

STUDY

The Hijab and Politics in Iran

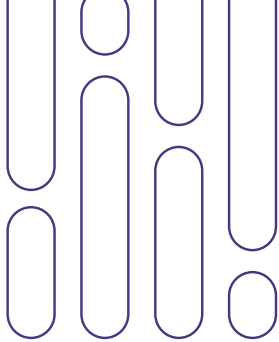
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Iran, since the 1979 revolution, has perhaps not witnessed such a highly controversial issue along jurisprudential, philosophical and political lines as the hijab and women's attire. There are several issues which have turned this subject into a matter of identity and has led to a political and religious standoff.

The importance of this study does not lie in its jurisprudential parameters or juristic opinions. This has been discussed in the past and is still the subject of discussion today. However, its importance lies in ascertaining the real margins of freedom that the Iranian government grants to those with whom it has differences in relation to religious and sociological interpretations. It unveils the practices of the government and the religious elite in relation to intellectual and cultural pluralism. It also, defines the scope of the authorities and the government's influence in the implementation of jurisprudential principles. According to the interpretation of the pro-Velayat-e Faqih jurists, enforcing the hijab is part of the duties of the

Guardian Jurist and his religious-political authority. Therefore, this study reviews the implementation of the absolute version of Velayat-e Faqih in Iran, breaking down the fine differences between the theoretical and practical perspectives.

This study also sheds light on the ideological interactions within the framework of the hijab, which have transcended the seminary and jurisprudential lessons into the wider society and have become a source of cultural conflict. The government has been maintaining this conflict as part of the country's political, religious, and social battle. The pro-Velayat-e Faqih elite is keen to uphold the hijab as a top priority, perhaps because of the unquestionable beliefs in the collective mind of the clerics or to exploit it for their personnel interests on the social and political levels.

This study attempts to provide insight into the Iranian collective mind in relation to the hijab, and answer questions on the politicization of the hijab, which aims to entrench the ideology of the religious elite. It also highlights the attempts to create a new Iranian identity – via the dress code of women – distinct from the identity developed during the Shah's era.

I. The Iranian Revolution and the Phase of Imposing the Hijab

Most Iranian women who opposed the Shah's rule voluntarily wore the chador, considering it a revolutionary symbol when confronting the Shah as well as a symbol to resist his policy of Westernization.¹ But this was not proof of any religious motivations as the women participating represented all political currents in the country. This point should not be overlooked to understand the course of the political conflict and its rhetoric.

The Leftists (the Stalinist Left) held the belief that the Shah's policy on women reflected a level of moral decay. After the revolution, those opposed to the Shah and his supporters lashed out at the so-called *Trotskyists* (those returning from foreign countries). They were called Trotskyists because they were influenced by Western culture. The Trotskyists were attacked for not segregating between men and women and for “displaying the bodies of women.”² Such incidents provide an insight into the centrality of the chador in the battle of the revolution at that time, as it was a revolutionary slogan.

Immediately after the revolution, and within only two weeks following its

success, the limited reforms which Iranian women had been struggling for in the past since the Constitutional Movement – and before – were revoked. Iran’s leaders decided to make women symbolize the Islamic nature of the state. On March 7, 1979, obligatory hijab was imposed on women.^{3*}

On the morning of March 8, 1979 – corresponding to International Women’s Day – thousands of women across the country took to the streets to protest the obligatory hijab. This massive opposition surprised the clerics, prompting them to temporarily reverse their decision. Then the government implemented a gradual plan in the following two years to reimpose the hijab. First, it was imposed on government employees in 1981 and was also imposed on women entering government offices and buildings. Signs were placed across the different government departments, facilities and stores banning the entry of women who were not wearing the hijab: “No entry without hijab.”⁴ Then it was imposed on students. In the end, specifically in 1983, the hijab became obligatory for all women and girls over the age of nine – whether Muslim or non-Muslim.

The authorities issued a law making it obligatory for all women to wear the hijab. Hence, the hijab became obligatory according to the law and those who refused to wear it were punished.⁵ According to Article 638 of the Islamic Penal Code in Iran, the punishment for taking off the hijab ranges from *tazir* (discretionary punishment), a \$20 fine and sometimes a prison sentence ranging from 10 days to two months.⁶ However, the authorities always conflate this punishment, linking the punishable charge to spreading public indecency, the punishment for which could be 10 years in prison. For example, on August 16, 2019, a host of human rights experts affiliated with the UN issued a statement in which they protested against the prison sentences handed down to women activists who publicly opposed the obligatory hijab and the government’s harsh crackdown on these activists. The statement said, “We remind the Iranian authorities that women human rights defenders challenging the imposition of a compulsory dress code on women, are acting in defense of universally guaranteed human rights.” In addition, it said, “The use of repressive legislation to criminalize the exercise of freedom of expression and peaceful assembly is incompatible with Iran’s obligations under international human rights law.” The women were convicted of assembly and engaging in acts against national security, propaganda against the state and “encouraging and providing for [moral]

corruption and prostitution” —after handing out flowers to women on International Women’s Day. The 28th Chamber of the Revolutionary Court sentenced a number of these women to five years in jail on charges of assembly and collusion in acts against national security. Others were sentenced to 10 years in jail on charges of encouraging and assisting in corruption and prostitution.⁷

These punishments are mentioned in Iran’s criminal code despite the fact that the religious texts do not mention a punishment for not wearing the hijab. The lack of an explicit punishment in the religious texts put the elite supportive of Velayat-e Faqih in an awkward situation. They tried to justify the punishments by citing some proofs such as unanimous consensus, the narratives depicting the life of the Infallible Imam; the rule of *lutf* (conditions and situations to perform religious acts by believers); punishment for every sin; and the practical legacy (resume). This is in addition to other proofs such as the political authority enjoining virtue and prohibiting vice and other transgressions.⁸

Ayatollah Abdul-Karim Mousavi Ardebili (1926-2016)^{9*} justified the legalization of the obligatory hijab. This is even though it is a moral issue concerning public values which is determined via social codes and cannot be imposed.

He said, “We should draw a separating line between the principle and the way we implement this principle. And I agree that there should be differentiation between Islamic law and Islamic decencies. But I add that the issues for which there are no provisions in Islamic law should not be left without state intervention.”¹⁰

But the response to this Velayat-e Faqih-inspired interpretation is that this approach, when it comes to applying religious laws, will open the door for other penalties which Islamic law has remained silent on, for matters such as gossiping, backbiting, envy and other public immoral acts. The level of wrongdoing for each of these acts may differ, but punishments for these transgressions have never been suggested by any jurist or legislator.

In addition, this approach will eventually spread hypocrisy across society, with nothing remaining for the public conscience and the people’s ability to individually resist urges within themselves as everything becomes subject to the law. The law shall not cover all the mentioned issues as it is mainly

concerned with public deeds, not internal matters, while all public morals and values should be influenced by human conscience.

Presenting more justifications, Ardebili divided crimes into inhibited crimes for which punishments are stipulated, unlawful crimes with unstipulated punishments, and new crimes. Therefore, the ruler, according to Ardebili, in line with his duties should implement discretionary punishments. He punishes the sinners to protect the fabric of Muslim society.¹¹

Based on this principle, the pro-Velayat-e Faqih marjas outlined their opinions. According to Naser Makarem Shirazi (1927-), the Islamic government and Muslims are not obliged to address the hidden sins of individuals. But, undoubtedly, it is incumbent upon them to denounce the sins committed publicly throughout society. Hence, the Islamic government is committed to preventing public sin.¹²

According to Lotfollah Safi Golpaygani (1919-), all women are obliged to wear headscarves, even non-Muslims, and the ruler has the power to punish violators.¹³

Therefore, clerics intervened in the security and political aspects in regard to the hijab and the crackdown on those not wearing the hijab was turned into a sacred religious issue which leads to reward and forgiveness from God for the security personnel involved.

Ayatollah Sayyid Mohammad Ali Hosseini Alavi Gorgani addressed the security personnel, saying, "Don't let the blessing of the hijab slip away. Cracking down on those not wearing the hijab is the demand of fellow clerics. Several thousands of martyrs sacrificed their lives, and all these sacrifices have been made to maintain Islam, honor and the hijab."¹⁴

The bottom line is, according to the requirements of Velayat-e Faqih, the supreme leader can issue or repeal any legislation which he deems as going against the interest of the state. Moreover, a ruler can suspend any religious obligation. The ruler's implementation or creation of jurisprudential provisions is recognized by the jurists (the jurist leader's law). But the Shiite jurists before Khomeini – and specifically before the 1979 revolution – confined the power to pass laws to the government of the Absent Imam, as he is infallible and inspired by God. They did not give this power to the jurist leader (supreme leader). But Khomeini invoked this power (the jurist leader's power to implement and create jurisprudential provisions in political and

public affairs), placing it on the same footing as the laws derived from the primary sources (Quran, Hadiths and sayings of the infallible imams), as well as the secondary laws derived from the *ijtihad* of clerics. The jurist leader's laws (also called the government's laws) sometimes top the primary and secondary laws.¹⁵

II. Cracking Down on Women: Religious Repression

The hijab is no longer a social issue or slogan/symbol of the revolution and the religious elite. It has become a political symbol and a state emblem. Therefore, it has become a contentious issue in electoral battles, with the political programs of political and religious forces/currents addressing the issue.

From time to time, official campaigns are launched to address the inappropriate wearing of the hijab. This occurs in parallel with clashes between the reformists and conservatives regarding the law to impose the hijab and the style and dress code of the hijab. Each political current seeks to exploit the issue of the hijab for their own interests.

After the revolution, the IRGC brigades and committees were deployed to the streets to impose the hijab. On the situation he personally witnessed at the time, Fahmi Huwaidi says, "The government tacitly considered that the hijab is an Islamic dress code, and the revolutionary committees shouldered the responsibility to implement this directive and pursue its compliance on the streets. Some young men zealously engaged in the issue, with some of them misbehaving and crossing the boundaries of advice and guidance to reprimand and insult. I was told that they stopped some women on the streets and ordered them to properly put on the headscarf and remove makeup from their faces."¹⁶

The 'Zainab Sisters' system was revoked in the early 1990s. The mission of this morality police squad deployed to the streets of Tehran was to monitor compliance with the hijab law, causing panic to spread among women.¹⁷

An Iranian female activist during the first phase of the revolution when she refused to wear the obligatory hijab said that while she was preparing to leave Iran and was packing up her things, IRGC personnel raided her apartment. They arrested her and locked her up in Evin prison on charges of "dabbling in feminism and security matters" — a crime that does not actually exist.¹⁸

The government continues to pursue strict policies towards women who do not wear the hijab. The violence targeting women which began in the early days of the revolution has not come to an end. However, the violence eased during the terms of Rafsanjani and Khatami but returned with a vengeance under Mahmoud Ahmadinejad. During his tenure, the police began to crack down on women who did not wear the hijab properly as mandated by the government.¹⁹

Iranian women displayed resistance to policewomen who dragged them on the streets, according to al-Sammadi. The policewomen believed that these violent acts were committed to aid the cause of God. “We use the powers granted to us by the Islamic penal code. Article 238 expressly stipulates that it is within our duties to crack down on these violations.”²⁰ The total detained women between 2003 and 2013 reached nearly 30,000 women. More than 460,000 women were reprimanded for inappropriately wearing the hijab. Others were fined up to \$800 for not properly wearing the hijab.²¹

These policies continue to this day under Rouhani since the hijab is not an issue controlled by the president of the republic. Rather, the final say rests with the supreme leader and the religious elite. Hence, neither the reformists nor the moderates could move ahead with their promises that they made during their electoral campaigns. So, we find that the IRGC intervened to restore order on the street at several different phases, and this has had profound cultural and ideological consequences.

Due to this, the reformists and some government supporters have warned of the ramifications and the increasing level of dissent and opposition in response to the manner in which the security services have handled the hijab issue. They have called for only court rulings to be implemented, and for security services not to crack down on women on the streets and take them to police stations, which results in beatings and insults.²²

It seems that this rush to impose the hijab is similar to the rush to remove it under Shah Reza Pahlavi (1878-1944).²³ Both governments practiced repression and coercion against women and at the same time they claimed that they represented Iranian identity. The irony is that Khomeini (1902-1989) criticized Reza Pahlavi’s approach. He said, “The government whose lunatic employees and brutal policemen attack chaste women and force Muslim women — living in cities and villages — to take off their hijab is an oppressive government and cooperation with it means cooperation with *kufir* [disbelief].”²⁴

However, the police and security personnel since Khomeini's rule have held women at gunpoint to force them to wear the hijab. Both approaches are immoral and unhelpful when it comes to individual choices and religious beliefs. Also, both approaches contribute to increasing social hypocrisy as women are forced to dress in a certain way even though it may be against their personal choice and does not necessarily reflect their religious beliefs.

Some of the remarks made by the leaders of Iran's security services highlight the importance of this issue at the ideological and political levels. For example, the commander of the security forces in Qom²⁵ said, "Chastity and hijab are among the concerns of the supreme leader, fellow clerics, imams and religious people. There are 26 apparatuses playing a role in relation to the hijab and chastity. Most of them play a cultural role, while a few of them handle the implementation part, with Iran's security forces taking a lead in this part."²⁶ The hijab is critical to the security forces and is among their core tasks, but the issue, according to one security commander, is a redline for the security forces.²⁷

Analyzing such remarks is profoundly important to understand how the security forces treat women at anti-hijab protests or even inside detention facilities. The security personnel believe that violence against those defying the hijab is a religious and moral duty by which they seek to become closer to God. There is a jurisprudential and religious cover-up shielding them from accountability or from a sense of moral guilt.

For example, Ayatollah Jafar Sobhani (1929-) urges the morality police to heavy-handedly crack down on all women who do not comply with the hijab law or wear the hijab inappropriately in a way which does not comply with the criteria set out by the Iranian government. Sobhani believes that the law, sometimes, cannot address the phenomena of taking off the hijab, urging that the law should be bypassed at this point. "Unfortunately, in Qom and some other cities, the situation of the hijab is improper. It seems that the violators seek to diminish the government and Islam. The police should handle the issue of hijab differently, not via official channels."²⁸

Ayatollah Ahmad Alamolhoda (1944-) defended the police's brutal beating of a woman because she took off her hijab. "The police personnel who answered the call of the people during different crises should not be questioned due to a mistake made by a policewoman. They work to combat one of the vices – taking off the hijab." He also blasted those displaying

sympathy with the beaten woman, saying “What does it mean that the state apparatuses allow and do not crack down on women who don’t wear the hijab? Should the calls against the Quran and against the obligation of enjoining virtue and rejecting vice be voiced in Parliament?”²⁹

According to his understanding in line with the obligation of enjoining virtue, the behavior of the policewoman is totally in line with this religious duty. This attitude is common among the religious elites. Another cleric called for harshness towards women who do not wear the hijab, as they are misled or executing enemy schemes.³⁰

The crackdown of the government extended to include some clerics who protested imposing the hijab and called for allowing women to decide for themselves without intervention, as is the case with cleric Youssef Ashkafari. The cleric was arrested by the authorities as he was considered “one of the sources of threatening and blowing up the principles of the Islamic revolution.”³¹

He was considered to be seeking to deprive the state of its right to forcibly impose the hijab on women, and the state believes that this is its fundamental right which it cannot yield.

This indicates that the standoff over the hijab involved different dimensions distinct from the juristic differences over whether the evidence is speculative or definitive in relation to wearing the hijab or not. This standoff evidently expresses the inclination of the proponents of Velayat-e Faqih to advance and strengthen the issue of the hijab within the community of clerics itself. Therefore, the treatment of those opposing the obligatory hijab is not based on them opposing a jurisprudential opinion, but because they are rebelling against the authority of the Guardian Jurist, the boundaries of his guardianship and the scope of his mission and tasks.

From another angle, we find that one of the senior clerics in Najaf rejects violence against women refusing to wear the hijab. Cleric Is’haq al-Fayadh (1930-) said that using force to promote the wearing of the hijab is ineffective.³²

The difference between Najaf and Qom (or specifically Najaf and supporters of Velayat-e Faqih) is attributed to their differences over Velayat-e Faqih and the subsequent government-dictated ordinances. The Najaf seminary believes that the hijab is obligatory but does not believe that jurists have the

right to force women to wear it. The seminary considers the matter to be a fatwa related one, not one to be imposed by the judiciary or the supreme leader.

III. Consequences of Violence: The Rebellion of Women

It is worth noting that the harsh crackdown inflicted by security apparatuses has been met with rebellion against the imposition of a certain dress code on all women. For example, the women's rebellion was clearly apparent — especially among doctors and nurses— who protested in Mosul against the dress code imposed by ISIS.³³ Also, the Iranian landscape includes ongoing protests by women which has given rise to some voices calling for the issue of the hijab to be addressed rationally.

Parvaneh Salahshouri^{34*} called on the security services to abide by the law. She said, “As the hijab turned into a law within the state, the way of protesting it should also be within the framework of the law. But the issue has become totally personal. And it is unfair to rush to judge the women protesting the hijab and accuse them of being corrupt.”³⁵ She also said, “The women protesting the hijab are not hostile to the government nor are they corrupt and nor are they spies. They simply expressed their opposition on a specific issue.”³⁶ Salahshouri advised officials to treat women as part of society instead of using them as a political tool.³⁷ She also referred to the remarks of pro-government media outlets which branded women not wearing the hijab with derogatory labels such as “decadent,” “deviant” and “loose.”³⁸

In relation to this, the Iranian attorney general^{39*} said that the judicial handling of cultural issues and the hijab is unhelpful, and a peaceful approach should be pursued. He justified his opinion by saying that those violating the criteria of wearing the hijab have family cultural values which lead to the inappropriate wearing of the hijab, but they do not consider it inappropriate. In addition, some hijab violators do not believe in imposing Islam, they are secularists or believe in other religions. A small number of them, by their acts, intend to insult the religion's values and Islam's ordinances. He indicated that if the security forces wanted to arrest all the violators of the hijab law, they will create an atmosphere of widespread anger against the government and Islam.⁴⁰

This is proof of the social rebellion against the hijab – or to be specific – the way the hijab has been imposed on women by the clerics via the violence exercised by the government. This also indicates that some pro-government officials have concerns about the policies of violence and repression and their ramifications. The irony is that the religious elite has taken great care and dedicated all state efforts to force women to wear the hijab, but it did not make similar efforts to combat illiteracy among, approximately, two million illiterate women in the country, according to official statistics.⁴¹ But it seems that keeping this number of women illiterate is a favorable choice for the religious elite.

IV. The Reformists and the Rational Handling of the Hijab Issue

Some reformists and enlightened clerics have rejected the interpretation of the pro-Velayat-e Faqih clerics in relation to the hijab. They have worked to present a rational alternative which takes into consideration the developments in social concepts and the changing dynamics across modern societies. This is in addition to the major transformations in the patterns of observing religion and the relationship between religion and the state as well as the state and individuals. The differences were not in regard to the jurisprudential ordinance, but in relation to the issue of freedom, the scope of the Guardian Jurist's authority and his use of government-dictated ordinances.

1. A New Reading-inspired Fatwa: Reformists and Ijtihad From Within

Ayatollah Kamal Hayadri (1956-) argues that even though the hijab is obligatory in general, the current style mandated by Shiite clerics did not exist in the early ages of Islam. However, the final negotiations by the jurists over hijab is driven by several factors such as: the culture of the jurist, mitigating against vice, and commitment to social norms. According to him, the hijab's validity depends on the extent to which it does not draw the attention of other people.⁴²

This opinion is close to that of Ayatollah Hossein Montazeri (died in 2009) who argued that there is no one style for the hijab. He attempted to outline a less extremist position regarding the state's authority over the issue of the hijab and the treatment of women refusing to wear the hijab. Although

he adopted the opinion suggesting that the hijab is obligatory, however, he said that the details of the hijab are not definitive. This means that the hijab, fundamentally, is obligatory, but its details, and style of wearing are speculative. Therefore, it is a subjective issue where different opinions are acceptable.⁴³ In fact, this approach opens the door for a more flexible understanding when it comes to handling the issue of the hijab, especially its scope, position, and definition in the first place.⁴⁴

This ijthad by Montazeri led to responses from clerics supportive of Velayat-e Faqih. They believe that this ijthad poses a jurisprudential danger because:

First: The ijthad on the hijab is based on the hawza's approved teachings. Thus, they attempted to question the validity of his argument by accusing him of adopting the ijthad rulings of the Sunnis and breaking with Shiite consensus.

Second: It undermines the jurist leader's law, limiting the scope of the powers of the supreme leader at the religious level, which will undoubtedly impact politics and society.

Third: This opinion is presented by a major jurist, not a minor one.

But the brave fatwa of Montazeri did not stop at this point. He also issued a fatwa rendering lawful a handshake with a woman who is a stranger "while not intending to arouse lust and not let it happen."⁴⁵ This fatwa incited controversies and discussions in the very conservative Shiite seminaries.

Some of Montazeri's students such as Hojjatoleslam Ahmed Qabil (died in 2012) adopted a bolder approach. They called for a new jurisprudential outlook and a reconsideration of the existing jurisprudential system. Thus, it can be said that the line of Montazeri – represented in some of his students – aligned with that of Soroush, Malikan and the entire secularist current in the end.⁴⁶

In short, reformist clerics have established their ijthad from within the Shiite heritage and did not reject or bypass it totally.

2. Hijab and the Standoff Over Identity: The Enlightened Approach and Criticism of the Government

The issue of the hijab assumed a new dimension in the dispute over identity between the conservatives and the enlightened reformists. The pro-

Velayat-e Faqih elite believe that the hijab is among the fundamental issues, while the reformists and secularists believe that it is not a central issue. They also differ on the degree and rank of its importance when it comes to the order of religious and social priorities.⁴⁷

Secularists either denounce the marjaya's traditional jurisprudential understanding on the hijab as it is considered to be among the historical issues exclusively related to certain historical eras, or they oppose the authority of the state in imposing it, calling for granting women the freedom to choose without any legal consequences — with the clerics' power being confined to advice and guidance.

Ali Shariati (1933-1977) adopted this approach. He defended the right of the women refusing to wear the hijab, so he clashed with the traditionalists and conservatives. Shariati was branded as “West-influenced, ignorant and an atheist.”⁴⁸

Abdolkarim Soroush (1945-) believes that the issue of the hijab for women suffers from a conceptual confusion, with religious aspects overlapping with issues connected to social norms and tribal concepts of clerics. Abdolkarim Soroush discusses the opinion of Muthari (1919-1979) that the hijab should ensure the chastity of a woman and the chastity of society in general. He says, “Here a question arises: did not the presence [the dress code] of women from the *Dhimmī* [Christian and Jewish communities which are usually governed by their own laws under the Islamic Sharia] and maidens who made up a huge proportion of society at the time constitute a breach of this social chastity? Yes. Chastity is among the moral concepts which means that a woman should act as a woman and a man should act as a man. It is not confined to women only. But when it comes to how to uphold chastity via law, this depends on the approaches during each age which befit the age and the customs prevalent therein. Islam had been pursuing this norm. When looking at the Islamic ordinance regarding free women, maidens, and women among the people of the Scriptures, the premise should be the spirit of the legislator's objective and knowing its core essence.”⁴⁹

In a bolder statement he said, “My belief is that the issue of the hijab for women does not only involve aspects regarding society, justice and morality. There is also a mythical aspect too.”⁵⁰

It seems that the government and its handling of the hijab produced two types of rebellions: a rebellion by women and a theoretical rebellion. Hence, we could say that the statements of Soroush and some enlightened figures came as a response to the approaches pursued by the government and its excessive violence against women refusing to wear the hijab.

There is another sort of rebellion which is less radical. It had begun within the religious current itself, perhaps on the margins of the radical right-wing due to the enlightened-reformist pressure as well as the successive generations which did not witness the revolutionary momentum. Consequently, all these factors resulted in a palpable retreat within the religious current — before the issue of the hijab, for most of clerics had been limited only to the chador — later some women within the less radical current spoke of the hijab saying, “Its style is changeable according to time and place [...] since the issue of chador is Iranian, not Islamic.”⁵¹

V. Hijab as an Epicenter for Religious Culture and a Foundation for Public Identity

There is another important dimension considered by the pro-Velayat-e Faqih elite when it comes to addressing the issue of the hijab: upholding the Islamic culture of the state. Preserving the Islamic culture in Iranian policy is one of the objectives of the Iranian revolution and its religious elite. They consider it among the requirements to safeguard the religion, which occupies the highest rank among the sublime objectives of the Sharia. As the Shah made the Pahlavi hat Iran’s national symbol,⁵² which went hand in hand with preventing women from wearing the chador, the religious elite too made the hijab a national symbol. Ayatollah Khamenei (1939-) said, “I don’t believe that the hijab is confined to the chador, but I believe that it is the best kind of hijab, and it is our national symbol.”⁵³

We also find that clerics warn against the decline of Islamic culture in the state because of the increasing number of women not wearing the hijab. Ayatollah Jafar Sobhani (1929-) said ^{54*} “The hijab is on the decline, and the standards of an appropriate hijab and religious rules at universities should be implemented seriously.”⁵⁵

This mentality penetrated the minds of personnel belonging to the security services. According to one of the police commanders, the law enforcement

agencies have advanced the Islamic atmosphere and upheld the values of the Islamic revolution to address the concerns of the Iranian people about security, morals, homosexuality and social affairs.⁵⁶

The religious elite and security services have concerns about Western imperialism and its efforts to target the hijab and Islamic culture. We cannot prove whether the religious elite and security services are convinced of such conspiracies or if they float such ideas for domestic consumption and internal identity conflicts in order to exaggerate the external enemy. It is unclear whether they truly believe that there is an external force seeking to change the cultural style of the Iranian people.

In fact, the legislative and executive institutions have control over the state, not outside actors. More importantly, the government does not essentially oppose changing the cultural styles of the Iranian people as it imposes its own interpretation and propagates its own particular thought. But the government wants to retain complete control over the scope, characteristics and functions of all social and cultural codes which it has hijacked and does not want any domestic or outside force to weaken its influence.

Therefore, some Iranian philosophers opposed what the Iranian government considers a responsibility to shape the culture of the people. Iranian philosopher Mostafa Malekian (1956-) believes the use of force in religion is fruitless.

“Violence as a tool to deliver a religious message and defending it bears no fruit and is considered a bad phenomenon. I say frankly that the people who adopt violence are the only ones who do not accept strong and acceptable inferences and proofs and exploit the sentiments of the people and their intuitive emotions. If I do not reject any of your intuitive or instinctive issues and come to you to prove my allegations with powerful and convincing proofs, so why shall I then use violence against you?”⁵⁷

Mohammad Mojtaba Shabestari (1936-) rejects the politicization of culture and the state’s interference with its formations and patterns. “The approach of the government to take over culture is a terrible mistake and it ends up calling for acts of violence and legitimizes the use of repressive tools.”⁵⁸

He also believes, “Making the government responsible to provide people with culture means destroying culture and wiping it out.”⁵⁹

But the government possesses the power to impose a *fait accompli*. One of the commanders of the security apparatus^{60*} announced that the police are expanding their crackdown on women not complying with the law related to the hijab. He also said that showing contempt towards the hijab is not a personal issue but a political issue. This issue is used by the enemies of the revolution to undermine the moral values of Iranian society.

In a shocking statement, a member of the Gilan police force in northern Iran announced that 2,000 personnel of the IRGC's Basij forces were deployed to the region to help impose the Islamic dress.⁶¹

The government pursues the policy of imposing a *fait accompli*. It possesses the hard power to enable it to impose its own interpretation on the public, including dissenters.

Not content with its laws and security services, the government encouraged people to treat women not wearing the hijab as pariahs under the guise of enjoining virtue and combating vice,⁶² without thinking over the consequences of these policies and the potential subsequent cracks in social relations, the factionalization of society into polarizing blocs, and the fragmentation of the country's social fabric.

For example, the official authorities lent support to a taxi driver who refused to let a woman not wearing the hijab ride with him. This 2016 incident triggered a huge popular controversy between the conservatives who threw their weight behind the taxi driver and accused the woman of disrespecting Islamic values, and the reformists and liberals who stood by the woman. Iran's Chief Justice Ebrahim Raisi voiced support for the taxi driver when he argued that the Islamic commandment of enjoining virtue and combating vice obliges all citizens, as well as the police and judiciary, to support citizens implementing this commandment.⁶³

A handful of voices from within the conservatives have started to call for securing a margin of freedom for foreign female tourists. A jurisprudential and political controversy broke out over whether they should be treated according to Iranian law or allowed to uphold their own habits and customs.⁶⁴

Such discussions and pressures are important in terms of the possibility for seeing shifts in the long run in the radical position of the conservatives, such as changes in their positions in relation to women at soccer stadiums. They said that this issue is totally unlawful, rejecting any different opinion, but

eventually they backed down, submitting to pressure from the international community and threats from FIFA to ban Iran from participating in international championships. Hence, there could be shifts and concessions regarding the issue of imposing the hijab, and there could be more room for women in the future. This shift seems to be difficult in the short run when compared to the issue of women being allowed to enter stadiums.

Conclusion

The issue of the hijab in Iran took different interwoven and intermingled trajectories away from its traditional jurisprudential framework. It has become a contentious issue on the cultural and political landscape in Iran. It also transitioned from the boundaries of religious rituals to the sphere of political rights and from secondary speculative rulings to primary definitive rulings. In general, the authorities' handling of the issue of the hijab casts light on the margins of freedom granted to Iranian women as well as the persuasions of the ruling religious elite in regard to cultural and jurisprudential pluralism. Making the hijab obligatory in public life impedes genuine cultural pluralism, transforming the entire landscape within the framework of nationalization which is among the state's scope of action and sociological tasks.

The philosophical criticisms of the state's domination of the cultural landscape seems to be out of touch with Iran's political and sectarian realities. The most notable criticisms brought forth by opponents focus on the consequences of dominating the cultural landscape and strengthening dictatorship, curbing democracy and enlarging the centrality of the state. This is exactly what the government seeks to achieve, as it is – philosophically and jurisprudentially – averse to any democratic change. It does not practice political pragmatism or the sect-inspired *taqiyya* [dissimulation or religious hypocrisy] to justify its rejection but brazenly declares it. It believes that its Velayat-e Faqih-inspired model is an inevitable alternative to an imported democratic culture. This is in addition to the ruling elite's belief in the globalist government, individualist culture, and its rigid religious interpretations.

Also, the community of clerics who are controlling the arena believes that the Guardian Jurist has the right to repeal or enforce any religious ordinance,

even it is based on definitive Islamic rulings. This could be seen in what was said to be the clerics' concession when it came to women being present at stadiums. Maybe the Guardian Jurist believed his interests would be realized by doing so. But what is the scope and what are the boundaries of these interest-seeking ordinances? What are their fundamental-jurisprudential foundations and their implications for politics and society? What are the criteria through which these ordinances are realized?

We do not have definitive answers to these questions since these fatwas are not derived by turning evidence into proof, i.e., studying: the *daall* indicator alone (the expression); the *madlool* (the denoted meaning). But they turn out to be enforceable government decisions and decrees, which advances the Guardian Jurist's scope of action even if he favors or gives precedence to purported interests over genuine ones since there are no internal or external obstacles, scrutiny over the work of the Guardian Jurist and institutional oversight.

In all cases, it is inconceivable that the government in Iran would make significant concessions on the issue of the hijab. From day one, the government classified the issue as among the foundational principles of the state's identity following the revolution. Through specific religious terms, the government advances its religious and sectarian legitimacy. Hence, abandoning such rituals will depend on intellectual revisions in governance theories and the state's apparatus or a major change in the mindset of the ruling elite.

Endnotes

- (1) Fahmi Huwaidi, *Iran From the Inside* (Cairo: Shorouk Bookstores, 2014), 246, [Arabic]
- (2) Behrooz Ghamari, *Death Squad: Memo of a Political Prisoner in Tehran*, trans. Reem al-Taweel (Beirut, Dar al-Saqi, 2020), 186-187. [Arabic]. For more details on the differences between the Stalinists and Trotskyists, see: Osama al-Shahad, "The Communist Revolution (1917) and The Emancipation of Women: A Bleak History and Perilous Future 16," *Alghad*, January 2020, accessed September 27, 2020, <https://bit.ly/2Ggyehn>, [Arabic].
- (3)* The date is significant connotative meaning as it came only 15 days after the referendum on the Islamic Republic, which precedes the issuance of Islamic laws.
- (4) Huwaidi, 246.
- (5) Homa Hoodfar, "Iranian Women Risk Arrest: Daughters of the Revolution," *The Conversation*, March 7, 2018, accessed 27 October 2020, <https://bit.ly/3exV5kN>.
- (6) "The Story of Hijab in Iran ... From the Shah's Legacy to the Turbaned Police," *al-Jazeera.net*, January 13, 2019, accessed July 28, 2020, <https://bit.ly/3fuGEOO>. [Arabic].
- See: Fatima al-Smadi, "Iranian Women and the Presidency ... The Politics' Forbidden Fruit," *Al-Jazeera Center for Studies*, May 26, 2013, accessed August 09, 2020 <https://bit.ly/2DKPlao>. [Arabic]
- (7) "Quash' convictions and release women jailed for protesting against wearing veils in Iran, urge UN rights experts," *UN News*, August 16, 2020, accessed October 28, 2020, <https://bit.ly/37OJPAO>.
- (8) Haidar Hoballah ed., *The Fiqh of Hijab in Islamic Law* (Beirut: al-Intishar al-Arabi Foundation, 2012), 147-168 and 184, [Arabic].
- (9)* He was the head of the judiciary at the time. He took over the position after the demise of Beheshti from 1981 to 1989. He then worked on lecturing and investigation. He also established Dar al-Mufid. The clerics who taught him include Khoansari, Golpaygani, Khomeini and Tabatabai. Then he received jurisprudential education in Najaf from Ali Mohsen Al-Hakim, Khoei and Abdel-Hadi al-Shirazi. "Cleric Ayatollah Mousavi Ardebili Answers the Call of his God," *al-Alam TV*, November 23, 2016 accessed October 4, 2020, <https://bit.ly/34qJr5>, [Arabic].
- (10) Huwaidi, 247.
- (11) *Ibid.*, 247.
- (12) "On the Obligatory Hijab in Iran," *Entekhab*, February 8 2014, accessed June 14, 2020, <https://bit.ly/38TM8QZ/>, [Persian].
- (13) *Ibid.* We should not mistake Lotfollah Safi Golpaygani for Mohammad-Reza Golpaygani (died: 1993).
- (14) "Ayatollah Alavi Gorgani: Do Not let the Blessing of Hijab Be Lost," *Tasnim News Agency*, June 19, 2019, accessed July 14, 2020, <https://bit.ly/2WSnEA6>, [Persian].
- (15) Haidar Hoballah, *Comprehensiveness of Sharia: Research on the Scopes of Legal Reference Between Mind and Revelation* (Beirut, Dar Rawafed, 2018) 333, 334, 33, [Arabic]. Also, see: Sheikh Ali Hoballah, *Studies on the Philosophy of the Principles of Jurisprudence and Sharia and the Theory of Jurisprudential Objectives* (Beirut-Dar Al-Hadi, 2005) 544.
- On the other side, we find the Sunni jurists such as Shihab al-Din al-Qarafi (died in 684 AH) and others who differentiated between the mission-related behaviors of the *Infallible Imam* – who is a prophet only – to those related to fatwa and other behaviors and if he, the prophet, was raised in terms of his behaviors, according to the ordinance. But the Infallible Imam, according to Shihab al-Din al-Qarafi, "follows the commandments of God to establish ordinances according to arguments and reasons." Further, Dhia' ul-Din 'Abd al-Malik ibn Yūsuf al-Juwaynī al-Shafi'ī (died 478 AH), although he said it is lawful for the ruler to have a say over secondary issues, he did not give him the absolute right to force people to follow his secondary jurisprudential desires and choices— even in terms of aspects of worship which are the apparent aspect of Islam. He believes that the ruler should respect the differences among people on the secondary issues and the approaches of research and *ijtihad*.

See al-Qarafi: *Rules on Differentiation among Fatwas from Ordinances and the Behaviors of Judges and Rulers*, 101,102. Sadeddin Al-Osmani, *The Basic Behaviors of Prophet*, 49, et seq. Juwayni, Al-Ghaiathi, 332, 338. In the first position, 332, he says, "The difference among scholars regarding the secondary issues of Sharia and the approaches of search, ijthad and fraternity, a path which the righteous former scholars followed." After he paved the way for difference as something natural and one of the requirements of ijthad, he said, "The imam (ruler) should not interfere with the jurists of Islam in the ordinances over which they dispute. But he should endorse the school of thought of every imam and his followers. He should never block them from obtaining their approach and desire."

(16) Huwaidi, 246.

(17) Ibid.

(18) Hoodfar, "Iranian Women Risk Arrest."

(19) Fatima al-Smadi, "Political Currents in Iran," (Beirut: Arab Center for Research and Policy Studies, 2019), 364, [Arabic].

(20) Ibid.

(21) Misagh Parsa, *Democracy in Iran*, trans. Mohammad Sari Alzoabi (Riyadh: The International Institute for Iranian Studies, 2019), 226, [Arabic].

(22) "Parliament, Representatives Question the Minister of the Interior Over the Treatment of Women by Patrol Officers," *Shahrvand*, April 23, 2018, accessed June 29, 2020, <https://bit.ly/2VuWy41>

(23) See: Huwaidi, 246, [Persian].

(24) Khomeini, *Kashf al-Asrar* cited Huwaidi, 246-247.

(25) Abdel-Reza Aghakhani.

(26) "Ayatollah Alavi Gorgani: Do Not let the Blessing of Hijab Be Lost," *Tasnim News Agency*, June 19, 2019, accessed August 26, 2020, <https://bit.ly/2WSnEA6>, [Persian].

According to the vice president for women affairs, 26 organizations have been appointed in the three branches of power to promote Islamic attire. Minister of Interior Mostafa Najjar allocated \$1.5 billion to enhance morality laws, Misagh Parsa, *Democracy in Iran*, , 226.

(27) Ibid.

(28) "Ayatollah Sobhani: The Police Force Should Be Decisive in Dealing With Inappropriate Hijab," *Mehr News*, June 13, 2015, accessed August 26, 2020, <https://bit.ly/3b43qvN>, [Persian].

(29) "Alamolhoda reaction to the recent inappropriate treatment of the police," *Entekhab*, April 20, 2018, accessed June 29, 2020, <https://bit.ly/2Jddp2H>, [Persian].

(30) "Friday Preachers Are Involved in the Demonstrations: the Revolutionary Court Is Fighting the Removal of the Hijab," *The International Institute for Iranian Studies (Rasanah)*, February 4, 2018, accessed August 9, 2020, <https://bit.ly/2XJ8650>, [Arabic].

(31) Eric Rollo, "The Republic in the Face of the Ruling of the Clerics," *Mafhoum*, June 2001, accessed August 23, 2020, <https://bit.ly/32hhHBI>, [Arabic].

(32) "Nasser Makarem Shirazi: Hijab Is not Mandatory, it Is Required," *Radio Farda*, March 22, 2018, accessed August 26, 2020. (This is a statement made during the meeting with the head of the Iranian judiciary in general in 2009). <https://bit.ly/2EAmsH8>, [Arabic].

(33) Faleh Abdel Jabbar, *The Caliphate State: Advancing Towards the Past, ISIL and the Local Community* (Beirut: Arab Center for Research and Policy Studies, 2017), 186, 188, [Arabic].

(34)* The chairman of the women's parliamentary committee at the time.

(35) "Salahshouri: Corrupt Reading of Women Protesting Against Hijab Is not Fair/ Women Have Become a Red Line," *Jamaran*, April 2, 2018, accessed June 29, 2020). <https://bit.ly/2GpUAMQ>

(36) Ibid.

(37) Ibid.

(38) "Democracy Does not Mean Calling Anyone Renouncing the Veil a 'Scoundrel,'" July 14, 2019.

accessed June 25, 2020, <https://bit.ly/3eAea63>

(39) *Muhammad Jaafar Montazeri, during the joint session of professors and the mobilization elite in the religious seminaries of the provinces of Khorasan, Qom, Tehran and Isfahan, held in Mashhad.

(40) "Mohammad Jafar Montazeri, Attorney General: Babak Zanjani Will Definitely Be Executed / Violent Crackdown Will not Work," *Etamad Online*, July 18, 2018, accessed August 26, 2020, <https://bit.ly/2NrDc9n>

The authorities from time to time arrest women for not wearing the hijab and for inappropriately wearing it. The authorities describe them as deceived women. See: "Iran Must Stop Persecuting Women for Their Clothing," *Human Rights Watch*, February 24, 2018, <https://bit.ly/3gy1nBc>

(41) Mostafa, "Iran: Millions of Women Suffer Illiteracy," *Iran News Update*, April 1, 2018, accessed October 27, 2020, <https://bit.ly/2ZmWwMP>.

(42) Sayyed Kamal Al-Haidari: "The Issue of the Veil in Islamic Jurisprudence," an episode published on YouTube, September 2, 2018, accessed August 2, 2020. <https://bit.ly/2AVkaHV>

(43) Hoballah ed., *The Fiqh of Hijab in Islamic Law*, 251.

(44) Among the Sunnis, there is an approximation by Safia al-Jafri which is close to that of Ayatollah Montazeri, which states that hijab is obligatory in general, without delving into its shape and details. It is backed up by opinions from scholars of the sect and from the Sunni legacy. This approximation is different from the common line of the sect. See: Safia al-Jafri, *The Fixed and Changed in the Jurisprudential Ruling* (Beirut, the Arab Network for Research and Publishing, 2014), 194, 217, 226, 243, 244, [Arabic].

(45) Hoballah ed., *The Fiqh of Hijab in Islamic Law*, 251

(46) Ibid, et seq. Haidar Hoballah, *a'slmah ala'loum wkdhaya ala'lakah bin alhouzah waljama'ah* [Islamization of Sciences: the Issues of the Relationship Between Hawza and University] (Beirut: al-Intishar, 2017), 239. [Arabic].

(47) Al-Juwayni, imam of the two sacred mosques, lays out an important theory about the central issues of religion. He decides that obligations are not on the same level. Some of them are more obligatory than others, and the same goes for lawful and favorable matters. The level of obligation is based on the reprimand for abandoning and the lauding of obedience. The more the matter involves more reprimand, the more obligatory it becomes. Al-Juwayni: *Summary on the Principles of Jurisprudence* (Beirut, Dar Al-Bashair, 1996) 1/468, [Arabic].

(48) Ali Rahmana, *Ali Shariati, a Political Biography*, trans. Ahmad Al-Maaini, (Beirut: al-Intishar Al-Arabi Foundation, 2016), 472, [Arabic].

(49) Abdolkarim Soroush, "The Woman Question Between Jurisprudence Laws and the Moral Values," System, translated by Ali Abbas Al-Mousawi in *Women in Contemporary Islamic Thought* (Al-Intishar Al-Arabi Foundation), 24 [Arabic].

(50) Ibid., 24.

(51) Dalal Abbas and Others, *The Woman and Family in Iranian Constitution and Law* (Beirut: Center for Civilization for the Development of Iranian Constitution and Law), 137, [Arabic].

(52) Ibid. 128

(53) Ibid. 128,135.

(54)* During his meeting with the minister of sciences and technology.

(55) "Ayatollah Sobhani: Hijab Regulations and Religious Standards Should Be Taken More Seriously in Universities," *Tasnim News Agency*, June 18, 2019, accessed August 26, 2020, <https://bit.ly/34xWeXy>

(56) "Sardar Ashtari Announced: The Efforts of the Police Force to Address the Concerns of the People in Security and Moral Issues," *Mehr News Agency*, June 13, 2015, accessed August 26, 2020, <https://bit.ly/3hw6QK2>

(57) Mustafa Melkian, *Articles and Essays on Philosophy, Religion and Life*, translated by Ahmad Al-Qubanji, (Beirut: Al-Intishar Al-Arabi Foundation, 2013), 155.

(58) Mohammad Mojtahed Shabestari, *Criticism of the Official Reading of Religion*, translated by Ahmad Al-Qubanji, (Beirut: The Al-Intishar Al-Arabi Foundation, 2013), 46.

(59) Ibid., the same position.

(60)* Commander of the internal security forces Suleiman Malikzadeh

(61) Raz Zimmt, "Iran: Increasing Enforcement at Home with Increasing External Pressure," June 30, 2019, accessed October 27, 2020, <https://bit.ly3/adQTWd>.

(62) For a comprehensive review of the philosophy of enjoining good and forbidding evil in Shiite jurisprudence, see: Michael Cook, *Enjoining Good and Forbidding Evil in Islamic Thought*, translated and presented by: Radwan al-Sayyid, Abdul-Rahman Al-Salmi, and Ammar Al-Jallasi, (Beirut: The Arab Network for Research and Publishing, 2013) 739: p. 760. Also: Haidar Hoballah, *The Jurisprudence of Enjoining Good and Forbidding Evil* (Beirut: Al-Intishar Al-Arabi Foundation, 2014), [Arabic].

(63) Zimmt, "Iran."

(64) "Hojjatoleslam Mohsen Gharavian: We Leave the Decision About the Hijab of Tourists up to Them/ We Cannot Impose our Jurisprudential Rules on Tourists," *Aqnaab*, July 9, 2018, accessed August 4, 2020, <https://bit.ly/3lmtXZS>

The remarks of Ghroian in response to the radical position of one of the members of the cultural committee of the Iranian Parliament Ahmed Mazeni who described the statement that tourists' freedom to wear clothes will attract more tourists to the country as a deviated vision. Ghroian asserted that we should not oblige tourists to abide by our jurisprudence principles. "A Radical Cleric in Iran Calls for Easing Restrictions on Tourists and Revoking the Mandatory Hijab for Tourists," *a-Youm Al-Sabea*, June 10, 2018, accessed June 9, 2020, <https://bit.ly/32k7ELG>, [Arabic].



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