

Memorandum on Hijab and Succession

May it please Your Excellency,

1. On behalf of our various Muslim communities and organizations, we take the liberty of making this submission for Your Excellency's kind consideration.

2. In this submission we are confining ourselves to two matters which have been agitating our minds since long. They are: *Hijab* for Muslim girls in educational institutions and Islamic laws pertaining to Will and Inheritance?

3. Your Excellency! We all are citizens of a free country, and we have given ourselves a Constitution which, *inter alia*, guarantees freedoms of worship, religion, association and expression. We particularly refer to the Articles 18(1), 19(1) (2) and 20(1) of the Constitution which are as follows:

18(1) Without prejudice to expression the laws of the land, every person has the right to freedom of opinion and expression, and to seek, receive and impart or disseminate information and ideas through any media regardless of national frontiers and also has the right of freedom from interference with his communication.

19(1) every person has the right to the freedom of thought or conscience, belief or faith, and choice in matters of religion, including the freedom to change his religion or faith.

(2) Without prejudice to the relevant laws of the United Republic the profession of religion, worship and propagation of religion shall be free and a private affair of an individual; and the affairs and management of religious bodies shall not be part of the activities of the state authority.

20(1) Every person is entitled to freedom, subject to the laws of the land, to freely and peaceably assemble, associate and cooperate with other persons, express views publicly, and more specially to form or join associations or organizations formed for the purpose of preserving or furthering his beliefs or interests or any other interests.

4. Allah has said in the Qur'an, His last word:

"And I have not created jinn and men except that they should serve Me." (51:56)

All Muslims right from the beginning agree that the word *"li ya 'budun "* which is derived from *'ibadah*, and is translated here as "serve", means total obedience.

Your Excellency! No body can be more aware than your good self that *"ibadah "* in Islam is not merely a set of some rituals to be performed at certain times or days. It encompasses a Muslim's whole life. Islam means surrender to the will of Allah and when we pledge to do so we are called Muslims. To guide us in our worldly life, and help us to reach near Him in the hereafter Allah has sent to us, through His Last Prophet (s.a.w.), a comprehensive set of Laws embracing all walks of life — domestic, social, financial, moral and spiritual.

5. Your Excellency knows very well that the Qur'an has treated no subject of law so elaborately and in such detailed manner as the laws of matrimony, will, inheritance and other related matters, including manner of dresses for women.

6. Hijab: It should be made clear at the outset that rules directing women to dress in such a manner as it covers their whole body and preserves their dignity is enunciated in the Qur'an. It is a common heritage of all Muslims and not confined to a certain sect or community. Also, it is not a cultural tradition; it is a compulsory divine law, and cannot be discarded without incurring a sense of sin and guilt.

7. There are not less than nine verses in various chapters of the Qur'an elaborating the rules of *hijab*. With Your Excellency's permission, we quote only two of them here:

"And say (O Prophet!) unto the believing women that they cast down their look and guard their private parts, and they display not their adornment except what becomes apparent of it; and they draw their head-covers over their bosoms; and they display not their adornment except to their husbands, or their fathers, or the fathers of their husbands, or their sons, or the sons of their husbands, or their brothers, or their brother 's sons, or their sister 's sons, or their women, or those whom their right hands possess, or the male servants void of sexual desire, or the children who have not yet attained the knowledge of women 's secrets; and they should not strike their feet so that what they hide of their adornments becomes known; and turn you all unto Allah, O you believers, .so that you may be successful (in the hereafter).(24:31)

O Prophet! say unto your wives, and your daughters and the women of the believers that they let down upon them their "jilbab", so that they may be distinguished (33:59)

(Jilbab = A robe bigger than veil and shorter than shawl, which covers woman's head and breast.)

8. Basing on these and other Qur'anic verses and authentic traditions of the Holy Prophet (s.a.w.), the Muslim jurists, without any sectarian difference, have decreed that:

(a) Muslim women should keep their whole body covered when going out of house. Only face (but not

head or hair) and hands up to wrist may remain open.

(b) There are special and stricter rules of dress for prayer and *hajj*.

(c) The dress should not be tight to show the contour of body, nor flimsy to defeat the purpose of dress.

(d) Women should not wear a dress generally used by men, nor men the dress of women.

9. Your Excellency! The Ministry of Education in our country has selected a uniform for girls of primary schools, which is a copy of the western dress. We wonder why such a decision was taken. Blouse and skirt are not African, nor are they Christian or Islamic, Why that style of dress is so sacrosanct as it can't be changed? It would have been more in keeping with our national aspirations to prescribe long frocks and bui-bui instead, as it is a dress millions of African women wear. Is it not high time that we rid ourselves of the attitude that all that comes from the West is good for us, while our own values are "barbaric."?

10. In view of the above facts, we humbly request Your Excellency to direct the Ministry of Education to prescribe such a uniform for school girls as covers their heads and whole body, leaving open their faces and hands. It may be simplified to consist of:
scarf, frock, trousers and socks.

We believe that it will be a more dignified uniform, and will even allow the girls to participate in athletics and sports freely without fear of any embarrassing exposure.

11. Your Excellency!

If for any reason it is difficult to introduce such a uniform for all girls, then the Muslim girls should be allowed throughout the country to wear such uniform without any let or hindrance, as it is a law of their religion and not just a tribal or cultural tradition.

12. Before going to the other subjects, we would like to bring to Your Excellency's kind notice that Muslim girls in U.K. and France have gained the right to wear *hi jab* in schools although it took court actions (and in case of France, intervention by the European Human Rights Commission) to achieve that right. Nearer at home, in Kenya, this year an African Muslim girl won court case against school authorities when they refused to let her enter school with *hijab*. The official KANU newspaper, The Kenya Times (Nairobi) wrote an editorial on 2/2/1990 in which it, *inter alia*, wrote:

"For a democratic country like ours, where freedom of worship for all religions is enshrined in the constitution, it is difficult to believe that some people would find it fit to deny others this freedom.

"Religion, as we know, is a subject very close to the hearts of some people and to deny them the freedom to express their feelings whenever they want to is being against all efforts in creating a peaceful and harmonious society.

"Take Islam for instance. It is a complete way of life. To ask any staunch follower of this religion to discard some aspects of this life is actually asking him to defy– what is written in the Holy Quran. And who are we, in whatever capacity that we operate, to interfere with other people's private lives and their religion? The issue of this Muslim girl being asked to uncover her head while in the school compound should not arise. Similarly denying children their right to education because they are wearing turbans is intolerable."

13. Islamic Law of Succession:

We have been given to understand that the Government intends to make changes in the Islamic Law of Succession. We are extremely perturbed by this news. As we have submitted earlier, the Qur'an has laid down with utmost precision the rules concerning succession, very elaborately allotting to various heirs their shares in a deceased Muslim's estate.

The Islamic Law is a well-knit entity. We cannot change or amend one or two aspect of it without destroying the entire fabric. For example, in Islamic law a person cannot use anything which is obtained unlawfully (in religious sense), either for worldly or religious purpose.

If therefore a change is made in Law of Succession, someone will naturally get thereby more than his or her due share (that was allotted to him or her by the Qur'an). That unlawful gain would render his or her whole life miserable. His/Her daily life would become a long list of sins and transgressions. His/Her prayer will be invalid; his/her pilgrimage, null and void; even his food and clothing would become, in religious sense, unlawful. Such a person can never expect peace in the life hereafter.

14. We do not know what the main idea behind this exercise is. Therefore, we cannot say any more at present. But we reiterate that these laws are based on the Qur'an, and it is not possible to draw a fine line between these laws and the Qur'an. Any attempt to change the Qur'anic allocations would be tantamount to change the Qur'an.

15. However, in this connection, we would like to draw Your Excellency's attention to the Tanzania Govt.'s Restatement of Islamic Law Act (No. 56 of 1964), under which work was started to codify the Islamic laws, giving due recognition to various schools of thoughts.

Four chapters related to Marriage, Guardianship of children etc. were even published as a Subsidiary Legislation under that Law in The Gazette Supplement No. 34 of 27th June, 1967. It was a move which had pleased the whole Muslim population of the country. Unfortunately that scheme was abandoned.

Yet, if that plan is revived by which rules of every school of thought are recognized as the law applicable to that community, and those laws codified in one volume for easy reference by the courts of law, it will be a highly commendable step for which the entire Muslim population of Tanzania will ever remain grateful to Your Excellency.

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