

# MUSLIM WOMEN AND THE ISLAMIC STATE BETWEEN POLITICAL ACTIVISM AND THE ISLAMIC LAW: AN ANALYSIS OF THE JILBAB AL-MAR'AH AL-MUSLIMAH FI AL-KITAB WA AL-SUNNAH OF SHAYKH AL-ALBANI

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## Introduction

This study brings into the open the views of Muslim women on the socio-political conditions of women in line with the need to capture the 'feelings, experiences and perspectives of Muslim women who hold tenaciously to the Islamic creed and its tenets but who have usually been excluded from the feminist discourse about Muslim women.<sup>1</sup> It examines the socio-political conditions of women within Muslim societies empirically and shows to what extent Anne Sofie Roald has rightly pointed out that the question of Muslim women has hardly ever been treated as a religious question. It has instead, according to her, been usually perceived in socio-political terms.<sup>2</sup> The root causes of the appalling conditions of Muslim women in contemporary societies has been traced to the gender-biased State implementation of the shari'ah laws. These appalling conditions of Muslim women according to Shaykh Muhammad Nasir al-Din al-Albani can be traced to the emergence of religious extremism. Despite the

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1. Katherine Bullock, *Rethinking Muslim Women and the Veil: Challenging Historical & Modern Stereotypes*, Herndon, USA: The International Institute of Islamic Thought, 2002, pp. 35-40.
2. Anne Sofie Roald, "Notions of 'Male' and 'Female' Among Contemporary Muslims: With Special Reference to Islamists", in *Islamic Studies*, 38:3 1999: pg. 369.

prohibition of extremism in Islam a religion of balance, Muslim scholars have departed from this noble teaching especially when dealing with Muslim women. This extremism according to al-Albani has infected even some Muslim women making them flagrantly disobey the Prophetic injunction that the face-veil (*niqab*) and gloves are not to be worn in the state of *Ihram* (when the pilgrim begins the *hajj* and enters its rituals wearing the *hajj* garment) and they say "we will use *niqab* and then atone by paying *fidyah* (Compensation)". To al-Albani, this is the peak of extremism on the use of the face-veil and is really only one of the many instances of such extremism which cannot bear positive fruits nor produce the calibre of noble women produced in the early days of Islam as such women who flagrantly disobeyed the Prophetic injunctions cannot be bearers of the moderate, balanced and intellectual message of Islam.<sup>3</sup> Al-Albani therefore appeals to Muslim scholars and Islamists to return to the ideal preached by Islam and to eschew all forms of extremism which is not possible according to him until *Taqlid* is shunned through a return to the authentic Sunnah of the Prophet and the genuine practices of the righteous predecessors of Islam.<sup>4</sup>

Going by the above, Shaykh Muhammad Nasir al-Din al-Albani's views tally with those of most feminists on the root causes of the appalling conditions of Muslim women in contemporary societies-the imposition of the face-veil on women-especially on the perception of women's sexuality as a social threat by some Muslim scholars. It is, however, unfortunate that it is this extreme religious fervor that holds sway in most Muslim societies today from the Arab world to the Indo-Pakistani subcontinent and even the Muslim communities living in the Diaspora. Dr. Zaki Badawi of the Muslim College in London agrees that this wave of extremism is destructive and can be perceived in the anti-woman, anti-intellectual, anti-progress and anti-science practices. To him the Arab world especially Saudi Arabia and Kuwait with their vast amount

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3. Muhammad Nasir al-Din al-Albani, *Jilbab Al-Mar'ah Al-Muslimah Fi al-Kitab Wa al-Sunnah*, 3rd edition, Beirut: Dar Ibn Hazm and Jordan: al-Maktabah al-Islamiyyah, 1997, p. 17.

4. *Ibid*, pp 20-21.

of oil money are responsible for the extreme form of Islam being witnessed today.<sup>5</sup>

## Muslim Women and State Shari'ah

This wave of extremism can be seen almost all over the Muslim world. According to a Pakistani commission that was established by the President of Pakistan on the status of women in 1985, "the average woman is born into slavery, leads a life of drudgery and dies invariably in oblivion".<sup>6</sup> Women who have been raped for instance can still be charged for *Zina* in Pakistan. Even if the woman makes a legal complaint of *Zina* but cannot provide four witnesses, her complaint is usually viewed as an admission of *Zina* and she is punished accordingly. This was the experience of Safia Bibi, a maid who was raped by her employer's son and later the employer in 1983. Safia's father registered a case of rape for his daughter but the judge, for want of witnesses, acquitted both the son and father and sentenced Safia to three years' rigorous imprisonment, public flogging and a fine. Women are seen in Pakistani law in the same terms as material objects and possessions as reflected today in its rape laws, which treat the offense as one of theft of male private property with no consideration for the woman's rights.<sup>7</sup>

Articles describing women committing suicide after sexual attacks appear so often in newspapers in Pakistan that they are now usually relegated to the background. Tribal courts, known as *panchayats*, allow individual rights to suffer in this ad hoc legal system traditionally meant for resolving disputes between whole families. This was the case for Mukhtar Mai. It was a *panchayat* that found Mukhtar's younger brother, Shakoor, guilty of raping a girl from the village's powerful Mastoi clan. The tribal *panchayat*, or council, ordered the rape of the 18-year-old Mukhtar

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5. See Zaki Badawi in Jan Goodwin, *Price of Honour: Muslim Women Lift the Veil of Silence on the Islamic World*, London: Little Brown and Company, 1994, pg. 27.

6. *Ibid*, p. 44.

7. *Ibid*, p. 51.

Mai in lieu of her brother's alleged rape. Human rights organizations strongly protested against the gang rape of Mukhtar Mai by four men, and with the support of her community, albeit a minority, she took the case to court. The four men who raped her and two other members of the *panchayat*, were given death sentences. It was later revealed in a conventional court that the 12-year-old, allegedly raped by Mukhtar's younger brother, had in fact been kidnapped and sexually assaulted by the same men who later made up his jury.<sup>8</sup> Today this case has become a topical debate around the world

There have been many unreported and documented incidents of harassment and rape of women even by law enforcement agencies in Pakistan before that of Mukhtar Mai.<sup>9</sup> But the case of Mukhtar Mai is the first time public stripping and rape of a woman has been carried out under the decree of a tribal council. This impunity was what really angered women's group. These women's rights organizations believe that there is institutionalized repression of women in Pakistan and that hundreds of women have been murdered in traditional honor killings with women being marked for death on suspicions of adultery.<sup>10</sup> Mukhtar Mai is now working to improve the lives of the next generation of girls in the village with two schools she built with her compensation money of \$9,400. So she built the Mukhtar Mai School for Girls and the Farid Gujjar School for Boys, named after her father. Conditions are basic, but the children are happy to be stimulated and learning. Mukhtar believes men are scared of being undermined by a better-educated new generation, including stronger young women.<sup>11</sup>

Similarly in Afghanistan, women have become a useful target for the country's Islamists since 1992. The declaration of the Islamic state of

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8. Owais Tolid, "Protests over Pakistan Gang Rape", *BBC News World Edition*, Wednesday 3 July, 2004.
  9. Jan Goodwin, *Price of Honour, Muslim Women Lift the Veil of Silence on the Islamic World*, London: Little Brown and Company, 1994, pp. 44-64.
  10. Owais Tolid, "Protests over Pakistan Gang Rape", *op. cit.*
  11. Chiade O' Shea, "School Hope for Rape Victim in Southern Punjab", *BBC News World Edition*, Tuesday 7 December, 2004.

Afghanistan in 1992 put an end to the movement for women's emancipation in Afghanistan. According to Fatima Gailani, in 1994, an official of the Afghan Resistance for twelve years the situation for women became grave and dangerous after the Islamic state of Afghanistan was declared in 1992. Women were required to cover from head to toe and even then were not allowed to appear on the streets. They were banned from schools and work places. Women were told that their education must only be to the degree where they can teach their children at home, and could only be obtained from their nearest relatives. Therefore, schools and training institutes for women were closed. Women's right to vote and be voted for was also annulled by the Islamic state of Afghanistan. The lots of Afghan women are so pathetic that it said that they have the highest world maternal death rate, second-highest infant mortality rate as well as the highest fertility rate. It was this ugly incident that forced Fatima Gailani who had enrolled at the Muslim College London in 1991, to study Fiqh or Islamic jurisprudence and who planned to continue her studies at Al-Azhar University in 1992 to change her mind by accepting Afghan women's plea that she should return to Afghanistan and become the women's voice in a new Afghanistan. To Fatima Gailani, her mission was not to fight men, but rather to include men in the fight for authentic Islam and for the rights granted women by Islam.<sup>12</sup>

In Iran, following the Islamic Revolution of 1979 which brought Ayatollah Khomeini to power, a black full dress was mandatory for all women starting from the age of nine. Failure to do so is regarded as an act of prostitution and the penalty ranges from fines to twelve months imprisonment or flogging. Girls are also mature for marriage from that age according to Ayatollah Khomeini, although he pegged the marriage age for them at thirteen. According to an Iranian woman lawyer, this led to the injury of very young girls due to early intercourse and when infection set in, the girls died. In addition, the family Protection Acts of 1965 and 1975 which granted women some marriage, divorce and custody rights, was repealed. Consequently, husbands could divorce their wives

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12. Ibid, pp. 76-92.

without their consent or without even telling them while women were not given the right to divorce. A woman was said to have spent three years trying to get a divorce from her husband to no avail, while the husband was in America frolicking every night with different girls. In 1992, in order to defend women's lack of divorce rights, the head of Iran's Supreme Court, Ayatollah Ali Moghtadai said it was because they were prone to emotional and irrational decision making. Men were also legally permitted to kill their wives if they found them committing adultery and many women were actually killed on mere suspicion. Women were also banned from working and it was decreed that a woman must not leave her home without her husband's permission even if it was to attend her father's funeral. At the same time, all Iranian schools were gender segregated and women were banned from studying engineering, mining and agriculture. Couples were stopped on the streets and in their cars and asked to provide evidence of being related. If they were found not to be related, they would be separated. Young unmarried couples found together were arrested and the women given virginity tests. Those found not to be virgins were forced to get married. This charade was taken too far when it was ruled that unmarried women condemned to death must first lose their virginity through *Mut'ah* marriage to the guards and for this, Amnesty International was reported to have lambasted Iran in a 1986 report.<sup>13</sup>

Another well-known discrimination against Muslim women is in the area of civic and political rights. In most of these countries, women are denied the right to vote and be voted for. In this respect, Saudi women are described as the most deprived women in the Gulf region. It is in fact the only country where women are not allowed to drive. They are also required to wear the face-veil in public and are not permitted to travel out of the country except in the company of a male relative, even though he may be a mere minor or idiot. Like their Saudi colleagues, Qatari women are also not allowed to drive cars except for a few working women.<sup>14</sup> Following this, women's education fell under stricter control and women

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13. Ibid, pp. 103-115.

14. Munira Fakhro, "Gulf Women and Islamic Law" in Yamani Mai, (ed.), *Feminism and Islam: Legal and Literary Perspective*, New York University Press, 1996, pp. 256-258.

were forced to be educated at home rather than abroad which was the hitherto practice. The face-veil also became compulsory for women in public and their freedom of movement became minimal. In November 1990, when forty-seven veiled, professional and prominent Saudi women, including university professors, drove their cars on the King Abdul Aziz highway in Riyadh, they were arrested and jailed for some hours. They lost their jobs, their passports were confiscated for a year, and driving by women became officially banned. Gender segregation is a Saudi government policy strictly applied in all public spheres whether in schools, universities, restaurants, ministries or banks.<sup>15</sup>

In the United Arab Emirates (UAE), women, most of whom are fully covered, are segregated and may only be met by foreigners on rare occasions. They are also not encouraged to work; hence many young Emirates women do not see the need to be educated. The few who work are severely discriminated against. For instance, while male doctors get grants for building their own houses, female doctors do not because they are expected to be supported by their husbands. In fact, it is said that clerks in the hospitals earn more than female doctors. According to Shaykha Lubna bint Khalid bint Sultan Al-Qasim of Sharjah, aged thirty-six and a computer specialist with an executive position with the General Information Authority in the Emirates, the restrictions on women are the fallouts of a resurgence of religious extremism in the Emirates. To her, it is extremists who are insisting that women stay at home and veil their faces. They also insist on men marrying four wives, and backed by the UAE government, they pay out financial bonuses to men who are willing to take additional wives. Asked why she was not yet married, she replied that she could not marry because the tradition is for her to marry one of her cousins but since she delayed marriage to get an education, there were no unmarried cousins to marry her. Yet it is permitted for her brothers to marry outside the royal family because they are males.<sup>16</sup>

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15. Yamani Mai "Some Observations on Women", in Yamani Mai, ed., *ibid.*, pp. 266-273.

16. Jan Goodwin, *Price of Honour: Muslim Women Lift the Veil of Silence on the Islamic World*, *op. cit.*, pp. 130-154.

In Kuwait, following the 1992 elections, Islamists are trying to change the image of the country. They see Islam as an alternative to the corrupt, inept and nepotistic government of the al-Sabah royal family. Unfortunately, they appear to support the categorization of women as second-class citizens. They are opposed to women's suffrage and want women to fully cover. As in the Emirates, they also call on men to marry more than one wife. Similarly, they pay out financial bonuses, such as monetary wedding gifts and long-term loans to men who are willing to take additional wives. Most importantly like their Emirates Kuwaiti Islamists are backed by the government which is trying to appease them.<sup>17</sup>

One of the practices and customs women suffer from in most Muslim societies is what is known as crimes of honor. This covers all inhuman maltreatment of women, such as killing and battering by their close male relatives because she engages or is even suspected to engage in sexual misconduct outside marriage. One pathetic example of such an un-Islamic and barbaric killing of a Muslim woman was the cold murder of Tina Isa by her father, Zein Isa, aided and abetted by her mother, Maria Isa on 6 November 1989, in order to repair so called family honor.<sup>18</sup> On the fateful day, Tina Isa, who had been warned repeatedly, walked home from work with her boyfriend whom the parents accused of sleeping with her. It has been shown that this un-Islamic and barbaric act however has support in classical criminal jurisprudence in the Arab world, where a man who has seen his wife or any of his female relatives in an ugly state of misconduct is allowed to beat, injure or kill one or both of them. Yet, women who find, their male relatives in a similar state of misconduct are not given equal permission to beat, injure or kill them. It also constitutes sexual misconduct if a woman fails to prove her virginity by bleeding during sex on her wedding night, and this shame can only be erased by her bleeding to death. In short, it appears that to be a man is just to ensure the virginity of women even at the point of butchering her.<sup>19</sup> The above disgusting

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17. Ibid, pp. 154-162.

18. *People Weekly*, 20 January 1992.

19. Lama Abu-Odeh, "Crimes of Honour and the Construction of Gender In Arab Societies" in Yamani Mai, (ed.), *Feminism and Islam: Legal and Literary Perspective*, op. cit., pp. 141-194.



practice can be traced to the views of those Muslim scholars who hold the notion that Muslim women are a source of *fitnah*, and as a result, hold men responsible for the honor of their female relatives. One of such Muslim scholar is ibn Taymiyyah, as mentioned above.

Following the political transition in Nigeria in 1999 from a military to a civilian regime, the status of the criminal aspects of shari'ah has undergone a rather revolutionary transformation. The primary manifestation of this has been the enforcement of the criminal aspects of *shari'ah* leading to increases in cases of assault against women such as in the implementation of the *shari'ah* criminal provisions on Muslim women. By 2004, according to an Amnesty Report, over ten people had been sentenced to death since the re-introduction of the *shari'ah* criminal provisions.<sup>20</sup> Bariya Magazu was the first woman to be sentenced to flogging for having sexual relations outside marriage, and the sentence was carried out although she claimed that she had been raped, but her plea was not accepted. In fact, she was originally sentenced to 180 lashes as punishment for fornication and calumny against her alleged rapist, but after much plea, and according to the presiding Judge, he reduced the amount of her flogging on humanitarian grounds.<sup>21</sup> Another woman, Safiya Husseini, 35, who had faced a sentence of death by stoning, saw her conviction reversed on March 25 2002 on appeal. The *shari'ah* court Judge in Sokoto City acquitted her because the alleged offense occurred before the implementation of the criminal aspects of the *shari'ah*.<sup>22</sup> Hajara Ibrahim, a 29-year-old woman, was also sentenced on October 5 2004 by a *shari'ah* court in the Tafawa Balewa area of Bauchi state, after having confessed to having sex with 35-year-old Dauda Sani and become pregnant. But the court set her alleged partner free and consequently acquitted him because there were no four witnesses. These women were all sentenced in similar

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20. "Nigeria: The Death Penalty and Women under the Nigerian Penal Systems," in *Amnesty International Report*, February 2004.
  21. Rhoda E. Howard-Hassmann, "The Flogging of Bariya Magazu: Nigerian Politics, Canadian Pressures, and Women's and Children's Rights", *The Journal of Human Rights*, Volume 2, 2003 and, "Nigeria: Teenage Mother Whipped," *Human Rights Watch News Release*, (January 23 2001).
  22. As reported in *Black Look*, October 15 2004, <http://www.typepad.com/t/trackback/1249739>.

circumstances based on circumstantial evidences for *zina* which is defined as sexual intercourse by a man or woman through the genital of a person over whom he has no sexual rights and in circumstances in which no doubt exists as to the illegality of the act.<sup>23</sup>

Consequently, over time, Muslim women in Nigeria have found compelling reasons or needs to call for the rights and protection of women. According to them, the manner of implementing the *hudud* has contributed in no small measure to the vulnerability of women to abuse in many forms by creating conditions in which this abuse may be perpetrated with relative impunity. They have, therefore, called for a total overhaul of the operation of the *shari'ah* law especially in respect of the *hudud* application to Muslim women. They argue that there are very strict and precise conditions for dealing with the issue of adultery in Islam. For example, the provision of having four eye-witnesses who can confirm the crime did take place. Adultery is punishable in Islam, but they believe not in the uncivilized manner in which Safiya was sentenced to death.<sup>24</sup>

In addition, the cases of Bariya Ibrahim Magazu and Safiya Hussaini above, have emphasized that *shari'ah* Law as practiced in Northern Nigeria, does not protect women from possible sexual assault and coercion. Instead, it is willing to punish the victims of such assault. The clear implication of not pursuing the allegations of rape is that men would violate and rape girls and women with impunity as long as they make sure that there are no witnesses to their crime. On the other hand, women and girls who are victims of rape or coercion have had their situation further compounded as they are subjected to charges of both *zina* and *qadf* (false sexual accusation against their molesters). This last point agrees with the submission of Prof. D.O.S. Noibi on the sentence of Amina Lawal above, that the sentence would be overturned at the *shari'ah* court of Appeal. This, to him, is because the *shari'ah* based penal codes already possess provisions for justice to be done, and if the various criteria are

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23. Zamfara State Shari'ah Penal Code Law 2000, Section 126.

24. All Africa.com, March 21, 2002 Posted to the web March 21, 2002 Washington, DC.

applied, then justice would not only be done but would also be seen to have been done.<sup>25</sup>

According to Hajiya Bilkisu Yusuf. (mni), Editor, Citizen Communications, Kaduna, and a leading member of FOMWAN in Nigeria, when Muslims clamored for the implementation of the *shari'ah* law in Nigeria, all they wanted was that justice be entrenched. But their hopes have been dashed because the *shari'ah* has been reduced to a body of laws meant to fish out women who commit adultery. In spite of their pretensions, according to Hajiya Bilkisu Yusuf, the flawed implementation of the *shari'ah* by the authorities is underscored by the poor handling of court cases, the pervasive ignorance, and the lack of legal education among the *hisbah* or supervisory committee members who are supposed to police the *shari'ah* compliant communities. Currently, she reveals that only poor women and men seem to be the convicts of the *shari'ah* courts while the elites and the rich appear to have some inbuilt immunity from *shari'ah* laws.<sup>26</sup>

According to Hajiya Bilkisu, the denial of education to women in *shari'ah* states is also a glaring flaw as female children are sent to hawk (*talla*), thus making them vulnerable to sexual abuse from those posing to be buyers of their goods, while male children *almajirai* are left to roam the streets, exploited by their teachers (*malams*) and spend more time trying to eke a living for their teachers.<sup>27</sup> Alhajah Lateefah Okunnu also describes how in many ways, the manner of implementing the *shari'ah* in Nigeria today has provided opportunities for ifeminists in Nigeria to attack Islam and this is affecting *da'wah* activities among women.<sup>28</sup>

The above appalling conditions of Muslim women in the above Muslim countries, have accounted for the moves by some Muslim women activists or Islamists to call for change in the conditions of Muslim women

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25. Noibi, *In Conversation with Professor Dawud Noibi: Honouring Wisdom*, London: Q News, 2004, pp. 40-42.

26. Hajiya Bilkisu Yusuf, "Women and Empowerment in Islam", *Weekly Trust*, Friday, December 13 2002.

27. Ibid.

28. Alhaja Lateefah Okunnu "Women, Secularism and Democracy, *Weekly Trust*, Friday, December 13 2002.

under the banner of Islam itself. The brand of the struggle championed by these Muslim women activists, or Islamists, against patriarchy or male domination has been rightly labeled as Islamic feminism. The label of their social, political, and intellectual activism in support of Muslim women's public roles in society as Islamic feminism, according to Ishaq Olatunbosun Tijani while commenting on the activities of Muslim women in Yoruba lands, shows the difference between their perceptions of Islam as a religion which matches the egalitarian vision at the core of its teachings, with realism pragmatism and Western secularism. Islam, to him, is a religion which is predicated on moderation and balance and therefore upholds gender equity but is opposed totally to the extremism of secular and gender feminism. He therefore submits, that those who fall under the label Islamic feminists in Nigeria are not only resolute but also realistic by advocating that women should be granted their full humanity and are protected from all harmful social and cultural practices.<sup>29</sup>

The phenomenon of Islamic feminism as a call for change in women's conditions under the banner of Islam, beginning at the time of the Prophet, emerged in contemporary times during the Islamist struggles in modern Egypt under the banner of the *Al-Ikhwān Al-Muslimūn* (Muslim Brotherhood), and gained currency in the waves of complexities that followed the Iranian revolution of 1979. It was born out of the need to provide Islamic alternatives to the feminist question and accommodate the aspirations of Muslim women for better conditions and roles in Muslim societies. The basic aim of Islamic feminism is to achieve the above aspirations of Muslim women by going back to the pristine precepts of their religion or Din. In doing so, they seek to oppose Western corrupt values and lifestyles, which have made women second-class citizens, who serve as sex objects and as advertising tools. One such Islamist who falls within the category of Islamic feminists and is opposed to the marketing of women's sexuality espoused by secular feminists, is Zaynab al-Ghazali al-Jubayli. In her memoirs, *Days of my Life*, she tells the story of her leadership of the Muslim Ladies Association which she founded, her

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29. Dr. Ishaq Olatunbosun Tijani was a lecturer at the Department of Arabic and Islamic Studies of the premier University in Nigeria, The University of Ibadan, and was awarded a Ph. D from University of Edinburgh, UK. He was interviewed through email in July 2004.

relationship with the Muslim Brotherhood, her ordeals in Egyptian prisons in the 1960s and the state's methods of terrorism and control. She had earlier joined the *Hudud Sha'rawi* led feminist Union but later became disaffected because of its Western and secular biases as well as her realization that Islam gave women every right-political, economic, social, marital and personal, so much so that Muslim women did not need to be liberated.<sup>30</sup> Yet she continues to work with western and secular feminist organizations as seen in 1952, when her Muslim Ladies Association joined the Women's Committee for Popular Resistance in their independence struggles. This really portrays Zaynab al-Ghazali al-Jubayli as a feminist albeit an Islamic feminist. Hence, she dedicated her life to *Jihad* in the path of Allah and the establishment of the Islamic State in 1935 at the age of eighteen. She divorced her first husband because of his interference in her *Jihad* efforts and reminded her second husband of her pledge to *Jihad* and her pledge to Hasan al-Bana to work under the banner of the Muslim Brotherhood before accepting his proposal of marriage. Hence she preferred *Jihad* to marriage. Miriam Cooke, who conducted an interview with Zaynab in 1995, sought to know if *Jihad* in the path of Allah as propounded by her should end the Islamic State as established and if women could assume political office. Zaynab's response was that the authorities in the new Islamic state would determine at that point the eventual status of women, and that she believed women could certainly work in the Islamic government save for the office of the President.<sup>31</sup>

In an interview with her in 1981, Zaynab argued that Islam did not forbid women from active participation in *da'wah* as well as in public life, as long as it did not affect their primary duty as mothers and trainers in building the caliber of men needed to fill the ranks of the Islamic *da'wah* work. To her, although family and sexual life come first, they are not the first and last goals of marriage, and therefore do not preclude an active *da'wah* work<sup>32</sup> Zaynab al-Ghazali al-Jubayli is therefore a pace blazer in

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30. Valerie J. Hoffman, "An Islamic Activist: Zaynab al-Ghazali" in Elizabeth W. Fernea, ed., *Women and the Family in the Middle East: New Voice of Change*, Austin: University of Texas Press, 1985, pp. 234-235.

31. Zaynab al-Ghazzali, *'Ayyam Min Hayatun (Days from my Life)*, Cairo: Dar al-Shuruq, 1986, pp.5-305.

32. Valerie J. Hoffman, *op. cit.*, pp. 236-237.

the contemporary evolution of Islamic feminism. Muslim women's movement workers all over the Muslim world today are employing her Islamic idioms in their struggle for women's rights. No wonder Duval, the Swedish sociologist, praises and describes Zaynab al-Ghazali as a pioneer of a brand of feminism that Islamist and active Muslim women can champion. To her, Zaynab al-Ghazali was determined to find feminism within Islam<sup>33</sup> which she did successfully.

According to Ziba Mir-Hosseini, the need to expound the Islamic brand of feminism in Iran became inevitable because of the contradictions that arose from the Iranian Islamic revolutionary experiment as described before.<sup>34</sup> Ziba Mir-Hosseini believes Iranian Islamic revolutionary feminists were forced to challenge the hegemony of the orthodox interpretative patriarchal elites of the *shari'ah* leading to the Iranian Islamic government making a complete u-turn in its supposedly Islamic divorce laws with the 1992 Divorce Amendments, which curtails men's rights to divorce and grants women financial domestic rewards, known as *ujrat al-mithl* or standard wages for housework. Juristic articles in *Zanan*, an Iranian women's magazine launched in February 1992, signaled this complete u-turn by the Iranian revolutionary government. It expounded a re-reading of the concept of *qiwwamah*, or headship of the family; *tamkin*, or a woman's submission to her husband; *nushus*, or recalcitrance of either parties in a marriage; *naqis*, or defectiveness of women; the appointment of women as judges and arbitrators in family courts; wife-beating and their economic empowerment. It also established the need for a new *Ijtihad* on the gender inequalities that exists in the shari'ah penal codes of *qisas* (retribution), *hudud* (fixed punishments) and *ta'zirat* (discretionary punishments). The juristic re-reading of the *shariah* divorce laws enacted after the 1979 Islamic revolution by *Zanan*, culminated in the Divorce

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33. Soroya Duval, "New Veils and New Voices: Islamist women's Groups in Egypt", in Karin Ask and Marit Tjomsland, eds., *Women and Islamization: Contemporary Dimensions of Discourse on Gender Relations*, Oxford: Berg, 1998, pp. 62-7.

34. Haleh Afshar, "Islam and Feminism: An Analysis of Political Strategies" in Mai Yamani, ed., *Feminism and Islam*, op. cit., pp. 201-216.

Amendments.<sup>35</sup> Thus, Islamic feminism which uses Islamic texts to demand the rights granted Muslim women by the *shari'ah*, was born. This brand of feminism, which takes Islam and not the West as its source of legitimacy, is said to have its intellectual base at the Kiyani Cultural Institute with Dr. Abdul Karim, who is regarded as the Iranian Luther, as the guiding inspiration.<sup>36</sup>

In 1991, Maryam Behruzi, a veteran representative who served a prison sentence during the post revolutionary period and whose son was martyred during the Iran-Iraq war, demanded that bills allowing early retirement for women, reforming the divorce laws, allowing single women to travel abroad to continue their studies, and making adequate provisions of national insurance for women and children be put before the *Majlis*. The request was however rejected by the Presidential adviser on women's issues. But Behruzi succeeded in putting through the bill which allowed women to retire after twenty years of active service. A proposal to eliminate the prejudicial treatment of women in higher education and in the selection for degree courses was also ratified in 1991. In addition, women's struggle for re-entry into the judicial domain was boosted in 1982 when women lawyers were permitted to serve as advisers in family courts and on matters relating to care and responsibility for children and minors. Two years later, the Head of the Judiciary was empowered to appoint women to judicial functions as advisers to administrative justice courts, family courts, the posts of Assistant to the Public Prosecutor examining magistrate and offices concerned with legal preparation of laws.<sup>37</sup>

Among the growing elite of Muslim women and men who choose to reject the depiction of Muslim women as the ultimate symbol of backwardness, oppression, and the degraded image of Muslim societies in Iran, is Zahra Moustafavi, the oldest daughter of Ayatollah Khomeini. As a Professor of Philosophy at Tehran University and President of the

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35. Mir-Hossein Ziba, "Stretching the limits: A Feminist Reading of the Shari'ah in Post-Khomeini Iran" in Mai Yamani, ed. *Feminism and Islam*, *op. cit.*, pp. 285-316.

36. R. Wright, "An Iranian Luther shakes the foundation of Islam", *The Guardian*, 1 February 1995.

37. Haleh Afshar, *op. cit.*, pp. 201-216.

Iranian Women's Association, Zahra Moustafavi argues that Islam grants men and women equal rights and therefore women should rebel, starting from the home, in order to get their rights. She believes that if a woman wants to work outside the home, nobody can stop her since Islam has given her that right and the woman has the right to equally to collect equal salary with men for the same job. She calls for the provision of nurseries for working mothers and the right to work for three days a week.<sup>38</sup>

Islamic feminism also emerged in Saudi Arabia in the 1980s from the women's sections of the universities. They work in the women's sections of the universities, banks, businesses etc. They are mostly young women in their twenties and thirties and they gather in large numbers that cut across class, economic and social barriers under the leadership of women knowledgeable in the *Din* who are usually university educated, lecturers and writers. It is said that as the Saudi Arabian Islamic feminists today are deriving a liberating force from going back to the basics of the *Din* and have created a forum within a cultural context with which they are negotiating power.<sup>39</sup> Perhaps the best known of these Saudi Arabian Islamic feminists is Fatimah 'Umar Naseef. She is the only woman licensed in Saudi Arabia to give *fatwa's* (religious verdicts) on Islamic issues, and she lectures to over five hundred women on women's right encouraging them to seek knowledge in Islam concerning their rights and not just duties-political, social, economic, religious, legal, educational and even the right to partake in the reconstruction of society, as well as their right to put knowledge learned into practice. She declares that a woman's right to partake in *Jihad* is next only to the five pillars and during which time, women do not require the permission of their husbands and parents.<sup>40</sup>

In fact, the same phenomenon is found in Cairo where, according to Samia Serageldin, middle-aged women brought up in secular homes are

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38. Jan Goodwin, *Price of Honour: Muslim Women Lift the Veil of Silence on the Islamic World*, op. cit., pg. 119.

39. Mai Yamani, "Some Observations on Women In Saudi Arabia" in Mai Yamani, ed., *Feminism and Islam*, op. cit., pp.266-270, 278-280.

40. Fatima Umar Naseef, *Women In Islam: A Discourse in Rights and Obligations*, Cairo: International Islamic Committee for Women and Child, 1999, pp.1-32 and 150-160.



now taking lessons on the correct preparation for prayer, head covering, and *tajwid*, or correct pronunciation of the Qur'an etc. Women themselves who have studied formally for at least two years and have received a certificate to "preach" from al-Azhar or other authorities give lessons.<sup>41</sup>

The visibility of Malaysian Muslim women, who make up about half the Malaysian population today, could be said to have begun with the publication of Kassim Aman Bey's *Tahrir al-Mar'ah* under the title *Alam Perempuan* in Penang in 1930. According to Che Husna, this emancipation of Malay women could only come through an ideology which would support their education.<sup>42</sup> Since its independence in 1957, Malaysia has engendered a remarkable women's entry into the paid labor force. Their percentage has increased from about 30% in 1957 to about 48% in 1995.<sup>43</sup> This rise was possible with the heavy investment by the Malaysian government in social reconstruction, industrialization and education, especially for women. Today Malaysian Muslim women, who are educated, modern and sophisticated, enjoy basic rights and political freedom.

Contrary to the claim of the Norwegian Professor, Ingrid Rudie, the Islamic revival in the 1980s has not curtailed the rights of Malaysian Muslim women. Since their massive recruitment in to the paid labor force, following the 1970s economic boom from oil, the equations of power in Malaysian families actually changed, and women took over the reins of power in the domestic realm.<sup>44</sup> One of the areas where Malaysian Muslim women enjoy superiority is marriage. Wife battering which falls under domestic violence, is curbed through the DVA, or Domestic Violence Act enacted in 1994. Hence, the DVA was enacted to grant both civil and criminal remedies for victims of domestic violence, such as in

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41. Ibid.

42. See Che Husna Azhari, *Melor in Perspective*, Bangi: Penerbit UKM, 1999.

43. Malaysian Government, *7th Malaysian Plan, 1996-2000*, Kuala Lumpur: Percetakan Nasional Malaysia Berhad.

44. Ingrid Rudie, *Visible Women in East Coast Malay society: On the Reproduction of Gender in Ceremonial, School and Market*, Norway: Scandinavian University Press, 1994, pp. 202-289.

matters of maintenance, custody, divorce, assault, beating, physical and sexual threats. It enables a battered spouse to apply for a protection order or injunction. It allows a woman to abstain from sexual relations if she has obtained an injunction restraining the husband from having sexual intercourse with her.<sup>45</sup>

The *shari'ah* as it is practiced in Malaysia, also controls and limits a man's right to polygamy. Before a man can marry a second wife, he has to obtain permission in writing from the *shari'ah* court with evidence that he can maintain justice among the wives, support them and his dependants, and that the second marriage is just, necessary and will not cause harm to the existing wife. Also, a wife's rights to maintenance, divorce, *mut'ah* or consolatory gifts after divorce without just cause, her share of jointly owned property, inheritance, custody of children and protection from violence, including statutory rape, are guaranteed. In short and in general, according to Zaleha who teaches law at the International Islamic University, the Malaysian Muslim woman is better off compared to her colleagues elsewhere. She also suggests further education of Muslim women on the interpretation and practice of Islamic law, a restructuring of the *shari'ah* courts and an upgrading of the training of its personnel, and the positions and powers of the *shari'ah* Judges and the facilities of these *shari'ah* courts so as to improve the conditions of Muslim women.<sup>46</sup> She believes that things may also improve more when a woman judge sits in the *shari'ah* courts from the lower to the apex *shari'ah* courts.

In short, Muslim women are now re-emerging as active participants in all areas of public, political, economic, intellectual, social, cultural and spiritual spheres, as did the early Muslim women at the time of the Prophet. Today, Muslim women are striving for greater inclusiveness in many

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45. Junight Johar Hj. Mohd. Johar, "Wife Battering: Its Legal Protections under the Domestic Violence Act (1994) and Its Impact in the Marriage", in Zaleha Kamaruddin, ed., *Islamic Family Law: New Challenges in the 21st Century*, Kuala Lumpur: Research Centre, International Islamic University, 2004, Vol.11, pp.49-62.

46. Zaleha Kamaruddin, "Islamic Family Law in Malaysia: An Overview", in Zaleha Kamaruddin, ed., *Islamic Family Law: Issues 2000*, Kuala Lumpur: Research Centre, International Islamic University, 2001, pp.1-30.

diverse ways. For them, there are no inequities towards women in the Divine law of Islam and women who become relevant in the Muslim society can remove the problem of patriarchal interpretations. Islamic feminism does define these women, though many still reject the term. Even Amina Wadud agrees that male leadership in Islam denotes male duty and responsibility, and not patriarchal dominance, in order to assist women so as to balance the greater contribution of women as a result of the burdens of pregnancy, breastfeeding and menstruations rather than male authoritarianism over women.<sup>47</sup> This acknowledgement from her is a clear testimony that Muslim women Islamists, activists and all those scholars who support Islamic feminism are well-informed.

### **Magnum opus of Shaykh al-Albani**

Contrary to popular feminist notions engendered first by Orientalists and later by postmodern secular feminists, neither Islamic teachings nor most traditional Muslim scholars subscribe to the veiling or segregation of Muslim women from political or public activism. This wrong notion has been sustained by the *Purdah* saga, or the veiling of the face, in particular by Muslim women prevalent in almost all traditional Muslim societies. A major problem posed to Orientalists and postmodern secular feminists by this practice, is the impression that Muslim women are barred from public and political activities. One contemporary Muslim scholar who belies this secularist, modernist and liberal claim is no doubt al-Albani. Al-Albani supports the full participation of Muslim women in public and outdoor activities.

Al-Albani argues that some scholars, whom he describes as *muqallideen*, still voice their objections to his submission on the full participation of Muslim women in public and outdoor activities, and that a woman's face should be veiled. Some of these scholars, according to the author, lack the intellectual basis for their views. Others concede that the face-veil or *burqa'*, is not obligatory on Muslim women and yet

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47. Amina Wadud-Muhsin, *The Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*, New York: Oxford University Press, 1999, p. 73.

they subscribe to the prevailing view in Saudi Arabia that it is mandatory for all Muslim women to fully cover. He also explains that some of these scholars justify the prevailing view in Saudi Arabia because of what is termed *sadd al-dharuah* in Islamic law.<sup>48</sup> According to them, it is not proper to allow the uncovering of the face or to propagate its permissibility because sexual and moral evils are too rampant in contemporary society. Contrary to the claim of Abdur Rahman I. Doi, the author does not subscribe to imposing *niqab* on Muslim women because of the fear of *fitnah*.<sup>49</sup> To such people who advocate this view, the author argues that the Qur'an and Traditions of the Prophet contain absolute principles which prohibit the imposing of the face-veil on women in the name of *sadd al-dharuah*.<sup>50</sup>

According to him, the provision of *sadd al-dharuah* can only be resorted to when there is no other legislation to stop an evil in Islamic law, which is not the case in the matter of sexual and moral evils. In short, al-Albani totally opposes the view that the use of *niqab* is obligatory. He submits that in the light of the Prophetic Traditions on this matter, it is wrong to impose the *niqab* on all Muslim women. It suffices to cover the body, leaving out the face and hands, since this is the specified Islamic covering.<sup>51</sup>

Similarly like Katherine Bullock, al-Albani also advocates an alternative positive theory of *hijab*<sup>52</sup> different from both the capitalist culture of objectification and commodification of the female body and the orthodox Muslim separatist female communes as exemplified by Saudi Arabia. According to him, these two extreme attitudes to the female body are triggered by sheer misconceptions of Islamic tenets, terms and

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48. This refers to the Islamic provision of obstructing and blocking the ways and means to evil by prohibiting what is otherwise permitted so that it will not lead to this evil.

49. Abdur Rahman I. Doi, *Women in Shariah (Islamic Law)*, Ta-Ha Publishers Ltd. (uk), p. 15.

50. Muhammad Nasir al-Din al-Albani, *Jilbab Al-Mar'ah Al-Muslimah Fi al-Kitab Wa al-Sunnah*, op. cit., pp. 26-28.

51. Ibid, pp 29-33.

52. Katherine, Bullock, op. cit., pp.183-219.

concepts regarding female dressing. Both extremes are contrary to the basic tenets in the Qur'an, *Sunnah* and even classical Arabic. For instance, the title of the book itself; *Jilbab*, has been translated by many people as face-veil. According to the author of the book however, this is incorrect as it merely refers to big and flowing garments which fulfil eight conditions in Islamic law.<sup>53</sup>

A cursory look at the book may give the impression that it is just another traditional Muslim scholar's work on the position of the face-veil or *burqa'*, but according to the author in his introduction to the book under study, this cannot be farther from the truth. In fact, the author explains that he was compelled to change the title from *Hijab* which appears in the first two editions to *Jilbab*, because while the former connotes the face-veil, the latter refers only to an outer garment. According to him, the first title is also technically exclusive of the second because in relation to women's dress, it specifically refers to the face-veil while the second is inclusive of the first as it can refer to any garment that a woman adorns herself with outside the home.<sup>54</sup>

This book contains a good number of Traditions narrated from the Prophet and the righteous predecessors buttressing the view that the face and the two hands are not part of the '*awrah*'<sup>55</sup> of a woman. It also includes pages on the commentary of ibn 'Abbas and his school on the verse of *khimar* in the Qur'an, showing that the command, "And not to show off their adornments except only that which is apparent", simply means the face and the two hands or what is permitted by the *shariah* according to custom of the Muslims. At the same time, it contains topics on the employment of non-Muslim women as servants in Muslim houses, colors of a woman's dress<sup>56</sup> nullifying the claim that all these evidences arose

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53. Muhammad Nasir al-Din al-Albani, *op. cit.*, pp. 5-20

54. *Ibid.*

55. This refers to the portion of the body which is required to be covered legally under Islamic law.

56. The discussion on colours of a woman's dress can be found on pages 121-123 of the book.

before the obligation of *Hijab*. At the end, the author includes indexes of the subject matters in the book (pp. 219-240) as well as the various Traditions of the Prophet (pp. 241-250) and their narrators (pp. 251-252), and the narrations from the Companions referred to in the book (pp. 253-257) and those who narrate them (pp. 259-260). The book opens with a preface followed by the prefaces to the first and second editions (pp. 3-38). These prefaces serve as a form of introduction by the author, to the work. In fact, the three prefaces combined serve both as an introduction to and a summary of the entire book. Thus, it can be argued from the outset that the author employs a modern style of writing where there is a clear-cut division of the book into distinct sections and parts, including a table of contents, introduction, summary and conclusion. Besides the table of contents, introduction, and summary of the book, indexes of the subject matters in the book and conclusion, the book contains eight different sections organized under various topics which form the gamut of the issues discussed (pp. 39-216).

It is in recognition of the socio-political notions and features contained in the book under study that the following section is written. Postmodern and feminist theorists would be greatly shocked to peruse in this work of al-Albani, views which reflect most of their fundamental feminist postulations though it is written by a traditional Muslim scholar while they base their feminist understanding on Western and anti-religious paradigms. Shaykh al-Albani's views demonstrate profoundly that the Islamic scriptural texts (Qur'an and Hadith) have never been discriminatory against women, neither have they endorsed the perpetuation of oppression of women as often wrongly maintained in Western feminist writings. His work using the Arab societies as a case study, has also shown clearly that it is the traditions, customs and cultures of *Taqlid* in most of the respective Muslims societies and not the teachings of Islam, which have informed the gross and total misconceptions about Muslim women and public life.

Since the veil in particular still occupies a central place in feminist political and postmodern discourse, and many Western feminists would rather situate the oppression of women in many Muslim societies within the context of Islamic laws on dress as well as identifying the veiling of

Muslim women with their bitter suppression, it is therefore proper to begin unraveling the feminist notions and features contained in the book under study from the feminists view of the veil as a constraint to the emancipation of women.<sup>57</sup> A question which is germane to this research is why a purely feminist political issue becomes attached to a work of a Muslim theologian, and why are gender issues which dominate the debate on women's rights closely bound with the use of the veil?<sup>58</sup> Feminists obsession with the veil is because the veil, according to them, does not represent a religious obligation but rather a socio-political and cultural symbol to reduce women to mere objects of men's pleasures. They see it as pressure on women to be modest, restricting them to a culturally acceptable conduct designed and conducted by men but for the pleasure of men.<sup>59</sup>

This is therefore the key issue which al-Albani has addressed from both a traditionalist and socio-religious approach. To him, the veil as it is politically, religiously and culturally imposed on Muslim women is not only oppressive and a constraint to their development, it is also un-Islamic. He therefore destroys the myth that it is only Western trained scholars who call for a re-definition of the socio-religious and political status of women. His position can therefore be seen as an Islamic feminist perspective. In short, al-Albani argues that the *Hijab*, meaning the obligatory and mandatory veiling and seclusion of the generality of Muslim women from public and political activism, is unfounded in Islam. He extensively shows how the contemporary Muslim understanding and representation of Muslim women contradict what abounds in Islam at the time of the Prophet and the righteous generations that followed. He also argues that Muslim scholars appropriated their juristic position to

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57. Valentine Moghadam, *Modernizing Women: Gender and Social change in the Middle East*, Boulder: Lyme Rienner Publishers, 1993, p. 137.

58. Reuben Levy, *The Social Structure of Islam*, Cambridge University Press, 1969, pg. 124

59. Fatima Mernissi, *Women and Islam: An Historical and Theological Enquiry*, (trans.) Mary Jo Lakeland, Oxford: Basil Blackwell, 1991, pp. 106-114, 178-179 and 185; M. Cardell and J. McHair, *Women in the World Terms*, Integrative Studies, New York: New York University Press, 1967, p. 334; Leila Ahmed, *Women and Gender in Islam: Roots of a Modern Debate*, New Haven: Yale University Press 1992, pp. 225-237; and Magida Salman, "Arab Women" *Journal of Revolutionary Socialists of the Middle East*, No 6, 1978, pp. 24-32.

impose their representation of Muslim women on the Muslim world in the name of what they term *fitnah* in contradiction to what is obtained in the very early stages of Islam. He counter-poses the indignity women are suffering in Muslim societies under the guardianship of these scholars with the advancement of women in the early periods of Islam, and concludes that scholars tend to abandon the teachings of Islam and the Prophet in particular when it comes to the issue of Muslim women.<sup>60</sup>

Al-Albani upholds the full participation of Muslim women in public political life. He categorically rejects any form of seclusion and segregation of Muslim women for whatever reason. He argues convincingly that Islam never intends to prohibit the gathering of men and women, and he cites the case of the Hajj where men and women are allowed to perform all the rituals together and that the wives of the Prophet continued to partake in these rituals with the people until the reign of the second caliph. He explains that it was the second caliph who stopped their mingling with men when he appointed Uthman ibn Affan and Abd al-Rahman ibn Awf to prevent the people from mingling with them as a sign of respect and honor to them. But other Muslim women continued to perform their rituals in the same gathering with men.<sup>61</sup>

In the same vein, al-Albani does not endorse the barring of Muslim women from the mosques in some Muslim quarters. The practice of not building sections for women in mosques, or preventing them from observing congregational prayers on Fridays as it is done in some schools of *fiqh* according to al-Albani contradicts what was obtained at the time of the Prophet. This is the case in many parts of the Muslim world as noted by Leila where there are mosques without female sections, and this is believed to be in line with the *Sunnah*, yet it is far from that. In fact, it contradicts an authentic narration by Fatimah Bint Qays recorded by the author that after observing her *Iddah* (waiting period after her irrevocable divorce) in the house of Ibn Maktum, she heard the *Adhan* for Friday prayers

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60. Shaykh Muhammad Nasir al-Din al-Albani, *op. cit.*, pp. 5-120

61. *Ibid.*, pp. 108-110.



and took her bath, then came to the mosque to pray behind the Prophet and heard him saying “*Tamam al-Dari al-Nasrani* has come to accept Islam” and many other traditions about women praying in the mosque of the Prophet.<sup>62</sup>

Hence, the author argues that the conventional and status quo *fiqh* position on the status and conditions of Muslim women needs to be reviewed to make it dynamic and bring it in accord once with the status and conditions of Muslim women as found in the *Applicative Sunnah* of the Prophet. Shaykh al-Albani completely refused to be silent, bought over or ambivalent about the struggle of Muslim women in the Arab and Muslim society for justice. Rather, he chose to use the pen to call for reform in their conditions by proposing concrete and empirical measures to help women overcome the intellectual decadence. Fundamental to Shaykh al-Albani’s views on Muslim women is his call to the Muslim scholars and jurists to shift from their conventional position on the status of Muslim women to re-enact the *Sunnah* of the Prophet regarding Muslim women. Al-Albani challenges his learned colleagues to shun the path of allegiance to Schools of *fiqh* as leading Muslim scholars. He specifically condemns some leading scholars of his day for upholding the status quo regarding Muslim women and attacks their stultification of Islamic law which has reduced it to a form without a spirit.<sup>63</sup> He totally rejects that the wives of the Prophet adopted seclusion. He categorically rejects any form of seclusion and segregation of Muslim women for whatever reasons.<sup>64</sup>

Consequently, the first point which must be made here is that al-Albani has clearly revealed in very simple and lucid language that the role of men and women in Islam is complementary. What he upholds in feminist terms is gender equity and not gender equality. He has, in so doing, upheld the sanctity of women’s morality, believing that both men and women should be responsible for maintaining moral sanity in society. It can therefore be opined that he would be averse to any Islamic *fatwa*

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62. Ibid., pp. 39-66-67, 120.

63. Ibid., pp. 5- 20

64. Ibid., pp. 108-110.

which will set women apart politically for the purpose of keeping men's lusts in check. To him, jurisprudence must primarily be a vehicle for implementing the foundational principles contained in the above absolute reference frames in Islam in relation to Muslim women based on compassion. He argues that this appears lost on Muslim jurists. In this, al-Albani has rightly hit on a major stumbling block in the implementation of the *Hudud* in contemporary Muslim society, which has become a punitive system for women.

## Conclusion

This thesis was conceived as an attempt to study the main dimensions of the feminist problem as perceived by Muslim women and in the work of Shaykh al-Albani. According to both paradigms, the feminist notion that Muslim traditional scholars display a conservative anti-woman posture is not true. On the contrary, women active public participation is rooted in Islamic teachings and is not as a result of the liberalist and secularist interpretations of Islam and its history.

However one may view the status of Muslims in Muslim societies, whether as a secular Western feminist or as a Muslim traditional Islamic feminist like Shaykh al-Albani, it is clear that Muslim women are still being inhibited by many socio-religious biases from fulfilling their God given roles. The research focuses on the political role of Muslim women in Muslim societies under Islamic law. One of the socio-political impediments confronting Muslim women in contemporary society has been identified as the way and manner of implementing the *shari'ah* by the state. According to our findings in this research, there are several cases where the opinions expressed in the Absolute sources of the *shari'ah* have been ignored in practice. This research documents how some of the rights of women contained in Islamic law are not respected. These rights include the rights of women not to wear the face-veil, the right to divorce, maintenance, inheritance, work, choice of a husband and the general capacity to act in legal matters.

Hence, Muslim women want a total re-appraisal and overhauling of the *shariah's* operations and procedures. They are convinced that the

lacunae in the *shariah's* implementations lie in the system and not the *shariah's* laws. This can be seen especially in the case of women convicted for *zina* on circumstantial evidences. Hence, the implementation of the *shariah* is a far cry from gender justice. Consequently, over time, Muslim women have found compelling reasons to call for the rights and protections of Muslim women. This debate over the protection of Muslim women has taken not only a public form but also a global outlook, notably in the cases of Muslim women sentenced to death.

Consequently, this study calls for a reformation in the application of *Shariah's Hudud* especially as far as Muslim women are concerned and it recommends the application of the most lenient rulings where there are differences among *shariah's* scholars and schools of *fiqh*. This can be achieved through a systematic *Fiqh* recourse to the juristic principle of *takhayyur* for proper and necessary selection of the *Fiqh* opinions of other jurists. Perhaps the first step and in fact the most important one towards the task of reformation, is to separate socio-cultural practices from authentic Islamic teachings. This requires good and sound knowledge of Islam. Perhaps, needless to add, seeking knowledge today has become more urgent for Muslim women because of their more complex and complicated multiple roles in postmodern society as mothers, wives, and as government, social and public workers.

This research notes that Muslim women identify not Islam but socio-cultural practices as being responsible for most of the harmful and inimical actions and inactions against them. They hold the Muslim scholars responsible for failing to educate the ignorant Muslim masses about these harmful and inimical socio-cultural practices. In fact, they accuse most of these scholars of condoning the discrimination against women. Thus the submissions of Muslim women on this important issue of the stultification of *Fiqh* and the failure of Muslim scholars to play a reforming role is in total agreement with the views of the author of the book examined in this research. It also vividly shows that the author has indeed touched the souls and minds of Muslim women. His work might not have been translated into English, but its relevance to this study lies in its salient feminist notions which match the socio-religious and political issues in Muslim society, as revealed by this research.

Perhaps the most serious of the restrictions on Muslim women according to the author, is the imposition of the face-veil on Muslim women and their subsequent segregation from society. It is such socio-cultural restrictions which make Muslim societies averse to gender equity, justice and even democratization. It is therefore concluded in this study, going by al-Albani's work, that Islam is compatible with women's empowerment and full participation in society. It is not responsible for the restricting socio-cultural practices in most Muslim societies; hence there is really no need for a Western version of feminism which advocates women's deconstructive empowerment and liberation in Islam.

Many Muslim women today would find the ideas of reform contained in the book under study very realistic and practical, not so much because the work is introducing new ideas in Islamic thought, but rather because people are not sufficiently aware of such revolutionary notions about women in Islam, and most importantly because most Muslim scholars are quite unwilling to concede the socio-religious and political rights Islam has granted women. But coming from a traditional Muslim scholar, generally perceived by secular and Western feminists as a fundamentalist, extremist and fanatic among other derogatory titles, the revolutionary ideas of the author show that Muslim women are not in need of secular and Western types of emancipation which are rooted in Western materialistic and consuming liberalism. This is the key to understanding the position of Muslim women and their brand of Islamic feminism discussed in this study. Shaykh al-Albani does support the public participation of Muslim women in the socio-religious, economic and other key activities of society. There is, therefore, the need for more political will to redress the conditions of Muslim women. This may be facilitated when Muslim women are allowed to play leading political roles. It is therefore concluded, going by al-Albani's work, that Islam is compatible with women's empowerment and full participation in society. Thus, this paper has shown that the haphazard implementation of *shari'ah* laws, especially in the segregation of Muslim women from public and political activism, is the bane of the Muslim *Ummah* in contemporary society.

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