

# President Sarkozy & The Niqab

By Ebrahim Saifuddin

President Sarkozy wishes to eliminate freedom of expression in France. The same freedom of expression with which his voodoo dolls were allowed to stay on the market for sale. A French appeals court, in November 2008<sup>1</sup>, had given this permission in the name of freedom of expression. Today, the same president is trying to infringe on the right of freedom of expression of about 5-6 million<sup>2</sup> French Muslims. One then wonders if freedom of expression in France is only for the French non-Muslims. Why this discrimination? Why this injustice?

The important question is that should people in France not be allowed to follow their religion and beliefs openly? Should they be oppressed?

Some people try to suggest that Niqab is not part of Islam and that it is only "cultural". Hence, this article will first establish whether Niqab is part of Islam or not. Later, we will analyze some of the objections raised by people who wish to ban Niqab.

## Woman's Covering in Qur'an

### The First Verse

The obligation of the niqab is established in the Qur'an and Hadith. The first verses on hijab (which means to veil, hide, conceal) appear in Surah Ahzab which, according to different commentators, was revealed in 3 AH or 5 AH. The second verse, which is in Surah Nur, was revealed later in 6 AH. The verse is as follows:

وَقُلْ لِلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا  
يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا وَلْيَضْرِبْنَ بِخُمُرِهِنَّ عَلَىٰ جُيُوبِهِنَّ  
وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا لِبُعُولَتِهِنَّ أَوْ آبَائِهِنَّ أَوْ آبَاءِ بُعُولَتِهِنَّ أَوْ  
أَبْتَائِهِنَّ أَوْ أَبْتَاءِ بُعُولَتِهِنَّ أَوْ إِخْوَانِهِنَّ أَوْ بَنَاتِ إِخْوَانِهِنَّ أَوْ بَنَاتِ  
أَخْوَانِهِنَّ أَوْ نِسَائِهِنَّ أَوْ مَا مَلَكَتْ أَيْمَانُهُنَّ أَوِ التَّابِعِينَ غَيْرِ أُولَى  
الْإِرْبَةِ مِنَ الرِّجَالِ أَوِ الطِّفْلِ الَّذِينَ لَمْ يَظْهَرُوا عَلَىٰ عَوْرَاتِ النِّسَاءِ  
وَلَا يَضْرِبْنَ بِأَرْجُلِهِنَّ لِيُعْلَمَ مَا يُخْفِينَ مِنْ زِينَتِهِنَّ وَتَوْبُوا إِلَى  
اللَّهِ جَمِيعًا أَيُّهَ الْمُؤْمِنُونَ لَعَلَّكُمْ تُفْلِحُونَ ﴿٣١﴾

Surah Nur (24) Verse 31: And tell the believing women that they must lower their gazes and guard their private parts, and must not expose their adornment, except that which appears thereof, and must wrap their

1 [http://www.thaindian.com/newsportal/india-news/french-court-calls-sale-of-nicolas-sarkozy-voodoo-doll-freedom-of-expression\\_100125049.html](http://www.thaindian.com/newsportal/india-news/french-court-calls-sale-of-nicolas-sarkozy-voodoo-doll-freedom-of-expression_100125049.html)

2 <http://news.bbc.co.uk/2/hi/europe/4385768.stm>

bosoms with their shawls, and must not expose their adornment, except to their husbands or their fathers or the fathers of their husbands, or to their sons or the sons of their husbands, or to their brothers or the sons of their brothers or the sons of their sisters, or to their women, or to those owned by their right hands, or male attendants having no (sexual) urge, or to the children who are not yet conscious of the shames of women. And let them not stamp their feet in a way that the adornment they conceal is known. And repent to Allah O believers, all of you, so that you may achieve success.

While this verse was revealed after the one mentioned in Surah Ahzab, the practice of hijab i.e. covering, concealing etc, was in practice when the latter was revealed i.e. in 3 AH or 5 AH as per the different opinions of the commentators regarding the date of revelation.

First I will explain injunctions in this verse and then we will go on the verse in Surah Ahzab.

The word **يَغُضُّ** (yaghudhdhu) in the verse is derived from **غَضَّ** (ghadhdh) which means to bring down or to lower. This establishes the first injunction of the verse to lower the eyes – which means we should look away or turn their eyes away from “that which Allah has forbidden them to look at.”<sup>3</sup>

The next injunction in the verse is regarding covering the private parts. **وَيَحْفَظُوا أَرْوَاجَهُمْ** This means to protect oneself from all forms of unlawful sexual desires.

But because the topic at hand is particularly “Niqab”, I will not talk about the above two injunctions in detail.

Zeenah (**زِينَتُهُنَّ**) in the verse literally means that which a woman adorns herself to appear attractive. This could be nice clothes or ornaments. The scholars unanimously agree that when such ornaments are not worn on the body and are on display like in a shop, then it is permissible for the men to see it. The verse explains the obligation on women not to make visible the parts of the body where ornaments are worn.<sup>4</sup>

Abdul Rahman bin Nasir as-Sa'di says that the entire body is included in “Zeenah”.<sup>5</sup>

Sufyan from Alqamah narrates that Ibrahim said the visible Zeenah is the clothes. This same opinion is held by 'Abdullah.<sup>6</sup> This means that the Zeenah which can be visible is the clothing used to hide the awrah of the woman.

Further there is an exception in the injunction. **مَا ظَهَرَ مِنْهَا** which means ‘except that which appears thereof.’ So that which is impossible to cover, there is no obligation to cover it. However, it is important to understand what falls under this category.

Imam Ibn Munzir reports from Anas (ra) that this phrase means antimony which is put in the eyes and a ring. This means, a woman can only leave her eyes and hands uncovered while everything else has to be covered.<sup>7</sup>

3 Tafsir Ibn Kathir under Surah Nur Verse 31

4 Ruh ul Ma'ani under Surah Nur Verse 31

5 Tafsir Sa'di under Surah Nur Verse 31

6 Tafsir Tabari under Surah Nur Verse 31

7 Durr Manthur under Surah Nur Verse 31

Abdullah ibn Mas'ud said that the outer covering which is used to conceal the inner garments (zeenah), does not need to be covered because it is impossible to do so and hence this falls under this category. According to this companion of the prophet Muhammad (saw), a woman's face should be veiled in public. Al Baghwi said ibn Mas'ud's evidence was Surah A'raaf Verse 31.<sup>8</sup>

Shawkani records al-'Atiyya saying that a woman should cover everything except some parts which she would be obliged to show like the jilbab, khimar, the hands and feet.<sup>9</sup> So according to him showing the face is impermissible.

Badawi states that this exception is during Salah and so if the face and hands up to the wrists are left open during salah then the salah is valid and there is no permission to uncover these portions before a stranger.<sup>10</sup>

Another companion of the prophet Muhammad (saw), 'Abdullah ibn 'Abbas said that the face and the hands fall under this category and they need not be covered.

Some of the people try to use this hadith of ibn 'Abbas as definitive evidence while ignoring the saying of 'Abdullah ibn Mas'ud. They quickly forget what the prophet Muhammad (saw) had said regarding ibn Mas'ud. He (saw) stated "Hold fast to the religious laws that are told to you by the son of Umm Abd (Ibn Mas'ud)".<sup>11</sup>

Further, they also overlook that this same 'Abdullah ibn 'Abbas, in the tafsir of Verse 59 of Surah Ahzab (33) states that all believing women should cover their heads and faces with large cloaks except for one eye when they leave their houses. This proves that while explaining 24: 31, he was referring to what a woman can expose when at home.

While mentioning both opinions, it is mentioned in Tafsir al-Jalalayn, "And tell believing women to lower their gaze, away from what is not lawful for them to look at, and to guard their private parts, from what is not lawful for them to do with them, and not to display their adornment except for what is apparent, namely, the face and the hands, which may be seen by a stranger, when there is no danger of [either or both falling into] temptation - this being one of two opinions. The second [of these] is that [even] this is forbidden because there is a presumption that these [parts] will cause temptation - and this is the preferred opinion, if one must settle this topic [with a definitive opinion]."<sup>12</sup>

However, there is a difference of opinion among the 'ulema as was among the companions of the prophet Muhammad (saw). Yunus said hands and face can be visible.<sup>13</sup> Zamakhshari says the feet, hands and face are permitted to be visible because otherwise it would cause inconvenience to the woman when she has to work (she will have to use her hands), when she has to testify in court and for marriage (she will have to show her face) and when she walks (her feet will become visible) especially those who are poor.<sup>14</sup> Imam Raazi writes it is permissible to show the face and the hands but the correct opinion is that the feet are part of the 'awrah and should be covered.<sup>15</sup>

We will now take a look at the second verse in the Qur'an which talks about the Niqab of the woman. It is in Surah Ahzab and it is verse number 59.

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8 Mu'alim al-Tanzeel under Surah Nur Verse 31

9 Fath al-Qadeer under Surah Nur Verse 31

10 Tafsir Mazhari

11 Mishkaat Masaabih

12 Tafsir al-Jalalayn under Surah 24 Verse 31

13 Tafsir Tabari under Surah 24 Verse 31

14 Al-Kashaaf under Surah 24 Verse 31

15 Al-Tafsir Al-Kabeer under Surah 24 Verse 31

## The Second Verse

Now let me talk a little about the verse in Surah Ahzab. The verse is as follows:

يَا أَيُّهَا النَّبِيُّ قُلْ لِرُؤُسِهِنَّ وَبَنَاتِكِ وَنِسَاءِ الْمُؤْمِنِينَ يُدْنِينَ عَلَيْهِنَّ مِنْ  
جَلَدِيْبِهِنَّ ذَلِكَ أَدْنَى أَنْ يُعْرَفْنَ فَلا يُؤْذَيْنَ وَكَانَ اللهُ غَفُورًا رَحِيْمًا



Surah Ahzab (33) Verse 59: O prophet, tell your wives and your daughters and the women of the believers that they should draw down their shawls over them. That will make it more likely that they are recognized, hence not teased. And Allah is Most-Forgiving, Very-Merciful.

يُدْنِينَ عَلَيْهِنَّ مِنْ جَلَدِيْبِهِنَّ

The command for hijab in this verse comes with the words where yudneena has been derived from idna' which literally means to draw, pull or make come closer. There second word 'alahinn means 'on' or 'over themselves' like hanging as a screen for the face. The third word used here jalaabeebihinn is actually the plural for jilbaab which is a form of sheet as the one worn over the scarf.

'Abdullah ibn Masu'd describes this as:

أَمَرَ اللهُ نِسَاءَ الْمُؤْمِنِينَ إِذَا خَرَجْنَ مِنْ بُيُوتِهِنَّ فِي حَاجَةٍ أَنْ يُغْطِينَ وُجُوْهُهُنَّ مِنْ  
فَوْقِ رُؤُسِهِنَّ بِالْجَلَدِيْبِ وَيُبْدِينَ عَيْنًا وَاحِدَةً (ابن كثير)

"Allah (swt) commanded women of the believers that when they go out of their homes to take care of some need, they hide their faces with the long sheet hanging down from over their heads leaving only one eye open to see the way."<sup>16</sup>

The same interpretation is given by 'Ubaidah Salmani when he explained the meaning of the verse and the nature of the hijab to Imam Muhammad ibn Sireen.<sup>17</sup>

And as mentioned before, 'Abdullah ibn 'Abbas also gave the same interpretation of this verse.

Furthermore regardless of the difference of opinions among the scholars, all agree that in times of fitna, it is necessary to cover the face.

Ashraf Ali Thanvi writes that in times of fitna it is wajib for a woman to cover the face.<sup>18</sup>

There is a unanimous agreement among the scholars on this.

16 Tafsir Ibn Kathir under Surah 33 Verse 59

17 Ma'ariful Qur'an by Mufti Shafi Uthmani under Surah 33 Verse 59; ibn Jarir etc

18 Bayan ul Qur'an under Surah 24 Verse 31

# Woman's covering of face in Hadith

There is a famous incident mention in Abu Dawood. When the son of Umm Khallad passed away in a battle, she came to the prophet Muhammad (saw) while wearing a veil over her face. A companion of the prophet Muhammad (saw) then asked "You have come to find out about your son, yet you did not fail to remember to cover your face? She replied, "I have been afflicted with the calamity of losing my son but will not be afflicted with the calamity of losing my modesty."

This hadith proves that women covered their faces at the time of the prophet Muhammad (saw)<sup>19</sup> and when the woman said she will not lose her modesty, neither did the prophet Muhammad (saw) nor the companions tell her "its okay you do not need to cover your face because that is not part of modesty."

Moreover, it also implies that whether we face calamity or not, we are supposed to adhere to the laws in the Qur'an and Sunnah.

Further evidence that comes from the hadith is that while explaining the laws of Hajj, the prophet Muhammad (saw) said that a woman performing Hajj should not cover her face. This further proves that women used to cover their faces during the time of the prophet Muhammad (saw).

Some try to use this as evidence that when niqab is not to be done during hajj then niqab cannot be a command. This again is their lack of understanding of the laws in the Qur'an and Sunnah. There are many injunctions that one cannot carry out while in the state of ihram. For example you cannot use fragrances when in the state of ihraam. Does this mean using fragrances in general is also haram? Of course not! You cannot cut your nails or your hair in the state of ihram either. Does this mean that its forbidden to do so? No! Similarly there are many commands specific only for hajj and equating them with regular laws prescribed is a grave error.

Secondly even while niqab is not to be done during hajj, the wives of the prophet Muhammad (saw) would cover their faces when men would pass by.<sup>20</sup>

Another hadith which proves the covering of the face is mentioned in Sahih Bukhari:

Narrated Safiya bint Shaiba: 'Aisha used to say: "When (the Verse): "They should draw their veils over their necks and bosoms," was revealed, (the ladies) cut their waist sheets at the edges and covered."<sup>21</sup>

!!!!!! f OE ! deOE!!!! f OE ! deOE!!!! f!!!! de !!!! !! de !OE! !!! !!! !!! Ž! !!!!!!! f ! !!! !!!!!OE  
! OE! OE!  
!!! de de!!!!!! de !OE! de ! de !!!!!• de OE de! !!!!! deOE!!!! de de !!!!!!OE! !!! f! deOE!! OE de ¾!!!

When Surah Nur Verse 31 was revealed, ibn Hajar explains, that the women covered their faces.<sup>22</sup>

There remains no doubt that Niqab was observed by women during the time of the prophet

19 Fadhl al-Ma'bud fi Sharh Sunan Abi Dawood

20 Mishkaat Masaabih

21 Sahih Bukhari Kitab at-Tafsir

22 Fath al-Bari fi Sharh Sahih al-Bukhari

Muhammad (saw).

Furthermore, there is a hadith that is commonly quoted by some people. Asma bint Abu Bakr narrates that the prophet (saw) told her, "O Asma! When a girl comes of age, nothing should be seen of her except the face and the hands."

This hadith has a broken chain of narrators. Some of the narrators are unknown. Thus, this hadith is unreliable and should not be used by any as evidence to derive Islamic laws.<sup>23</sup>

## Differences on Niqab in different schools

As stated before, there is a difference among the 'ulema regarding the covering of the face. For example, the Shafi'i school of thought says it is obligatory to cover the face and the hands.<sup>24</sup>

The Maliki classical opinion states that the woman should cover herself in front of an 'ajnabi except for her hands and face.<sup>25</sup>

Similarly other schools also hold such differences. As mentioned earlier, there was an ikhtilaf on this issue among the companions.

However, regardless of these differences, everyone is unanimous about the fact that in times of fitna, the niqab needs to be worn by the women. And a woman wearing the niqab is simply following an injunction of her religion. Even in normal times, everyone holds the opinion that wearing the niqab is highly recommended.

Such a woman should be allowed her freedom of expression and thus there should be no bans on niqab.

## Why Niqab in Islam?

Firstly, as a Muslim, I do not ask questions to the commandments of God. I believe that the Creator has Absolute Wisdom and I do not have it – no creation has it. So by trying to assess the wisdom I am undermining God's wisdom. I can never know what the whole absolute wisdom behind a commandment is.

Secondly, as being part of the creation, I submit myself to God. So if there is a command by Him then my goal is to obey it to the best of my capability and capacity.

However, when one sits and contemplates, people can think of many reasons. One such reason could be based on the will power one has. A woman by nature likes to adorn herself and beautify herself. As part of her obedience to God, she is to control this desire and conceal her beauty from strangers. By doing so she gains a spiritual high. It is like the month of Ramadan. We abstain from the lawful while we are fasting. Some of which is lawful becomes unlawful in the state of fast. A person, by controlling and abstaining from things he is naturally inclined to e.g. food and water, increases in the level of spirituality.

Likewise, different people can think of different reasons why Niqab is commanded by God. For some the simple reason of modesty is sufficient. Like they say, "If you've got it, flaunt it," in Islam it's more like "Whatever you've got, keep it to yourself." That is the basic rule of modesty.

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23 Anwar ul Bayan by Mufti Aashiq Ilahi under Surah 24 Verse 31

24 Umdat ul Salik by Ahmed ibn Naqib al-Misri

25 Refer to works by Ibn Rushd, Ibn Juzayy, Ibn 'Abdi'l-Barr

## Is Niqab Oppression?

Niqab is called oppression by those who fail to realize the relationship a woman has with her Creator. If, as a Muslim, the woman wishes to wear the niqab, it is because she wants to. It is her choice and no one can tell her how to dress. The actual fact is that when you try to tell us how to dress and impose it on us then that is oppression.

If a woman wants to wear the niqab because she believes it is a command or is recommended by Islam, then what is the problem? Why is this such a huge issue?

They say Islam forces women to wear the niqab – Right now I only see President Sarkozy forcing the women not to wear something they choose to wear.

So who is the oppressor?

Some suggest that some women are forced into wearing the niqab and thus, they say, niqab should be banned. But this does not make any sense. People are, at times, forced to do a lot of things – that does not mean you ban it altogether. For example, women are forced into marriage. The Church of Jesus Christ of Latter-Day Saints had forced many girls into forced marriage.<sup>26</sup> Then should we ban marriage altogether? Women are forced to work so should work for women be banned altogether? A woman is at times forced to study that which she does not like. Should education be banned for women? There are a lot of things which a woman is forced to do in many different societies. But it is preposterous to say that all such things should be banned.

Any sensible person will suggest that laws should be formulated as such that if any woman feels injustice is being done to her then she can seek relief from the judiciary. You do not just ban something altogether – you empower the women.

## Niqab is Security Threat

When one says that niqab is a security threat because people wearing burkas robbed a jewellery store or a bank, it seems like such robberies never took place in the history of mankind without the burka. Criminals have used many different items to conceal their identity. People have used wigs, face masks, lenses and make up more often than a selected few cases of using a burka. Should all these products also be banned?

There have been cases where robbers have used woman's undergarments on their faces to rob. Should these be banned as well?

In 1991, FBI recorded 2,355 bank robberies in Los Angeles. That's more than 6 robberies a day. How many of these were done by robbers wearing a burka? In the first half of 1992, 1,598 robberies were committed. How many were perpetrated by people wearing a burka? The FBI issued a statement that bank robbers in LA do not bother to cover their faces at all.<sup>27</sup>

In 2008, 189 bank robberies took place in the LA metro area alone. 32 Bank robberies took place in San Francisco in the first 5 months of 2008. 115 took place in Houston metro area.<sup>28</sup>

A young 16 year old French girl was arrested in 2008 for 7 thefts in bank buildings in France. The police said that all the robberies followed the same pattern. A girl, whose face would be uncovered, enters the building like a normal customer and then takes out weapons and opens the

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26 <http://www.guardian.co.uk/world/2008/apr/10/usa>

27 <http://www.independent.co.uk/news/world/bank-robbers-run-riot-in-la-1540736.html>

28 [http://www.usatoday.com/news/nation/2008-06-15-bankrobberies\\_N.htm](http://www.usatoday.com/news/nation/2008-06-15-bankrobberies_N.htm)

doors for her accomplices who'd be wearing masks.<sup>29</sup> None of these people wore burkas.

Let me give you a recent example. Last month, French police arrested 25 suspects in connection with a multi-million dollar robbery at Harry Wiston Jewelers. Some of these robbers were dressed as women wearing wigs.<sup>30</sup>

The list is endless. It is better for a government to eradicate the reasons due to which people resort to such crimes. Eliminating the tools they use would mean you remove almost everything from the market; wigs, makeup, computers that are used to forge IDs at times, all kinds of masks whether they are used primarily by children or not, contact lenses etc.

Burkas have been used in a number of cases that you can count on your fingers. Such a small number does not warrant a ban. If one says it does, then ban every item ever used by a robber – don't single out the burka.

## A Look into History of France & Muslim

Niqab, as an obligation, is a valid opinion in Islam. Any Muslim following that opinion is following a valid opinion and no one has the right to force her to wear that which she does not want to wear. France, in history, has tried to enforce its rules on others. In Algeria, during the French occupation, the French took control of Education sectors, business and the government, thereby making attempts to curb the Algerian cultural identity which was greatly influenced by Islam. They tried to shape and mold the Algerians into being like the French.

Algeria, prior to the French invasion had a very high literacy rate. This was because every man, to be able to follow their religion, had to be able to read and understand the Qur'an. The French invasion left this completely destroyed and shattered. About half of the schools that were operational, before the French conquest, were shut down by them.

It was during the French rule that the French tried to eradicate Islamic values and culture from the hearts of the women. They stated that they wanted to 'liberate' the Algerian women. The French also aimed to eliminate the practice of veiling which the women of Islam practice. Today they are trying to do the same.

The conditions under which Algerians lived has been described by Frantz Fanon as "Servants under the threat of being fired, poor women dragged from their homes, prostitutes, were brought to the public square and symbolically unveiled to cries of 'Vive l' Algérie française!'"<sup>31</sup>

## Conclusion

Stating that Niqab is enforced on a woman does not mean you ban it. You simply create laws to bring relief to people who are being forced into it. You empower the women. You deliver justice. By banning it, you are doing the gravest injustice. One does not have a right to tell a woman what to wear and what not to wear. It is a person's discretion.

If a woman considers that Niqab is a command of God, then she should be allowed to wear it if she chooses to do so. If a woman chooses not to wear it, then she should be given justice if she is forced to wear the Niqab.

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29 [http://timesofindia.indiatimes.com/World/Europe/16-yr-old\\_suspected\\_of\\_seven\\_bank\\_robberies\\_in\\_France/articleshow/3282248.cms](http://timesofindia.indiatimes.com/World/Europe/16-yr-old_suspected_of_seven_bank_robberies_in_France/articleshow/3282248.cms)

30 [http://www.google.com/hostednews/ap/article/ALeqM5gJQJZLt\\_NempH68cV7g3UIODyIUQD98VSH800](http://www.google.com/hostednews/ap/article/ALeqM5gJQJZLt_NempH68cV7g3UIODyIUQD98VSH800)

31 Frantz Fanon 'Algeria unveiled' in, *Studies in A Dying Colonialism*, London: Earthscan, 1989.

President Sarkozy should not ban the Niqab saying it is oppression. It is not oppression but a choice. The only oppressor right now is the president himself.

France should accept diversity within its boundaries and welcome people with open arms. It should let go of its history of oppressing Muslim women and be more acceptable and tolerant towards others.