Quraanic Notion of *Hijab* & Constitution of 'Islamic Republic of Pakistan'

*Aftab Aalam
**Aayesha Rafiq

Abstract

Hijaab[1], practice of modest dressing by women as prescribed in Quran, is not only prescribed for Muslims. This practice is also found among the adherents of other revealed religions and is practiced in ethically civilized societies till now. Islam, being the best well wisher of humanity, presents obvious rulings regarding in-door and outdoor dress code in Surah Al-Noor and Surah Al-Ahzaab to be adopted by the citizens of a civilized/Muslim societies. Pakistan, being an Islamic Republic, presents no specific rulings or provision regarding Hijaab neither in its Constitution nor in its legal codes. It is observed that the constitution of Islamic Republic of Pakistan propagates Islam in general tone but does not communicate specifically what Qur'an conveys in the form of express injunctions to be adopted by Muslim community as far as dress code is concerned. Furthermore, Pakistan's Penal Code also does not provide any penalties for improper dress code. Constitution of Pakistan and Legal codes of Pakistan do not admonish or lay down penalties for gazing or staring for both men and women, and exhibiting of ornaments and finery by the women at public places.

Keywords: *Veil, Hijaab,* Constitution of Pakistan, Modesty in Qur'an, Stay At Home, Required Amendments, Rules

Introduction:

History of man evidenced that Greece had a great civilization. Of course, in all spheres of life i.e. moral values, legal rights and social treatment, the position of women was very low in early age of that society. In Greece mythologies, an imaginary women, Pandora, was declared as a cause of whole problems of humanity. In the early developing age of Greece civilization, with the increase of knowledge, the social status of women enhanced. Gradually, woman was regards as the 'Queen of home'. She was restricted in the boundary of house. In gentle families, the houses were distributed into two separate parts i.e. men's part and women's part. Those women did not take part in mix meetings and did not come in public generally. This is the description of Greek society when they were powerful. This community got such stature that no evidence found throughout history of mankind. Philosophers, poets, historians, thinkers, writers and artists were found in their processions.

*Visiting, Assistant Professor, Department of Islamic Studies, Fatima Jinnah Women University, Rawalpindi.
**Head of Department, Department of Islamic Studies, Fatima Jinnah Women University, Rawalpindi.

Such a time came that even important political decisions were finalized in the presidency of such women. Women goddesses were held in high esteem and their religion also bowed down before this mentality and goddess Aphrodite was worshiped. So mentality can be judged of that nation in that period. History tells that Greece could not achieve stand again afterward. [2]

This article delves around the injunctions of Islam and articles of Constitution of Islamic Republic of Pakistan & Pakistan Penal Code regarding modesty in dress code. Pakistan is a country that announced itself as a State established on the basis of Religion of Islam. Quran carries the status of Constitution for Muslims, however many of its teachings and injunctions are long forgotten by Muslim communities.

Before we ensue further it is pertinent to explain the Arabic terms *Hijaab*. Literally speaking *Hijaab* means 'to cover'. Terminologically, it means to be modest in clothing, which covers a woman's head, hair and full body.

Now, if it is declared that Pakistan is an Islamic State, then what does its Constitution and Penal Code say about *Hijaab*, full body covering dress in public and in house privacy? *Quraan*, the revealed book of Islam, has clear-cut and obvious rulings about these issues in Surah Al-Noor Aayat No. 30, Surah Al-Ahza'b, Aayat No. 32-33 & 59, which conveys specific and up to the mark laws and regulations regarding dressing especially for women and generally for men in public and code of conduct about casting down the looks (veiling system) etc. This article analyzes what are similarities, differences or ambiguities between these two sources of Law implemented in Pakistani society.

Hijaab in Quraan:

Quraan, the revealed Book holds highest status in Islam, which gives rulings general and specific both. These rulings demand rational thinking; Islam cannot be followed blindly, if it is not the complete picture of Islam. Rational thinking needs reasoning at each step of matter. That is why, Maududi said in his book, 'It is rational law, and to follow it rightly one needs to exercise reasons and understanding at every step.' [3]

Quraan in comparison with modern society and free intermingling of the men and women presents solutions for all moral diseases of a society and ways of abstinence from them. [4]

No civilized society can tolerate open immorality. Recently millions of viewers were outraged by the show featured in the recent season premiere episode of 'Civil War' (ABC, Sep 30). [5]

On the other hand, in the eyes of Allah, these general instructions cannot fulfill the need of an Islamic society, so Almighty Allah gives us the specific instructions, code and ruling for dresses, casting down the looks and modest behavior in public. Following are the texts from *Surah Al-Noor* and *Surah Al-Ahzab*, which throw light on *Quranic* concept of veil/Hijaab.

Surah Al-Noor, Verse No. 30

"*Tell the believing men to lower their gaze (from looking at forbidden things), and protect their private parts (from illegal sexual acts, etc.). That is purer for them. Verily, Allah is All-Aware of what they do."* [6]
Surah Al-Noor, Verse No. 31

"And tell the believing women to lower their gaze and be modest, and to display of their adornment only that which is apparent, and to draw their veils over their bosoms, and not to reveal their adornment save to their own…" [7]
Surah Al-Ahza'b, Verse No. 32

"O wives of the Prophet, you are not like anyone among women. If you fear Allah, then do not be soft in speech [to men], lest he in whose heart is disease should covet, but speak with appropriate speech." [8]
Surah Al-Ahza'b, Verse No. 33

"And stay at home, and do not deck your selves with ostentation as in the days of paganism ....." [9]
& Surah Al-Ahza'b, Aayat No. 59

O Prophet, tell your wives and your daughters and the women of the believers to bring down over themselves [part] of their outer garments. That is more suitable that they will be known and not be abused. And ever is Allah Forgiving and Merciful.[10]

Qura'n conveys direct rules 1) lower their eyes both men and women, 2) guard their private part both men and women, 3) do not display their charms, 5) do not walk stamping their feet, 6) do not be too obliging in speech 7) stay at home, 8)

draw their wraps for women in context with veiling system in an Islamic society especially and in any human society generally.

Veil & Hijab in the Constitution of Pakistan:

Preamble of the Constitution:

Fourth Para: Wherein the principles of democracy, freedom, equality, tolerance and social justice, as enumerated by Islam, shall be fully observed.[11]

Preamble of the Constitution has optimal and clear-cut directions that enumerated preaching in Qura'n and Sunnah shall be fully observed. Such atmosphere will be created that all individuals and collective groups of citizen can act upon these preaching. Government guaranteed that fundamental rights of even minorities would be preserved and they will be free for professing and practicing their religions. One thing, it is also stated that minorities have provision through the Constitution of Pakistan that they can also develop their own non-Muslim culture in this country.

Articles in Constitution:

Part I "Introductory"

Article No. 1, Clause: 1, "Pakistan shall be Federal Republic to be known as the *Islamic Republic of Pakistan*.

Islam to be State religion:

Article No. 2, "*Islam shall be the State religion of Pakistan*".

These Articles declare that Islam shall be the religion of the state and the complete name of the state will be Islamic Republic of Pakistan.

Inviolability of Dignity of man, etc:

Article No. 14: Clause: 1, "The dignity of man and, subject to law, *the privacy of home*, shall be inviolable." [12]

This Article affirms that each citizen of this state has dignity and the privacy of his home (in-house veiling system) is sacred and unbreakable.

Alongside this, if we ponder over these articles, we find that framers of the Constitution were trying to flee away from religion and its commandments.

This the reason, why we cannot find even single specific Rule of Islam regarding any sphere of life i.e. Halal, Haram, Promise, Dress, or Casting down the looks, etc.

Islamic Way of Life:

Article No. 31, Clause: 1, "Steps shall be taken to *enable the Muslims* of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam." [13]

Sub Clause: b, "To promote unity and the observance of the *Islamic moral standards*" [14]

This Article depicts clearly the preamble of the Constitution, which puts responsibility on Government that it should takes steps to make the lives of its citizen according to the preaching's of Islam and Islamic moral standards.

This Article also pours a heavy responsibility over the shoulders of state that it will protect the marriage, family, women and child. Word 'Protect' has a wide meaning, protection demands physical, spiritual, mental and consciousness safety and growth. It seems obvious that while framing the constitution above mentioned aspects of Islam were completely neglected.

PART IX "Islamic Provisions"

Provisions relating to the Holy Quran and Sunnah

Article No. 203F: Clause 1, '*conformity with the Injunctions of Islam*'[15] furthermore, *"Quraan and Sunnah"* [16] shall mean the Quran and Sunnah as interpreted by the section.

These Articles relate to Social Justice, Well being and eradication of Social evils but unfortunately, no single Islamic teaching i.e. speaking truth, fulfillment of promise, prayers, regarding dowry, full dressing, observance of *purdah* or casting down of looks in public, prohibition of drinking of wine is discussed or even noticed in these Articles. Although direct and specific articles relating to these issues in other constitutions of Islamic countries like Saudi Arabia are found.

Therefore it seems obvious that the Constitution of Islamic Republic of Pakistan supports Quranic injunctions superficially and not in its true spirit. It also conveys that the framers of the Constitution willingly ignored the direct and specific coding of Islam in the text of this Constitution.

Sections in Pakistan Penal Code:

It was Lord Macaulay who after mid nineteenth century originally prepared the Penal Code adopted in the subcontinent with a great consultation in 1860.[17] After the partition of India in 1947, Pakistan inherited the same code and subsequently after several amendments by different governments, it is now mixture of Islamic and English Law and is not the Penal Code of Pakistan (PPC) only. [18]

Islamic Criminal Law and *hudud* & *tazir* penalties provided by *Sharia* are very different in spirit and concept as compared to British Criminal law and penalties. Islam believes in adherence to its laws and its effective implementation, firstly through preaching and creating a culture of understanding and lastly by imposing it through force of law. A glimpse at PPC clearly reveals that even after 69 years of its birth legal and *Sharia* experts of Pakistan have not bothered to revise its penal code in the light and teachings of Islam. PPC in its essence still revolves around English mentality and foundations. Resultantly, we cannot say not call it an Islamic Penal Code for an Islamic State. And even if there are any clauses to that effect they are not known to the general public and have never been invoked.

Pakistan Penal Code (Act XLV of 1860)

Relative Sections to Veil / Dress:

Section No. 354:

"Assault or criminal force to woman with intent to outrage her modesty"

Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both. [19]

Section No. 354-A:

"Assault or use of criminal force to woman and stripping her of her clothes"

Whoever assaults or uses criminal force to any woman and strips her of her clothes and in that condition, exposes her to the public view, shall be punished with death or with imprisonment for life, and shall also be liable to fine. [20]

Section No. 509:

"Word, gesture or act intended to insult the modesty of a woman" Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both. [21]

In above sections, there are only such punishments, which entitled the person who intend to commit these acts wrongfully but such person who intend to exhibit the beauty of a woman in public or in private meeting has no punishment. There is no any punishment for such women who exhibit or show off their beauty and finery.

Above discussion about the Constitution and P.P.C. depicts that Constitution of Pakistan has not specific rulings. Pakistan Penal Code is totally influenced by the English culture. English cultural influence and the mixture of English and Islamic ideology has created ambiguity. Supreme Court, Federal *Shariat* Court and Council of Islamic Ideology (CII) of Pakistan are silent for pure Islamic rulings.

Therefore, it is presumed that if a state declares itself an Islamic State, then according to the Injunctions of Islam, the general ruling that "all Injunctions of Islam will be fully observed" is not sufficient, there must be the specific ruling about those aspects of life, which also has been ruled out and obligated by the *Quraan* specifically. In the conclusion, the need of specific articles are still awaiting in the constitution of Pakistan regarding dress code.

Discussion:

Modesty is a pattern of behavior that restricts such attention, which invoke through an inappropriate display of one's body. As believers our dress should constantly reflect the fundamentals laid down in Qur'an and those displayed by the family of Prophet Mohammad (PBUH) and wives of companions of the Holy prophet (PBUH).

Even in American culture privacy means "controlling access to one's body – by touching, sight (staring/gazing) and other forms of surveillance." [22]

Regarding this article, such questions are being discussed. Does Constitution of Pakistan provide any specific rulings or provisions regarding in house or outdoor *purdah* system in Pakistani society as per the requirement of Islam conveyed in *Quraan* and *Sunnah*? Does the Constitution, provides only broad general principles of Islam and not any specific instructions regarding dress code and shows the glimpse of non-interest in Islam? Are those articles of the constitution have sufficient weight age for the betterment of Islamic society of Pakistan? These questions are discussed in context with the preaching of Quraan in Surah Al-Noor and Surah Al-Ahzaab. It is found that the Constitution of the Islamic Republic of Pakistan is silent in terms of specific rulings to wear proper or modest clothes. The constitution and PPC has no specific ruling regarding *Hijab & Veiling* system for an Islamic society in accordance with the injunctions of Quraan.

Conclusion:

Modesty in dress and behavior is the hall mark of civilized societies. Respecting women and adherence with the standard behavior of men and women stated in Surah Noor and Surah Ahzab should be strictly observed in a Muslim society. Finally it can be concluded that modesty in dress code and behavior should be taught and inculcated as habits among the masses and at the same time it should be expressively laid down in the Constitution and legal codes of Pakistan. The breach of which should result in admonishing and effective penalties.

References:

1. The term '*Hijaab'* includes not only dress and the covering of the body, but also the methods of behaviour that one has before members of the same and/or opposite sex, promoting privacy for females and prohibiting loose intermingling between males and females; it is, therefore, an encouragement of modest, decency, and chastity, See: http://www.islamweb.net/en/article /135432/hijaab-definition-and-conditions
2. The historical references of different nations in several geographical parts of the world are presented in detail regarding their glory and downfall in context with the adopting and leaving of veiling system in their societies, See: Al-Ashaari, *"Al-Hijab Purdah & The Status of woman in Islam"* translation of 'Pardah' by Abul Ala Maududi, (Lahore: Islamic Publications Pvt., Ltd, 1998), p.14-17
3. Ibid, p.186
4. Ibid, p. 2
5. Tamerlan Tsarnaev, *"Nudity may be Dangerous"*, retrieved from http://articles.latime.com/1992-10-10/entertainment/ca-480_1_nudity_gun_watch, on Feb. 13, 2014
6. First rule regarding veiling system for believing men to stoop down their gaze in public, See: Transliteration in English by Hilali and Khan, Z Quraan; retrieved from http://www.tanzil.net, Surah Al-Noor, Verse No. 30
7. Second rule regarding veiling system for believing women of Islamic society to bow down their gaze indicates to frame some ruling in Islamic society about steering

toward opposite sex in public, See: Transliteration in English by Mamaduke Pickthall, Z Quraan, retrieved from http://www.tanzil.net, Surah Al-Noor, Verse No. 31

8. Quraan is addressing the women of the elite class of early days of Islam, describing the distinction of not being the common women of the society, providing obligatory rules regarding talking with men of the society, displaying the vocal, psychological, moral, social and in-house veiling system of society, See: Transliteration in English by Sahih Int., Z Quraan, retrieved from http://www.tanzil.net, Surah Al-Ahzaab, Verse No. 32

9. EglobalSolution.com, Urdu English Dictionary, 2007-2016, retrieved from www.urduenglishdictionary.org/English-to-Urdu/509463/stay.asp

10. Transliteration in English by Sahih Int., Z Quraan: Baig, Asim, retrieved from http://zquran.asimbaig.net, Surah Al-Ahzaab, Verse 59

11. Mahmood Salim Mahmood, Secretary, National Assembly of Pakistan, "*The Constitution of Islamic Republic of Pakistan*", (Pakistan Printing Press, Islamabad, 2004), p. 3

12. Constitution of Pakistan declares that Islam is State Religion and in Clause 1 of section 14 "privacy of home" is unbreakable, so on philosophical basis, veiling system of system is being implemented in Pakistani society, See: The Constitution of Islamic Republic of Pakistan, Ibid, p.8

13. Ibid, p. 11

14. The "Islamic Moral Standards" will be observed by the enforcement of the Constitution through the observance of Hijaab, bow down the gaze, concealment of chastity and Hijabic behaviour in society also fulfill the theoretical requirements of Islamic State Constitution, See: Ibid, p. 12

15. Ibid, p. 99

16. Ibid, p. 100

17. Sheikh Abdul Halim, *"The Pakistan Penal Code with Commentary",* (P.L.D. Publishers, 1989), p. 468

18. The Pakistani Organization, "*Pakistan Penal Code, Act XLV of 1860, Act XLV of 1860*", retrieved on (October 6th, 2010), [online] http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.htm

19. Ibid, p. 112

20. Section 354-A refers an offence about stripping a woman's clothes through criminal force/intention, which is a bar for offenders, See: Ibid, p. 117

21. Ibid, p. 161

22. Schwarzenbach. Sibyl A. and Smith. Patricia, *"Women and the United State Constitution: History Interpretation and Practices"*, (New York: University Columbia Press, 1893), p.156