

A Look at the Philosophy of Women's Head Covering in Islam

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Bismillah

In the name of Allah, the Most Merciful, the Most Kind

Preface

In the name of Allah, the Most Gracious, the Most Merciful

The discussion about the hijab and the covering of Muslim women from the perspective of Islamic jurisprudence in this writing includes the following topics:

a. Proving the principle of the obligation for Muslim women to cover their bodies in early Islam.

b. Proving the principle of the obligation for free Muslim women to cover their heads and hair in early Islam.

c. Proving the lack of obligation for slave women and girls to cover their heads in early Islam.

d. Explaining the type and motivation behind the ruling on covering the heads and hair of free Muslim women.

My Perspective at a Glance:

My jurisprudential perspective on the above issues is briefly as follows:

1. The obligation for Muslim women to cover their bodies, including both free Muslim women and slaves, is definite and considered an absolute obligatory ruling. Disregarding this religious ruling results in sin and disobedience.

2. The obligation for free Muslim women to cover their heads and hair in the sacred religion of Islam is one of the Islamic administrative and governmental rulings (*al-hukm al-hukumi*). The motivation and philosophy behind it were to distinguish free Muslim women from slaves at a time when the slavery system was still in place.

3. Covering the heads and hair of slave women in public was not obligatory according to the clear religion of Islam. Slave women and girls were allowed to leave their heads and hair uncovered both during prayer and in public places.

4. Based on the aforementioned rulings:

a. Merely not covering the head and hair does not contradict public modesty nor is it considered a cause of societal corruption. Otherwise, Islam would never have permitted

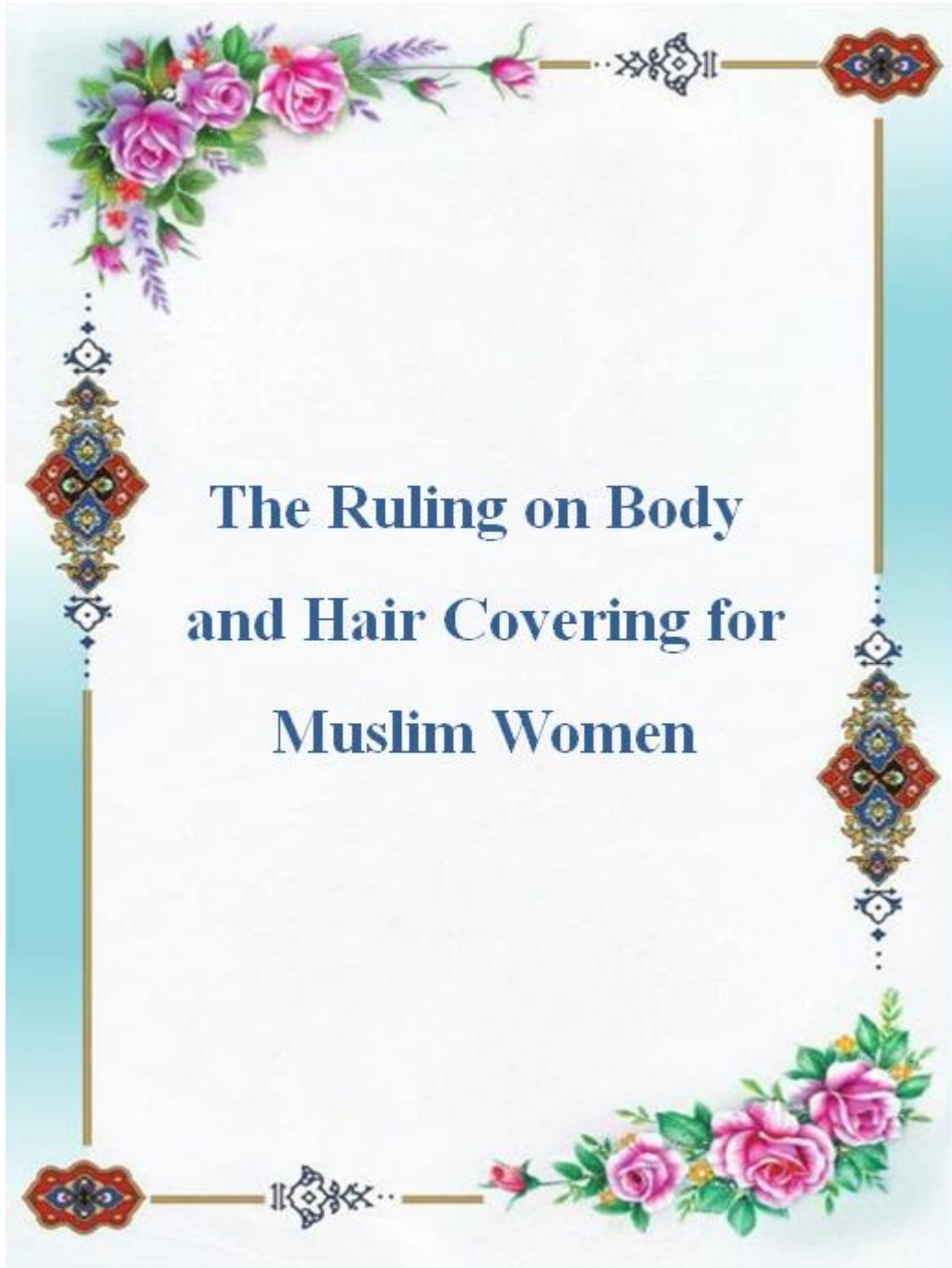
slave women and girls to leave their heads uncovered.

b. The motivation behind the ruling for free Muslim women to cover their hair was not based on the assumption that uncovering hair was indecent. Rather, the philosophy and motivation behind this ruling were to distinguish free Muslim women from slaves.

In this brief treatise, relying on the verses of the Holy Qur'an, the narrations of the Infallibles (peace be upon them), the words of the commentators of the Holy Qur'an, and the

principles of Shi'ite jurisprudence, I will cover the following topics:

1. Describing the philosophy behind the covering of the body for women and the motivation for covering the hair for free Muslim women.
2. Describing Islamic administrative and governmental rulings (*al-ḥukm al-ḥukūmī*).
3. Clarifying the role of time, place, and social conditions in the evolution of religious rulings.
4. Answering questions that arise regarding the aforementioned topics.



**The Ruling on Body
and Hair Covering for
Muslim Women**

The Hijab in Religions Before Islam

The issue of women's covering is not something that was only discussed in Islam. By studying the history of previous religions and sects, it becomes clear that the matter of covering and hijab for women has been addressed for a long time in divine religions before Islam as well.

To explain this matter, I present evidence from credible historical sources for your esteemed consideration:

Hijab in Judaism:

Will Durant and Ariel Durant, in their book *The Story of Civilization*, Volume 12, page 30 (Persian translation), write about the Jewish people and the laws of the *Talmud*, which is one of the main sources of Jewish jurisprudence:

"If a woman violated the Jewish law, for instance, if she went out among people without something on her head, or spun thread in public places, or talked to any kind of men, or if her voice was so loud that her neighbors could hear her speaking in her house,

then her husband had the right to divorce her without paying her dowry."

Thus, the covering and separation of women in Judaism were much stricter than in Islam.

Hijab in Zoroastrianism:

Will Durant and Ariel Durant also state in the same book *The Story of Civilization, Volume 1*, about the laws of ancient Iran:

"After Darius, the status of women, especially among the wealthy, declined. Poor women, because they had to work and move among people, maintained

their freedom, but other women gradually became secluded, extending the seclusion required during their menstrual periods to encompass their entire social lives. High-ranking women dared not leave the house except in a covered sedan chair and were never allowed to openly interact with men. Married women were not permitted to meet any men."

Arthur de Gobineau in his book, *Three Years in Asia (Trois ans en Asie)*, states that the strict hijab from the Sassanid period continued among Iranians during the Islamic period. He believes that what existed in Sassanid Persia was not only the covering

the body of women but also their complete concealment.

Thus, hijab and the separation of men and women were also prevalent in ancient Iran.

Hijab in Christian Lands:

Jawaharlal Nehru, in his book *Glimpses of World History*, Volume 1, page 328 (Persian translation), after praising the Islamic civilization, points to the changes that occurred later, saying:

"A great and unfortunate change gradually took place regarding women. Among Arab women, there

was no practice of hijab and their seclusion. Arab women did not live separate and hidden from men but appeared in public places, attended lectures, and even delivered lectures themselves. However, Arabs gradually adopted the custom of separating women from men and veiling them from the two neighboring empires, namely the Byzantine Empire and the Persian Empire... It is said that it was particularly due to the influence of Constantine's Empire and Persia that the practice of separating women from men and veiling them spread among the Arabs."

From the term "Constantine's Empire," it is clear that the Byzantines, who were mostly Christians, also paid attention to hijab and the separation of men and women in society.

Similarly, Jurji Zaydan, a famous Christian writer, says:

"If by hijab we mean covering the body with a chador, scarf, and veil, this existed before Islam and even before Christianity, and Christianity did not change it. Hijab was common in Europe until the Middle Ages, and traces of it remain in Europe to this day."

The Covering of Muslim Women in the Qur'an

As some historians and thinkers have stated, hijab in Islam is easier and simpler than in other religions.

At the same time, Islam has recommended education, social activities, and participation in societal affairs for women just as for men.

Verses on Hijab:

The main verses related to this subject are found in two chapters of the Qur'an: one in Surah Al-Nur and the other in Surah Al-Ahzab:

a. The Holy Qur'an in Surah Al-Nur, verse 31, says:

«و قل للمؤمنات يغضضن من ابصارهن و يحفظن فروجهن و
لا يبدین زینتهن الا ما ظهر منها و لیضربن بخمرهن علی جیوهن
و لا یبدین زینتهن الا لبعولتهن او آبائهن او آباء بعولتهن او
ابنائهن او ابناء بعولتهن او اخوانهن او بنی اخوانهن او بنی
اخوانهن او نسائهن او ما ملکت ایمانهن او التابعین غیر اولی
الاربة من الرجال او الطفل الذین لم یظهروا علی عورات النساء
، و لا یضربن بارجلهن لیعلم ما یخفین من زینتهن و توبوا الی الله
جمیعا ایها المؤمنون لعلکم تفلحون».

Translation: “And tell the believing women to lower their gaze and be modest, and to display of their adornment only that which is apparent, and to draw their veils over their bosoms, and not to reveal their

adornment save to their own husbands or fathers or husbands' fathers, or their sons or their husbands' sons, or their brothers or their brothers' sons or sisters' sons, or their women, or their slaves, or male attendants who lack vigour, or children who know naught of women's nakedness. And let them not stamp their feet so as to reveal what they hide of their adornment. And turn unto Allah together, O believers, in order that ye may succeed."¹

b. In verse 59 of Surah Al-Ahzab, it says:

¹ All translations of the Quran in this work are from Pickthall.

«يَا أَيُّهَا النَّبِيُّ قُلْ لِأَزْوَاجِكَ وَبَنَاتِكَ وَنِسَاءِ الْمُؤْمِنِينَ يُدْنِينَ عَلَيْهِنَّ
 مِنْ جَلَابِيبِهِنَّ ذَلِكَ أَدْنَى أَنْ يُعْرَفْنَ فَلَا يُؤْذَيْنَ وَكَانَ اللَّهُ غَفُورًا
 رَحِيمًا».

Translation: "O Prophet! Tell thy wives and thy daughters and the women of the believers to draw their cloaks close round them (when they go abroad). That will be better, so that they may be recognized and not annoyed. Allah is ever Forgiving, Merciful."

However, the verse that uses the word "hijab" is verse 53 of Surah Al-Ahzab, which says about the wives of the Prophet (peace be upon him):

« و اذا سالتموهن متاعا فاسألوهن من وراء حجاب . »

Translation: "And when ye ask of them (the wives of the Prophet) anything, ask it of them from behind a curtain."

Based on Arabic linguistics and the works of Quran commentators, the term "hijab" in this verse means a screen or curtain. It indicates that when someone had a question for the wives of the Prophet, they

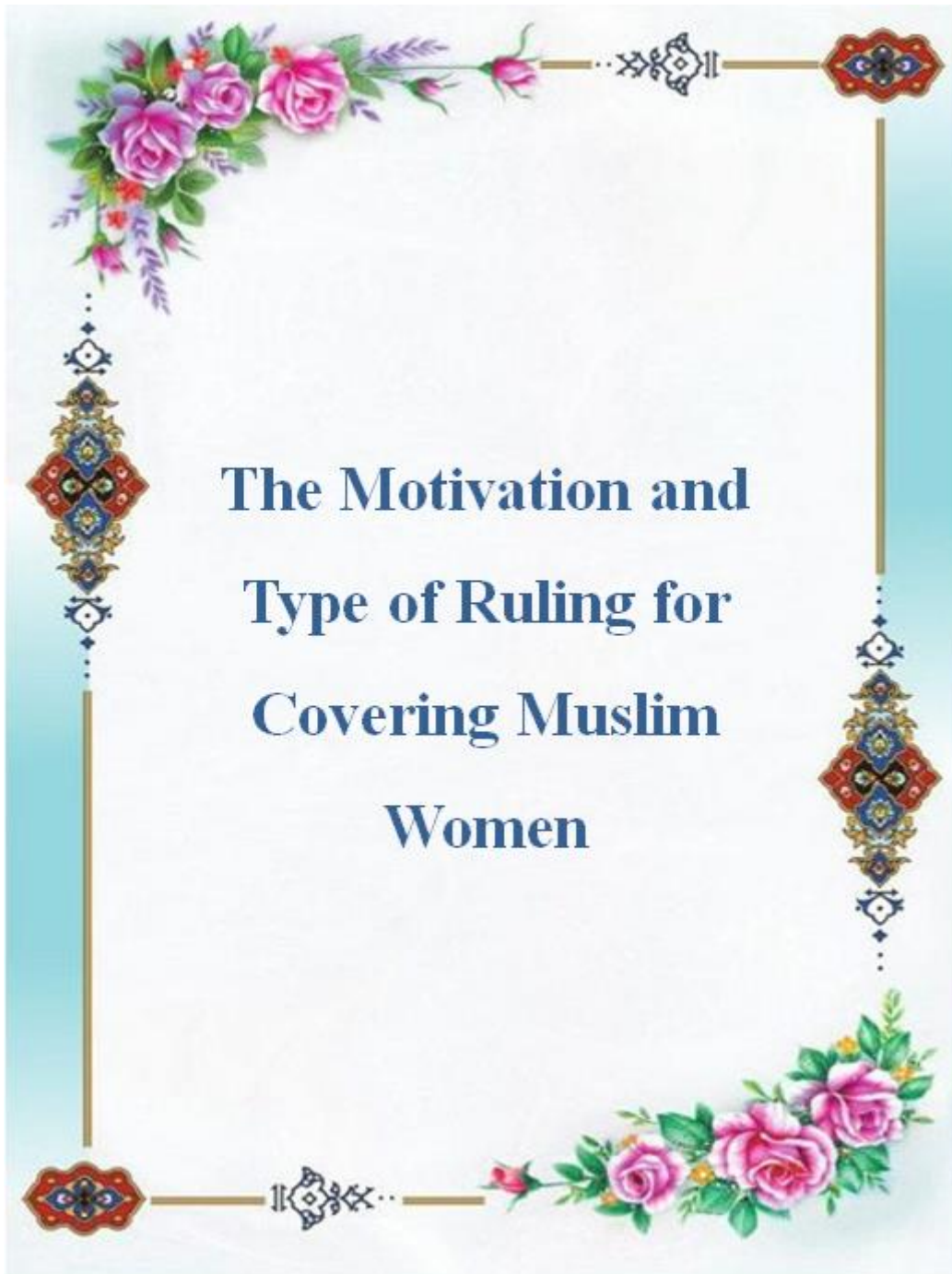
should ask from behind a curtain, which was set up in the chambers of the Prophet's wives.

This verse discusses the manner of conversation between Muslim men and the wives of the Prophet and is specific to the Prophet's wives.

It is clear from the noble verses of the Qur'an and the Islamic narrations from the Infallibles (peace be upon them) that the ruling for women to cover their bodies and heads was issued in early Islam.

Based on credible religious and jurisprudential sources, which will be presented in the subsequent

sections of this writing, the motivation and type of ruling for covering the bodies of Muslim women (including free Muslim women and slave women) differ from the motivation and type of ruling for covering the heads and hair of free Muslim women.



**The Motivation and
Type of Ruling for
Covering Muslim
Women**

The Motivation and Nature of the Ruling on the Covering of Muslim Women

The Reason for the Ruling on the Covering of Muslim Women's Bodies:

In order to ensure spirituality in the Muslim community, Islam opposes the public nakedness or semi-nakedness of women's bodies and the complete nakedness of men. Therefore, not covering the body for women and the complete nakedness of

men contradict public decency and lead to arousal and the spread of moral corruption in society.

The ruling on the obligation of Muslim women to cover their bodies—which ensures the vital and consistent interest of the Muslim community in maintaining public decency and preventing moral corruption—is an absolute obligatory ruling. Its motivation is to prevent acts that violate public decency and to curb the spread of corruption in the Muslim community.

The Reason for the Ruling on the Covering of Muslim Women's Head and Hair:

Regarding the motivation for the covering of women's hair in Islam and the nature of the ruling from a jurisprudential perspective, there are two views:

1. The first view is that not covering women's hair generally arouses lust, contradicts public decency, and leads to the spread of immorality in the Muslim community. This necessitates the obligatory covering of hair for all Muslim women. Proponents of this view believe that a woman's hair generally arouses

lust, thus referring to women's hair as *'awrah* (a private part that should be covered).

2. The second view is that while the covering of a Muslim woman's body is a religious obligation applicable to all women, the covering of hair has been made obligatory for free Muslim women and not for enslaved women and girls. This distinction was to differentiate free women from enslaved women. Therefore, the ruling on hair covering mentioned in the Quran and narrations is an administrative and governmental religious ruling intended to distinguish free Muslim women from

enslaved women. Because of the equality of humans in Islam, if head covering was considered to apply to all humans of the female gender, then it would have had to be equally applicable to both free women and enslaved women. Hence, the obligation for head covering was not gendered, rather, it was to distinguish enslaved women from free women. Equality between free men and slaves, and between free women and enslaved women, is one of the teachings of the Quran. In the Quran, the equality of all human beings in terms of human dignity and

status is emphasized. For example, in Surah Al-Nisa, verse 1, we read:

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ

مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً

“O mankind! Be careful of your duty to your Lord Who created you from a single soul and from it created its mate and from them twain hath spread abroad a multitude of men and women.”

As you observe in the mentioned verse, the origin of humanity, regardless of different groups and categories, is considered to be a single essence

called 'a single soul,' which is a sacred spirit, and there is no distinction among human beings as humans. Therefore, individuals, whether male or female, free or slave, have the same status, and their equality is emphasized in the Holy Quran. Hence, the gender equality of women with men on one hand, and free individuals with slaves on the other, must be recognized and considered in legislation. Additionally, the equality among all human beings, whether male or female, and whether free or slave, is also emphasized in other verses of the Quran. For example, in Surah Al-Hujurat, verse 13, we read:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا
 وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ إِنَّ اللَّهَ عَلِيمٌ
 خَبِيرٌ.

“O mankind! Lo! We have created you male and female, and have made you nations and tribes that ye may know one another. Lo! the noblest of you, in the sight of Allah, is the best in conduct. Lo! Allah is Knower, Aware.”

From this verse, it is clearly and evidently inferred that all human beings, regardless of their gender, whether free or slave, male or female, are equal. In Islam, due to the principle of human equality, if head

covering were intended for all females, it would apply equally to both free and enslaved women; thus, the head covering obligation was not gender-based but served to distinguish free women from enslaved women.

A major objection to the first view is that if the general lack of hair covering for women caused the spread of immorality in the Muslim community and was the reason for such an obligation, the Prophet of Islam (peace be upon him) and the Imams (peace be upon them) would never have allowed a large number of enslaved women to appear in public

without headscarves and hair coverings. They would have commanded that all women, including the large number of enslaved women and girls, cover their hair in public to maintain public decency and prevent widespread immorality in the Muslim community.

However, based on reliable Islamic narrations and the fatwas of the vast majority of Shia scholars and narrators, the Prophet (peace be upon him) and the Imams (peace be upon them) did not command enslaved women and girls to cover their hair. Enslaved women and young girls moved about and

appeared in public places without headscarves during the lives of the Prophet and the Imams. Additionally, early Muslim leaders emphasized the distinction between free women and enslaved women.

If merely not covering a woman's hair was a sinful act, contrary to public decency, and a cause of immorality in the Muslim community, the Prophet (peace be upon him) and the Imams (peace be upon them) would have reacted seriously and prohibited such actions. They would not have said that enslaved

women did not need to cover their hair in prayer or otherwise.

The Quran also points to this reality, indicating that the motivation for hijab was to distinguish free women from enslaved women. The phrase "so that they may be recognized and not annoyed" in Surah Al-Ahzab, verse 59, supports this distinction. Prominent Shia commentators like Sheikh Tabarsi in *Majma' al-bayan* and Ali ibn Ibrahim Qomi in *Tafsir Qomi* have emphasized that the motivation for the head covering for free Muslim women was to distinguish them from enslaved women.

Islamic Narrations on the Lack of Obligation for Enslaved Women to Cover Their Hair:

I will now examine Islamic narrations from *Wasa'il al-Shi'a* and other narrations from sources like *Al-Kafi* and *Al-Tahdhib* regarding the lack of obligation for enslaved women and girls to cover their hair both in prayer and in public places.

محمّد بن مكيّ الشهيد في (الذكرى) قال : روى علي بن

إسماعيل الميثمي في كتابه عن أبي خالد القمّاط قال :

سألت أبا عبدالله (عليه السلام) عن الأمة ، أتقنّع رأسها

؟ قال : إن شاءت فعلت ، وإن شاءت لم تفعل .

Translation: “Muhammad ibn Makki al-Shahid in *al-Dhikrā* said: Ali ibn Ismail al-Mithami in his book narrates from Abu Khalid al-Qammat, who asked Abu Abdullah (Imam Jafar Sadiq, peace be upon him) whether an enslaved woman should cover her head. The Imam replied, ‘If she wishes, she may do so, and if she wishes, she may not.’”

وبإسناده عن سعد ، عن أحمد وعبدالله ابني محمد بن
 عيسى ، عن الحسن بن محبوب ، عن العلاء عن محمد بن
 مسلم ، عن أبي عبدالله (عليه السلام) قال : قلت له :
 الأمة تغطّي رأسها ؟ فقال : لا ، ولا على أمّ الولد أن تغطّي
 رأسها إذا لم يكن لها ولد.

Translation: “And by that chain of narration from Sa'd, from Ahmad and Abdullah the sons of Muhammad ibn Isa, from Al-Hasan ibn Mahbub, from Al-'Ala, from Muhammad ibn Muslim, who asked Abu Abdullah (Imam Jafar al-Sadiq, peace be upon him) whether an enslaved woman should cover her head. He replied, ‘No, nor is it required for an *umm walad* (enslaved woman who gives birth to a child) even if she has no child.’”

محمّد بن يعقوب ، عن محمّد بن يحيى ، عن أحمد بن

محمّد ، عن علي بن الحكم ، عن العلاء بن رزین ، عن

محمّد بن مسلم ، عن أبي جعفر (عليه السلام). في حديث،
قال: قلت: الأمة تغطّي رأسها إذا صلّت ؟ فقال : ليس على
الأمة قناع.

Translation: “In a hadith from Muhammad ibn Ya'qub, from Muhammad ibn Yahya, from Ahmad ibn Muhammad, from Ali ibn al-Hakam, from Al-'Ala ibn Ruzayn, from Muhammad ibn Muslim, who narrates that he asked Abu Jafar (Imam Baqir, peace be upon him) whether an enslaved woman should cover her head in prayer. He replied, ‘Head covering is not required for an enslaved woman.’”

محمّد بن علي بن الحسين بإسناده عن محمّد بن مسلم ،
 عن أبي جعفر (عليه السلام) ...قال : وسألته عن الأمة
 إذا ولدت ، عليها الخمار؟ قال : لو كان عليها لكان عليها إذا
 هي حاضت ، وليس عليها التقنّع في الصلاة.

Translation: “Muhammad ibn Ali ibn al-Husayn, by the chain of narration from Muhammad ibn Muslim, who asked Abu Jafar (Imam Baqir, peace be upon him) whether an enslaved woman who has given birth should cover her head. He replied, ‘If it were required, it would have been required when she first reached puberty (saw menstrual blood). Also, it is not required in prayer.’”

(The narrations above are from the following sources: *Al-Kafi* Vol. 3, *Al-Tahdhib* Vol. 2, *Wasa'il al-Shi'a* chapters on *Libas al-musalli* (prayer clothing) b. 29)

The vast majority of Shia jurists issue fatwas based on these narrations on the lack of obligation for

The consistent practice of the vast majority of Shia jurists in issuing fatwas based on these narrations and the reliance of Shia commentators on these narrations (in interpreting "so that they may be recognized" in verse 59 of Surah Al-Ahzab as to

distinguish free Muslim women from enslaved women) show that they testified to the authenticity of these narrations from the Infallibles (peace be upon them).

It is clear from these narrations that the covering of head for enslaved women was not obligatory in Islam, and they were allowed to leave their hair uncovered.

Therefore, the prominent Shia jurists from the early Islamic period to the present have not considered hair covering obligatory for enslaved women.

The statements of eminent Shia jurists, from early scholars like Sheikh Mufid to the author of *Jawahir al-kalam*, and contemporary jurists like Muhaddith Khu'i, confirm this truth.

It is evident that if not covering the hair by women contradicted public decency and caused corruption and immorality in society, the Prophet (peace be upon him), Imam Ali (peace be upon him), and the other Infallibles (peace be upon them) would not have accepted enslaved women and girls to appear without hair covering in various public places.

Instead, they would have directed them to cover their hair.

In light of the above, the motivation for the obligation of hair covering for free women and the non-obligation for enslaved women and girls were to distinguish free women from enslaved women. As mentioned, many prominent Shia commentators, such as the author of *Majma' al-bayan* and the author of *Tafsir Qomi*, have supported this view.

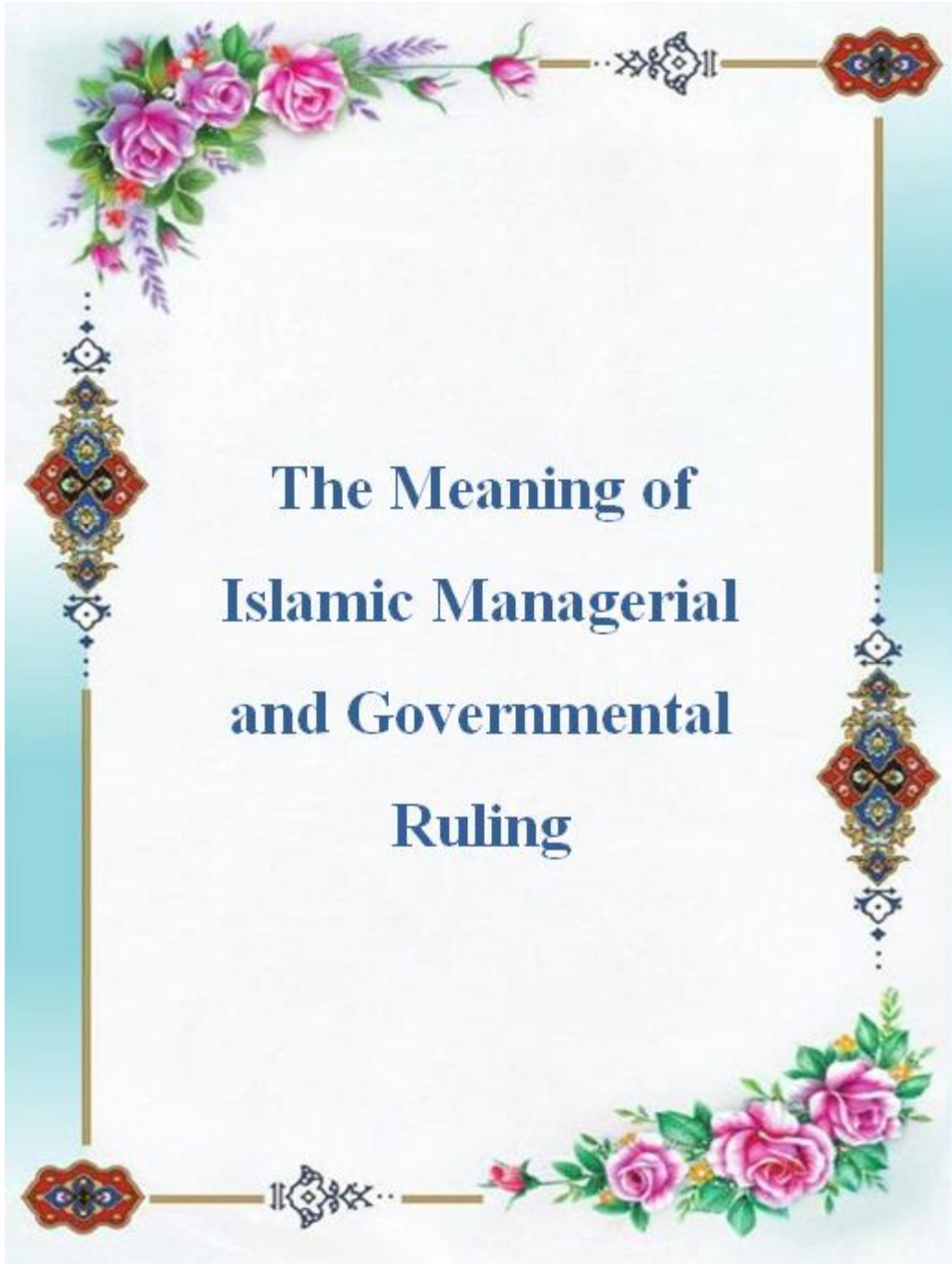
According to research by historians and statements by the vast majority of Quran commentators, the

reason for distinguishing free Muslim women from enslaved women was that enslaved women were subject to the regulations of slavery, including purchase and sale, which continued in early Islam. Therefore, to distinguish enslaved women (who were subject to these regulations) from free women, the ruling for free women to cover their head was issued to prevent any confusion among the general public.

In my view, the commands of the Noble Quran and hadith narrations about the obligation of head covering for free Muslim women are administrative

and governmental religious commands of Islam (*al-hukm al-hukumi*), created to distinguish free women from enslaved women based on the needs of that time, as determined by the divine legislator.

Thus, based on the Quranic verses and Islamic narrations, the reason for the ruling on hair covering for free Muslim women was to distinguish them from enslaved women, and not because the absence of head covering contradicted public decency.



**The Meaning of
Islamic Managerial
and Governmental
Ruling**

The Meaning of Islamic Administrative and Governmental Rulings

Since I mentioned in the previous sections that the obligation for free Muslim women to cover their head is a type of Islamic administrative and governmental ruling, it is appropriate that I provide a brief explanation of this type of ruling, as I have detailed in my book *Modern Islam*.

In many classical Islamic jurisprudential books, the chapters were divided into two categories:

- a. Chapters on acts of worship (*'ibadat*).

b. Chapters on transactions (*mu'amalat*).

However, by reflecting on the entirety of Islamic jurisprudential rulings and considering the predominant reason and philosophy behind them, it is necessary to divide the chapters on Islamic jurisprudence (which are regarded as the guidelines of Sharia for guiding humanity) into multiple sections with a broader view, as done below, and to examine each section individually:

1. Chapters on acts of worship and education.
2. Chapters on social issues.
3. Chapters on economic issues.

4. Chapters on administrative and governmental issues.

The chapters on ritualistic and spiritual acts (such as the chapters on prayer, fasting, retreat, pilgrimage, vows (*nadhr*), and similar topics) contain rulings intended to perfect the human soul, cultivate spiritual talents, and prepare human souls for the heavenly realm.

The social chapters (such as the chapters on marriage, divorce, inheritance, and similar topics) define the social relationships among Muslims.

The economic chapters (such as the book of sale, lease, partnership, collateral, and similar topics) address the lawful and unlawful in the economy, including trade, industry, agriculture, and services.

However, the administrative and governmental chapters (such as the chapters on judiciary, blood money, retribution, almsgiving, *khums*, endowments, and similar topics) include rulings intended for managing societal affairs and describing the quality of governmental management.

Definition of Administrative and Governmental Rulings

Administrative and governmental rulings encompass all instructions that play a role in establishing the governmental system for the society and managing the governmental affairs.

Some parts of the first category, such as certain aspects of Friday prayer, also have an administrative and governmental dimension. Similarly, parts of the fourth category, such as the intention of proximity in endowments, *zakat*, and *khums*, also have educational and spiritual aspects. However, the main

body of the first category consists of rulings for self-improvement and spiritual development, while the core of the fourth category (administrative and governmental chapters) is for managing societal affairs and governmental affairs.

The Necessity for Updating and Renewal in Administrative and Governmental Rulings

Given the significant transformations in human societies over time, the emergence of new administrative and governmental schools of thought

throughout history, the development of societal management structures, and the astonishing expansion of the Muslim community, updating and renewing administrative and governmental rulings according to time and place are essential and vital.

As previously mentioned, the core elements for this renewal exist within the essence of Islam and its original sources and jurisprudential principles. It is unnecessary to import or impose from outside the religion.

A thorough examination of the history of Islamic law and jurisprudence reveals that rightful Islamic rulers,

such as the Prophet Muhammad (peace be upon him), Imam Ali (peace be upon him), and other great religious leaders (peace be upon them), occasionally issued new governmental directives and made changes according to the time and place.

One Example:

For instance, Imam Ali (peace be upon him) during his caliphate period, ordered the imposition of *zakat* (almsgiving) on horses in addition to the eight traditional items (wheat, barley, dates, raisins, sheep, cows, gold, and silver).

The hadith on this topic is as follows:

محمد بن يعقوب ، عن علي بن إبراهيم ، عن أبيه ، عن حماد بن عيسى ، عن

حريز ، عن محمد بن مسلم ، وزرارة ، عنهما جميعا قالا : وضع أمير المؤمنين

(عليه السلام) على الخيل العتاق الراعية في كل فرس في كل عام دينارين ،

وجعل على البراذين ديناراً.

Translation: “Muhammad ibn Ya'qub narrated from Ali ibn Ibrahim, from his father, from Hammad ibn Isa, from Hariz, from both Muhammad ibn Muslim and Zurara, who said: ‘Imam Ali (peace be upon him) imposed a *zakat* of two dinars annually on purebred grazing horses and one dinar on mixed breeds.’”

(*Wasa'il al-Shi'a*, Chapter 16 under the chapters on what is subject to *zakat* in the book of *zakat*)

Based on this hadith, Imam Ali (peace be upon him) imposed *zakat* on certain types of horses in addition to the traditional livestock (cows, sheep, and camels). This is while previously, *zakat* did not include horses.

Some narrators and jurists who were unfamiliar with the changing nature of governmental rulings, interpreted this hadith as recommending *zakat* on horses (*mustahabb*). However, by reflecting on the

mentioned narration and considering the term "imposed" in the text, it becomes clear that Imam Ali (peace be upon him), as the ruler and head of the Islamic state, made the payment of *zakat* on horses obligatory and mandatory.

When the government and state impose taxes, including Islamic taxes like *zakat*, it is considered obligatory, and the notion of voluntary payment does not apply.

Thus, if another narration uses the term "charity" (*sadaqah*) for *zakat*, it refers to the Quranic meaning of charity, which means obligatory *zakat*. For

instance, in the following verse (Surah Al-Tawbah, 9:60), "charities" refer to obligatory *zakat*:

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ
 قُلُوبِهِمْ وَفِي الرِّقَابِ وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ ۖ
 فَرِيضَةً مِّنَ اللَّهِ.

"The [charities] are only for the poor and the needy, and those who collect them, and those whose hearts are to be reconciled, and to free the captives and the debtors, and for the cause of Allah, and (for) the wayfarer; a duty imposed by Allah."

Another Example:

Another example of change in governmental rulings is the modification of the Friday prayer ruling.

Although Friday prayer has a religious aspect, its predominant aspect is political, as it is a significant weekly gathering and political meeting, which can be used by the rulers of Islamic countries to demonstrate the popular legitimacy of their government.

Other aspects, such as the recommendation to address current issues in Friday sermons, including political topics, support this reality.

It is undeniable that Friday prayer during the time of the Prophet Muhammad (peace be upon him) and Imam Ali (peace be upon him) was obligatory and required. According to the hadith books of both Shia and Sunni traditions, the Prophet (peace be upon him) said:

"إن الله كتب عليكم الجمعة فريضة واجبة إلى يوم
القيامة".

"God has made Friday prayer obligatory upon you until the Day of Judgment."

"الجمعة واجبة على كل مسلم في جماعة".

"Friday prayer is obligatory for every Muslim in congregation."

Imam Ali (peace be upon him) also said:

"والجمعة واجبة على كل مؤمن".

"Friday prayer is obligatory for every believer."

The emphatic statements in the verses of Surah Al-Jumu'ah also support this truth.

It is clear that the obligation of Friday prayer during the rightful governments, like the time of the Prophet Muhammad (peace be upon him) and Imam Ali (peace be upon him), which gathered large

crowds and formed unprecedented gatherings, strengthened the rightful government and affirmed its popular legitimacy.

However, when a tyrant and oppressive ruler like Mu'awiyah, claiming to be the caliph of Muslims, took control of the vast Islamic territory through wealth, force, and deceit, and imposed Friday prayer leaders from among the court preachers on the people, and he himself led the Friday prayer in Damascus, can we still say that attending Friday prayer remains an obligatory duty?

Would the obligation of attending Friday prayer during the time of oppressive rulers like Mu'awiyah, Yazid, and other tyrannical caliphs of the Umayyad, Marwanid, and Abbasid dynasties not lead to the misuse of these large Friday prayer gatherings as political meetings to proclaim to the world that the millions of people who pray behind us and listen to our political and administrative justifications are proof of the popular legitimacy of our government?

Clearly, the rightful Imams and leaders (peace be upon them) could not tolerate such a situation and

thus sought to change this governmental ruling in Islamic jurisprudence.

This significant change in the ruling of Friday prayer obligation is expressed in various narrations from the Imams (peace be upon them). In these narrations, the original obligation of Friday prayer is emphasized, while its obligatory status during the absence of the rightful Imam is questioned.

Based on the narrations of the Imams (peace be upon them), many Shia jurists have derived different views regarding the ruling of Friday prayer during times other than the presence of the rightful Imams.

Some Shia jurists have considered Friday prayer during the absence of the rightful Imam to be non-obligatory and not sufficient to replace the noon prayer. Some have considered it not only non-obligatory but also impermissible, while others have considered Friday prayer during this period to be a discretionary obligation, meaning one can choose not to attend Friday prayer and perform the noon prayer instead. Nonetheless, if one attends Friday prayer, the two-*rak'ah* Friday prayer counts as the noon prayer.

A question that surfaces here is: Why have many Shia jurists and scholars interpreted the narrations of the Imams (peace be upon them) to mean that Friday prayer during the absence of the rightful Imam is not obligatory or is not considered a determined obligation?

Did not the Prophet (peace be upon him) say:

"إن الله كتب عليكم الجمعة فريضة واجبة إلى يوم
القيامة".

"Allah has made Friday prayer obligatory upon you until the Day of Judgment."

Did not the Prophet (peace be upon him) say in another narration, recorded by Shahid Thani in *Risala al-Jumu'ah*:

"ان الله تعالى فرض عليكم الجمعة، فمن تركها في حياتي أو بعد موتي استخفافا بها أو جحودا لها فلا جمع الله شمله، ولا بارك له في امره، ألا ولا صلاة له، ألا ولا زكاة له، ألا ولا حج له، ألا ولا صوم له، ألا ولا بر له، حتى يتوب".

"God has made Friday prayer obligatory upon you. Whoever abandons it during my lifetime or after my death, belittling it or denying it, God will not gather him, nor bless him in his affairs. His prayer, *zakat*,

pilgrimage, fasting, and good deeds will not be accepted until he repents."

The convincing answer to this question is that the rightful Imam of Muslims can change a governmental ruling due to the changing conditions of time and place and the requirements of the present age, within the general framework of Islam and the interests of the Muslim community.

When oppressive rulers seek to use Friday prayer as a tool to legitimize their authority, the rightful leader of Muslims questions the obligatory nature of Friday

prayer or its original obligation under such specific conditions, to prevent the people from being forced to attend Friday prayer and to close the door to misuse of this religious and political event. Even though the Prophet Muhammad (peace be upon him) had stated in his time: "It is a compulsory duty until the Day of Judgment."

The Ruling on the Head Covering of Free Muslim Women

Among the Islamic governmental rulings is the ruling on the head covering of Muslim women, which is

obligatory for free Muslim women but not for enslaved women and girls. This distinction was made to differentiate free women from enslaved women. Therefore, the ruling on hair covering mentioned in the Quran and narrations is also considered an administrative and governmental religious ruling.

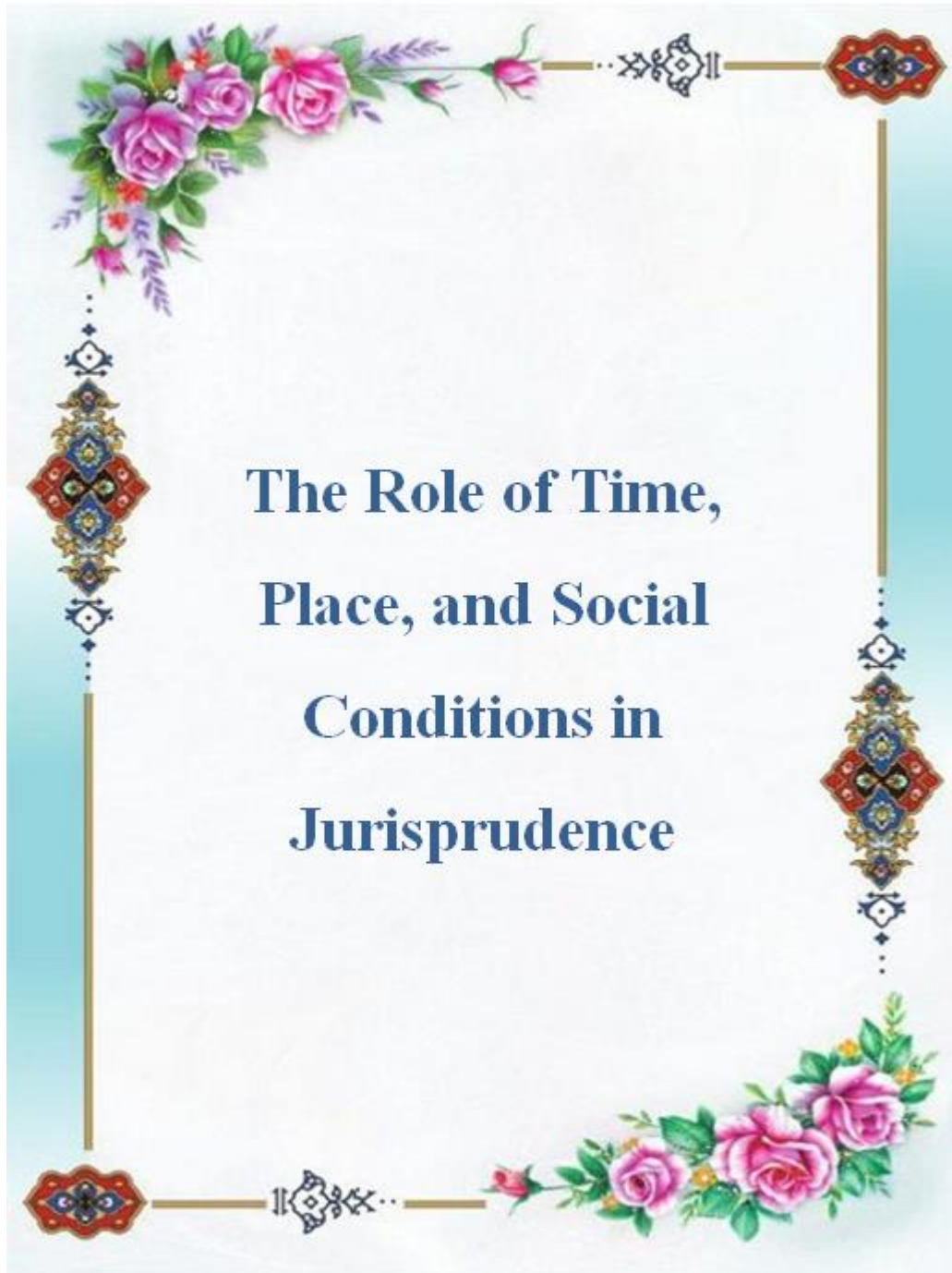
According to the statements of the majority of Quranic commentators and historical researchers, the reason for distinguishing free Muslim women from enslaved women was that enslaved women, based on the regulations of slavery that continued in early Islam, were subject to purchase and sale and

could be offered for transfer of ownership by members of society. Therefore, to distinguish enslaved women subject to these regulations from free women, the ruling for head covering for free women was issued to prevent confusion among the general public in identifying enslaved women versus free women.

These instances and many other examples show that rightful Islamic rulers have the flexibility to change and adapt governmental rulings according to the circumstances of time and place, utilizing the

intrinsic renewing force of this dynamic system. This adaptability allows them to find solutions within the framework of Islamic human values and general jurisprudential principles to address the deadlocks that may arise in managing the Muslim community and the governmental system.

It should be noted that part of the evidence and reasons for these changes and developments in governmental rulings were explained in the following chapter on the role of time and place in deriving Sharia rulings.



The Role of Time, Place, and Social Conditions in the Evolution of Sharia Rulings

Since parts of Islamic administrative and governmental rulings are established by the Islamic legal authority based on the requirements of time, place, and social conditions within the framework of Islam's fundamental principles and general jurisprudential laws, it is appropriate to have a brief discussion on this topic.

In light of understanding the nature of Islam and the conduct of the Prophet (peace be upon him) and the Imams (peace be upon them), the prominent role of the requirements of time, place, and specific conditions in deriving and explaining Islamic rulings becomes clear. To keep this brief, I will provide a few examples of the actions of the Imams (peace be upon them).

Influence of Time on Explaining Sharia Rulings

We know that the Holy Quran, with all its rulings and instructions, was revealed to the Prophet

Muhammad (peace be upon him) at once on the Night of Qadr. The Prophet was aware of the content of the Quran and its lawful and unlawful rulings from the beginning. However, we observe that the Prophet, by the will of God, gradually explained the religious rulings according to the requirements of time and refrained from explaining all rulings all at once on the first day of his mission.

An Example:

We know that from the Islamic perspective, drinking alcohol is a definite prohibition. This truth was clear

to the holy legislator of Islam from the beginning.

God says in verse 90 of Surah Al-Ma'idah:

يا ايها الذين آمنوا إنما الخمر والميسر والانصاب والازلام
رجس من عمل الشيطان فاجتنبوه لعلكم تفلحون.

"O ye who believe! Strong drink [intoxicants] and games of chance and idols and divining arrows [tools for gambling] are only an infamy of Satan's handiwork. Leave it aside in order that ye may succeed."

According to this verse, intoxicants and gambling are inherently impure and satanic acts and were not considered impure after some time.

However, we observe that, based on historical and narrative books like *Mustadrak*, vol. 4, *Sunan Abi Dawud*, vol. 2, and *Ruh al-Ma'ani*, vol. 7, for a certain period, due to the lack of explicit prohibition of alcohol by the Prophet, many Muslims did not refrain from drinking intoxicants and participated in prayer while intoxicated. During that time, society was not ready for the decisive prohibition of alcohol. Therefore, the Prophet did not have a divine

mandate to convey the definitive prohibition of intoxicants.

In those circumstances, some Muslims drank alcohol at a banquet hosted by Abdul Rahman ibn 'Awf, and then prayed while intoxicated. One of the worshippers recited the verse "لا أعبد ما تعبدون" "I do not worship what you worship" incorrectly, changing its meaning entirely. This unfortunate incident spread among the people and reached the Prophet. Then, the Prophet conveyed the following verse, asking Muslims to avoid praying while intoxicated:

لا تقربوا الصلوة و انتم سكارى حتى تعلموا ما تقولوا.

(سوره نساء، آيه 43)

"O ye who believe! Draw not near unto prayer when ye are drunken, till ye know that which ye utter."

(Surah An-Nisa, verse 43)

Following such incidents, conflicts occurred in drinking gatherings among some Muslims, leading to fights, gradually preparing the social conditions for the decisive prohibition of alcohol. Consequently, the Prophet saw the time fit to convey the definitive ruling on intoxicants and conveyed God's command:

يا ايها الذين آمنوا إنما الخمر والميسر والانصاب والازلام
رجس من عمل الشيطان فاجتنبوه لعلكم تفلحون.

"O ye who believe! Strong drink [intoxicants] and games of chance and idols and divining [tools for gambling] are only an infamy of Satan's handiwork. Leave it aside in order that ye may succeed." (Surah Al-Ma'idah, verse 90)

It is clear that if the timing did not play a role in explaining Sharia rulings, the Prophet would have been required to convey all Islamic rulings immediately from the first day of his mission.

Influence of Social Conditions on the Actions of the Prophet (peace be upon him)

According to some hadiths, the Prophet (peace be upon him), due to specific social conditions and the people's attitudes, refrained from explaining and enforcing the ruling of punishing certain individuals he considered deserving of punishment. The text of the hadith is as follows:

وعن محمد بن يحيى ، عن أحمد بن محمد بن عيسى ، عن
 علي بن حديد، عن جميل بن دراج ، عن زرارة ، عن
 أحدهما عليهما السلام قال : قال رسول
 الله صلى الله عليه وآله : لولا أني أكره أن يقال: إن محمدا

استعان بقوم حتى إذا ظفر بعدوه قتلهم ، لضربت أعناق

قوم كثير. (وسائل الشيعة، ج 28، ابواب حدّ مرتد)

"And Muhammad ibn Yahya, from Ahmad ibn Muhammad ibn Isa, from Ali ibn Hadid, from Jamil ibn Daraj, from Zurara, from one of the two Imams (either Imam Baqir or Imam Sadiq, peace be upon them), who said: The Messenger of God (peace be upon him) said: 'If it were not that I dislike it to be said that 'Muhammad sought the assistance of people and then, when he prevailed over his enemies, killed them,' I would have executed many

individuals.'" (Wasa'il al-Shi'a, Vol. 28, chapter on the punishment for apostates)

This hadith clearly shows that executing some individuals was necessary in the Prophet's view. However, to prevent the people's mistrust and avoid accusations of treachery, the Prophet refrained from punishing those individuals.

Therefore, if specific social conditions had no impact, the Prophet would never have delayed the punishment of the mentioned individuals.

This clearly indicates that social and specific temporal and spatial conditions play a significant role in changing or suspending a Sharia ruling, especially governmental rulings.

Influence of Place on Legislation and Enforcement of Sharia Rulings

In Islamic texts, we see that Imam Ali (peace be upon him) refrained from enforcing some governmental rulings mentioned in the Quran because of the conditions specific to a location and in order to achieve a greater interest.

Based on the following narrations, it is clear that the enforcement of legal punishments like cutting the hand of a thief should be avoided because of the conditions specific to the location and in order to achieve a greater interest. The text of the hadith is as follows:

محمد بن يعقوب ، عن علي بن إبراهيم ، عن ابيه ، عن
ابن فضال ، عن يونس ابن يعقوب ، عن أبي مریم ، عن
أبي جعفر عليه السلام قال : قال أمير
المؤمنين عليه السلام : لا يقام على أحد حد بأرض العدو.

(وسائل الشيعة، جلد 28)

"Muhammad ibn Ya'qub, from Ali ibn Ibrahim, from his father, from Ibn Faddal, from Yunus ibn Ya'qub, from Abu Maryam, from Abu Ja'far (peace be upon him), who said: Imam Ali (peace be upon him) said: 'No Sharia legal punishment should be carried out on anyone in enemy territory.'" (Wasa'il al-Shi'a, vol. 28)

Based on this narration, it is clear that if specific local conditions had no impact on enforcing Sharia rulings, there would be no difference in enforcing Sharia legal punishments between Muslim lands and enemy territories.

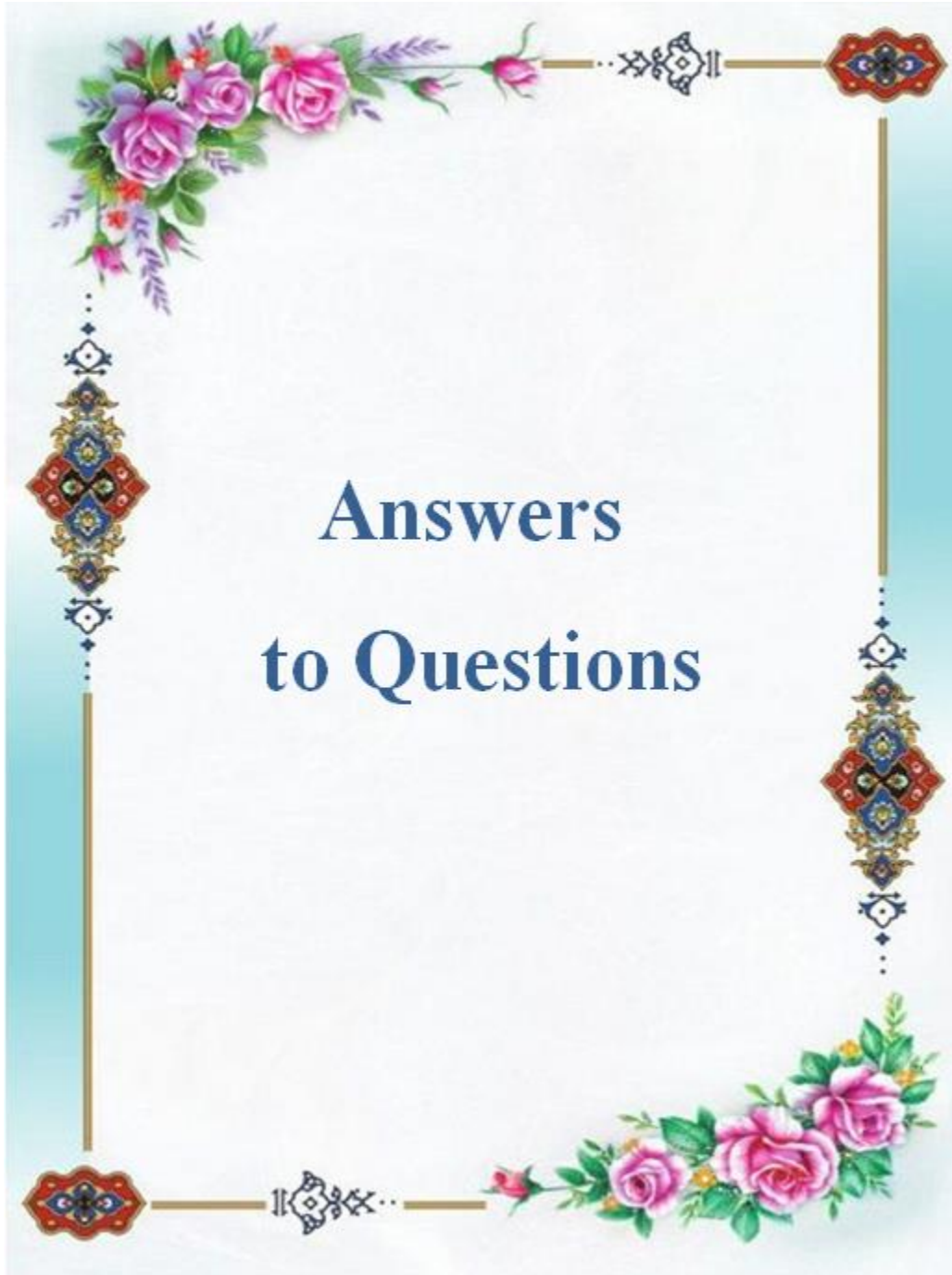
Accordingly, the requirements of time, place, and specific social conditions have undeniable impact on explaining and enforcing Sharia rulings.

There are two outcomes of the discussions in this book:

First outcome: The coercive and compulsory enforcement of the head covering is not permissible according to the Sharia. Therefore, it is not permissible for governments to beat or arrest women and girls for not covering their heads.

Second outcome: No one can label women who do not cover their hair as lacking modesty and chastity

(ifaf). Because not covering the hair does not equate to a lack of modesty and chastity.



Answer to Questions

Question One

Question: How do you respond to the statements of jurists who consider women's hair to be *'awrah* (intimate parts that should be covered)?

Answer: Some jurists have used this term concerning women's hair and based on this, have considered covering women's hair as an absolute obligatory ruling. In response to these jurists, I provide the following points:

Firstly: No verse in the Holy Quran implies the term *'awrah* for women's hair.

Secondly: There is no authentic and reliable narration in the sources of Shia hadiths and the followers of the Ahlul Bayt (peace be upon them) that refers to women's hair as *'awrah*. The narration that some jurists refer to is found in one of the Sunni sources (*Sunan al-Tirmidhi*), and even among Sunni jurists and hadith scholars, there is no consensus on its authenticity. Some Sunni jurists and hadith scholars, such as Abdullah ibn 'Adi, have considered it a weak and unreliable narration. This claimed

narration is not even mentioned in the most reliable Sunni hadith books like *Sahih Bukhari* or *Sahih Muslim*.

Therefore, from the Shia jurisprudential perspective, there is no authentic hadith in Shia sources that is both reliable in terms of its chain of transmission and content that supports the claim of those jurists who say that women's hair is *'awrah*.

Thirdly: Some of the jurists who have used this term have claimed the consensus (*ijma'*) of Shia jurists to argue for their point. In response to this group, I point out that if the claim is about "transmitted

consensus" (*ijma' manqul*), their claim is certainly not considered valid and credible by all scholars of Islamic law and jurisprudence. However, if the claim is about "achieved consensus" (*ijma' muḥaṣṣal*), such a consensus is completely incorrect. Many prominent Shia jurists have rejected this type of consensus regarding the ruling on women's hair as *'awrah* and have explicitly opposed it. For example, jurists such as Muhaqqiq Naraqī in *Mustanad al-Shi'a*, Sayyid Ali Tabataba'i in *Riyadh al-masa'il*, Shaykh Muhammad Hasan al-Najafi in *Jawahir al-kalam*, Ayatollah Sayyid Muhsin al-Hakim in

Mustamsak al-'urwat al-wuthqa, and Sayyid Muhammad Damad in *Kitab al-salat*, along with other Shia jurists, have rejected the term *'awrah* for women's hair and have deemed the claim of consensus on this matter unfounded and baseless.

Based on the above, there is no valid evidence from the Quran, hadith, or Islamic jurisprudence to prove the term *'awrah* for women's hair. Therefore, this claim cannot be used as evidence to establish the absolute obligatory ruling for covering women's hair.

Question Two

Question: Is there a correlation between the head covering of a free Muslim woman in prayer and her head covering in public places? In other words, does the obligation for free Muslim women to cover their heads in prayer imply the obligation for them to cover their heads outside of prayer, i.e., in public places?

Answer: The conditions for the clothing of a praying woman stated in Islamic jurisprudence, such as head covering and the ritual purity (*tahara*) of clothing, do

not necessarily mean that these conditions are obligatory outside of prayer. For example, the clothing of a free Muslim woman who is praying must be ritually pure (*tahir*), but this does not mean that the purity of her clothing is obligatory outside of prayer. Similarly, wearing certain clothes that contain parts of a haram-meat animal (except in specific cases) is not permissible during prayer, but this does not mean that wearing such clothes outside of prayer is also impermissible.

In Islamic jurisprudential terms, the obligation to cover the head during prayer is a conditional ruling which is one of the conditions for a woman's prayer clothes. This means that the validity of the prayer depends on such conditions. Therefore, there is no correlation between this matter and the ruling on women's clothing outside of prayer.

Question Three

Question: Why did the early Islamic leaders insist on distinguishing free women from enslaved women and concubines?

Answer: The reason for this act is explained by most commentators in the context of the revelation of verse 59 of Surah Al-Ahzab. In the slavery system that still existed at that time, enslaved women were subject to purchase and sale regulations. The distinction in the type of clothing between free Muslim women and enslaved women was to ensure that free women were not subject to questions and inquiries from people regarding their purchase and sale. For more details, refer to the context of the revelation (*asbab al-nuzul*) of this verse in

commentaries such as *Majma' al-bayan* and *Tafsir Qomi* and similar works.

Question Four

Question: While this question is not directly related to the topic of this writing: Should the slavery system, which existed throughout history before Islam, not have been abolished at the beginning of early Islam?

Answer: By studying the Holy Quran and the hadith, we argue that Islam opposed the enslavement of humans and the slavery system and had a long-term

plan to solve this social and human problem. Imam Ali (peace be upon him) says in *Nahj al-balagha*:

لا تكن عبد غيرك، و قد جعلك الله حرا.

"Do not be a slave to others while God has created you free."

This narration clearly proves that from the Islamic perspective, God has created humans free, and the slavery system is undesirable and should be abolished.

An important social point to consider is that Islam's policy was to eliminate the slavery system gradually rather than abruptly. Otherwise, the large

population of enslaved people who lacked independent jobs and housing would suddenly be without income and shelter, adding to the societal problems of that era. Therefore, the liberation of enslaved people and the subsequent abolition of the slavery system in Islam took place gradually to prevent the mentioned social problem. This is why, in Islam, Muslims are obligated to free a slave as atonement for certain sins, such as intentionally breaking a fast. Furthermore, many verses and narrations in Islamic texts that praise the act of

freeing enslaved people encouraged the society to dismantle the slavery system.

The Holy Quran and the hadiths of the Prophet Muhammad (peace be upon him) and the Imams (peace be upon them) indicate that freeing enslaved people is desirable to God, a sign of true faith, and resulting in the forgiveness of sins. Here are some examples of Quranic verses for your consideration:

لَيْسَ الْبِرَّ أَنْ تُوَلُّوا وُجُوهَكُمْ قِبَلَ الْمَشْرِقِ وَالْمَغْرِبِ وَلَكِنَّ الْبِرَّ
 مَنْ آمَنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَالْمَلَائِكَةِ وَالْكِتَابِ وَالنَّبِيِّينَ وَآتَى
 الْمَالَ عَلَى حُبِّهِ ذَوِي الْقُرْبَى وَالْيَتَامَى وَالْمَسَاكِينَ وَابْنَ السَّبِيلِ
 وَالسَّائِلِينَ وَفِي الرِّقَابِ. (سوره بقره، آيه 177).

"It is not righteousness that ye turn your faces to the East and the West; but righteous is he who believeth in Allah and the Last Day and the angels and the Scripture and the prophets; and giveth wealth, for love of Him, to kinsfolk and to orphans and the needy and the wayfarer and to those who ask, and **to set slaves free.**" (Surah Al-Baqarah, verse 177)

Additionally, in Surah At-Tawbah, verse 60, it states:

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ

وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ فَرِيضَةً مِّنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَكِيمٌ.

"The alms [*zakah*] are only for the poor and the needy, and those who collect them, and those whose hearts are to be reconciled, and to free the captives and the debtors, and for the cause of Allah, and (for) the wayfarer; a duty imposed by Allah. Allah is Knower, Wise."

Based on the above statements, it is clear that Islam opposed the enslavement of humans and the slavery system, and it had a long-term plan to abolish it. However, during the period when not all enslaved people were freed, it was necessary to have the necessary administrative and governmental laws to

manage a society that included both free individuals and enslaved people to minimize problems for both groups and ultimately eliminate those problems.
