within the two countries also emerge as pivotal contextual factors that implicitly influence legal methodologies applied by both institutions. The exclusion of women from decision making is common across Saudi Arabia, and it occurs within the family, community, and wider society. The persistent marginalization of Saudi women derives from the religious nationalism policy, a historical process through which the Saudi state, since its establishment, has sought to transform Salafi understanding of Islam into a nationalist ideology. Al-Rasheed observes: "The invented 'Saudi' nation articulated an identity by claiming to apply the *sharia* (Islamic law) in all aspect of life and submitting to a universal Islamic ethos. [Salafiyya] under state patronage was turned into a quasi-nationalist project, the purpose of which was to provide a universal discourse about unity, authenticity, and tradition, deriving its legitimacy from divine sources rather than man-made modern constructions of national identity. However, as in secular nationalist and anti-colonial nationalist projects, women were singled out as fundamental pillars of this imagined community."⁸⁶

Saudi women have been incorporated into the political project pursued by the Saudi state as a symbol of its religious nationalism since its establishment, so there is an interconnection between gender, politics, and religion in Saudi Arabia. This interconnection explains existent gender inequality and women's marginalization in Saudi Arabia because the state has applied the restrictive and strict legal interpretations of Salafism, which have so far prevented women from actively participating in political life and placed them under the guardianship of their male relatives who control their mobility, marriage, work, and education.⁸⁷ The Dār al-Iftā', al-Rasheed observes, emerges at this point as an embodiment of religious nationalism that helps to safeguard the piety of the nation.⁸⁸

Under the auspices of the state, religious nationalism provides an area in which religion and politics converge on creating a pious community. In this pious state, women have become symbols of Saudi national identity. Their appearance within the public sphere, their roles in society and their visibility in politics have been specified within the boundaries of religious nationalism that have been drawn by the state in accordance with the Dār al-Iftā's *fatwās*.⁸⁹ In referring to how the Saudi state has gauged its piety by making women a yardstick, al-Rasheed states: "The Saudi state claims to be an Islamic state different from other post-colonial Arab states in the way it upholds the piety of nation, which became increasingly defined in terms of excluding women, minimising their appearance in the public sphere, and restricting their citizenship rights and participation."⁹⁰

However, Saudi women are invited to participate in society and politics to the extent to which they serve the reification of the nation's image as Muslim and pious. Although their participation in politics as being appointed members of the Consultative Council was recently permitted, their very scant number in the council refers to the reluctance of both the Dār al-Iftā' as the "ideologues of religious nationalism" and the state as the "commander of religious nationalism." Within the Saudi state that has internalized religious nationalism, the Dār al-Iftā' continues, in rejecting female eligibility for the administration of justice and the offices of political leadership, to adhere to an androcentric and literal interpretation of the Qur'anic verses and the *ḥadīth*. This brings out the state's masculine dimension in a fuller detail and

⁸⁶ Al-Rasheed, *A Most Masculine State*, 14–15.

⁸⁷ Elenaor Abdella Doumato, "Gender, Monarchy and National Identity in Saudi Arabia," *British Journal of Middle Eastern Studies* 19, no. 1 (1992): 31–47.

⁸⁸ Al-Rasheed, *A Most Masculine State*, 110.

⁸⁹ Al-Rasheed, 19–20.

⁹⁰ Al-Rasheed, 19–20.

roots the political leadership within the authoritative texts by excluding women from political and judicial positions. The *fatwā* upon women's political leadership therefore is not only the product of the *Dār al-Iftā*'s pure Islamic legal thought but also a reflection of its obsessive efforts to maintain religious nationalism to the extent permitted by the state.

Contrary to religious nationalism, the secular nationalist project has been applied by the Turkish state to create a homogenized and unified society. Similar to the religious nationalist project, women have been used by the Turkish state as a symbol of the imagined secular community.⁹¹ After the demise of the Ottoman Sultanate, every sphere of life underwent a secularization process to homogenize the society and to form Turkish national consciousness.⁹² Despite the fact that many clear indications of social conservatism can be found in the society, the newly established Turkish state has chosen to enforce a nationalist model that requires the total privatization of religion and the full secularization of social life. On November 27, 1923, for instance, the first draft of a family law that included the endorsement of polygyny and the reduction of the legal marriage age to nine for girls was presented to the Turkish National Assembly. This proposal, which was subsequently rejected, alludes to the then existent contestation between religious and nationalist oppositions. The religious opposition was silenced through the abolition of the Caliphate and the abrogation of Islamic law in favor of secular codes and laws.⁹³ The issues relevant to women's roles and status have been turned into a political tool by the Turkish state to obliterate the cultural and religious remnants of the Ottoman Sultanate. Kandiyoti observes: "The decisive actions of [the early Republican government] with respect to women's emancipation were the evacuation of Islam from legislative and broader institutional sphere, and the inclusion of women into a new notion of 'citizenship' dictated by the transition from a monarchy to a populist republic."⁹⁴

Legislative reforms regarding women's rights and conditions have also been acknowledged as an influential platform to display the modernization and Westernization of the Turkish state. The secularization of the family code and the enfranchisement of women are part of a broader effort to sever all ties with the Ottoman past and to create a new legitimizing state ideology.⁹⁵ In particular, the enactment of the participation of women in politics has provided the newly established Turkish state an opportunity to present itself as a democratic nation. The inclusion of women into public and political affairs has brought an increase in their status and public visibility as it has been planned by the Turkish state. Within the state that was built upon the elements of secular nationalism, the *Diyanet* has generally acted in accordance with the political policies that have been imposed by the administrative governments, so the image of Muslim women has been identified by this institution within the triangle of the state's nationalist policies, religion, and society.

The Turkish state has imagined a new identity for Turkish women while continuously drawing an opposition between the past and the present. While the Ottoman past has been allegedly described as the center of obscurantism, passivity, and indolence, the Republican Turkey has been directly linked to development, rationalism, and modernism.⁹⁶ In referring

⁹¹ Suad Joseph and Susan Slyomovics, *Women and Power in the Middle East* (Philadelphia: University of Pennsylvania Press, 2001), 6.

⁹² Hilal Ozcetin, "'Breaking the Silence': The Religious Muslim Women's Movement in Turkey," *Journal of International Women's Studies* 11, no. 1 (2009): 107–08.

⁹³ Deniz Kandiyoti, "End of Empire: Islam, Nationalism and Women in Turkey," in *Women, Islam and the State*, ed. Deniz Kandiyoti (London: Macmillan, 1991), 38.

⁹⁴ Kandiyoti, "End of Empire," 39.

⁹⁵ Kandiyoti, 38.

⁹⁶ Chiara Maritato, *Women, Religion and the State in Contemporary Turkey* (Cambridge: Cambridge University Press: 2020), 265–66.

to the stereotyped image of women in the Ottoman period, the modern Turkish women have been strategically portrayed as patriot, energetic, active, and intellectual.⁹⁷ The dichotomy that was produced during the early years of the Turkish Republic has marginalized religious women within the society. Through the progressive nationalist policies, religious women have been inadvertently “labelled as outdated, backward and traditional”; “forced to live their religious lives in private”; and “turned into ‘the other’ for republican modern women.”⁹⁸ Even during the years when the multiparty system was adopted by the state, religious women have remained invisible and passive in both social and political lives. After the 1980s, conservatism as an Islamic ideology has been revived and gained some strength within cultural, political, and social areas.⁹⁹ With the reawakening of conservatism, the imposition of secular nationalist reforms has been strictly criticized, and a more fair and just system has been demanded by religious citizens. In conjunction with the increasing social and political influence of conservatism, religious women have begun to break the boundaries of their imposed invisibility and to express their political, social, and economic demands.¹⁰⁰ In this regard, it is possible to state that the Diyanet implicitly intends to consolidate the visibility of religious women in social and political areas by adopting a reconciliatory approach that conflates Islamic and nationalist values. References to the active participation of Muslim women in social, political, and public affairs during the time of the Prophet are made to corroborate the image of active, energetic, and intellectual women—this alludes to the Diyanet’s effort in harmonizing the image of women in both Islam and the secular nationalist project of the state.¹⁰¹ In putting emphasis on the link between context and Islamic legal opinion within the sphere of *mu‘āmalāt*, the Diyanet connects the existent exclusion of women from politics with the time and place in which these legal opinions were produced. The emphasis on the contextual influence on previous Islamic legal opinions enables the Diyanet to reconcile modernization and Islam.

Furthermore, the legal regulations relating to women emerge as another contextual influence that directs the two institutions toward antipodal ends regarding women’s political leadership. While the Turkish legal system constitutionally guarantees equal rights for all citizens, the Saudi legal system extends privileges to men in both personal (in the areas of marriage, divorce, and child custody) and political regulations. Saudi women remain as a semi-independent personality in the legal system. Their movement, educational choices, employment, marriage, divorce, and even health are subject to decisions made by their male guardians. The appearance and mobility of women have also been regulated by the royal decrees that have been issued in accordance with the Dār al-İftā’s *fatwās*. For instance, the amount of dowry (*mahr*) was evaluated by the Dār al-İftā because of its excessiveness that emerged as an obstacle against legitimate marriages within the society. Although in Islamic law, the determination of the amount of dowry has been left to the parties that will make the marriage contract, the *fatwā* limits “the size of dowries, claiming that the prerequisites in a marriage contract should not be so daunting that they hinder marriage.”¹⁰² This *fatwā* was later transformed into law by the Saudi Ministry of Justice

⁹⁷ Özçetin, “‘Breaking the Silence,’” 108–09.

⁹⁸ Esra Özgül Gümüüş, “A Brief History of Women’s Role in Conservative Turkish Politics,” *Daily Sabah*, October 30, 2019, <https://www.dailysabah.com/op-ed/2019/10/30/a-brief-history-of-womens-role-in-conservative-turkish-politics>.

⁹⁹ Ömer Çaha, “The ‘Islamic Women’s’ Movement: Transition from the Private Domain to the Public Sphere,” in *Economic Empowerment of Women in the Islamic World: Theory and Practice*, ed. Toseef Azid and Jennifer L. Ward-Batts (London: World Scientific, 2020), 190–293.

¹⁰⁰ Çaha, “The ‘Islamic Women’s’ Movement,” 293–95; Özçetin, “‘Breaking the Silence,’” 106–07.

¹⁰¹ Diyanet, “Kadınların İş Hayatında ve Siyasette Yer Almaları.”

¹⁰² Al-Atawneh, *Wahhābi Islam Facing the Challenges of Modernity*, 100.

under Regulation 12/133.¹⁰³ Official *fatwās* related to women therefore emerge as a legal source that defines the boundaries of what is permissible and forbidden for women.

The position, status, and rights of women have been identified by the Dār al-Iftā' as long as the Saudi state provides its consent. For the state, the religious nationalism emerges as the main benchmark in issuing legal regulations regarding women, so the state has recognized a privileged position to the Dār al-Iftā' in identifying women's roles, status, appearance, and rights. The natural place of women has been identified by the Dār al-Iftā' as the home, and their role in the larger society is very restricted.¹⁰⁴ They are permitted to work outside the home on three conditions: the occupation is appropriate to women's nature, women and men are separated, and women's attire is modest. All three conditions were transformed into law.¹⁰⁵ Women's freedom in selecting a profession is thus restricted to its compatibility with their perceived nature and qualifications, as well as the work situation itself. The Dār al-Iftā' prohibits women from working in public services that require interaction with men. In accordance with the *fatwās* issued by the Dār al-Iftā', the state issued many regulations that restrict the intermingling of men and women in many places, including restaurants, hotels, educational institutions, and public transportation. For example, the *fatwā* that prohibits women's employment in hotels was transformed into law by Royal Decree 3/27746.¹⁰⁶ Women's appropriate attire is evaluated in many *fatwās*, so their appearance in public has been identified by the Dār al-Iftā'. The word *jilbāb* in the Qur'an 33:59 is interpreted as being the "proper" public garment for the Saudi women, and it is described as a loose, plain, and thick apparel that covers the entire body.¹⁰⁷ This dress code was later turned into law that requires not only Saudi women but also foreign women in Saudi Arabia to wear appropriate attire in public.¹⁰⁸ These strict regulations have limited women's mobility and involvement in both social and political areas and subordinated them to men—further supporting a male-dominated society.

In transforming many *fatwās* into legal regulations, the state probably intends to demonstrate its compliance with Islam, but there occasionally exists a contentious tension between the state and the Dār al-Iftā'. For only political reasons, the state sometimes disregards or resists its own religious institution with the intent of promoting itself as a modernizing agent that supports women's emancipation and rights. After the 2000s, the Saudi state has aspired to efface in the international platform its notoriously oppressive policies related to women and has started to pursue more inclusive policies.¹⁰⁹ Legal regulations about women's issues have therefore turned into an arena, with the state oscillating between the Dār al-Iftā' and the international community. On September 25, 2011, for instance, King Abdullah announced that women would be appointed to the Consultative Council and would be permitted to participate in municipal elections.¹¹⁰ The *fatwā* relating to women's political leadership, however, refers to the reluctance of the Dār al-Iftā' in incorporating Saudi women into the political realm. Despite this *fatwā*, women's political participation was legalized by the state. The recent inclusion of women as candidates and voters will probably compel the Dār al-Iftā' to issue a new, more adaptive *fatwā* on women's political participation and leadership. However, to date, it has not issued any *fatwā*

¹⁰³ Al-Atawneh, 100.

¹⁰⁴ Al-Rasheed, *A Most Masculine State*, 20.

¹⁰⁵ Al-Atawneh, *Wahhābī Islam Facing the Challenges of Modernity*, 101–07; Yakar, *Islamic Law and Society*, 68–9.

¹⁰⁶ Al-Atawneh, *Wahhābī Islam Facing the Challenges of Modernity*, 101; Yakar, *Islamic Law and Society*, 68–69.

¹⁰⁷ Al-Atawneh, *Wahhābī Islam Facing the Challenges of Modernity*, 106.

¹⁰⁸ Al-Atawneh, 107; Yakar, *Islamic Law and Society*, 69.

¹⁰⁹ Al-Rasheed, *A Most Masculine State*, 21, 150–51, 171–72; Azimova, "Political Participation," 11–12.

¹¹⁰ Al-Rasheed, *A Most Masculine State*, 20–21; Safaa Fouad Rajkhan, "Women in Saudi Arabia: Status, Rights and Limitations" (master's thesis, University of Washington Bothell, 2014), 15–16.

that permits women to participate in politics, suggesting that the tension between the state and the *Dār al-Iftā'* will probably continue in the near future.

The recent developments do not exert any influence on the *fatwā* regarding female political leadership that was probably issued before the legalization of women's rights to suffrage and to stand for election. Until the 2000s, the state espoused a policy of political repression against women within the legal realm—this has turned into a political culture in which women have remained both politically and legally passive, disengaged, and marginalized agents.¹¹¹ Within this political culture, the *Dār al-Iftā'* states: “Moreover, one of the concerns of power is to inspect the conditions of matters and handle public affairs. This requires travelling throughout the countries, meeting people, commanding the army in times of Jihad (striving in the Cause of Allah), confronting enemies in concluding treaties and agreements, making pledges of allegiance with members and groups of the Ummah (nation based on one creed), men and women, in war and peace, in addition to other acts that neither coincide with a woman's status nor with the rulings that were prescribed to protect her honor and keep her away from immorality.”¹¹²

The legal regulations originated in the *fatwās* are presented as legal reasons that prohibit women from assuming political and judicial leadership. The state has reinforced an exclusivist political culture against women by way of imposing the *fatwās* as legally binding regulations.¹¹³ Within the Saudi legal system, the *Dār al-Iftā'* therefore acts as not only the pre-legislative mechanism but also the ideologue of the Saudi political culture.

In Turkey, the secular nationalism pursued by the state has developed certain aspects regarding women's lives and their legal status. In comparison to their counterparts in other Muslim countries, Turkish women enjoy considerable civil and political rights, and they have become more visible in the public and social domain. Within the Muslim world, Turkey's achievements in the field of women's rights (educational, legal, and political) are widely recognized and acknowledged as being unparalleled.¹¹⁴ Key protections are legislatively guaranteed by the Turkish Civil Code (1926), whose features closely resemble the Swiss Civil Code, its direct inspiration.¹¹⁵ The adoption of this code severed all judicial and legislative links with Islamic law and thereby transformed the civil, educational, personal, and political status of women. In keeping with the provisions of the Civil Code, marriage partners were provided with equal rights (in matters pertaining to child custody, divorce, and marriage), polygamy was prohibited, and women gained the right to choose their own spouses.¹¹⁶ In addition to these regulations, women were enfranchised in two stages: the rights to vote and stand as candidates in municipal elections were granted in 1930, and the same rights were extended to national elections four years later.¹¹⁷ Since then, women have been repeatedly supported and encouraged in exercising their right to vote and stand for election. Over time, the active participation of women in political and social life has gradually increased, and their presence has grown in small proportion. In 1993, Turkey elected Tansu Çiller as its first female prime minister, and she served in this role until 1996.¹¹⁸ Her political contribution was nonetheless

¹¹¹ Azimova, “Political Participation,” 5, 10–12.

¹¹² *Fatwā* No. 11780.

¹¹³ Azimova, “Political Participation,” 11.

¹¹⁴ Kandiyoti, “End of Empire,” 22.

¹¹⁵ Kandiyoti, 22.

¹¹⁶ Zehra F. Arat, “Turkish Women and the Republican Reconstruction of Tradition,” in *Reconstructing Gender in the Middle East: Tradition, Identity, and Power*, ed. Fatma Müge Göçek and Shiva Balaghi (New York: Columbia University Press, 1994), 62–63.

¹¹⁷ Arat, “Turkish Women and the Republican,” 57.

¹¹⁸ Clinton Bennett, *Muslim Women of Power: Gender, Politics and Culture in Islam* (London: Replika Press, 2010), 109; Yeşim Arat, “Gender and Citizenship: Considerations on the Turkish Experience,” in *Women and Power in the Middle East*, ed. Suad Joseph and Susan Slyomovics (Philadelphia: University of Pennsylvania Press, 2001), 159–66, at 159, 161.

hugely significant, and she succeeded in picturing a leadership style that was simultaneously egalitarian, feminine, and modern. In no small part due to her contribution, seventy-nine female deputies were elected in the 2011 General Election, and three further female deputies were elected in the General Election that followed four years later.¹¹⁹ As a result, women's rights have become established as a constitutive part of contemporary Turkey's domestic political culture. Although women's political representation remains low in comparison to the European Union average, there is an ongoing effort to increase women's participation in economic, political, and social life.¹²⁰

Since the establishment of the Republic of Turkey, women's parliamentary representation and political participation have increased, and women have occupied senior diplomatic and judicial posts. Regulations support women's empowerment and their full participation in all spheres of society. Functioning within this inclusivist environment toward women directs the Diyanet to approach the issue of female participation in politics cautiously and from a modern legal perspective. In its initial pages, the report refers to the equality between men and women as servants of God and maintains that Islam recognizes the equal economic, educational, political, and social rights for both men and women:

In our religion, the basic rights and liberties given to men are also recognized for women. Accordingly, it does not mention any discrimination between women and men in terms of fundamental rights. These rights are the right to life, the right to maintenance and improvement of material property and spiritual existence; personal freedom and security; the liberty of conscience, religious belief and conviction; the right of possession and disposition; the right to assert a claim and stand as a plaintiff before the judicial authority in appealing to legitimate means and ways; the right of equality and justly treatment before the law; the right of immunity residence; the right to defend of dignity and honor; the right to marry and start a family; the right of privacy, its immunity, and subsistence warranty.¹²¹

In many respects, the Islamic rights that the Diyanet recognizes for both men and women overlap with the fundamental rights that the Turkish secular legal system extends to both men and women—this creates an impression that the Diyanet seeks to align women's Islamic legal rights with the state's democratic and secular sensitivities. The report is, to a certain extent, the Islamic legal product of Muslim scholars whose mindset has been extensively shaped by the democratic and social values of Turkey and its wider social environment. It can be argued that the report relating to women's political leadership reflects the Diyanet's effort to reconcile between Islamic legal principles and secular democratic values. The report therefore brings out the overlap between two legal considerations—Islamic and secular—that are frequently assumed to be diametrically opposed to each other.

Despite the outward secular and modern appearance of Turkey, the secular regulations have not been wholly adopted by all women. Because of the secular nationalist view that women who wear the headscarf and who have religious sensitivities are backward and do not reflect the ideal of the female citizen, religious women have been largely isolated from social and political life. In the 2000s, the state noticed the dichotomous segregation among its female citizens and sought to obviate this binary categorization by means of the

¹¹⁹ Sumeyye Pakdil Kesgin, "Profile of Power: Muslim, Turkish Women as Political Leaders," PhD diss., University of Iowa 2017, 42.

¹²⁰ Yesim Sevig, "The Participation of Women in Economic, Professional and Social Life in Turkey," *Quaderns de la Mediterrània* 22 (2015): 129–31.

¹²¹ Diyanet, "Kadınların İş Hayatında ve Siyasette Yer Almaları."

Diyanet.¹²² Many official *fatwās* sympathetic to women's rights have been issued to reach religious women and increase their visibility in social and political life.¹²³ Indeed, the report related to women's political leadership was issued in 2002. However, neither before nor after the report, no woman has been appointed to the High Board of Religious Affairs, the highest decision-making body within the Diyanet—this alludes relatively to the androcentric character of the Diyanet.¹²⁴

In the last instance, different social perceptions regarding women implicitly exert an influence on the scholars' legal thought within both the *Dār al-Iftā'* and the Diyanet. Social perceptions related to women's status and roles demonstrate considerable differences in Saudi Arabia and Turkey. In Saudi Arabia, the imposition of religious nationalism has created a society that applies coercive and repressive means to subjugate women and effectively segregate and incarcerate them in the home. Amalkhon Azimova observes: "Today, in Saudi Arabia, women are completely removed from the glares of outsiders, hidden by tall walls built around villas, behind a veil or the black tinted window of a car."¹²⁵ Formal and informal segregation of men and women has implicitly restricted women almost completely to the home except when women are accompanied by their male relatives. Over time, Saudi women have become victims of political, legal, and social oppressions that have been enforced by the state. In underlining the negative influence of oil wealth on women's status, Azimova observes: "The abundance of oil permitted to the government of Saudi Arabia to suppress both civil and political liberties and enforce [Salafi] ideology. Oil wealth allowed the government to impose strict gender segregation policies that further inhibited women's access to political, economic and social space."¹²⁶ Under the policies of male guardianship, women have been turned into semi-legal people who must obtain legal permission from their male guardians for almost anything that they want to do in their lives. Before stepping out of her house, opening a bank account, receiving medical treatment, or enrolling in a university, a woman needs her guardian's notary attested permission.¹²⁷ Almost all regulations related to gender segregation and male guardianships originate in *fatwās* issued by the *Dār al-Iftā'*.

The praxis of gender segregation and male guardianship has substantial implications for the ways women are perceived in Saudi society. Saudi women have been generally considered pure and chaste beings who need to be protected by the patriarchal actors of either the state or the male family members. This attitude has reinforced the perception of their weakness by socially subordinating them to men. The long-time enforcement of male guardianship norms has resulted in Saudi women being portrayed as less competent than men.¹²⁸ Ali Hadi Omair states: "[Saudi] women are likely to be seen as less capable of taking care of themselves because they are observed to require assistance from male relatives to complete activities necessary for their daily lives. Women are also likely to be perceived as

¹²² Maritato, *Women, Religion and the State*, 265–67.

¹²³ Thomas, "Improving Education through Devotion," 665, 681–82.

¹²⁴ Since 2003, the number of women religious officers in the Diyanet has incrementally increased. Women have been employed as Qur'an teachers, religious experts, and vice-*mufītīs*. In 2017, Huriye Marti also assumed the vice-presidency of the institution. See Chiara Maritato, "Addressing the Blurred Edges of Turkey's Diaspora and Religious Policy: Diyanet Women Preachers Sent to Europe," *European Journal of Turkish Studies*, no. 27 (2018), paragraphs 1–3, <https://doi.org/10.4000/ejts.6020>. However, despite this increased inclusion of women into the body of the Diyanet, as noted, no woman has joined the High Board of Religious Affairs—the highest religious body that is responsible for issuing *fatwās*—since its establishment.

¹²⁵ Azimova, "Political Participation," 21.

¹²⁶ Azimova, 43.

¹²⁷ Azimova, 24.

¹²⁸ Elenaor Abdella Doumato, "Women in Saudi Arabia between Breadwinner and Domestic Icon?" in *Women and Power in the Middle East*, ed. Suad Joseph and Susan Slyomovics (Philadelphia: University of Pennsylvania Press, 2001), 166–76, at 166–68.

less capable of achieving significant goals in comparison to men, as they are observed to occupy lower status roles than their male counterparts.”¹²⁹

The engrained perception of women as weak and incompetent beings within Saudi society conceivably exerts an influence on the *fatwā* because it is likely that the cultural and social environment influences Dār al-Iftā’ scholars’ interpretative activities and legal determinations. The scholars seek to advance the impression that women are hesitant, lacking in control (of both body and mind), and weak. The roots of this interpretation can be traced back to the gender-based perceptions regarding women’s status in Saudi society. In this regard, it is noticeable that the *fatwā* is selective in its use of evidence. This becomes apparent when the Dār al-Iftā’ applies directly to the Abū Bakra *ḥadīth*, along with the androcentric interpretative strategy of the Qur’anic verses in relation to Queen Bilqīs. The Dār al-Iftā’ does not clarify whether the expression “deficient in intellect” is extracted from the factual perceptions relating to Saudi women or a selective approach to the textual legal evidence. However, it may be assumed that the Dār al-Iftā’ is likely influenced by the dominant exclusivist perception of women in Saudi Arabia when adopting a selective approach to the androcentric and patriarchal interpretation of the authoritative texts.

Many social perceptions that depict women as either explicitly or implicitly less competent and successful than men with respect to certain qualities may form a gender-based attitude that is exclusivist to women.¹³⁰ Addressing the factors that impede Saudi women seeking to assume leadership, Lama Gazzaz underlines the biased perception of women rooted in the Arab culture and states: “The Saudi community though modern in most [of] its approaches still looks at leadership from an ancient perspective, where only men had leadership capacities, and by nature women did not possess any characteristics or traits that could make them effective leaders.”¹³¹ In identifying the factors that prevent women from working in the Saudi judiciary, Samah al-Agha observes that Saudi judges think that the members of Saudi society “may lack the confidence in the ability of female judges due to their emotional and biological status of women and due to their beliefs that men are superior to women.”¹³² Women have been considered as vulnerable, emotional, and deficient beings in accordance with the entrenched gender perception within the context of the Saudi society. The *fatwā* internalizes these dominant attitudes and perceptions related to Saudi women while presenting women as being excessively emotional, incapable of rational thought, with limited intellectual capacity. This is perhaps most clearly signified in the interpretation of the story of Queen Bilqīs, with her excessive emotion and female character used to explain her defeat and surrender to the Prophet Sulaymān.¹³³ The *fatwā* states: “[The prohibition on women’s political leadership] is attributed to their deficient reasoning and rationality, in addition to their passion that prevails over their thinking.”¹³⁴ Despite the existence of a much-debated yet widely circulated *ḥadīth* related to women’s deficiencies in religion and intellect, the legal methodology and sources that are used to reach these conclusions are not cited.¹³⁵ This indicates that the perception regarding women’s deficiencies in intellect has been widely accepted within the Saudi society.

¹²⁹ Ali Hadi Omair, “Stereotypes of Saudi Women among Saudi College Students” (master’s thesis, DePaul University, 2017), 26, https://via.library.depaul.edu/csh_etd/226/.

¹³⁰ Omair, “Stereotypes of Saudi Women,” 35.

¹³¹ Lama Gazzaz, “Renaissance of Saudi Women Leaders’ Achievement,” PhD diss., Brunel University 2017, 48.

¹³² Samah al-Agha, “Female Judges in Saudi Arabia, Hope versus Reality,” *Arab Law Quarterly* (2021), published ahead of print, <https://doi.org/10.1163/15730255-BJA10084>.

¹³³ Fatwā No. 11780.

¹³⁴ Fatwā No. 11780.

¹³⁵ The *ḥadīth* identifies two types of deficiencies in women: one in religion and one in intellect. In the *ḥadīth*, the Prophet is narrated to explain that women’s deficiency in reason is linked to being incomplete witness and their deficiency in religion is connected to their state of impurity through menstruation, which prevents them from

Furthermore, the Saudi state sustains its interdependency with kin and tribal solidarity to protect the union of the state.¹³⁶ This interdependence protects tribal values, and this in turn perpetuates patriarchal practices. Al-Rasheed observes: “The state endeavoured to keep their tribal ethos, which, among other things, keep women in a patriarchal relationship under the authority of male relatives.”¹³⁷ The patriarchal structure not only forms a hierarchical relationship that empowers men to control women but symbolizes women are also a source of honor and shame for both their families and society. Omair states: “Women’s morality, in particular their sexual morality, stands as a major focal point in Saudi culture ... Saudi women are strongly perceived as playing the role of safeguarding morality. This is not only a case of being perceived as having an obligation to remain moral themselves but also to prevent others (particularly men) from behaving immorally.”¹³⁸

Saudi women have therefore explicitly been considered responsible for safeguarding the honor of family, tribe, and nation. Within the *fatwā*, the interconnection of androcentric social norms, patriarchal culture, and tribal society is expressed in the sustained ostracism against women. The *fatwā* includes a list of requirements of leadership (international travel, mixing with men, and the negotiation of treaties with other states) before concluding that each requirement is contrary to the general status of women and the specific rulings intended to protect their chastity, honor, and dignity.¹³⁹ While the issue brings to light the persistence of patriarchy within the country, it can also be argued that the *Dār al-Iftā’* implicitly makes it possible for patriarchal practices and tribal values to become further embedded within the juristic tradition. The *Dār al-Iftā’* can, to this extent, be considered “an institutionalized public patriarchy”¹⁴⁰ that implements the religious authority to gain control over women to the extent to which the state permits.¹⁴¹

In contrast to the *Dār al-Iftā’*, the Diyanet does not attribute female political leadership to biological factors and does not present women as deficient in reason. Instead, the qualifications of the person who will be assigned to the position of leadership is held to be the key consideration. The Diyanet maintains that the person who governs a country or a government has to be the individual best suited to the job.¹⁴² Despite the Diyanet’s indulgent approach, it is possible to witness some negative attitudes against female political participation within Turkish society. In referring to the time when Tansu Çiller became the prime minister, Yeşim Arat states: “the role of the prime minister is not considered compatible with being a woman in the Turkish context. The woman prime minister who has succeeded in exercising her right to head the government has to wage a political campaign against those who oppose her because of her sex.”¹⁴³

regular prayers. Abū ‘Abdullāh Muḥammad ibn Ismā‘īl al-Buḥārī, Hadīth no. 477, in *Ṣaḥīḥ al-Buḥārī*, vol. 1, trans. Muḥammad Muhsin Khan (Riyadh: Dar al-Salam, 1997), 210. Muslim scholars have differently explained deficiency in women and its limits. For example, Dabūsī construes the deficiency in women as a legal inability that is only restricted to the realm of *‘ibādāt*. In his view, this legal inability does not extend to the realm of *mu‘āmalāt*. See Hakime Reyvan Yaşar, “Taḳvīmü’l-edille fi’l-uşūl Adlı Eserde Akıl ve Akıl-Mükellef İlişkisi” [Reason and relationship between reason and obligant in the treatise *Taqyīm al- Adilla fi’l-Uşūl*], in *Akıl Kitabı—7 Mantık, Metafizik, Ahlak, Din, İnanç ve Dilde Akıl* [Reason book—7, Logic, metaphysics, ethic, religion, belief and reason in language], ed. Turgut Akyüz (İstanbul: Ravza Yayınları 2021), 205–30, at 221.

¹³⁶ Al-Rasheed, *A Most Masculine State*, 5; Azimova, “Political Participation,” 14.

¹³⁷ Al-Rasheed, *A Most Masculine State*, 5.

¹³⁸ Omair, “Stereotypes of Saudi Women,” 27.

¹³⁹ Fatwā No. 11780, *Fatwas of the Permanent Committee*, 17:13–16.

¹⁴⁰ Al-Rasheed, *A Most Masculine State*, 57.

¹⁴¹ Al-Rasheed, 16–17, 57, 119–20, 153–74.

¹⁴² Diyanet, “Kadınların İş Hayatında ve Siyasette Yer Almaları.”

¹⁴³ Arat, “Gender and Citizenship,” 160.

Although patriarchal norms and demeanors continue to exist in the society, changes in women's status have incrementally occurred through a combination of industrialization, urbanization, education, and social movements. The negative and intolerant gender perceptions have been attenuated over time, with the consequence of women's increased political, social, and business participation. In particular, since the representation of both religious and secular Turkish women in the national parliament notably increased after the 2000s, the negative perception regarding the status of women has started to change, albeit incrementally.¹⁴⁴ Until the 2000s, religious Turkish women's marginalization reflected an artificial division between religious and secular.¹⁴⁵ However, the state's policies regarding women have been changing, and the state intends to integrate more women into its politics at all levels (local, provincial, and national).¹⁴⁶ The common perception relevant to gender has started to change in accordance with the changing policies of the state. Sumeyye Kesgin observes: "The Turkish parliament ... is the arena of the expression of imagined, constructed and instituted women. Although the role of women has been imagined and constructed, it can be argued that women's existence in the public sphere has challenged the male authority and the meaning of the private sphere. As in the case of Turkey and as an example, the public visibility of women in the parliament has created a new image of the private sphere and challenged the patriarchal hegemony in the public sphere."¹⁴⁷

It is possible to notice the repercussions of the changing gender perceptions in the Diyanet's report. The Diyanet adopted a pragmatic theory in considering changing circumstances and social realities in accordance with the state's policy to incorporate both secular and religious women into public and political realms.¹⁴⁸ In the view of the Diyanet, political or judicial leadership is not a question of gender; rather it is instead a matter of capacity, efficiency, and knowledge. Common social perceptions regarding women therefore provide an important framework of reference when Diyanet members evaluate the possibility of female political leadership.

Furthermore, the Diyanet maintains that the two types of leadership—leadership in civil society and leadership in prayer—originate in different Islamic legal spheres. The report states: "Importantly then, it is not compulsory that the head of state personally commands the army in the war time, delivers the Friday sermon and leads the Friday prayer. It is possible that these duties can be fulfilled by people who are designated by the head of state."¹⁴⁹ This statement may be interpreted as a reflection of the Turkish political structure, in which power (economic, military, political, and religious) is dispersed across separate administrative structures and institutional bodies. The grounding of Turkey's political system in a separation of powers significantly enhances the likelihood that it will influence the Diyanet's legal interpretation. In the first instance, it should be noted that the Diyanet retains a close connection with Islamic legal tradition in the area of *'ibādāt* (ritual practices)—this is evidenced within the concept of the partial leaderships whose rulings are distributed among the army, parliament, and religion. The issue of leadership in prayer is placed in the area of *'ibādāt* which is immutable and unchangeable. In the second instance, women's political leadership is included in the scope of *mu'āmalāt*. This may direct an assumption that the Diyanet remains open to alternative readings of the authoritative texts if the issue is evaluated within the scope of *mu'āmalāt*. However, if the issue falls into the category of *'ibādāt*, the institution acknowledges the legal ruling as already determined and established.

¹⁴⁴ Maritato, *Women, Religion and the State*, 95–97.

¹⁴⁵ Çaha, "The 'Islamic Women's' Movement," 298–99.

¹⁴⁶ Kesgin, "Profile of Power," 150–52; Maritato, *Women, Religion and the State*, 16–18, 100.

¹⁴⁷ Kesgin, "Profile of Power," 188.

¹⁴⁸ Maritato, *Women, Religion and the State*, 253–57.

¹⁴⁹ Diyanet, "Kadınların İş Hayatında ve Siyasette Yer Almaları."

Unlike the tribal values and patriarchal influences on the Dār al-Iftā's *fatwā*, the impacts of democratic values are observable in the Diyanet's report. The Diyanet's report on women's leadership is composed of an eclectic mixture of democratic values and Islamic ethics. Since the establishment of the Turkish Republic grounded in democratic and secular values, women have incrementally participated in the public, social, and political spaces. In particular, since the 2000s, religious women have come to the fore to access not only the public sphere but also state politics. The inclusion of highly educated and ambitious religious women in social and political spheres has occasioned both an inversion of traditional gender roles and a change in power relations between men and women within the society.¹⁵⁰ The apparent visibility and activity of religious women have resulted in more indulgent and inclusivist changes in the perception of Diyanet members related to gender issues.¹⁵¹ The portrait of gender in the report clearly demonstrates how the perspectives of Muslim scholars who work within the Diyanet are extensively influenced and molded by the democratic society in which they live. With the intention of substantiating the permissibility of female political and judicial leadership, the Diyanet adopts a contextual reading of the authoritative texts that provides a solid theoretical foundation for the improvement of women's rights. Anchoring itself in the idea of full conscious human agency of both men and women before God, the Diyanet underlines that both genders as the caliph of God on earth are responsible in building a society.¹⁵² In acknowledging the connection between democracy and women's rights, Ali Akbar observes: "There is indeed an intimate relationship between the process of democratisation and promoting gender equality, since democracy necessitates equality between men and women."¹⁵³ Akbar's contribution further reiterates that the functions, roles, and statuses assigned to men and women in a democratic society should be theorized as specific tacit parameters in the process of internalizing gender equality. It is possible to sketch a clear linear connection that conjoins the Diyanet's Islamic legal methodology and the social perceptions of Turkish women. Dominant social perceptions and values relating to the status of women in the democratic Turkish society should therefore be understood as powerful influences that compel Diyanet members to adopt a contextual reading of the authoritative texts in the process of issuing the report that relates to women's political participation.

Given the interaction between the social context and Islamic legal methodologies, the *fatwā* issued by the Dār al-Iftā' highlights the unique attributes of Salafī-Ḥanbalī Islamic legal thought and also provides considerable insight into how the national, political, legal, social, and tribal values are imperceptibly and synchronically incorporated into its fabric. In the first instance, it can be claimed that the Dār al-Iftā' played an important role in creating Saudi socio-cultural dynamics and in maintaining Salafī religious nationalism; however, it is also strongly influenced by cultural, patriarchal, social, and tribal parameters when issuing its *fatwās*. Conversely, the report issued by the Diyanet demonstrates that women's political empowerment is supported by the textual evidence and the legal rationale of Diyanet members, each of which functions to reflect gender-related attitudes and perceptions that are pervasive in Turkish society. This demonstrates how prevailing perceptions about women and their political, legal, and social status can influence the Diyanet's report upon women's political participation. It is therefore likely that the report reflects the increased status of women within men's regard and Turkish society more generally.

¹⁵⁰ Maritato, *Women, Religion and the State*, 253–54.

¹⁵¹ Maritato, 271–72, 281, 283–84.

¹⁵² Diyanet, "Kadınların İş Hayatında ve Siyasette Yer Almaları."

¹⁵³ Ali Akbar, "Promoting Gender Equality within Islamic Tradition via Contextualist Approach," *International Journal of Humanities and Social Science* 10, no. 8 (2016): 2617–22, at 2617, <https://zenodo.org/record/1125643>.

Conclusion

The evidence and methodological approaches that are applied in the aforementioned *fatwās* provide important insight into the links that conjoin the Islamic legal methodologies espoused by the two institutions with the social contexts in which they operate. Pervasive gender assumptions in Saudi Arabia and Turkey have therefore penetrated, directly or indirectly, into the *fatwās*. They affected the employment of scriptural texts and the thought of Muslim scholars within the two institutions. In the first instance, this is illustrated in both institutions' application to the *ḥadīth* narrated by Abū Bakra as a legal source. In the view of the Diyanet, the *ḥadīth* is interpreted in its context. The legal maxim of *takhṣiṣ al-‘āmm* is adopted when interpreting the legal consequences of the *ḥadīth*. This application helps Diyanet members to evaluate the *ḥadīth* within the context in which it was said. The cautious approach of the Diyanet to this *ḥadīth* reflects the methodology of the Ḥanafī school regarding the *āḥād ḥadīth*. The Diyanet's stance collides clearly with the Dār al-Iftā's approach to the *ḥadīth* and its hermeneutical technique applying the legal maxim of *al-‘ibra fī ‘umūm al-laḥẓ lā khuṣūṣ al-sabab*. The *ḥadīth* is interpreted as the main source that establishes the illegality of women's political leadership, and its literal meaning is generalized by referring to the legal maxim of *al-laḥẓ al-‘āmm*. This manifests the influence of the Ḥanbalī school's methodology on Dār al-Iftā' scholars. In the application of the *āḥād ḥadīth* by both institutions, the predominant *madhhab* affiliation in both countries therefore emerges as one of the contextual factors.

In general terms, the surrounding context of the Qur'an and Sunna presents itself as a determining factor that plays a significant role in the Diyanet's report. While both the Dār al-Iftā' and the Diyanet use Qur'anic exegesis by drawing on the verses that relate to the parable of Queen Bilqīs, their exegetical products are entirely different from each other. The Diyanet is more inclusive toward women and approaches the parable as the inversion of the traditional interpretation of the Abū Bakra *ḥadīth*. The Diyanet instead introduces Queen Bilqīs as a leading female model who relies on deliberation, justice, and reason in her political decision-making process. The existence of this model ruler in the Qur'an clearly problematizes the use of the *ḥadīth* as an authoritative legal justification for excluding women from public offices. It is undoubtedly the case that the experience of witnessing the positive contribution of women to public life has led the Diyanet to re-evaluate female political participation through the lens of Islamic law. In this regard, it is essential to note that the heightened visibility of women within Turkey's political, public, and social life has been promoted and sustained by the egalitarian legislative structure. In operating within Turkey's socio-legal and sociopolitical structures, the Diyanet has developed a sophisticated Islamic perspective that promotes gender equality and women's legal and political rights.

In contrast to the Diyanet, the Dār al-Iftā' presents Queen Bilqīs as a weak leader whose passion predominates her rationality. In the view of the institution, her status as a woman was inextricably linked to the weaknesses that resulted in her surrendering to the Prophet Sulaymān. For the Dār al-Iftā', the Prophet Sulaymān's status as a male was an *a priori* advantage. It is conceivable that the legal system and social values which prevent women from fully participating in political and social life result in Dār al-Iftā' members developing an androcentric perspective orientated towards the segregation of the sexes. The interpretation of Dār al-Iftā' members regarding male authority, female deficiencies, and gendered public space is explicitly linked to the natural gender roles and social hierarchies that have privileged men in Saudi society. The social context provides considerable insight into the Dār al-Iftā''s adoption of an androcentric and patriarchal language to describe women and their capabilities. Biological and psychological differences are understood to imply separate duties and functions and situate women in a subordinate position. For this reason, the Dār al-Iftā' asserts that only men should operate in leadership position. This directly contrasts with

the Diyanet's legal reasoning, which establishes competence, efficiency, and proficiency as the preconditions of effective leadership, regardless of gender. The divergence of these two *fatwās* regarding women's political leadership can be traced back to the interaction between Islamic legal methodologies and social context, which overlap and intertwine with each other.

The wider social context plays an essential role in helping to frame the interpretations of Muslim scholars working within the Dār al-Iftā' and the Diyanet. The two institutions use different legal methods and theories in their environments, and this attests to the influence of cultural, political, legal, and national elements on the *fatwās*. To put it differently, the social reality and contextual environment of the two institutions seem to be an influential hidden inducement that affects, directly or indirectly, the Islamic legal thinking of Muslim scholars working in the Dār al-Iftā' and the Diyanet, along with Islamic legal methodologies followed by those scholars in the process of interpreting the authoritative texts.