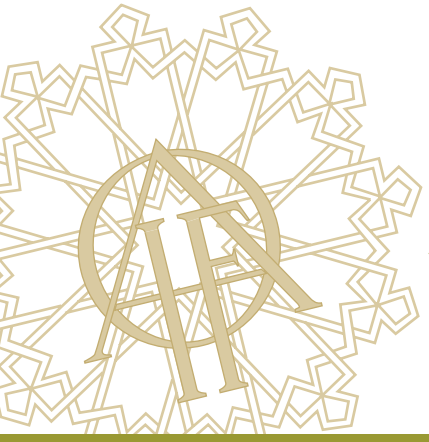
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AnIsl 54 (2021), p. 31-56

Peeter Webb

Protection Granted by Women. Between Law and Literature

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PETER WEBB*

Protection Granted by Women

Between Law and Literature

◆ ABSTRACT

Grants of protection in pre-Islamic Arabia were often connected to expressions of status and power. This paper evaluates the gendered aspects of protection to explore how Arabic literature viewed grants of protection by women. The issue was recorded in various guises: jurists debated the issue on a theoretical level, historians included relevant stories in the Prophet's biography, and literature preserves other episodes from pre- and early-Islamic-era Arabia. While jurists generally permitted women to grant protection, literary works took an opposite track, and employed the trope of women's acts of protecting to denigrate male characters. A cross-genre analysis of women protectors reveals intriguing aspects about the status of women and the nature of fact and fiction in Arabic literature about the Arabian past.

Keywords: Arab History, Islamic law, outlaw literature, pre-Islamic Arabia, women in Arabic Literature

◆ RÉSUMÉ

La protection accordée par les femmes : entre loi et littérature

Accorder une protection dans l'Arabie préislamique était souvent lié à l'expression du statut et du pouvoir. Cet article évalue les aspects genrés de la protection afin d'explorer la manière dont la littérature arabe considère l'octroi de protection par des femmes. Cette question a été

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Protection Granted by Women. Between Law and Literature
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attestée sous diverses formes : les juristes en ont débattu sur un plan théorique, les chroniqueurs ont inclus des histoires édifiantes dans la biographie du Prophète, et la littérature conserve d'autres épisodes de l'Arabie préislamique et du début de l'ère islamique. Si les juristes ont généralement permis aux femmes d'accorder une protection, les œuvres littéraires ont pris une voie opposée et ont utilisé le trope des actes de protection des femmes pour dénigrer des personnages masculins. Une analyse des femmes protectrices au prisme du genre fournit des éléments intéressants sur le statut de la femme, le rapport aux faits et à la fiction dans la littérature arabe sur le passé arabe.

Mots-clés : Histoire arabe, droit islamique, littérature hors-la-loi, Arabie préislamique, les femmes dans la literature arabe

ملخص

الحماية التي تمنحها المرأة: بين القانون والأدب

كان منح الحماية في شبه الجزيرة العربية قبل الإسلام مرتبطًا بالتعبير عن المكانة والقوة. يُقَيِم هذا البحث الجوانب المتعلقة بجنس مانح الحماية بغاية استكشاف رؤية الأدب العربي للحماية الممنوحة من قبل نساء. وقد سُجلت المسألة بأشكال مختلفة: فالفقهاء ناقشوها على مستوى نظري، والمؤرخون أدرجوا عنها قصصًا بناءة في السيرة النبوية، والأدب حفظ منها حالات أخرى جرت في شبه جزيرة العرب قبل الإسلام وفي العصر الإسلامي المبكر. وفي حين سمح الفقهاء بشكل عام للمرأة بمنح الحماية، نهجت الأعمال الأدبية مذهبًا معاكسًا حيث استخدمت مجاز عهود الحماية الممنوحة من المرأة كوسيلة لذم شخصيات ذكورية وتحقيرها. ويكشف تحليل دور النساء الحاميات من المنظور الجنسي عن عناصر شيقة حول وضع المرأة وطبيعة الواقع والخيال في الأدب العربي حول الماضي العربي.

الكلمات المفتاحية : تاريخ عربي، الشريعة الإسلامية، أدب مـارق، شبه الجزيرة العربية قبل الإسلام، النساء في الأدب العربي

* * *

Pre-Islamic Arabic poetry's frequent invocation of specialised terminology for acts of protection (usually called *iǧāra, ǧiwār/ǧuwār*) underscores that the ability to shelter fugitives was a significant indicator of social status amongst many pre-Islamic Arabian communities. The grant of protection in these circumstances was not a particularly altruistic gesture, rather it was a statement of power: by undertaking the obligation to defend someone

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against his enemies, the grantor's act of protection implicitly communicated his superior strength over his client's foes. Worthy were the men, therefore, who could deliver on promises of protection.[1]

The Qurʾān reflects similar sentiments, as it uses poetry's notion of *iǧāra* both as a technical description of protection offered by Muslims to non-Muslims,[2] and in rhetorical assertions that no one can offer protection against God.[3] The Qurʾān's description of God as "the one who protects, yet cannot be protected against"[4] deftly challenges the noblemen protectors of pre-Islamic poetry, undercutting the vaunting assertions of their protection's effectiveness by emphatically subordinating them all to God.

Muslim-era jurists commented upon the Quranic concept of protection, and developed a wide range of protection sub-categories for different contexts. The Qurʾān's express engagement with poetry's protection terminology offers further insight into the Qurʾān's interaction with an Arabian context,[5] and the interest of Muslim *fiqh* in legislating acts of protection uncovers continuities between pre-Islamic customs and the laws of the early Caliphate. But changes did occur too. For example, the meaning of *ǧiwār* shifted: in poetry it connoted the individual *act* of making a protection guarantee, whereas Muslim legal texts predominantly came to use the term to connote the *underlying* rights and obligations automatically due between neighbours.[6] Acts of protection received new terminology in Islamic law: *hudna* (truces in wars against non-Muslims), *ḏimma* (the protection of non-Muslims under Muslim rule),[7] and *amān* which was a widespread term in treaties during the conquests, and later became the jurists' preferred

1. Almost every collection of pre-Islamic poetry will contain some reference to a hero vaunting his own nobility by boasting about the efficacy of his protection promises, or praise poetry addressed to noblemen in which their ability to protect is cited as one of their key characteristics. For examples, see Ibn Nubāta's helpful compendium of pre-Islamic biographies, *Sarḥ al-ʿuyūn*, pp. 88, 90–91, 92–93, 103, 133–134, 161, 163.

2. Quran, IX, 6.

3. Quran, LXVII, 28; LXXII, 22.

4. Quran, XXIII, 88. It is noteworthy that the rhetorical *iǧāra* confounding the ethics of the poetic heroes appears only in the Qurʾān's Meccan chapters, whereas the technical use of *iǧāra* occurs only in the Medinan chapter, *al-Tawba*.

5. For discussion of the original audience of the Qurʾān and wider arguments for their Arabian domicile, see Sinai, 2019, p. 1–2.

6. Debates over the Islamic-law ambit of *ǧiwār* is detailed in Fāyiʿ, 1995, pp. 31–41.

7. For protection contracts in *fiqh* books, see al-Šāfiʿī, *al-Umm*, IX, pp. 231–242; Ibn Qudāma al-Maqdisī, *al-Muġnī*, X, pp. 432–441; Ibn Qudāma, *al-Šarḥ*, X, pp. 555–589. The use of *ḏimma* to connote 'protection' is not common in pre-Islamic poetry; the Hejazi poet of the Huḏayl, Usāma ibn al-Ḥāriṯ who lived at the dawn of Islam refers to *ḏimmī* as a 'protected person': *al-kafīl al-muʿāhad* (al-Sukkarī, *Šarḥ*, III, p. 1297), the term *ḏimma* also appears in tandem with the verb *wafā* to connote the 'upholding of protection' in a few well-attested verses (Kurayyim, 2010, p. 568) and Mutammim ibn Nuwayra also cited the word *ḏimma*, though the particular line is of perhaps less easily-established authenticity, as it is intertwined with political issues of the early Caliphate (Ṣaffār, *Mālik wa-Mutammim*, p. 91). By the Umayyad-era, *ḏimma* features in numerous poems: e.g. al-Aḫṭal (d.c. 92/710) the Umayyad-era Christian poet cites it in four verses, sometimes in reference to his own protected status (*Šiʿr*, pp. 32, 54, 242, 373), and he also uses a related word *ḏimāma* (or *ḏamāma*) to mean something inviolable (*Šiʿr*, p. 415).

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term for the kinds of *ad hoc* protection guarantees which poetry had formerly called *ǧiwār*/*iǧāra*.[8] The more complex administrative concerns of the Caliphate evidently compelled jurists to go beyond pre-Islamic customs, and urban and agricultural living meant that everyday legal issues of respecting one's neighbours (*ǧār*) became more salient than express acts of offering protection.

Notwithstanding the evolution of protection concepts in Islamic law, Muslim-era *fiqh* did retain the pre-Islamic connection between protection and power. As the poets associated protection with warrior leaders, the jurists likewise considered protection within the realm of war: juridical discussions of protection contracts are contained in their books on the law of Jihad, and as a practical matter, therefore, their reasoning speaks to a world of military men: governors, commanders of jihad and warriors on the frontiers of the Caliphate.

Given the overlapping connotations, we should like to probe the relationships between pre-Islamic customs and Islamic-law provisions by comparing literature's testimony about the customs with the *fiqh* texts' elaboration of blackletter law. The possibilities of holistic-minded research are vast, and this paper will engage one niche aspect: protection guarantees offered by women. Given that protection was so pervasively articulated as a quintessence of masculine power, it bears questioning whether women could also assert their status by extending protection and enjoining their kin to defend those to whom the women chose to grant asylum. To develop the analysis, I examine how cultural producers—poets, historians and jurists—conceptualised cases where women were the protectors. I stress 'cultural producers' in the broad sense, since the jurists drew upon the history of early Islam for precedents, and from the Arabic literary heritage for terminology. A holistic approach analysing jurisprudence, poetry and history enables us to grasp the knowledge available to the learned circles of pre-modern Islam, and discern whether different realms of textual production engaged different attitudes towards legal practice and ethics of gender.

8. Schacht, 1956, p. 441–442. *EI*[2] notes the absence of the term *amān* in the Qurʾān, and its novel appearance during the Muslim conquests. Levy-Rubin likewise notes *amān*'s absence in early Muslim-era surrender agreements: she argues that the term was coined by Muslims during the course of the conquests as their way of continuing Graeco-Roman international law practice and Arabising the Graeco-Roman terminology *pistis* and *fides* (Levy-Rubin, 2021, pp. 197–202, 209). Her findings have support of poetry: the word *amān* seems absent in pre-Islamic poetry, though al-Nābiġa al-Ḏubyānī does mention *amāna* (*Dīwān*, p. 94); *amān* is infrequent in Muslim-era poetry (see, for example a poem by Hudba, al-Marzūqī, *Šarḥ*, I, p. 422). *Ǧiwār* was by far poetry's preferred term for protection in the Umayyad-period as well, which tallies with Levy-Rubin's findings from prose sources where *ǧiwār* remained a term for protection amongst Muslims in early Islamic-era prose records, but not in protection treaties with non-Muslims where *amān* was the most common term, Levy-Rubin, 2021, p. 202. Note that Ǧarīr does cite *amān* once in the context of intra-Muslim protection (*Dīwān*, II, p. 1010).

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Protection Granted by Women: The Law

The majority of juridical texts, Sunni and Shi'i alike, reason that women's promises of protection have binding force.[9] They begin from a Prophetic hadith: "protection offered by the lowest-ranking of Muslims is binding upon all Muslims",[10] and via either a second hadith ascribed to the Caliph ʿUmar Ibn al-Ḫaṭṭāb, or some steps of analytical reasoning, they conclude that a slave could validly offer protection,[11] and hence women naturally are capable, given they rank higher in the social order.

The Prophetic hadith's significance looms larger when read in the light of the Arabian poetry which so closely associated protection with warrior leaders. By stating that the Muslim community must uphold the protection guarantee of *any* Muslim, and by explicitly including the low-status amongst them, the hadith undermines the noblemen's prerogative to grant protection and radically deconstructs the customs of social power, framing protection as a communal act, and not an act reliant upon the decision of powerful men. On its face, therefore, the hadith expresses another example of an egalitarian ethic in Islam that challenged local power, but from reading the *fiqh* manuals, it is evident that jurists did not rest their case on the hadith's principle alone: they sought instead to ground their sanction of women's capacity to offer protection on actual examples from the past. The *fiqh* manuals thus elaborate by citing a statement of the Prophet's wife ʿĀʾiša which expressly states that women can grant asylum, and two cases of historical precedent involving protection granted by the Prophet's cousin, Umm Hāniʾ, and daughter, Zaynab (the stories are examined in the next sections).

Given the clear egalitarian principle of the hadith and the precedents, the validity of women's grants of protection seem an open and shut case, however, there was an opposing voice. Several jurists of Mālikī persuasion dissented, opining that women could *not* grant protection, given that a capable grantor (*al-muʾammin*) needed to be: 1. male; 2. free; 3. over the age of puberty; 4. of sound mind; and 5. a Muslim.[12] Some Mālikī jurists relaxed the restriction by arguing that the leader of the jihad (*al-imām*) could ratify a woman's grant of protection and

9. Approval of women's capacity to grant protection is endorsed by all Sunni schools. For the Šāfiʿī school: al-Šāfiʿī, *al-Umm*, IX, pp. 231–232, 454; Ibn Ḥaǧar, *Fatḥ al-Bārī*, XVII, pp. 463–464; Ḥanbalī: Ibn Qudāma, *al-Šarḥ*, XX, p. 556; Mālikī: Saḥnūn, *al-Mudawwana*, II, p. 618; al-Bāǧī, *al-Muntaqā*, IV, p. 346; Ḥanafī: al-Saraḫsī, *al-Mabsūṭ*, X, p. 78. For the Shi'i, see al-Ḥillī, *Taḏkirat al-fuqahāʾ*, IX, pp. 87–90: his reasoning resembles the Sunni scholars, differing only in al-Ḥillī's suggestion that the *Imām* is needed for large-scale treaties, whereas al-Ḥillī rules that smaller grants of protection can be made by any Muslim, male or female alike.

10. There are many variations of this wording in hadith collections. For the phrase: *ḏimmatu al-Muslimīna wāḥidatun yasʿā bi-hā adnāhum*: see al-Buḫārī, *Ṣaḥīḥ*, 3172 (*al-Ǧizya*: 10), 6755 (*al-Farāʾiḍ*: 21); Muslim, *Ṣaḥīḥ*, 3328, 3331 (*al-Ḥaǧǧ*: 467, 470). See also the sources in notes 22–24, below.

11. Hanbalite scholars, expectedly, cite the ʿUmar hadith: see Ibn Qudāma al-Maqdisī, *al-Muġnī*, X, pp. 432–433; Ibn Qudāma, *al-Šarḥ*, X, p. 555; the analytical approach stems from al-Šāfiʿī, *al-Umm*, IX, pp. 232–235, also succinctly detailed in Ibn Ḥaǧar, *Fatḥ al-Bārī*, XVII, p. 464.

12. Al-Bāǧī, *al-Muntaqā*, IV, p. 345; Ibn ʿAbd al-Barr, *al-Tamhīd*, XXI, p. 187; some Mālikī opinions also expressly exclude slaves: Saḥnūn, *al-Mudawwana*, II, p. 618.

AnIsl 54 (2021), p. 31-56 Peeter Webb
Protection Granted by Women. Between Law and Literature
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thus make it binding,[13] and while Mālikī manuals eventually align with the other schools of law in agreeing that women have the power to grant protection, the dissenting views of foundational Mālikī scholars, such as Ibn al-Māǧišūn (d. 212/827 or 214/289) and Saḥnūn (d. 240/854) continued to be repeated.[14] Those Mālikī scholars were aware of the historical examples of women granting asylum, but they countered that the cases did not constitute unequivocal binding precedent.[15]

Why were early Mālikīs less willing to accept that women could validly grant protection to others? Perhaps the context is relevant: the early Mālikīs were the most Arabian of all Sunni jurists: Mālikīs originated from Medina and based their laws on the practice of the Medinans. When contrasted with the Iraqi jurists' readiness to condone women's grants of protection as a matter of theory, therefore, the Mālikī disquiet raises the possibility that Medinan *practice* was more restrictive, and we thus ought to probe the local context of women and the exercise of power associated with granting protection for clues about the background to the Mālikī disapproval.

To reconstruct the local Medinan views on women's grants of protection beyond the law books, we possess three episodes connected with the history of the Prophet (two of which were cited as legal precedents in *fiqh* manuals), and further stories in narratives about other Arabian warriors around the time of Muḥammad. Though these stories are today sequestered into two separate genres of 'Muslim history' and 'Arabic literature', they actually share intriguing narrative commonalities which make the question of women's acts of protection much less clear-cut than the non-Arabian *fiqh* manuals would have us believe. Read together, these stories, a number of which originated from Medinan- and Meccan-domiciled narrators, shine light upon underlying cultural values which perhaps explain why Medinan-trained Mālikīs doubted women's capacity to offer protection.

Precedent 1: Fāṭima

The Medinan scholar al-Wāqidī's (d. 207/822) history of Muḥammad's military campaigns reports that around the time of the Muslim conquest of Mecca, the leader of the pagan Meccans, Abū Sufyān, in distress over Muḥammad's impending victory, sought protection, and, according to the story, he first approached a woman:

> Abū Sufyān presented himself to Fāṭima, daughter of the Prophet, and spoke with her: "Grant me asylum!" But she replied: "But I'm just a woman." He said: "Your protection is valid, since your sister granted asylum to Abū al-ʿĀṣ ibn al-Rabīʿ, and Muḥammad condoned it." Fāṭima demurred:

13. I.e. a woman's protection contract does not have to be entered anew, though it only takes binding effect when approved by the *Imām*. See Ibn ʿAbd al-Barr, *al-Tamhīd*, XXI, p. 188.
14. See Ibn ʿAbd al-Barr, *al-Tamhīd*, XXI, pp. 187–188 and discussion in Ibn Ḥaǧar, *Fatḥ al-Bārī*, XVII, p. 463–464.
15. See, in particular, al-Bāǧī, *al-Muntaqā*, II, pp. 270–271.

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> "This is a matter for the Prophet." And she refused to offer him asylum, whereby he asked her: "Ask one of your sons to grant me protection!" But she replied: "They are but children, the likes of them cannot offer protection." And she refused.[16]

The anecdote covers the main grounds of contention debated by Mālikī jurists contemporary with al-Wāqidī, i.e. the capacity of a woman or a child to grant protection, and the anecdote is unambiguous that protection is rightly a grown man's prerogative. This likely explains why the Sunni jurists of Iraq make no mention of the story in their *fiqh* manuals, whereas it manifestly speaks to the stance of Mālikī scholars. To this end, the story contains marks of contrivance, since Abū Sufyān's familiarity with the putative precedent of Zaynab's protection of Abū al-ʿĀṣ is suggestive that the anecdote was actively shaped by a narrator familiar with the legal debates in Medina contemporary with Mālik and his generation of jurists, and placed them into the mouth of Abū Sufyān to prove a point.

A different version of the anecdote appears in the later Iraqi scholar al-Ṭabarī's (d. 310/923) *Tārīḫ* where Abū Sufyān is not presented as soliciting protection from Fāṭima, but does ask her to arrange protection via her son, al-Ḥasan, who would have been about five years' old at the time.[17] Al-Ṭabarī's omission of Abū Sufyān's request to Fāṭima for protection perhaps reflects al-Ṭabarī's own context: he was a jurist himself, and Iraqi jurists had already established that women could grant asylum, hence Abū Sufyān's statement as worded in the Medinan version narrated by al-Wāqidī contradicted al-Ṭabarī's take on *fiqh*, and the anecdote was accordingly amended to better reflect the Iraqi context.

Notwithstanding the key difference as regards women's protection, both versions have a similar narrative effect: Abū Sufyān, the leader of the pagans, is shown grasping at straws for his personal safety, and begs relief from the family of ʿAlī. Early Muslim-era audiences would of course have known that Abū Sufyān's clan—his son Muʿāwiya and grandson Yazīd—were responsible for thwarting ʿAlī's Caliphate and both al-Ḥasan and al-Ḥusayn's attempts to lead the community. There is palpable foreshadowing of the inter-family feud which Muslims of al-Wāqidī's generation interpreted as the unfortunate victory of the worldly clan (Abū Sufyān and his descendants) over the righteous (ʿAlī and the *Ahl al-Bayt*). One reading then is that Abū Sufyān's request for asylum is intended as both humiliating (as he solicits it from a woman and/or a young child) and ironic (as he seeks the family of his clan's nemesis). There is evident humour in the story too, and the story has signs then of being a literary creation to denigrate the pagan villain, in which case, his request for asylum from a woman should not be read as historical truth, but rather a narrative device intended to emphasise Abū Sufyān's ignoble characterisation.

16. Al-Wāqidī, *al-Maġāzī*, II, pp. 793–794.
17. Al-Ṭabarī, *Tārīḫ*, III, p. 46.

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Precedent 2: Zaynab

Early sources, both Medinan and Iraqi, report an episode involving another of the Prophet's daughters, Zaynab, in which she reportedly granted protection to Abū al-ʿĀṣ ibn Rabīʿa (or al-Rabīʿ), a wealthy pagan Meccan merchant who had been her husband before she converted to Islam, and whom the Muslims captured along with his caravan on the road from Syria to Mecca. Al-Wāqidī's version is as follows:

> Abū al-ʿĀṣ ibn Rabīʿa went straight to Medina and as the night was ending he presented himself to Zaynab, the Prophet's daughter who had been his wife.[18] He asked her for asylum and she granted it. When the Prophet prayed the morning prayer, Zaynab went to her door and shouted as loud as she could: "I have granted asylum to Abū al-ʿĀṣ!" The Prophet asked the community: "People! Did you hear what I just heard?" "Yes!" they replied. The Prophet then said: "By He who holds my soul in His hand, I knew nothing about this until I heard what you just heard! But Muslims are united together against their foe, and we respect the asylum granted by the lowest of our low. I shall protect those whom she protected!"[19]

The theatrical-seeming surprise which the anecdote voices the Prophet's initial reaction, and the focus on the technical question of the binding-nature of Zaynab's act suggest an underlying didactic purpose. The story does seem structured around revealing a point of law, and accordingly harkens the scholarly opinion that some *Maġāzī* stories about the Prophet's biography originated as elaborations to illustrate juridical principles, i.e. narratives were invented to supply precedents for jurists.[20] According to that hypothesis, the Zaynab episode may have originated as a juridically-inspired effort to find a clear-cut example of a woman granting protection in order to prove the general principle of women's legal capacity to protect.

More recent scholarship cautions against assuming widescale fabrication *prima facie*, since it is now clear that certainly not all, and likely not even very much of Prophetic history was invented by Muslim-era jurists to create legal precedents.[21] Nonetheless, some anecdotes within the *Maġāzī* do bear signs of reshaping to suit juridical needs, and individual stories need evaluation on a case-by-case basis. In the case of our Zaynab story, there are two grounds to question its historicity, and suggest that the story was reshaped into a form convenient for juridical arguments, or at least that jurists alighted on a spurious story and overlooked its historical problems since it suited their jurisprudential purposes.

18. Sources concur that when Zaynab converted to Islam, she left her pagan husband. They were remarried when he converted to Islam.

19. Al-Wāqidī, *al-Maġāzī*, II, p. 553. See also Ibn Saʿd, *al-Ṭabaqāt*, VIII, p. 27; Ibn Hišām, *al-Sīra*, I, pp. 657–658; al-Ṭabarī, *Tārīḫ*, II, pp. 470–471, 641.

20. This sceptical view on the historicity of *Maġāzī* anecdotes was thesis of Lammens (1910), and has been frequently reiterated afterwards.

21. See Görke, 2011, pp. 173, 183; for Görke's reasoning in the study of one hadith, see pp. 180–181.

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The first issue emerges from examining the Prophet's legal statement recorded at the end of the Zaynab anecdote: "we respect the asylum granted by the lowest of our low." On its face, the statement makes no reference to gender, and it is only the preceding prose story which illustrates that the legal statement was uttered to ratify a woman's act of granting protection. The gendered preamble, however, is a unicum: the exact same legal statement about asylum appears in several guises in hadith collections, yet none allude to Zaynab. Instead, the statement, as preserved by hadith collectors, is part of a longer hadith containing a string of statements that affirm equality between Muslims, beginning with the words *tatakāfaʾu dimāʾuhum*: "[each Muslim's] blood-value is equal."[22] Blood money vengeance is a custom within the preserve of men, and the fact that the hadith does not refer to women might be because this was not a matter intended to intersect with them.

Moreover, the versions of the statement preserved in the hadith collections state that it was uttered by Muḥammad during sermon delivered in Mecca following its conquest,[23] or as part of Muḥammad's sayings which ʿAlī possessed in written form a *ṣaḥīfa* and which he revealed in a sermon of his own.[24] In no cases do the versions of this hadith in the hadith collections allude to Fāṭima's involvement.

Given the frequent citation of the hadith, it is clear that the right of low-class Muslims to make protection was widely-held in early Islam, but all of these accounts, on their face, only reference men. Logically of course, the egalitarian-minded hadith can be extended to condone protection offered by women, but this is never express in the hadith itself, and should a jurist wish to prove that the ruling *certainly* applies to women, he would need an example. The possibility arises, therefore, that the Zaynab story was superimposed upon the hadith as an express gloss about gender to enable jurists to elaborate upon the full ramifications of the basic egalitarian principle. The fact that the explicitly-gendered Zaynab episode was never included in the specialist hadith collections abets the hunch of ex post facto elaboration, especially because hadith collectors evidently did not accept its authenticity, given that they only included the non-gendered versions in their collections.

The second factual issue emerges from probing other accounts of Zaynab's reconciliation with Abū al-ʿĀṣ in *aḫbār* collections of the Prophet's biography. Al-Balāḏurī's (d. 279/892) *Ansāb al-ašrāf* preserves multiple versions of Abū al-ʿĀṣ's return to Zaynab:[25] some omit Abū al-ʿĀṣ's act of soliciting protection from Zaynab altogether, another states that the Prophet received Abū al-ʿĀṣ first and then directed him to Zaynab, a third reports the same story of al-Wāqidī, whilst a further narrative reports that Abū al-ʿĀṣ was not captured in a caravan, but instead stole into Medina himself to be reconciled with Zaynab, whence he requested her protection, converted to Islam and then was remarried to her. Al-Balāḏurī also relates stories of

22. See, for examples, Ibn Ḥanbal, *al-Musnad*, 9173 (XV, pp. 91–92); Abū Dāwūd al-Siǧistānī, *Sunan Abī Dāwūd*, 2751 (*al-Ǧihād*: 147); Ibn Māǧah, *Sunan*, 2683–2685 (*al-Diyāt*: 31).
23. See Ibn Ḥanbal, *al-Musnad*, 6692 (XI, p. 288), 6797 (XI, p. 402), 6970 (XI, p. 555).
24. See Ibn Ḥanbal, *al-Musnad*, 615 (II, pp. 51–52), 959 (II, pp. 267–268), 991 (II, p. 284), 993 (II, p. 286), 1037 (II, p. 304), 1298 (II, p. 428).
25. Al-Balāḏurī, *Ansāb al-ašrāf*, I, 2, pp. 999–1006; see also I, 2, p. 945.

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Abū al-ʿĀṣ pleading for forgiveness when he was captured at the Battle of Badr, whereupon the Prophet took pity on him for Zaynab's sake. It is accordingly hasty to presume that the specific act of Zaynab's protection reported by al-Wāqidī above definitely occurred: the historiographical sources are far from unanimous, and it appears that the Abū al-ʿĀṣ/Zaynab relationship constituted a plastic kit of narratives on the theme of believer/non-believer marriage. Since most narratives indicate that the Prophet's clemency derives from Abū al-ʿĀṣ's relationship with his daughter, the value of al-Wāqidī's story as a precedent for women's offers of protection as a general principle is questionable—as the dissenting Mālikī scholars observed.

By citing only al-Wāqidī's account without discussion of the alternative contexts of the hadith, the *fiqh* manuals make a selective use of history. From amongst the many narratives, they plucked the one most useful for their purposes of demonstrating a woman's act of protection during the Prophet's lifetime, even though it is not reported in the hadith collections. Herein, jurists used 'history' instrumentally to extrapolate a positive ruling on women's protection from the Prophet's gender-neutral egalitarian statement, but the underlying historical uncertainty leaves a question as to whether the Prophet actually had women in mind when making his statement.

Precedent 3: Umm Hāniʾ

The historical precedent which jurists most cite is a story involving the Prophet's cousin, Umm Hāniʾ. A well-attested hadith reports that Umm Hāniʾ addressed Muḥammad during the Conquest of Mecca:

> "My cousin [i.e. ʿAlī Ibn Abī Ṭālib] claims that he plans to kill a man, So-and-so son of Hubayra [*Fulān ibn Hubayra*], to whom I have granted asylum." To this the Prophet replied: "We shall protect those to whom you have granted protection, Umm Hāniʾ."[26]

In addition to its narration in *fiqh* manuals, the episode is also cited today as an example of the "active role of women" in the Prophet's lifetime,[27] but several issues question this story's historicity too.

Firstly, the exchange is reported at the end of a hadith in which Umm Hāniʾ describes the Prophet's preparation for morning prayer. The hadith first describes his ablutions and clothes, and the issue of asylum is appended at the end. As such, the hadith is most commonly recorded in chapters on prayer in the thematic hadith collections where the thrust is about how one should pray. Umm Hāniʾ is cited as an eyewitness for a particular wrinkle in pre-prayer ritual,

26. Mālik, *al-Muwaṭṭaʾ*, 359 (p. 125); Ibn Ḥanbal, *al-Musnad*, 27379 (XLV, p. 378); al-Buḫārī, *Ṣaḥīḥ*, 357 (*al-Ṣalāt*: 4).

27. Modern feminist-inspired readings of Islamic history also find the story sufficient as evidence for the "active role of women" in Muḥammad's society, see *al-Aḫbār al-Yawm*, Sunday 1 September 2019: *Dawr al-marʾa fī bināʾ al-muǧtamaʿ al-islāmī*.

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and the nature of the hadith's citation appears to emphasise prayer over the question of asylum. For example, Ibn Ḥanbal's compendious *al-Musnad* records twenty variants of this hadith, and thirteen make no mention of asylum being granted. Six versions contain reference to prayer and asylum, and only one hadith mentions asylum without the details of prayer.[28] The genesis of the hadith is thus unclear, and the two separate juridical issues of ablution and asylum may have been merged into one hadith over the course of time. The weight of numbers suggest that the ablution details were the original and asylum was transplanted into that narrative. Since the context of Umm Hāniʾ's observation of Muḥammad's prayer is consistently placed just after the Conquest of Mecca, it presents a logical moment where a protection request could be introduced, and narrators seeking proof about women granting asylum may have sensed the opportunity to make their claim by inserting a protection story here.

From the hadith alone, it is difficult to judge whether or not the asylum details were fabricated, but uncertainties regarding the recipient of Umm Hāniʾ's asylum are more revealing, as there are ten distinct options. Ibn Ḥağar's *Fatḥ al-Bārī* gathers nine, and we can see that there was broad disagreement as to who (and even how many men) requested Umm Hāniʾs protection:[29]

i. one man: So-and-so (Fulān) son of Hubayra; the identity is thus unknown; Hubayra was the name of Umm Hāniʾs non-Muslim husband;
ii. one man: Ğaʿda ibn Hubayra; Ibn Ḥağar considers this unlikely as Ğaʿda was too young at the time to have realistically been someone whom ʿAlī would have considered a threat and/or threatened to kill;
iii. one man: a different son of Hubayra; though no son other than Ğaʿda is known, according to Ibn Ḥağar;
iv. two men: Ğaʿda ibn Hubayra and one unnamed man from the Banū Maḫzūm;
v. two men: al-Ḥāriṯ ibn Hišām and Zuhayr ibn Abī Umayya, both of the Banū Maḫzūm;
vi. two men: al-Ḥāriṯ ibn Hišām and ʿAbd Allāh ibn Abī Rabīʿa;
vii. two men: al-Ḥāriṯ ibn Hišām and Hubayra ibn Abī Wahb; Ibn Ḥağar considers this highly unlikely since historical sources state that Hubayra fled Mecca during the Conquest and died a non-Muslim in Nağrān;
viii. one man: the "son of an uncle of Ibn Hubayra"; this could be al-Ḥāriṯ ibn Hišām; Ibn Ḥağar considers the hadith's narrators accidently elided the word "uncle" (*ʿamm*) from the hadith;
ix. one man: the "son of a relative of Ibn Hubayra"; Ibn Ḥağar proposes this possibility on the basis that narrators may have accidently elided the word "relative" (*qarīb*) from the hadith; or
x. two men: stated as "two of my in-laws" (*raǧulayn min aḥmāʾī*); this open-ended phrase is reported in Ibn Ḥanbal, *al-Musnad*, 26906 (XLIV, p. 476).

28. For the hadith, see Ibn Ḥanbal, *al-Musnad*, XLIV, pp. 455–480; XLV, pp. 378–388.

29. Ibn Ḥağar, *Fatḥ al-Bārī*, II, pp. 68–69. His findings appear to be accurate, as similar variants can be found in the modern edition of Ibn Ḥanbal's *Musnad*: hadith 26892, 26896, 26906, 26907, 27379, 27380, 27388, though from Ibn Ḥanbal's material yet a further option emerges, detailed at (x).

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In contrast to the hadith's variants, historical sources such as al-Wāqidī's *al-Maġāzī* and Ibn Saʿd's *al-Ṭabaqāt* display greater confidence: they betray no uncertainty and narrate option (vi).[30] The *fiqh* manuals are similarly certain: in the same manner in which they cited only one version of the Zaynab hadith, they also focus on option (vi) of the Umm Hāniʾ variants, without engaging with the uncertainties over the identities of the protected men.

Probing further into Arabic historiography uncovers more uncertainties. Al-Balāḏurī's section on the Conquest of Mecca in his Prophetic biography makes no mention of Umm Hāniʾ's protection—this is noteworthy since al-Balāḏurī does enumerate the Meccan notables who fled the conquering Muslims and/or to whom Muḥammad offered protection prior to their conversion, and it is accordingly odd that Umm Hāniʾ's act is absent.[31] Furthermore, the early biographical compendium of Muḥammad's contemporaries, Ibn ʿAbd al-Barr's *al-Istīʿāb*, notes disagreement concerning al-Ḥāriṯ ibn Hišām's actions following the Conquest, and questions whether Umm Hāniʾ was his protector.[32] The fact that Ibn ʿAbd al-Barr was a prominent Mālikī jurist may be significance in this respect, too. As for ʿAbd Allāh ibn Abī Rabīʿa, Ibn ʿAbd al-Barr reports that "one historian (or some historians) [*baʿḍu ahli al-ʿilmi bi-l-ḫabari wa-l-nasab*]" report(s) that he took refuge with Umm Hāniʾ, suggestive that this was not a majority opinion.[33]

Re-evaluating the Precedents

In overview, it is striking that the historical precedents which the jurists cited to prove the validity of women's grants of protection only involve women of the Prophet's household, and each episode is of questionable historicity. Nonetheless, most jurists cite them as fact in the *fiqh* manuals, and the legal sanction of women's protection was established.

What does seem a well-established memory from nascent Islam is the statement upon which the whole protection discourse is constructed: "We respect the asylum granted by the lowest of our low." The frequency of the statement's citation in hadith collections and historical anecdotes, and its embedded egalitarian principle suits the ethos of the many other preserved messages of equality between Muslims, and constitutes a potent challenge to the Arabian social order at the dawn of Islam. Given the so ample evidence in pre-Islamic poetry that axiomatically connects nobility with upholding protection promises, the hadith actively advocates a serious reorientation of the political order. Reversing the nexus between protection and personal assertions of power, the Prophet's words render power a property of his community, a community organised on principles of equality.

30. Al-Wāqidī, *al-Maġāzī*, II, pp. 829–830; Ibn Saʿd, *al-Ṭabaqāt*, II, pp. 144–145. Ibn Hišām (*al-Sīra*, II, p. 411) does not specify names, and states the protected were her "two in-laws from the Maḫzūm".
31. Al-Balāḏurī, *Ansāb*, I, 2, pp. 888–910. Al-Balāḏurī does name al-Ḥāriṯ ibn Hišām (*Ansāb*, I, 2, p. 906), but not in connection with protection: he is said to have converted upon the Conquest, but remained of questionable faith (*maġmūṣ ʿalayhi fī islāmihi*).
32. Ibn ʿAbd al-Barr, *al-Istīʿāb*, I, pp. 302–303.
33. Ibn ʿAbd al-Barr, *al-Istīʿāb*, III, p. 896.

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Whilst the sentiment of equality logically invites inclusion of women, three important issues emerge from the material cited by the jurists: 1. the hadith from which the principle derives make no express reference to gender; 2. the contexts of the usual citation of the hadith (cases of blood revenge) are matters concerning ethics of masculinity; and 3. the examples cited that involve women protectors are numerically limited and factually problematic. Altogether, the Mālikī scholars' disquiet becomes clearer: perhaps women were not in the habit of granting protection in early Muslim-era Medina, and that the statement "we respect the asylum granted by the lowest of our low" did not originally countenance cases of women's asylum.

Evaluating our findings so far, there is evident disparity between the myriad examples of men's protection in pre-Islamic poetry and associated stories and the examples involving women. If we consider the substance of the male protector stories,[34] we behold their connection with men's power and honour (*ʿirḍ*), and men's protection *of* women constitutes a cornerstone of manhood. Fundamentally, therefore, a man's appeal to a woman's protection is perverse to the usual workings of the manhood ideal embedded across much pre-Islamic poetry, and the essential manliness of the act of protection accordingly prompts questions about how the narratives of protection granted by women should be read. Could they have been narrative strategies intending to belittle the men who seek the protection of a woman? In which case, we should need to closer investigate the recipients of protection, and bear such elements in mind before accepting the historical accounts as precedent for blackletter law.

As far as most Muslim jurists were concerned, however, one of their signature penchants was to test the limits of juridical principles. They would have pondered the oft-cited hadith "we respect the asylum granted by the lowest of our low," and the invitation to test its extent naturally presents itself. As a matter of logic, women ought to be admitted, but since Muslim *fiqh* generally prefers rulings based upon clear precedent of the *salaf* over principles of logical reasoning alone, jurists would have found themselves in the market for historical examples to furnish as precedents for women's protection. That they could only find episodes of dubious historicity prompts several observations. Firstly, the jurists paid lip-service to the principles of precedent: they established their approval of women's protection a priori on logical grounds, and what was clearly more important was the *existence* of a precedent to cite, not investigation as to whether it *actually* happened. Secondly, the dearth of examples suggests that women's protection was not a regular occurrence preserved in memories of early Islam. Thirdly, therefore, we confront an example where the egalitarian principles of Islam did not always play out in practice to their full extent, and this could explain why Mālikī jurists whose focus was on practice were reticent to condone women granting protection. And fourthly, reading the episodes through a gendered lens reveals that women's protection stories may owe their origins to a narrative technique to belittle the men seeking protection, as it constitutes an obvious and compellingly-radical gender reversal. While the jurists took the stories at face value and put them to practical use, we should like to disengage from blackletter law to reappraise

34. For examples, consider the stories listed in note 1, above.

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the narratives as stories, thereby nudging closer to gender perceptions in the broader society. The part of this paper engages such questions and expands the ambit of *aḫbār* about acts of women granting protection.

Women's protection in Arabian history

In the *Maġāzī* itself, we noted above how the Fāṭima/Abū Sufyān protection episode engaged clear humour and irony, inasmuch as Abū Sufyān, the leader of the pagans, petitions asylum from woman and a small child: it makes a fool of the pagan's leader, an obviously suitable narrative for the Prophetic biography. The elaborated *aḫbār* of Umm Ḥāniʾ's episode in the *Maġāzī* likewise contain narrative expansion enhancing the absurdity the situation. In contrast to the laconic recension of the episode in the hadith where Umm Hāniʾ succinctly describes the act of protection to Muḥammad, the *Maġāzī* narrators bring us to the scene of the protection episode itself with dramatic embellishment, such as the description of ʿAlī's arrival with the intent to kill the two protected men:

> [Umm Hāniʾ tells:] In came a horseman clad in armour and bristling with weapons: I did not recognise him… but lo and behold it was ʿAlī![35]

The act of protection, too, is made explicit: "I threw a robe [*ṯawb*] over them, stood between them and ʿAlī, and said: 'By God! You'll have to kill me first!'" The image of two cowering pagans, hiding under a cloak while a woman actively defends them against one of the heroes of Islamic history is hardly flattering, and indeed humorous. The historians' relish of the details of a woman's act of protection does not so much praise Umm Hāniʾ as much as it belittles those protected pagans: the engaging of women's protection emasculates the pagans at the point of Mecca's Conquest, adding a narrative avenue to underline the certainty of the end of their era.

Searching beyond the Prophet biography, I found four further episodes where women are the grantors of *ǧiwār*/*iǧāra*/*amān* protection. Two are pre-Islamic, one is situated around the dawn of Islam, and the fourth is Umayyad-era, and despite the small number, they do combine into intriguing patterns whereby operation of the elements of humour, the identity of the protected men, and the narrative's evolution reveal that societal conceptions of women's capacity to protect functioned on a different trajectory than that of the laconic approvals in juridical manuals.

35. Al-Wāqidī, *al-Maġāzī*, II, p. 829.

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Protection Between pre-Islam and Islam: Conversion from Women to Men?

During the Prophet's lifetime, the Meccan warrior-poet Ḍirār Ibn al-Ḫaṭṭāb al-Fihrī was reportedly entangled in a blood feud between his tribe the Quraysh and the mountain folk of al-Azd. Al-Balāḏurī's *Ansāb al-ašrāf* tells the tale:

> When Ḍirār once travelled into the Sarāt Mountains—the land of the Daws and al-Azd above al-Ṭā'if—the Daws attacked him. Because he was from the Quraysh, they intended to kill him in retaliation for the murder of Abū Uzayhir, since the al-Azd used to kill any member of the Quraysh whom they could lay their hands on after Hišām Ibn al-Walīd ibn al-Muġīra [of the Quraysh] had murdered Abū Uzayhir. Ḍirār Ibn al-Ḫaṭṭāb sought refuge with an Azdī woman named Umm Ǧamīl, and she granted him asylum. Umm Ǧamīl supposed that Ḍirār was the brother of ʿUmar Ibn al-Ḫaṭṭāb,[36] and when ʿUmar became Caliph, she presented herself in Medina. ʿUmar recognised her story and said: "I am only Ḍirār's brother in Islam—he is on campaign, but I know the great favour you did for him." And ʿUmar granted her a stipend at the Wayfarer level.
>
> Al-Wāqidī says that her name was "Umm Ġaylān", another narrator names her "Umm Ǧamīl"; she had a son named Ġaylān, as this is mentioned in a poem by Ḍirār:
>
> God grant wholesome recompense to Umm Ġaylan
> And her women who burst forth, unadorned, hair in disarray.
> They diverted Death as it was drawing close,
> When blood-avengers appeared at the killing plains.
> She cried out to the Daws:[37] their valleys poured forth
> With mighty braves who have yet to forsake.
> I unsheathed my sword and pointed its blade:
> Whom would I defend, if not my own life![38]

The confusion over the protectress' name evidently stems from the poem: Ḍirār's poem praises "Umm Ġaylān," but at some point in the transmission, the prose story rendered the woman "Umm Ǧamīl," and this is this name which informed a proverb: "More trustworthy than Umm Ǧamīl" (*Awfā min Umm Ǧamīl*) which referenced the event in other sources.[39]

36. Both ʿUmar and Ḍirār's fathers were named al-Ḫaṭṭāb, but there was no relation.
37. The Daws were a sub-lineage of al-Azd.
38. Al-Balāḏurī, *Ansāb*, V, pp. 580–581.
39. Abū ʿUbayda, *al-Dībāǧ*, p. 73, pseudo-al-Ǧāḥiẓ, *al-Maḥāsin*, p. 40; al-Bayhaqī, *al-Maḥāsin*, I, pp. 172–173.

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The "More trustworthy than Umm Ǧamīl" aphorism evidently did not spread very widely, however. It is absent in the early collections of proverbs, but does appear in some later works,[40] and, intriguingly, the associated poetry underwent a change too. A later account of Ḍirār's poem included a new line in which Ḍirār also praised ʿAwf, seemingly the child of Umm Ġaylān,[41] and the gender of the verb "to cry out" in the following line was also changed from feminine in the early recension to masculine, thereby asserting that it was ʿAwf who called the Daws to defend Ḍirār, not Umm Ġaylān.[42] In essence, the poem's later version switches gender from an originally expressed female act of protection to a joint female/male, in which the male takes the decisive action.

An analogous gender shift transpires in the intriguing pre-Islamic story of Ḫumāʿa bint ʿAwf al-Šaybānī, the earliest extant account of which is told by Abū ʿUbayda (d. 209/824–825) in his *al-Dībāǧ*:

> The story of Ḫumāʿa's faithfulness is that Marwān ibn Zinbāʿ ibn Ǧaḍīma al-ʿAbsī raided the camels of [the Laḫmid king] ʿAmr ibn Hind. Marwān was chased, and when he reached the watering place of the Šaybān he sought the grandest tent, and went in. It was the tent of Ḫumāʿa, and he sought her asylum [*istaǧārahā*]. She called out to her family and they came to her, but so did the king ʿAmr ibn Hind and he demanded: "Hand over Marwān to me!" But they replied: "Ḫumāʿa has granted him protection." ʿAmr responded: "She has protected him? I have made an oath that I will not pardon Marwān until he puts his hand in mine." Ḫumāʿa's father ʿAwf ibn Muḥallam then spoke up: "Let him put his hand in mine, and then I will put my hand in yours, and by this you can satisfy your pledge." ʿAmr agreed and they did this. The Bakr ibn Wāʾil allege that ʿAmr said on that day: "No one is free in the valley of ʿAwf"—and by this it is intended that the poor and the weak are treated equally there.[43]

On the story's face, Ḫumāʿa grants protection to Marwān, but the story intimates that ʿAmr ibn Hind finds this an unusual situation, and moreover Ḫumāʿa takes no direct action of defence herself, as it is the quick-thinking of her father, ʿAwf, which settled the matter. Tracing the story's narration in subsequent Arabic literature also reveals that the majority of later narrations pay less attention to Ḫumāʿa, in favour of ʿAwf. For example, whilst Abū ʿUbayda places the story amongst a trio of "Faithful Women" from pre-Islamic Arabia, the story's more expanded versions told in the subsequent century, which better explain the context in which Marwān was cornered, do not focus on Ḫumāʿa and relate that the one

40. It is absent in the early layers of proverb collections by al-Ḍabbī (d. between 164–170/781–787), al-Sadūsī (d. 195/810–811) and even al-Bakrī's more compendious *Faṣl al-Maqāl*. For the expression in the later collections, see al-ʿAskarī, *Ǧamhara*, II, pp. 347–348; al-Maydānī, *Maǧmaʿ*, III, p. 378.
41. See the discussion in Ḍirār, *Dīwān*, p. 80, n. 3.
42. For discussion of the versions of the poem, see Ḍirār, *Dīwān*, pp. 106–107.
43. Abū ʿUbayda, *al-Dībāǧ*, p. 72.

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whose faithfulness was praised is the father, ʿAwf, not Ḫumāʿa.[44] Furthermore, Ḫumāʿa is not reported as participating in active defence in the face of Marwān's pursuers, and some later versions of the story even forget al-Ḫumāʿa altogether, and relate that Marwān sought refuge with ʿAwf directly.[45] The anecdote became the basis for a proverbial expression about trustworthiness, but the later collections of proverbs remember it as "More trustworthy than ʿAwf"—Ḫumāʿa is elided and the father's protection became proverbial.[46]

The sources which do retain a role for Ḫumāʿa in the story explained that Marwān sought Ḫumāʿa's protection because once, when she had been captured at a time prior to this event, Marwān had seen to her safe return without disgracing her honour,[47] and hence Marwān's later petition of asylum emerges less an act of seeking a powerful women's protection, and more of a calling in of a debt owed by Ḫumāʿa and her grateful father. The narrative effect is quite significant, since Marwān switches from a camel-thief seeking asylum in Abū ʿUbayda's account to a *protector* of women himself, who, in his time of need, is repaid by the woman's father.

The shifts in narration that reduce the footprint of women's protection in the above stories are intriguing. Coupled with the abiding paucity of recollections about pre-Islamic women offering asylum in Arabic literature, are we to understand that some pre-Islamic Arabian groups did recognise the power of women to grant protection, but that institution ran counter to Muslim-era social norms and hence analogous stories were forgotten and the two remaining tales became lost in a vast sea of male protection stories which are ubiquitous in the literature, effectively obliterating memory of actual pre-Islamic practices? It is an attractive proposition, inasmuch as there is evidence that some pre-Islamic Arabian societies were matrilineal, and that Arabian genealogical models from pre-Islam and early Islam display striking matrilineal attributes, which were erased during the reworking of Arabian lineages by Muslim genealogists.[48] Nabia Abbott's survey of evidence about the power of queens in ancient pre-Islamic Arabian contexts similarly encountered a patchy textual recollection of these figures in Arabic literature, and her material reflects our present investigation of women and acts of protection: in both cases, we find suggestions of Arabian women exercising power to protect, but these narrative lost salience over the process of Muslim-era textual transmission. Barlas and Wadud elaborate on similar processes, and speak of "textualizing misogamy", whereby layers of Muslim-era literature reduced the prominence of women as active agents in the public sphere.[49] The cultural norms associated with women's grants of protection add weight to these enquiries.

44. See al-Bayhaqī, *al-Maḥāsin*, I, pp. 175–176; pseudo-al-Ǧāḥiẓ, *al-Maḥāsin*, p. 41. Al-Bakrī (*Faṣl al-Maqāl*, p. 130) likewise treats ʿAwf as the protagonist, but does narrate that the protection was initially granted by Ḫumāʿa.

45. Al-ʿAskarī, *Ǧamhara*, II, p. 346; al-Maydānī, *Mağmaʿ*, III, p. 626.

46. Al-ʿAskarī, *Ǧamhara*, II, p. 346.

47. Al-Bakrī, *Faṣl al-Maqāl*, pp. 335–336.

48. See Webb (2016, pp. 197–205) for the genealogical evidences, and the references therein for earlier comments on women's political power in pre-Islamic Arabia.

49. Barlas, 2002, p. 9. See also Wadud, 1999.

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Impressions of a wholesale Muslim-era textual misogamy do not exactly tally with our findings from the juridical works, however. If the growing patriarchal predilection of Muslim culture was uniformly erasing memories of pre-Islamic female power, we might expect the jurists to follow suit and reject women's protection rights too, yet this does not obtain. The vast majority of Muslim jurists ensured that the egalitarian principles of Islamic law applied to women; but we can discern that this stance was motivated out of egalitarian theory to which most jurists were faithful, whereas the dissenting voices of some Mālikīs do demonstrate that this equality did not always obtain in practice. Women's protection emerges as an interesting case where the jurists' thinking remained egalitarian for their own jurisprudential and philosophical purposes and was thus codified into an egalitarian law, whereas their stance was not precisely reflective of wider social concerns of the Medinan community and beyond.

More sustained critical studies of the narrative transmission of stories about pre-Islamic women exercising power are a desideratum. From the perspective of our protection tales, we can say that memories of women granting asylum are very scarce, especially considering the ubiquity of male grants of protection, and the downplaying of the role of women in the Umm Ǧamīl/Ġaylān and Ḫumāʿa stories suggests that Arabic narrators did not wish to remember pre-Islamic Arabia as a land where women were sought as sources for asylum. Moreover, the stories we have considered do not depict the women brandishing swords or actively confronting the enemy: Umm Ǧamīl/Ġaylān calls out for men to help Ḍirār, and Ḫumāʿa's act is almost entirely obscured in favour of her father.

The mere survival of these stories does suggest that some pre-Islamic Arabian societies did possess greater public-sphere scope for women, and hence the obscuring of their roles presents an intriguing aspect of the processes of memorialising Arabian history. Arabic literature did develop a very clear archetype of 'Arabian warrior heroes' (*fursān al-ʿarab*), focused around a set of quintessentially masculine horse-warrior/poet traits (including protection). As a result of the articulation of these archetypes, Arabic literature apparently no longer had scope to remember warrior heroes as requesting women's asylum; this argument can be elaborated via the two remaining episodes of women's protection preserved in Arabic literature.

Women's Protection and Anti-Heroes

The first story is set before Islam with an act of protection granted by Fukayha to al-Sulayk ibn al-Sulaka (the full account is translated in Van Gelder's contribution in this issue). The second story is situated in the Umayyad era: a male warrior al-Qattāl al-Kilābī requests help from his niece to save him from pursuers (also noted in Van Gelder's paper). The fullest extant version of al-Qattāl's tale is in al-Aṣbahānī's (d. 356/967) *al-Aġānī*:

> Al-Qattāl fled, while the companions of the man he murdered were in pursuit. Al-Qattāl passed by one of his nieces called Zaynab whose camp was off near some water. He entered and she cried out: "Woe unto you, what's befallen you now?" He replied: "Throw your robes over me!" And she dressed him in her cloak and her burqa. She was handling henna, and he grabbed some and

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> daubed his hand in it too, and she withdrew to the side. When the search party passed by the tent, they thought they were speaking to Zaynab and asked her: "Where is that scumbag?" He replied to them: "He went that away" and pointed in the opposite direction to where he was intending to go. Once he reasoned they had travelled far down that path, he took the opposite way and reached ʿAmāya, a mountain where he concealed himself.[50]

The casting of a woman's robes over the pursued al-Qattāl is redolent of the elaborated version of Umm Hāniʾ's protection act narrated in the *Maġāzī*; unlike the Meccan pagan(s) whom Umm Hāniʾ defended, al-Qattāl does not request formal protection from Zaynab, rather he affects his escape disguised as her, but the female role in enabling safety is clear.

The Fukayha/al-Sulayk and Zaynab/al-Qattāl tales share important commonalities which contrast them with the Umm Ǧamīl/Ġaylān and Ḫumāʿa episodes above. Whereas Umm Ǧamīl/Ġaylān and Ḫumāʿa were assigned passive roles in the narratives, Fukayha and Zaynab's active roles are specifically emphasised—Fukayha takes up weapons, and Zaynab hands over her robes. Both al-Sulayk and al-Qattāl physically end up underneath women's garments: not only do they request women's aid to escape trouble, but the narratives have them ostensibly transforming into women as part of that escape. And there is evident slapstick humour in both al-Sulayk and al-Qattāl's stories, whereas the Ḍirār and Marwān ibn Zinbāʿ's episodes are narrated with a serious tenor and no women's clothing is mentioned. In all three respects, al-Sulayk and al-Qattāl's tale resemble the Umm Hāniʾ protection story from the *Maġāzī*, and taken together, via closer consideration of the identities of the men who received women's protection, the workings of women granting protection as a trope in Arabic literature becomes clearer.

A key commonality that links both al-Sulayk and al-Qattāl is their literary identity as outlaw figures. Al-Sulayk is perhaps Arabic literature's most unambiguous outlaw of pre-Islam, as he is identified across the sources as a *liṣṣ* (thief) and/or *ṣuʿlūk* (desperado),[51] and al-Qattāl is literature's quintessential desert criminal of the Umayyad-era, usually labelled as a *fātik* or *mutamarrid*.[52] Literary outlaw characters such as these present storytellers with particular challenges since the outlaw character is necessarily ambivalent. On the one hand, outlaws' lives are resplendent with action and repeated victories against their victims, and so outlaws often behave much like other heroic warrior braves whose biographies similarly revolve around martial triumphs. But on the other hand, outlaws are lawbreakers: they also embody transgression, disorder and anti-sociability, and hence they clash with mainstream ideals of the tribal warrior hero. Heroes exemplify positive social norms, whereas outlaws break those norms and use their positive heroic characteristics of strength, bravery etc., to turn society upside-down and pervert the normal course of order. In order for the dichotomy to be communicated, outlaws in world literary traditions become the objects of narrative manipulation: storytellers deliberately

50. Al-Aṣbahānī, *al-Aġānī*, XXIV, p. 141.
51. For representative examples, see al-Siğistānī, *Fuḥūlat*, p. 121; al-Aṣbahānī, *al-Aġānī*, XX, p. 389.
52. Al-Aṣbahānī, *al-Aġānī*, XXIV, p. 139.

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reshape outlaw stories in ways that denigrate them as not full-fledged heroes per the normative expectations of tradition, and thereby enable differentiation between outlaws and heroes.

The impulse towards denigration produces anti-hero personae: ambivalent figures whose attributes attract admiration like heroes, but equally contain elements that audiences reject as anti-social and negative,[53] and storytellers enable the ambivalence by adding into outlaw stories episodes of role-reversals and about-faces in the expected norms of heroic mythopoesis.[54] Al-Sulayk and al-Qattāl reflect this ambivalence: they are usually depicted as fighting the good fight, they usually possess skills far superior to their foes, but, unlike unambiguous heroes, narrators ascribe them character slips that bring them back to earth. Given the stark acts of protection by women in both in al-Sulayk and al-Qattāl's biographies, it is tempting to read the narratives of women offering protection as a trope which had sufficiently anti-heroic resonance to enable narrators to spin role-reversals for disreputable character portrayals.

In the case of al-Sulayk, his biography is replete with accounts of warrior spirit, and he is endowed with wondrous traits of running speed and endurance, all praiseworthy attributes of other Arabian heroes. Specifically, al-Sulayk is said to have been able to outrun gazelles[55] and survive on small portions of water buried in the ostrich eggs in the desert,[56] yet in the anecdote of Fukayha, al-Sulayk's positive characteristics dissolve. We are to suspend our memory that al-Sulayk usually sprints out of all difficulties, and we are to forget that he was reported as surviving on the most meagre supplies of water, and instead we are now told that al-Sulayk's pursuers deliberately let him go to drink at a well, for they reportedly knew that he would drink lustily to the point of bloating, and thence would be unable to run away.[57] The narrative accordingly transforms al-Sulayk into an imbecile, incapable of running or even fighting, and at this moment, we find him seeking protection under the dress of a woman.

Likewise, al-Qattāl's narrative is constructed in an interesting pattern of liminality. He commits a murder and is pursued out of society: his first stop is a transformation into a woman by donning his niece's clothes, and his next destination is ʿAmāya, a rugged mountainous region where, as the story tells us, al-Qattāl hid amidst the wild animals and befriended a panther with which he shared his food.[58] The narrative accordingly is a linear track into liminality as al-Qattāl leaves the world of men via his crime, enters that of women vis his disguise, and then continues, becoming one with wild animals. Al-Qattāl's adventure has the additional element of subterfuge: instead of fighting his way out of trouble as a mainstream

53. For the essential ambivalence of outlaw portrayal in literature, see Seal, 2011, pp. 3–12; for a collection on medieval European anti-heroes, see Cartlidge, 2012.

54. See Hobsbawm, 2000, pp. 19–22, 46–62; Seal, 2011, pp. 25–29.

55. A signature of most al-Sulayk stories ascribe him superhuman feats of running speed and endurance: e.g. al-Aṣbahānī, *al-Aġānī*, XX, pp. 389–390, 394, 396, 398. For al-Sulayk's identity as a quintessential 'runner', see Webb, 2019, pp. 41–43.

56. See al-Aṣbahānī, *al-Aġānī*, XX, p. 394; al-Maqrīzī, *Luṣūṣ*, p. 248, n. 1.

57. Al-Aṣbahānī, *al-Aġānī*, XX, p. 397; al-ʿAskarī, *Ǧamhara*, II, p. 347. More abridged versions in historical text such as al-Balāḏurī's *Ansāb al-Ašrāf* (VII, 1, p. 152) do not contain this expansion.

58. Al-Aṣbahānī, *al-Aġānī*, XXIV, pp. 141–144. See also Ibn Qutayba, *al-Šiʿr*, II, pp. 694–695.

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hero would do, the crux of al-Qattāl's escape is disguise via the intervention of a woman—such tropes are hallmarks of the trickster figure whose crossovers with literary outlaw characterisation are also noted in comparative literary studies.[59]

Both al-Sulayk and al-Qattāl's cases of women granting protection present us with a fictional un-sexing of men with humour added into the role-reversal story for good measure. And the thrust of both stories starkly contrasts Arabic literature's depictions of pre-Islamic and early Muslim-era Arabian heroes such as ʿAntara, ʿAmr ibn Maʿdī Karib, ʿAlī, Ḫālid Ibn al-Walīd, Qutayba ibn Muslim, et al., the tales of whose escapes from trouble are narrated as being achieved by the heroes' own merits. Such unambiguous hero figures in Arabic literature never find themselves seeking refuge with women.

The anti-heroism of al-Sulayk and al-Qattāl's asylums stands in further relief when compared with literature's treatment of Ḍirār ibn al-Ḫaṭṭāb and Marwān ibn Ẓinbāʾ's stories. Both Ḍirār and Marwān are accorded positive biographies: Marwān was a raider, but was depicted as a leader of a tribal war band and the story of his fidelity and his ability to provide protection were also proverbial, and Ḍirār was memorialised as a warrior of the Muslim conquests.[60] As they are characters on the 'inside' of the warrior/hero ideal, it is telling that the memories connecting them to acts of women's protection lack the narrative flourish of the active roles ascribed to al-Sulayk's and al-Qattāl's female protectors, and neither Marwān nor Ḍirār assume woman's dress. Herein Arabic literature's processes of conforming the pre-Islamic men into Muslim-era expectations of the pre-Islamic Arab warrior wrote out the role of protector women, whereas the narrators conversely elaborated the active protection in the cases where outlaws were involved.

It is also material that the examples of women's protection do not result in historiographical interest in the women's characters. Though Ḫumāʿa, Fukayha and the others are the grantors of protection, they are unknown outside of their individual acts, and their stories are narrated within the biographies of the men they protected. The act of women's protection is thus projected as a means to depict the character of the man, rather than the woman: in our cases, the protectress is effectively a stock character, and where her role is elaborated, it is to facilitate a humorous story about the outlaw. This is moreover another contrast to the stories of men's protection, where the ability of a man to fulfil his protection promise is the normative expectation. The nature of the women's protection narratives thereby reveals that Arabic literature ascribes no particular honour to the woman protectress or her kin, the narratives intend the opposite: they operate to affix dishonour into the biography of the man protected.

59. See Lyons (2012, pp. 220–223) for discussion of disguises and taking women's form in Arabic literature; see Seal (2011, pp. 30–31) for outlines of world literary traditions.

60. Ḍirār was the son of one of the Quraysh clan's leaders (Ibn ʿAbd al-Barr, *al-Istīʿāb*, II, p. 478) and acquitted himself well in the conquests of Iraq (see al-Ṭabarī, *Tārīḫ*, III, pp. 561, 563; IV, pp. 8, 37); Marwān ibn Ẓinbāʿ was associated with a proverbial expression referencing his ability to protect land and to be faithful to his promises (al-ʿAskarī, *Ǧamhara*, II, p. 65; al-Bakrī, *Faṣl al-Maqāl*, pp. 130, 336), and his son became a tribal leader (al-Balāḏurī, *Ansāb*, VII, 2, p. 63).

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Conclusions: Women, Anti-Heroes and a Window into Fiction

The scattered array of references to women's protection in Arabic writing present a variegated background at the dawn of Islam which was eventually regularised over several centuries of narration. The stories of Ḍirār and Marwān ibn Ẓinbāʿ perhaps give faint inklings that women had the power to act as protectors amongst some Arabian groups, and that the woman's kin were expected to defend the men to whom she granted protection.[61] The fact that so few of these stories survive suggests that the practice was not very common throughout Arabia as a whole, and hence when the Prophet uttered his egalitarian statement about protection, he may not have had women in mind. The factual issues surrounding the stories purporting to be precedent from the Prophet's lifetime suggest that women's acts of protection were not regularly-sanctioned by the Medinans, which is further supported given the absence of women stepping forward as protectors in early Islam, despite the considerable conflicts and intrigues which could be expected to generate more stories if the practice was prevalent. Interestingly, the main advocates of women's capacity to protect were jurists who sincerely embraced a notion of Islam's egalitarianism and, as a matter of theory, ensured that their juridical manuals sanctioned gender equality in the realm of asylum grants.

From the evidence of the Arabic literature, however, the jurists' theory was separate from practice and the logic of gender norms in Arabic literature about pre-Islam. Heroic figures are so axiomatically *not* involved with women's protection, that effectively all literary references to the concept serve as devices to portray villains and anti-heroes. We have Abū Sufyān pleading with Fāṭima, the pagans hiding under Umm Hāniʾ's robes at the conquest of Mecca, and two outlaws. The former pair are natural villains: Meccans who, even on the day of Mecca's conquest by the Muslims, did not convert, and as punishment in posterity, literature memorialised them as seeking women's protection, casting further humiliation upon their memory via the narratives' humour. The active role of the outlaws' protector women also seems targeted to accentuate the men's anti-heroic nature, especially in light of the observation that the women who protected Ḍirār and Marwān had their roles downplayed, and the vast majority of Arabic literary heroes absolutely never find themselves seeking the asylum of women.

Given the foregoing, the legal texts speak within a jurisprudential world of theory, and their normative concepts apparently did not influence the perceptions of gender and protection in Arabic literature. As a practical matter, women in medieval Islam may have taken more active roles in formally protecting men,[62] but Arabic literature about pre-Islam speaks within a world of heroes whose gendered expectations are more clear cut. Literary and poetic references to

61. This is perhaps the case too of al-Sulayk and Fukayha, before narrators worked humour into his story, while playing down the role of female protectors in the other cases.

62. An example from the Mamluk-era of a man seeking a protection from a woman occurs during Qarā Sunqur's flight from the Sultan al-Nāṣir Muḥammad ibn Qalāwūn (r. 709–741/1310–1341), during which Qarā Sunqur sought *ǧīra*-protection from Kāmila Umm Aḥmad; Kāmila's husband agreed to uphold her promise, al-Ṣafadī, *Tamām*, pp. 213–214.

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men seeking women's protection call for interpretation as deliberate efforts to resist heroic ideals and engage with deliberate anti-hero mythopoesis.

A famous example is the lover poet ʿUmar ibn Abī Rabīʿa, whose poetry detailing the protection afforded him by women is also discussed in Van Gelder's contribution to this issue. The fact that ʿUmar boasts about his lady protectors would appear yet another avenue by which ʿUmar endeavoured to flip heroic norms. His poetry is replete with the imagery and vocabulary of heroic verse, but he turns them on their head, as his quests invariably lead to women, and oppose the poetry of earlier heroes whose ability to leave lovers was the very essence of the *nasīb* and *raḥīl* opening sections of the classic *qaṣīda* poem. ʿUmar likewise inverted cultural icons for parody (e.g. the Haǧǧ, which he expressly revered because it annually gathered women for him to woo), and the fact that ʿUmar included women's asylum as a salient theme of his adventures again reinforces the notion that early Muslim society did not consider women's protection compatible with their heroic ideal. This is evidenced by a comment ascribed to Qutayba ibn Muslim, the commander of the Caliphate' conquest armies in Eastern Iran:

> When, during one of his invasions, Qutayba beheld a man from the al-Azd who carried a hole-riddled shield of camel leather, he called out: "The shield of ʿUmar ibn Abī Rabīʿa is better than that of our Azdī friend!" (Qutayba intended ʿUmar's verse in which he described his furtive escape from the tent of his lover:
>
> My shield, behind which I sheltered from those I feared,
> Was made of three: two comely lasses and one just pubescent)
>
> The Adzī man replied: "My lord, this shield is trustier than that one!"[63]

Whether or not Qutayba himself made the quip is of little concern: the story speaks to the reception of ʿUmar's poetry, whereby his verse was quoted in literature as an example of the opposite of the true military ideal of early Islam's heroes.

Our survey of references to women's grants of protection thereby ends by depositing us before important concerns regarding the interpretation of Arabic literary memories of pre- and nascent Islam. Arabic literature presents the stories as historical accounts, rarely giving indication that they are producing fiction, but the protection stories involving female protectors seem prime examples of fictionalization: windows into the obscured operation of storytelling which created literary worlds of pre-Islamic *al-Ǧāhiliyya* and early Arabian Islam to suit third/ninth and fourth/tenth century audiences. Notwithstanding the *isnād*s and the hallmarks of factual narration, there were outlets of embellishment, humour and (anti)hero mythopoesis, where value-laden concepts such as gender and protection could be marshalled into literary tropes to create anti-hero character types. Via this device and manifold others yet to be studied, the Muslim-era storytellers filled the tableau of the past with characters and characteristics of their own making that communicated normative discourses of their audiences.

63. Ibn Nubāta, *Sarḥ*, p. 193.

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