

Approaches to Female Covering in Sharia

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Muslim scholars or jurists normally assert that according to Sharia, it is obligatory (*wājib*) for females to cover themselves in front of anyone that they can lawfully marry. As Sharia regulations are accepted as being divinely ordained, all Muslims uphold that by diligently observing these regulations, mankind can attain perfection in both their spiritual and socio-communal life. As such, by observing the requirement of covering, jurists maintain that a Muslim woman can not only attain spiritual proximity with God but can also ensure that any type of sexual promiscuity does not enter within human socio-communal structures. For instance, Ayatollah Murtaza Mutahhari (d. 1979) in his work entitled *On the Obligation of Hijab*, attempts to describe a range of philosophical, social, economic, ethical, and psychological reasons for the Sharia obligation of female covering. In his final analysis, he concludes that by dressing and acting (or as he says, “walking”) in a way that stimulates an attitude of “come follow me,” a woman is prey to lustful eyes, and thus the reason for the Sharia necessity of female covering is to protect a woman’s dignity so that she is respected by other human beings.¹ Similarly, Ayatollah Makārim Shīrāzī (b. 1927) suggests that female nudity has the potential to entice men into a state of perpetual stimulation. He explains the since the amount of stimulation or excitement a man can endure is limited, female nudity can affect the psychological state of men. He suggests that historically there have been many destructive and horrendous crimes committed by men due to them being overly stimulated by women, to the extent that “you shall not come across any important event [in history], except that a woman has played a part in it.” Therefore, Shīrāzī accepts that God commands women to cover themselves so that it safeguards men from any psychological damage that impacts the social order of the world.²

In contrast, recent years have witnessed the emergence of many progressive Muslims and feminist movements that contend against the traditional Sharia understanding of female covering. They essentially question why it is the responsibility of women to cover their hair and body so that it safeguards the interests of some lustful men? This question has become particularly important in the contemporary age, as the traditional Sharia requirement of wearing a headscarf (which is one of the fundamental aspects of female covering) has been subjected to much contention. There are numerous reports from Muslim women that illustrate instances of them being pressurised and forced by domestic and/or official authority to both observe or not observe the traditional Sharia requirement of wearing a headscarf. There are also reported instances of where the headscarf (or the lack of it) has caused them to suffer from discrimination and abuse in social-communal settings and workplaces.

In this paper, we will discuss whether there is scope to reassess the traditional Sharia understanding of female covering, in particular its requirement of the headscarf. We do this by first examining the verses of the Quran that refer to female covering and analyse how prominent works of Qur’anic exegeses (*tafsīr*) discuss the context in which they were originally revealed. We then present how these verses have been understood and interpreted using three distinctive approaches: the orthodox Shiite juristic approach, the progressive Muslim contextual approach, and the existential approach. This paper will show that each one of these distinct approaches leads to different Sharia regulations (or outcomes) regarding female covering.

¹ Murtaza Mutahhari, *On the Islamic Hijab*, (International Publishing: Tehran, 1961) 53

² Nāṣir Makārim al-Shīrāzī, *180 Questions; Enquiries about Islam*, (World Federation of KSIMC: London, 2005) 90.

Female Covering in Quranic Verses

The analysis of any Islamic theme primarily begins with study of the Quran, as all Muslims theologically accept that it contains the words of God that were revealed to His messenger, the Prophet Muḥammad. There are three verses in the Quran that refer to female covering, and the specific terms they use to describe aspects of female covering are *ḥijāb*, *jalābīb* and *khumur*.

Hijāb

In 33:53 the Quran mentions:

“Believers enter not the houses of the Prophet without his permission, nor wait for a meal to be prepared; instead enter when you are invited to eat, and when you have had the meal, disperse. Do not linger in idle talk. That is hurtful to the Prophet, but he does not express it out of shyness; but Allah is not ashamed of speaking out the Truth. And if you were to ask the wives of the Prophet for something, ask from behind a *ḥijāb*. That is more apt for the cleanness of your hearts and theirs. It is not lawful for you to cause hurt to Allah's Messenger, nor to ever marry his wives after him. Surely that would be an enormous sin in Allah's sight.”

In this verse, God instructs believers that if they require anything from one of the wives of the Prophet, then they must make a request from behind a *ḥijāb*. In accordance with the famous 11th century Arabic dictionary of Quranic terms by al-Rāghib al-Iṣfahānī (d. 1108), entitled *al-Mufradāt fī Gharīb al-Qurʿān*, the term *ḥijāb* is defined as a partition or a curtain from behind which you cannot see a speaker.³ Exegesis of the Quran accept that this verse was revealed to believers to address the way they interacted with the Prophet in his personal space. This verse does not specifically stipulate the way Prophet's wives ought to cover, rather it generally stipulates that they should only be spoken to by others from behind a partition or a curtain.⁴ According to Makārim Shīrāzī, when this command was revealed, the wives of the Prophet drew curtains over the doors of their homes, and following them, other Muslim women at the time also emulated this practice.⁵ Nevertheless, Muslim jurists do not primarily take recourse to this verse to establish the Sharia requirements of female covering, as they claim that it specifically addresses the wives of the Prophet.

Jalābīb

In 33:59 the Quran stipulates:

“O Prophet enjoin your wives and your daughters and the believing women, to draw a part of their *jalābīb* around them. It is likelier that they will be recognised and not molested. Allah is Most Forgiving, Most Merciful.”

Unlike the above verse, in this verse God is commanding all Muslim women to cover their bodies with a part of their *jalābīb* so that they can be distinguished in society and protected from molestation. In *al-Mufradāt*, Iṣfahānī explains that the term *jalābīb* (sing. *jilbāb*), refers

³ Al-Rāghib al-Iṣfahānī, *Mufradāt al-Alfāz al-Qurʿān*, (Dār al-Qalam: Damascus, 2009) 221

⁴ See Abū ʿAlī al-Ṭabarāsī, *Majmaʿ al-Bayān fī Tafṣīr al-Qurʿān*, (Naser Khosrow Publications: Tehran, 1993) 8:576; Abū Jaʿfar al-Ṭabarī, *Jāmiʿ al-Bayān fī Tafṣīr al-Qurʿān*, (Dār al-Maʿrifā: Beirut, 1991) 22:27

⁵ Nāsir Makārim Shirāzī, *al-Amthal fī Tafṣīr kitāb Allah al-Munzal*, (Madrassa Imam Ali b. Abi Talib: Qum, 2000) 13:329

to a loose outer garment and the headscarf.⁶ According to many exegeses, this verse was revealed in Medina, when some Muslim women complained to the Prophet about being sexually harassed by a group of men whilst on their way to the mosque for evening congregation prayers. When the Prophet enquired further, these men explained that they had been unaware that the women they harassed were Muslim and believed them to be slave girls. As result, the verse was revealed to the Prophet, instructing him to inform all Muslim women to cover themselves with loose garments so that they can be distinguished within society and avoid any type of harassment or sexual objectification.⁷

It is important to note that since the meaning of *jilbāb* appears to be of debate (i.e., it can either refer to a loose garment or to a loose garment and a headscarf), Muslim jurists do not normally exclusively rely on this verse to establish the obligation of female covering. Rather, this verse is usually used as supporting evidence.

Khumur

In 24:31 the Quran stipulates:

“And enjoin believing women to cast down their looks and guard their private parts and not reveal their adornment except that which is revealed of itself, and to draw their *khumur* over their bosoms, and not to reveal their adornment save to their husbands, or their fathers, or the fathers of their husbands, or of their own sons, or the sons of their husbands, or their brothers, or the sons of their brothers, or the sons of their sisters, or the women with whom they associate, or those that are in their bondage, or the male attendants in their service free of sexual interest, or boys that are yet unaware of illicit matters pertaining to women. Nor should they stamp their feet on the ground in such manner that their hidden ornament becomes revealed. Believers, turn together, all of you, to Allah in repentance that you may attain true success.”

In this verse, God instructs Muslim women to cover themselves by drawing their *khumur* (sing. *khimār*) over their chests in front of unrelated men. Many exegeses of the Quran describe the meaning of *khimār* to be a headband⁸, although it is important to note that the term *khumur* is also used to refer to male turbans.⁹ Prior to the advent of Islam, Arab women would normally wear a type of headband/turban that was tied in a knot at the rear of their head and covered their chest with a thin shirt whose slit would remain partially open, exposing their neck and the upper part of their bosom. After this verse was revealed, women untied the knot of their *khimār* and drew down its flaps to cover their chest. Works of exegeses point out that this verse was revealed in response to an incident in Medina concerning a young man who began to look at a woman wearing a *khimār* that was passing by. The man started to follow the woman, and because his gaze was fixed on her, he walked into a protrusion sticking out of a wall that caused his face to bleed profusely. This man later narrated this incident to the Prophet, which led to this verse being revealed, instructing Muslim women to lower the flaps of their *khimār* to cover their chests.¹⁰

⁶ Rāghib al-Iṣfahānī, *Mufradāt*, 199

⁷ See Makārim al-Shīrāzī, *al-Amthal*, (Muassasa Bi'tha: Beirut, 1996), 13:320-327; Muḥammad Ḥusayn Tabāṭabā'ī, *al-Mīzān fī Tafsīr al-Qurān*, (Mu'assasat al-Nashr al-Islāmī: Qum, 1996), 16:344

⁸ Tabāṭabā'ī, *al-Mīzān*, 15: 112

⁹ See Ibn Manẓūr, *Lisān al-'Arab*, (Dār Sadir: Beirut, 1994), 4:258; Also see Murtaḍā al-Zabīdī, *Tāj al-'Arūs*, (Dār al-Fikr: Beirut, 1993), 6:366

¹⁰ Tabāṭabā'ī, *al-Mīzān*, 15:116; Ḥurr al-'Āmilī, *al-Wasā'il al-Shī'a: Kitāb al-Nikāḥ*, (Mu'assasat Āl al-Bayt: Qum, 1996) 20:192; Hāshim Bahrānī, *Al-Burhān fī Tafsīr al-Qur'ān*, (Dār al-Bithat: Tehran, 1995), 4:59

Female Covering in Orthodox Fiqh

Fiqh is described as the fallible human endeavour of understanding Sharia from its sources or evidence. In accordance with Shiites, all Sharia regulations exist in the Mind of God or the objective reality (*wāqi'*), and it is the job of a learned jurist (typically a male who has had several years of seminary (*hawza*) education), to infer and disseminate them amongst the Shiite grassroots. The *fiqhī* (or jurisprudential) discourse in Islam is undoubtedly very important, as the clerical class of jurists (also known as *fuqaha'* or *mujtahids*) today represent the voice of Islamic (both Shiite and Sunni) orthodoxy. Alternative scholarly opinions that go against the claim of orthodox jurists are usually categorised as being heterodoxic, or at times even heretical, by both jurists and their grassroots followers.

In Shiite *fiqh*, the issue of female covering is prominently found in the Chapter of *Nikāh* (marriage) under the section of *ahkām al-naḍr*, which discusses regulations concerning the limits upon how human beings' may observe one another depending on their familial and social status. Contemporary jurists agree that both males and females are prohibited to observe one another's nakedness if they are non-mahram (or unrelated).¹¹ As such, they conclude that it is obligatory for people falling in this category to cover their nakedness (*'awra*). Shiite jurists usually claim that a man must cover his nakedness by covering the space between his navel and knees, whereas a woman must cover her nakedness by covering her whole body and hair. They primarily deduce this requirement by taking recourse to the apparent indication of Quran 24:31, which in their opinion lays down the following injunctions:

1. It commands both men and women to lower their gaze.
2. It commands both men and women to guard their private parts (*furūj*) or their nakedness.
3. It commands Muslim women to cover their bosoms with their *khimār*.
4. It commands Muslim women to cover everything except that which is revealed of itself.

Shaykh Bāqir Irwānī (b. 1949), in his work on demonstrative *fiqh*, explains that by ordaining Muslim men and women to “cast down their looks,” God wants them to cover their nakedness as opposed to physically lowering their gaze.¹² Orthodox Muslim jurists propose that firstly, the hair and top half of the body is clearly included in a woman's nakedness that must be covered, as verse 24:31 ordains Muslim women to “draw their *khumur* over their bosoms.” As the verse moves on to state that: “[females should] not reveal their adornment except that which is revealed of itself,” jurists also maintain that in addition to their hair and bosoms, females must cover their entire body. Accordingly, they conclude that to conceal her nakedness, a woman must cover her hair and the top and bottom halves of her body, and so the only areas that Sharia allows her to keep uncovered are her face and hands.¹³ Jurists normally justify this requirement by referring to traditions such as:

¹¹ The different categories of relationships are specified in Quran 24:31

¹² Bāqir Irwānī, *Durūs Tamhīdiyya fi-l Qawā'id al-Fiqhiyya*, (Mu'assasat al-Fiqh: Qum, 1996), 3:24-25

¹³ For instance, see Muḥammad Kāzīm al-Yazdī, *al-'Urwat al-Wuthqa*, (Mu'assasat al-Nashr al-Islāmī: Qum, 1998) 5:487. It is important to know that some Shiite jurists also opine that in addition to her hair and body, a female must also cover her face and hands. For instance, see 'Abd al-Ā'la al-Subzawārī, *Madhab al-Ahkām fi Bayan al-Halāl wa-l Ḥarām*, (Dār al-Tafsīr: Qum, 2008) 5:231

It is reported that Ali b. Jaffer asked his brother [Imam Musa al-Kazim (d.)] about what is permissible for a man to overserve of an unrelated female? The Imam said: her face and her palms.¹⁴

It is clear that based on the literal or apparent (*ẓāhir*) indication of Quran 24:31 and the reported tradition(s) of the infallible Imams, Shiite jurists conclude that as soon as a free Muslim female reaches the age of *bulūgh* (maturity),¹⁵ she must cover her hair and her entire body except for her face and hands in front of all unrelated men.

It is important to note that orthodox jurists make a distinction between free and slave Muslim women, and Muslim and non-Muslim women. They claim that the extent of covering required for a slave woman or a non-Muslim woman differs to that of a free woman.¹⁶ They justify this by taking recourse to Quran 33:59 in which God tells the Prophet to ordain believing women to draw a part of their *jalābīb* (a loose garment) around them so that they can be distinguished from other women in society.¹⁷ Although disputed, some orthodox jurists claim that slaves or non-Muslim women (who live in an Islamic empire) are not required by the Sharia to wear the *jilbab* and/or the *khimar* in front of unrelated males.¹⁸ Interestingly, with regards to the devotional practices of daily prayers (*ṣalāt*) slave women are not required to cover to the same extent as free Muslim women, even when they are alone.¹⁹

Female Covering by Progressive Muslims

Many progressive Muslims and feminists assert that the literalist approach favoured by orthodox Muslim jurists in reading and understanding the primary sources of the Quran and *sunna* significantly hinders their ability to adequately address and respond to numerous modern-day challenges experienced by grassroots Muslim's worldwide.²⁰ They contend that one of the main problems with taking a literalist approach is that it prevents jurists from examining the original context within which the divine ordinances were revealed. Consequently, such an approach may lead a jurist to inferring inaccurate Sharia regulations (i.e., those that do not correspond with Sharia regulations that are in the Mind of God or the objective reality), and thereby their true intended purpose is overlooked.²¹

¹⁴ Muḥammad Hassan al-Najafī, *Jawāhir al-Kalām fī Sharḥ Sharā'ī al-Islām*, (Dār Iḥyā' al-Turāth al-Arabi: Beirut, 1981), 29:75; Ḥurr al-'Āmilī, *al-Wasā'il al-Shī'a*, 20:202

¹⁵ For further details on the Sharia understating of *bulūgh* see International centre for Collective Ijtihād, *What is the age of bulūgh for boys and girls in Islam?* <https://www.collectiveijtihad.org/blog/age-of-puberty>, 2018 [accessed 29 March 2021].

¹⁶ For instance, see Yazdī, *al-'Urwat al-Wuthqa*, 5:485; Muḥaqqiq al-Ḥillī, *Sharā'ī al-Islām fī Masā'il al-Ḥalāl wa-l Ḥarām*, (Mu'assasat al-Isma'īliyyān: Qum, 1987) 1:60; Abū Qāsim al-Khū'ī, *al-Mabānī fī sharḥ al-'Urwat al-Wuthqa*, (Mu'assasat Iḥyā' Āthār al-Imām al-Khū'ī: Qum, 1998), 2:24-28

¹⁷ For instance, see Fāḍil Lankarānī, *Tafṣīl al-Sharia fī sharḥ Taḥrīr al-Wasīla (Kitāb al-Salāt)*, (Markaz Fiqhī: Qum, 2008), 2:35; In addition to the verse, al-Khū'ī also points towards the following tradition: “the Prophet said that: It is not forbidden to look at the hair and the arms of a non-Muslims” see Khū'ī, *al-Mabānī fī sharḥ al-'Urwat al-Wuthqa*, 2:24

¹⁸ For instance, see a recent publication entitled *'Urwat al-Wuthqā wa ta'liqāt 'alayhā*, which goes over forty-one different commentaries on *'Urwat al-Wuthqā* by modern Shī'ī jurists. Muḥammad Kāzīm al-Ṭabātabā'ī al-Yazdī, *'Urwat al-Wuthqā wa ta'liqāt 'alayhā*, 13 vols. (Qum: Mu'assasat al-Sibṭayn, 2016), 6:215-216

¹⁹ See *Ibid*, 215; al-Ḥillī, *Sharā'ī al-Islām*, 1:60; Ḥurr al-'Āmilī, *al-Wasā'il al-Shī'a*, 4:410.

²⁰ Hashim Bata, “Reassessing the Pivotal Role of Certainty in Modern Shī'ī Uṣūlī legal method” in *Visions of Sharī'a*, (Brill: Leiden, 2020), 26-57; Ali Paya, *Islam Modernity and the New Millennium; Themes from a Critical Rationalist Reading of Islam*, (Routledge: Oxford, 2019), 82-101.

²¹ For more details please see Arif Abdullhussain, *The Conflict between the Actual and Apparent Regulations*, <http://www.shaykharif.com/blog/the-conflict-between-the-actual-and-apparent-regulations?categoryId=24615>, 2019 [Accessed 30 March 2021].

With regards to the Sharia regulations concerning female covering, some progressive Muslims point out that the works of exegeses, together with other sources (such as historical accounts of the wider context during the time of revelation), elucidate that the aforementioned verses of the Quran were solely revealed to protect women from harassment and sexual objectification by mischief mongers, rather than to create an identifiable Muslim dress code or safeguard society from sexual evils (as mentioned by the likes of Mutahhari and Shīrāzī).²² Progressive Muslims usually substantiate this claim by illustrating that if the Sharia's purpose was to create a Muslim dress code or to safeguard society from sexual evils, then it would have ordained **all** women within the Muslim empire to dress in a specific manner. However, many sources (including the works of orthodox *fiqh*) highlight that Muslim female slaves were not required to cover to the same extent as Muslim females that belonged to the upper classes of society.²³ Moreover, sources also illustrate that the Prophet allowed non-Muslim females to dress according to the requirement of their scriptures and religious cultures. Accordingly, they were free to choose the extent of covering that they deemed was appropriate for them; some may have covered their entire body, whilst others may have showed parts of it.

With regards to the specific Sharia requirement of covering one's hair (or wearing a headscarf), Nasr Hamid Abu Zayd (d. 2010), an Egyptian liberal theologian, and Khaled Abou el Fadl (b. 1963), a Muslim academic and seminary-educated scholar, both assert that it is not essential.²⁴ They infer this by claiming that the term *khimār* in Quran 24:31 is unclear. For instance, el Fadl points out that some orthodox scholars say that *khimār* refers to a piece of cloth that covers the hair, others some say that it refers to something that covers both the hair and face. According to him however:

In my view, and God knows best, both schools of thought—that which contends that the *khimār* covers the face, and that which contends that the *khimār* covers the hair but not the face—are ahistorical in presuming the existence of an historical practice that has not been proven. The evidence that the *khimār* in pre-Islamic Hijaz covered the face or covered the hair is simply not there. The only thing that the verse allows us to say conclusively is that Muslim women were called upon to draw a piece of cloth (*khimār*) over the *juyūb* (bosoms)—whether it covered the hair or the face, we don't know. In other words, the Qur'an in this verse calls upon women to cover their bosoms. Anything beyond that would require extensive research into the social practices of *khimār* dressing at the time of revelation, and the historical evidence is far more diverse and complex than many contemporary scholars assume it to be.²⁵

²² For instance, see Abou El Fadl, *The Search for beauty; on beauty and reason in Islam*, <https://www.searchforbeauty.org/2016/01/02/fatwa-on-hijab-the-hair-covering-of-women/>, 2016 [Accessed 30 March 2021]; Ziba Mir-Hosseini, "The Politics and Hermeneutics of Hijab in Iran; From Confinement to Choice," *Muslim World Journal of Human Rights*, 2007, 4 (1) 1-17; Leila Ahmed, *Women and Gender in Islam* (New Haven & London: Yale University press, 1992), 14–60, 144.

²³ It is important to note that female slaves (Muslim and non-Muslim) were seen as sexual commodities and were not allowed to cover themselves. Before being brought the bodies of female slaves were first examined. Myrne Pernilla claims that jurists belonging to the Hanafī school of jurisprudence allowed potential male buyers to uncover and touch a female slave's arms, breasts, and legs. This is also pointed out by El Fadl who claims that the second Caliph Umar prohibited female slaves to cover their hair so that they would not resemble free women. See Myrne Pernilla, "Slaves for Pleasure in Arabic Sex and Slave Purchase Manuals from the Tenth to the Twelfth Centuries," *Journal for Global Slavery* 4 (2) 196-225; Khaled Aboud El Fadl. *Speaking in God's Name: Islamic Law, Authority and Women*, (Oneworld Publication: Oxford, 2001).

²⁴ See Nur Zainatul Nadra Zainol et al, "Nasr Hamid Abu Zayd as a Modern Muslim Thinker," *International Journal of Islamic Thought*, 2014, 5(1), 63-68; El Fadl, *The Search for beauty*.

²⁵ *Ibid*

El Fadl understands that the headscarf is not “a core part of Islamic faith,” but rather it is “symbolic to Islamic identity.” Although he rightly points out that there is no access to early sources that determine what is exactly meant by the term *khimār*, it is important to note that as mentioned previously the early dictionaries of the Quran, the earliest of which came into existence at least three-hundred years after the revelation of the Quran, define the term *khimār* as a headscarf or some kind of a headgear.²⁶ Some say that covering a person’s head (whether they are male or female) was (and remains) an essential trend in Arabian regions due to the severity of weather conditions.²⁷ People residing in extremely hot regions typically wear some type of headgear to protect themselves from the sunlight. Considering this then, it is not farfetched to conclude that even if the *khimār* refers to a headscarf, covering the head (or hair) is not an essential requirement of the Sharia, for if it was then God would have clearly stipulated that Muslim females must cover their hair and bosoms with the *khimār*.

Leila Ahmed, in *Women and Gender in Islam*, gives the impression that after the revelation of the aforementioned verses of the Quran, Muslim females (i.e., free women) welcomed and accepted the requirements of covering and felt liberated through it. The reason for this was because veiling or covering the female body was practiced by aristocratic members of the wider society near the era of revelation. It was first introduced in the Mesopotamian region within the Middle East by the Assyrians, who prescribed that the wives and daughters of seigniors had to veil themselves in front of unrelated men, whilst harlots and slaves were forbidden to veil themselves in front of unrelated men. Ahmed highlights that the practice of veiling allowed Assyrians to distinguish between respectable women and those that were sexually available. With the passage of time, various conquests, and cross-cultural interactions, this practice became increasingly adopted within other regions of the Middle East as a distinct social norm of aristocrats. Accordingly, when the Quran ordained female covering, it was readily adopted by free Muslim women because it elevated their social status.²⁸

Considering the context in which the abovementioned verses were revealed, progressive Muslims correctly point out that there no longer exists a societal distinction between free and slave women. As such, they conclude that although Sharia requires both males and females to cover their private parts, or their nakedness, the extent of covering that a woman chooses to adopt is her choice so long as it is deemed to be modest. For instance, el Fadl in his edict (*fatwa*) on *Hijab* claims that:

It bears emphasis that if one takes both Qur’anic revelations, what seems clear to me is that the Qur’an is placing great emphasis on modesty and humility. The narratives on *khimār* and *jilbāb* do not necessarily generate the kind of uniform and determinative headgear and attire known as the *hijab* in our contemporary age... In my view, humility, modesty, and personal piety are far more worthy in Allah’s eyes than any formal physical attire regardless of its sanctified appearance.²⁹

The contextualist approach usually favoured by progressive Muslims impresses that the practice of wearing a headscarf (or the orthodox juristic requirements of Muslim female covering) may have been justified during the time of revelation. However, this practice can no longer be justified in today’s context and therefore it cannot be domestically or nationally imposed upon women under the guise of divinely ordained Sharia regulations.

²⁶ Ibn Manẓūr, *Lisān al-‘Arab*, 4:258; al-Zabīdī, *Tāj al-‘Arūs*, 6:366

²⁷ Norman Stillman, *Arab Dress from the Dawn of Islam to Modern Times: A Short History*, (Brill: Leiden, 2000) 10

²⁸ Ahmed, *Women and Gender in Islam*, 14–60

²⁹ El Fadl, *The Search for beauty*

An Existential Approach to Female Covering

The existential approach is found upon the fundamental premise that everything that exists (including human beings) is in a perpetual and fluctuating state of growth. As existence experiences growth, it becomes more aware (or conscious) of itself and thereby unravels a deeper connection with that which it subsists through (i.e., God). Within the existential approach, the Sharia is understood as being a catalyst that facilitates Muslims in attaining growth. The human understanding of Sharia regulations (or *fiqh*) can fluctuate depending on the level of growth human beings attain individually and socio-communally. Therefore, the existential approach advocates that there is no finality in the human understanding of Sharia, and thus the efficacy of Sharia regulations needs to be constantly evaluated and assessed in relation to different human contexts.³⁰

The hermeneutical method of interpretation that the existentialist approach endorses to evaluate and assess the efficacy of Sharia regulations is that it makes a distinction between the ‘essence’ and the ‘form’ of divine ordinances found in the Quran and *sunna*. The essence refers to universal values conveyed in the Quran and *sunna*, whose efficacy transcends the original context of revelation. Meanwhile, the form refers to literal values conveyed in the Quran and *sunna*, whose efficacy is limited to the context of revelation or to a context that is like the context of revelation. The existentialist approach admits that during the period of revelation (in 7th century Arabia), it was not easily conceivable to make a hermeneutical distinction between essence and form of divine ordinances. This is because during the period of revelation, the ‘form,’ or the literal meaning of Quran and *sunna*, lucidly conveyed the ‘essence,’ or the universal values intended by God (or His Sharia). However, significant advancements in the general fields of technology, research, and social politics, have created a major gulf between the context of revelation and the present-day context. Accordingly, the distinction between the ‘essence’ and ‘form’ of divine ordinances is today more profound than ever before, implying that in today’s age the form, or the literal indication, of Quran and *sunna* does not always accurately convey (or represent) the universal values intended by God.

When it comes to the question of female covering, the ‘essence’ (or the essential values) that can be inferred from the verses of Quran, together with the accompanying *sunna* of the Prophet and infallible Imams, is that Sharia ordains female covering because 1) it conceals their nakedness or their private parts, and 2) it protects them from being harassed and sexually objectified. Both values are universally important and applicable. They transcend the original context of revelation and are pertinent to different cultures and regions around the world. No matter what context a woman (or a man) emerges from, most societal structures dictate that human beings should cover their nakedness (or their private parts) in public for various reasons; ranging from being a practice that curtails sexual promiscuity in society, to being an indicator of a person’s level of modesty and dignity. Moreover, different cultures and regions universally agree that women (or even men) should be protected in society from being harassed and sexually objectified.

The ‘form’ of female covering that was stipulated during the period of revelation encapsulated both the aforementioned essential values of Sharia. It seems that the Sharia made a threefold distinction of categories of women based on what social class they belonged to, and for each category it stipulated a different ‘form’ of covering:

³⁰ For more information on the existential approach please see Arif Abdulhussain *The Conflict between the Actual and Apparent Regulations*; Arif Abdulhussain, *Islam and God Centricity: A Theological Basis for Human Liberation*, (Sajjadiyya Press: Birmingham, 2017).

1. The first category of women consisted of the wives and daughters of the Prophet. This category represented the highest social class of women during the period of revelation. Women belonging to this category were not only ordained to cover themselves with the *khimār* and the *jilbāb* in front of unrelated men but were also exclusively ordained (in Quran 33:53) to communicate with them from behind a veil (*hijab*).
2. The second category of women consisted of free Muslim women. This category represented the middle social class of women, who were ordained to cover themselves with the *khimār* and the *jilbāb* in front of unrelated men but were not ordained to communicate with them from behind a veil.
3. The third category of women during the period of revelation were slave Muslim women. This category of women represented the lowest social class of women, who were required to cover their nakedness, or their private parts, in front of unrelated men but not to the same extent as free Muslim women or the wives and daughters of the Prophet.

Considering that this three-fold distinction is no longer prevalent in the present-day context, it is tempting to conclude (as many progressive Muslims have) that the ‘form’ of covering stipulated by the Sharia during the period of revelation is no longer universally applicable in the way it was originally ordained. Although at first glance this view may seem appealing, the question that remains unanswered is what *does* constitute as a respectable and Sharia-compliant female dress code in today’s age? Or, in other words, what exact part(s) of the body must a Muslim female cover to ensure that she is not perceived as being ‘naked’ and is thus abiding by the essential requirements of Sharia?

In response to this, the existential approach advocates that although the Quran essentially commands females (and males) to cover their nakedness, an understanding of what constitutes as ‘nakedness’ is contingent upon the socio-cultural attitudes of different regions. Certain regions around the world, rightly or wrongly, consider a woman to be respectful and dignified if she covers her whole body and hair; and undignified, naked, or even sexually available, if she does not. As the context of such regions (or subregions³¹) share similarities with the original context of revelation, an existential approach would deem that Sharia would require women to cover their hair and body when they are in such places, as this would cautiously protect them from any type of harassment or sexual objectification. Meanwhile, certain other regions around the world, rightly or wrongly, do not consider a woman to be respectful or dignified based on the way she dresses or the extent to which she covers herself. In such regions, an existential approach to the Sharia would allow women to have discretion to consciously choose the extent to which they cover, so long as it is deemed as being dignified in their locality and cautiously protects them from harassment and sexual objectification.

Therefore, Sharia is fluid with regards to the ‘form’ of female dressing, so long as the ‘essence’ of covering one’s nakedness and being protected from harassment or sexual objectification is fulfilled. It allows different regions around the world to define what is deemed as ‘nakedness’, or a respectful and dignified extent of covering, in accordance with their socio-cultural conventions that are normally constructed on the bases of various political, economic, educational, and technological factors.

³¹ There are certain regions around the world that do not judge women as being naked if they reveal certain parts of their body or hair. However, within these regions there can exist subregions that may consider women as being naked if they are to display parts of their body or hair. For instance, the law in UK does not consider women as being naked if they display their hair. However, there are subregions within UK, such as some places of worship, where a woman can be considered naked if she displays her hair.

Conclusion

The purpose of this paper has been to discuss if there is scope to reassess the traditional Sharia understanding of female covering, and in particular its requirement of the headscarf. The paper has presented how Qur'anic verses concerning female covering are understood and interpreted using three distinct approaches and how each approach leads to distinct Sharia regulations (or outcomes).

In accordance with the orthodox juristic approach, which favours a literalistic reading of the Quran and *sunna*, Sharia ordains women to cover their hair (and entire body) in front of unrelated men. According to orthodox jurists, this regulation is universal and thus applicable across differing socio-cultural contexts.

On the other hand, the progressive Muslim approach usually favours a contextual reading of Quran and *sunna*. As such, many of its advocates normally assert that Sharia regulations regarding female covering were originally revealed in a socio-cultural context that no longer exists today, thereby purporting that Sharia does not ordain present-day women to cover their body and hair, but rather it allows women to choose what they want to wear so long as it is dignified.

The existential approach in our opinion provides a centralist position in comparison to the orthodox juristic and progressive Muslim approaches. It upholds that Sharia is fluid with regards to the 'form' of female covering, so long as the 'essence' of concealing one's nakedness and being protected from harassment and sexual objectification is fulfilled. It allows different regions around the world to have their own understandings and definitions of 'nakedness', or what they consider to be a respectful and dignified extent of covering, based on their socio-cultural conventions. With regards to the headscarf, if a woman belongs to or resides in a context wherein the socio-cultural convention considers her 'naked' or undignified if her hair is uncovered, then Sharia would require her to wear a headscarf. However, if she belongs to or resides in a context wherein the socio-cultural does not consider her 'naked' or undignified if her hair is displayed, then Sharia would allow her to use her discretion and choose if she wants to wear or not wear a headscarf.

The fact that different approaches to the Quran and *sunna* lead to different Sharia outcomes, a key challenge for Muslim men and women today is how they choose to hermeneutically approach the Quran and *sunna* and thereby infer and interpret the Sharia injunctions contained within them. Perhaps the optimal way for an individual to make this choice is through assessing which of the approaches resonates with his or her broader worldview and relationship with God.