

Whither *Hijab*? Religious freedom and the liberal dilemma

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“Today’s states, almost without exception, guarantee freedom of religion” Peter Beyer writes, and “...thus acknowledging the importance and legitimacy of this domain”. But the question is “...what are religions permitted to do on the bases of their ‘freedom’”? (Beyer 2004:19-20).

In the international debate on multiculturalism, the relationship between citizenship rights and religious freedom is a theoretical headache at the best of times. But when, a couple of years back Muslim women from a number of European national states took to the street claiming their religious right to wear *hijab* in secular contexts the issue also enjoyed a short-lived but intense public attention in the grater part of western Europe, joining politicians, scholars and the general public in a heated debate about pluralism, constitutional provisions, integration policies and feminisms, to name a few of the topics raised by this appeal to freedom of religious expression. And with the sound and fury from debate at some distance, it is not hard to see that the experience provided a first class demonstration of the perplexities of current affairs in multi-religious Europe. Also, I am fairly convinced that everyone concerned with decent multicultural/multireligious politics had a hard time during this debate sorting the nasty, contemptuous, prejudiced attacks on Islam from the valid objections to unlimited religious self-realization.

During the debate itself, it was almost impossible to keep track of all the arguments flying about. At one level, there were questions of rights and legal principles, and aided by the confrontation between arguments in support *versus* refusal of the claim the conflict between time-honoured western norms was exposed in no uncertain manner. At the empirical level, confusion obtained as to the meaning of a head-scarf from the claimant’s point of view. What was the intent of this claim: was it meant to serve the promotion or the prevention of integration? Finally, along the way worries surfaced as to the

over-all socio-political effects of *either* response to the claim. On the one hand, how would a ban on *hijab* influence Muslim women's chances in terms of education and employment? On the other hand, how would majorities react to an increased presence of non-Christian religious symbols in the public sphere? And if there are no limits to this freedom of belief and worship, what is there to prevent the believers of *any* creed from using liberal laws to dispose of those laws in the name of religion?

There were other voices, however, trying to muffle the noise by playing down the implications of the head-scarf and, more or less explicitly placing the source of controversy at the doorstep of an over-sensitive, or anti-pluralist majority. What I have in mind are arguments in favour of dismissing the whole stink as “too much fuss about a mere symbol” as Tariq Ramadan put it¹; as an unreasonable reaction towards a harmless piece of cloth - stemming from majorities panicking at diversity or looking for trouble, as the case might be. Personally, I find this position attractive, along with numerous other European natives thoroughly fed up with animosity towards Muslims among their own. And yet, it is something about it which does not ring quite true. It seems to ignore what the claimants actually say: The *hijab* is about religion and about rights. And this being the case, the issue is not trivial and it is not solely about xenophobic majorities, and I do believe that something is at stake here, for everyone.

Taking the claim at face value, but in no position either to confirm or to invalidate any proposed link between the symbol and the life project of the claimants, I will not venture a correct interpretation of this affaire. Instead, I will try to unravel some of the uneasy underpinnings of the hijab-debate itself. Making an effort to clear the ground for further discussion, I want to take a closer look at the dilemmas and paradoxes which seems to abound at this interface between religious and civil rights in contemporary European democracies.

¹ Tariq Ramadan in a BBC interview, sent NRK april 3. 2005

Conflicting principles

While the idea of state intervention to ban the *hijab* from the public sphere gained little support outside France, justifying its presence in terms of human rights is a dubious strategy. What creates trouble for the defence is that the body of international conventions subsumed under the heading of Human Rights may also support the contrary position. It is tempting, though:

In the wake of the debate the Norwegian Centre for Human Rights published the book *Hijab in Norway*, with the subtitle *Threat or Human Right?*² While there is no doubt that freedom of religious expression is a human right one is made to wonder what this “or” is meant to signify. For human rights and threats to be mutually exclusive religions must be perceived of as substantially, i.e. theologically, in accordance with Human Rights Law. But this is hardly the case. And to the extent that the title is meant to infer that those feeling threatened by *hijab* - or hesitate in the face of the possible consequences of usage - are opposed to human rights, this is misleading. My point is that sorting the good humanitarian guys from the bad is not that easy. Rather, it seems that suggestions to the effect that religions are morally above reproach, alternatively that religious criticism is morally suspect represent two ways of evading the question of how to reconcile rights that are mutually exclusive.

The source of the problem is not hard to detect, it stems from the tension embedded in international conventions on human rights, between individual rights on the one hand, and group rights on the other. In legal terms this predicament surfaces in full when religious personal- or family law is in conflict with the human *cum* civil rights of the citizen, as defined by international conventions or the constitution of any given democratic national state. And in this respect Islam represents a particularly noteworthy case of what Michael Walzer observes as the most “divisive” in multicultural theory and politics: the gender issue. (Walzer 1997:60). According to mainstream Islam women’s civil rights are defined by theological provisions which explicitly do not acknowledge the equality of the citizens before the law. But

² The book is in Norwegian: *Hijab i Norge. Trussel eller menneskerett?* The author is responsible for translation.

when the source of law is a sacred text there is no distinction between the administration of justice and the practice of religion. Hence, this legal system is subject to an inviolable human right, the right of citizens to religious freedom – the compliment of which is the duty of states in terms of non-interference in systems of belief and worship. The question, then, is whether the commitment to these conventions also commits each state to grant the denominations under its jurisdiction the right to deprive the believers of the civil rights these people enjoy as citizens? If the answer is yes, we seem to have a most confusing situation of a human right causing a loss of human rights.

Re-phrasing the question, one may ask: Firstly, in modern democracies, to which jurisdiction do women belong? Is it the religious group or is it the state? Secondly, who is to make the decision? Is it the religious group or is it the state? To be able to navigate through this muddle some kind of consensus about a hierarchy of rights – and authority - seems to be called for, but at this point the national states are left to their own devices. One example is the Norwegian solution: Having ratified the UN convention on women's human rights (CEDAW) way back in 1991, a principle of non-interference in religious tenets is maintained to this day by way of an exception to the law on equality between the sexes; this law does not apply to the so called internal affairs in religious communities. This approach, however, contrasts rather sharply with the present trend in international law which is *not* to allow religious rights automatically to take precedence over other human rights (Hellum 2003). I am not in a position to judge whether Denmark is more in tune with international jurisprudence on this issue, but I have made a note of the statement in a report from The Danish Centre of Human Rights, establishing without further ado that since the freedom of religion is relative, it can also be restricted³. Whether there are other instances of national legislation, like the Norwegian, protecting religious groups from the impact of women's human rights, I cannot say, nor do I know at which point, on whose initiative and with what outcome restrictions have been applied, for instance

³ *Udtalelse om kvindens lige ret til skilsmisse*. Institutet for Menneskerettigheder./Birgitte Kofod Olsen, 16/2 2004.

in Denmark. Nevertheless, one senses a growing suspicion here and there that the right to religious freedom may entail a promise which modern democracies cannot keep, unless, that is, the denominations in question take it upon themselves to enforce legal reform to meet the requirements of citizenship rights.

Obviously, any arrangement where the State abstains from interfering in religious dogma, even in cases where they contradict UN conventions and national law alike, legal development is left to the religious community itself. But while this approach takes generous care of the autonomy of creeds it does leave a problem: For internal revision to take place those in want of legal reform must be in a position to influence theological interpretation in the first place. If they are not, we are back at square one.

The legal predicament illustrates perfectly the inherent dilemma of liberalism: How is liberal society to deal with illiberal practices without undermining its own principles? When these two systems of law, religious and secular, appear mutually exclusive, and both intervention and non-intervention in people's religious belief appear self-defeating in terms of western norms the situation seems paralysing. But within the framework of the present discussion one is led to ask whether this rather massive claim to wear *hijab* in secular contexts contributes to a lessening or a reinforcement of the pressure on liberal norms. And in fact, the answer could be yes to both questions. To sustain this notion of the *hijab* as both part of the solution – and part of the problem, I will try to unravel a bit more closely some ramifications of this claim.

Women at the edge

While there is a growing scholarly awareness of the fact that the very measures aiming at public and legal recognition of minority groups may serve to undermine the civil rights of the individual group member, the present phenomenon has the merit of confusing even this issue: What to make of the fact that those rendered most vulnerable by collective recognition constitute the vanguard of the claimants? And what is it that these Muslim women want from the majorities and from the state in which they live? Do they ask to be

left alone as members of their minority group, or do they ask for protection as individuals against that very group? Basically the question seems to be how the women themselves perceive the link between head-dress and Islamic family law. And when Muslim women appear in public claiming, with impressive self-confidence and fluency, their right to express their religious affiliation in non-Muslim contexts such as secular institutions of work and learning, the answer is not self-evident. The puzzle is this: The object of theologically founded discrimination, i.e. the victim herself, demands her unrestricted right to demonstrate religious obedience in precisely those institutions which represent the entrance ticket to social and economic participation. At the outset one may pick up one's ears by the fact that the claim itself is doubly rooted in secular law, referring as the claimants do to their constitutional right to freedom of belief and their equal rights as women to education and employment respectively. A second and more salient point stems from the fact that the very presence of the headscarf on employees and students seems to contradict the meaning of the scarf as an expression of commitment to Islamic family law. If there is one issue on which scholars on *Shari'a* Law seem to agree – the critics, the reformers and the conservatives alike – it is that mainstream Islam has no use for educated and earning women. For instance, explaining Islam to the Norwegian public Mohammed Bouras teaches that there is only one condition in Islam that permits a woman to take up work outside the home; in the case where there is no male provider. In Islam men are the providers, as well as the natural heads of households, while any other arrangement will interfere with women's naturally given domestic capabilities, the outcome of which is disastrous: Irrelevant activities and concerns diverting a woman from her naturally given domestic responsibilities as a mother will cause the entire humanity to suffer (Bouras 1998). Hence, women's right to maintenance is inviolable. The legal provisions reducing women's inheritance rights, share in the household property and custody of her own children in case of divorce, the right to sign a contract etc. stems logically from this basic right: She does not need any of those things. To an outsider the tautology is striking: Gender specific laws place women in a position of economic dependence which in turn serves to

prove the wisdom of legal provisions confirming and perpetuating economic dependence. From the other end of the continuum the Pakistani professor of Law, Shaheen Sardar Ali, an expert both on *Shari'a* and Human Rights Law argues that despite the fact that only 6 of the *Qur'an's* 6666 verses are out of tune with the UN declaration on women's human rights (Ali 2000:43) – Islamic ruling is still that women's place is in the home or in the grave. Of course, as Muslim advocate of Islamic legal/theological reform, Ali is controversial in the eyes of her co-believers. But one is made to wonder whether those wanting to wear their head-dress in school and at work may entertain deviant notions of a similar nature about women's place in the order of things.

Thirdly, some confusion arises from the very reasons given in support the claim: Wearing head-dress, we are told, is due to an independent choice and an expression of personal identity. Consequently, those prohibiting *hijab*, being it employers or public authorities, violate the claimant's autonomy and their freedom of choice. Simply put: They are accused of violating their own celebrated principles. The first time I noticed, and was startled by this argument, was way back in the middle nineties in connection with a German court case; the teacher Fereshta Ludin who claimed her right to wear head-dress teaching in the German public school. Expressing her faith, which is a deeply personal thing, her head-dress was not to be considered a garment, like a coat, which can be left in the wardrobe. In 2003 all claimant said more or less the same thing: The *hijab* expresses individuality, free will and autonomy. What strikes me is that even if the head-dress actually does connote a voluntary acceptance of their own subordination, this right to renounce their civil rights are eloquently substantiated within the framework of a tradition rather forcing them to be free, as Rousseau put it. Keeping this in mind, even those in fear of *hijab* as a sign of some sort of spenglerian "Untergang des Abenlandes" may find some solace in the fact that the protagonists argue their case in the language of the west (Mc Laughlin 1996). Nevertheless, the question remains; what on earth are they up to, these persistent European Muslim women? Are they defying the very laws restricting their rights, or is the head-scarf advertising their obedience to their own subordination?

The merits of ambiguity

After several attempts at deconstructing this ambiguity to get at the real intention behind the use of *hijab* in ‘western’ contexts I have come to believe that the effort misses the point: ambiguity *is* the message. For instance, what surfaced in the aftermath of what must now be ranked as the first French “affaire”, were ambitions pointing in two distinctly different directions; the young women wanted access to secular institutions of higher learning while keeping their recognition as chaste, obedient and loyal Muslims intact. And it has occurred to me that the means to reconcile these ends could be the ambiguity of the symbol itself.

There are in fact several indications that the Muslim head-scarf may refer to a precarious balance between the embrace and the rejection of articles of faith; as a cover-up, so to speak, of efforts at change. And interestingly, the *hijab* seems to be used, and to work in somewhat similarly ambiguous ways even outside the Christian/secular European context. Nancy Lindisfarne has pointed to the two-edged message transmitted by the head scarf in constitutionally secular Turkey, where the *hijab* has been the focal point in the political controversy launched by the Islamist upsurge. On the one hand, since one implication of political Islam has to do with welfare and greater social equality the Islamist student wearing headscarf threatens privilege and inequality. According to Lindisfarne this is why the scarf is forbidden. On the other hand, she maintains, there is no doubt that the women’s scarf also defends the inequality the Islamists want to see between men and women. (Lindisfarne 2002). All the more surprising, one might think, that the most heated confrontations have taken place at the universities.

From theocratic Iran, Ziba Mir-Hosseini notes that since the Revolution Women’s participation in politics and public life has increased also in terms of employment and university attendance, which definitely is an unexpected development. She writes: “Paradoxically, the enforcement of *hejab* became a cathalyst here: by making public space morally correct in the eyes of traditionalist families, it legitimized women’s public presence.” (Mir-Hosseini 1999:7). Hence, their heads obediently covered, Iranian women may be in the

process of “...making an utter shambles of the policies dreamed up by the powerful.” (ibid:278). Still, Mir- Hosseini, herself a Muslim, is unconvinced of the emancipatory merit of the *hijab*. Having made her point as to the new freedoms made possible for Iranian women literally wrapped in religious obedience, she concludes: “...yet I see *hejab* and family law as two sides of a coin: both focus attention on the sexual aspect of gender relations, that is, nature theory. Traditionalist *feqb* constructs both so as to deny choice and voice, restricting women in the public domain by *hejab*, and subjugating them in private through family law, making them insecure in both domains” (op.cit:278).

Clearly, neither Lindisfarne nor Mir-Hosseini seems to hesitate in linking hijab with family law in the sense that the former signifies the latter. But Mir-Hosseini also suggests a point which may easily be overlooked by non-believers: The head-dress protects Muslim women from *Muslims*.

The situation in Europe is perhaps not all that different. Even here orthodox dress may provide space for unorthodox practices in terms of access to knowledge and money. And with those items within reach, the ball may start rolling. For instance, independent means of subsistence implies a foothold outside the congregation, which in turn could supply a measure of bargaining strength in internal negotiations about theological reform. This is to say that indirectly inclusion in the larger society may provide Muslim women with the cultic influence they do not enjoy at present. Furthermore, despite their present lack of any impact upon the interpretation of the Qur’an, one is well advised not to ignore the possibility that religious women are on the verge of realizing their tremendous potential power in the face of the religious establishment. As a general observation Ayelet Shachar notes that “The maltreatment of women by the group [...] becomes a self-defeating strategy as soon as it starts to threaten their continued membership of the group [...]” (Shachar, 2000:221). Not particularly hopeful that intragroup changes will occur because of the good-will of religious leaders, Shachar is quite optimistic in terms of religious ‘realpolitik’. And surely, Islam – or Christianity and Judaism for that matter – without women are hard to imagine.

Admittedly, the interpretation above does not amount to much in terms of proof of what the *hijab* really means to those wearing it. But this appeal to secular law, this availing oneself of the freedom of expression, this staging of protest demonstrations and making a public nuisance of oneself in order to safeguard a subordination which is already well taken care of – it makes no sense. Provided that my guesswork is not too far off the target, the likely hypothesis is that there are some untold motives behind this twisting the arm of European majorities in the name of difference. Paradoxically, these quarrelsome ladies could be the spear-heads in a process of ‘Westernising’ Muslim women in the legal, socio-political and economic sense, aiming at equal participation - with their faith intact. In that case, they do precisely what they are asked to do, since this is what *integration* (as opposed to assimilation) is about. And from the point of view of any majority with this commendable object in mind, what follows is that banning the scarf in secular institutions of learning and employment is utterly contra-productive: It can only serve the interest of conservative Islam, in the sense of returning Muslim women to their proper place, without education and without money.

The general suggestion seems to be that non-interference from the outside is the advisable course, leaving it to the religious communities themselves to grapple with the paradox embedded in religious women’s experimentation at the margins of orthodoxy. And from the point of view of liberal democracy the presence of *hijab* in secular institutions may well prove to be a win-win situation: Thanks to the Muslim women themselves, the embarrassing mismatch between human rights will dissolve and, eventually, both equality-minded Muslims and nervous majorities will get what they want. All that is required from European majorities is some measure of patience.

The remaining question is whether this promising scenario in terms of integration by *hijab*, so to speak, precludes trouble at a different level of European societies. For instance, is it not a fact that the presence of religious symbols in public institutions compromises the public sphere as a religiously neutral arena? If the answer is yes, one may still ask, does it matter? A small price to pay for a contented minority, one would assume. It could make a difference, though. It is time to consider some objections to leniency.

The precarious boundary between the sacred and the profane

In the seminal reassessment of his own celebrated theory of secularization Peter Berger notes that the world today is as furiously religious as it ever was (Berger 1999:2), and this “religious upsurge” taking place world wide also compels him to acknowledge the absent correlation between modernisation and the decline of religion. Elsewhere I have discussed my doubts about Berger’s interpretation of this phenomenon in terms of a “deseccularization of the world” (Borchgrevink 2004), but there is no objecting to his comment that “those who neglect religion in their analysis of contemporary affairs do so at great peril.” (ibid:18). Primarily, however, the “peril” on Berger’s mind concerns scholarly ignorance of the sociological significance of this resurgence of a “quest for meaning that transcends the restricted space of empirical existence in this world” (ibid:13) and not the perils stemming from the believers’ urge to infuse the empirical world with religious meaning. But the indications are there to suggest that in the contemporary world both religious and political leaders, although for different reasons, may find it difficult to leave a religious vacuum alone, and also that spirituality may be used to trigger collective actions in the service of quite mundane purposes. Let me outline some features suggesting that attention is due to the role of religion in this-worldly affairs, i.e. as a piece in the play for political power and influence.

Basically, there is no getting around the fact that the very manner in which religious freedom is exercised will influence the whole of the society granting this liberty. For instance, what we cannot know is whether an extended public use of religious symbols will trigger political processes which in turn will threaten the socio-political structure which makes it possible to combine freedom of belief with citizenship rights in the first place. And no solid reason comes to mind why a legal system based on secular principles should be immune to an expansion of the political powers of religion.

In the international debate on multiculturalism one is repeatedly reminded of the soft underbelly of liberal democracy, the fact that liberal laws can be exploited to promote illiberal ends. A striking feature during the *hijab*-debate, however, was the vehemence with which *Muslims* pointed out this

disquieting aspect of liberalism. Not only did they express scepticism as to the liberating potential of veiling, an interpretation was suggested to the effect that the claim to wear *hijab* was supportive of anti-democratic interests. The Norwegian Iranian liberal Muslim writer Walid al-Kubaisi, for instance, sternly warned against what he calls western naiveté, i.e. tolerance which turns its blind eye to the fact that freedom of religion may suit the interests of militant orthodoxy just fine (Aftenposten 3/2 2003).

However that may be, it is not necessary to connect the *hijab* to terrorism in order to suspect unintended consequences of a tolerant *cum* indifferent attitude towards religious expression. One possible scenario is that the tolerance for non-religious institutions and arrangements may weaken, and that religious indifference may prepare the ground for intensified competition between denominations to obtain control of the citizens. This is a process which in the long run may serve to undermine any right to freedom *from* religion, if not the very principle of religious freedom itself. I believe this is the state of affairs suggested by Peter Beyer when he observes that globalization also provides fertile ground for the renewed public influence of religion. By public influence he means that “one or more religions can become the source of collective obligation, such that deviation from specific religious norms will bring in its wake negative consequences for adherents and non-adherents alike; and collective actions in the name of these norms become legitimate” (Beyer 1994:71). In that case, society is moving away from a basic principle of secularity “where (non)religion is an area of society, not the whole of society” (Høibråten 1992:253).

On a more modest scale the *hijab* has proved its potential to trigger off a quest for religious domination, particularly in the shape of increased missionary fervour on behalf of Christian majorities. Last year the Norwegian bishop Olav Skjevesland, urged the Church to come to its senses and learn from the encounter with Islam. Referring to Islamic textile symbols, as he put it, the bishop strongly recommended more vigorous and more visible Christian symbols in public (Afenposten 20/8 2004). Accordingly, in order to fortify its competitive ability, the Church should imitate the rival - the outcome of which can be no other than an escalation of religion in the public

domain. Tariq Ramadan may be justified in his criticism of the west for its “very reductionist interpretation” of this symbol (Ramadan 2001: 252), and still miss a few points. Firstly, keeping the bishop in mind, it is a fact that moderation is not the most striking among the religious virtues. Secondly, religious symbols of the present nature are not private. They work in a socio/political context - which obviously is also their *raison d'être*. Arguing as if they signify nothing to other actors on the public scene is self-contradictory, but the problem is elsewhere: The believers may judge their symbolic expressions of affiliation of no consequence to anybody but themselves, and overlook the fact that they do not control all the sentiments and forces at play. It is in this sense that I find the *hijab* not quite innocent.

The resurgence of politicized religion in the ‘west’ represents another reason to distrust the self-restraint of majorities. As evidenced by this pervasive temptation to link religion with national identity, the mundane interests in the political potential of religion needs to be taken into account. Discussing “Religious nationalism in contemporary Norway” Torkel Brekke points out how a number of politicians have expressed the view that the nation and Norwegianhood is defined by the Christian tradition (Brekke 2004:120). The Christian roots of the Norwegian identity was established in no uncertain way in the documents prescribing compulsory Christian teaching in the public school system (Borchgrevink 2003). And not long ago the Norwegian Progressive Party (sister party to the Danish Peoples Party) appeared in a charismatic Christian context and praised the believers in their capacity of guardians of the essence of the nation. Also, the leader of this party has made explicit the fact that Christendom being a fundamental aspect of Norwegianness, no Muslim can have a true Norwegian identity. (Brekke 2004:121). Interestingly, while Brekke reminds his readers of the influence on Norwegian nationalism of the Danish nationalist and educator Grundvig, Danish colleagues have pointed out to me the inclination in Denmark to define *Danishness* in terms of Grundvigianism. However, the two countries being on the same track in the use of religion as a defensive strategy against immigration is not all that original. The idea of the land given by God to a chosen people is not particularly Norwegian or Danish, nor is the use of

religion as socio/political “glue”, i.e. to foster internal solidarity between the citizens and the state. In contemporary Europe, religion may even serve to forge a common denominator between otherwise obstinate nation-states. The suggestion in the first draft of the EU constitution to render European identity synonymous with Christianity was hardly an accident. And while the idea was rejected, it may not have been the last word about the issue.

The objections to defining territorial belonging in religious terms are almost trite: The suggestion is that non Christians are second class citizens, and that a “European Muslim” (of any nationality) is a contradiction in terms. Rather, this fusing religious belief with politics seems to invite a perception of non-Christians as a security problem i.e. an enemy within.

In general terms, the disquieting aspect of these trends is the possible effect of religious and political interests working in the same direction, emphasising religious affiliation as a condition for belonging, rather than fostering civic virtues and loyalty, in the pragmatic sense, to the social contract. Leaving out for the moment the fact that believers of any creed will have to sort out their priorities between the sacred and the profane, it is worrying when, in liberal democracies this boundary is deliberately fussed. The question is; should it not also worry Europeans wearing a Muslim headscarf?

The public/private distinction is yet another topic brought to the fore by this debate. One aspect of the controversy pertained to the shape and content of the public sphere itself, and to which extent contemporary European states - and majorities – have legitimate interest in keeping public religious expressions under control. As everybody learned during the process, on this issue European national states moved in opposite directions, depending as the argument went on the nature of the constitution, whether pronouncing the state as secular or denominational. On the one hand, from the French point of view the interpretation of religious freedom in terms of freedom *from* religion in the public sphere seemed fair enough and confined to this level of reasoning, a ban on obtrusive religious symbols in public was not a surprising outcome of the debate. On the other hand, the presence of a State Church seems by force of logic to point to an interpretation of this

human right as in freedom *to* religion, with permission to wear hijab as the believer see fit, as a fair and reasonable conclusion. One objection, as mentioned earlier, is that the officially sanctioned right to wear *hijab* in secular contexts may be read as a silent acceptance of judicial pluralism which *de facto* will legalize violation of human rights on the individual level. But the curious point is that in the shadow of the controversy over the French decision it was forgotten that *either* approach leaves the bottom line untouched: Whether prohibiting or admitting *hijab* in public, the religious content remains a private matter, as if the civil rights of the congregation were of no public concern.

Shaeen Sardar Ali makes a point that it is precisely this ‘western’ notion of religion as a private matter which has made it possible for UN-organisations to ignore women’s human rights. This she condemns as betrayal by the west of Muslim women (Ali 2000:63) and she takes ‘western’ feminist to task for turning their back on Muslim women’s predicament in the name of tolerance or indifference, as the case may be.

So far, I cannot see an easy way to deal with this accusation and the problem it raises. On the one hand, the distinction in modern democracies between public and private is crucial, particularly as a protective measure against totalitarianism. On the other hand, in the name of the same democracy, this distinction is destructive when the private is so defined as to exclude women (and children) from the legal protection of the larger community and the state. Notably, this is why early feminism redefined the distinction and wrote on its banner: The private is public.

Let me put it this way: Religious freedom consists in two “freedoms”; freedom of belief and freedom of worship. If *hijab* is considered in terms of worship, prohibition interferes with belief, which is private and no concern of the state. On the other hand, if worship implies defining women as second class citizens, this is hardly a private matter as seen from the point of view of modern democracies. It remains to be seen which approach Shaeen Shardar Ali would recommend in ‘western’ societies, but it seems to me that from the point of view of women’s human rights reluctance to discuss the darker side of religious freedom in secular contexts may backfire on all, for instance in terms of loss of civil rights.

In the long run, unrestricted right to religious expression is perhaps no certain blessing to anyone, not even to the most enthusiastic defenders of this freedom.

Eating one's cake and loosing it

Blaming Muslims, or in this case those in favour of veiling, for political excesses among the majority population and its chosen leaders, is unfair. But mindful of Helge Høibråten's characteristic of secularity as a "common sphere for believers and unbelievers", I wonder: Are the believers interested in preserving this sphere? Are they aware of the cost of narrowing it down?

I want to conclude by drawing attention to a source of unrest pertaining to the entire field of multiculturalism, scholarly and otherwise. What I have in mind is the fact that it is possible for anyone to claim minority-, collective- or religious rights in terms of human rights, without being confronted with the fact that by so doing, you have entered a legal and moral discourse which not only is secular in scope, but which also relies as its basic tenet on the equal rights of each and every member of any group whatsoever. It is difficult to say precisely from where this notion stems that human rights are served *a la carte*, to be chosen or dismissed according to taste. But one cannot help noticing the profound irritation it may foster.

The attitude is tangent upon a version of multiculturalism, which brings Christian Joppke and Steven Lukes to the point of despair: "It [multiculturalism] behaves like a parasite, feeding upon elements of modern states – such as the universal language of citizenship as prerequisite for equality and recognition claims – while doing nothing to sustain and reproduce these elements." The absurdity is emphasised with a quotation from David Miller's neat capture of the paradox: [They are] "relying on an appeal to the majority, which makes sense only if a common identity is assumed, while at the same time arguing that minority groups should throw off an identity that is seen as "oppressive" from the standpoint of group difference." (Joppke and Lukes (1999:8-9).

More important than irritation, however (which could even be said to be the very source of toleration), are the questions about how to

sustain the structural prerequisites of a societal culture tuned to the accommodation of recognition claims while still granting universal rights also to those refusing to identify with that culture. Leaving out the notion that for unity to obtain in a liberal democracy its members must agree on the substance of the “good life”, there is still the job of defending procedures and universal rights, not the least the right to disagree - and remain safe. These are the “elements of modern states” which minorities cannot do without, but I do wonder how those advocating the right to wear *hijab* understand their own position when it comes to reproducing “these elements”.

To me the response to these issues seems crucial to the further direction of liberal democracies. And for the reasons outlined above, those who hold the key to a sensible compromise between religious and secular interests are perhaps precisely those women who initiated the trouble in the first place. What Europe has witnessed are not weakness and muteness, but women forcefully demonstrating their capabilities as mature participants in the public debate, prepared to influence public opinion with arguments and generally well versed in the means for promoting their interests through democratic procedures. What remains unclear is whether their interests go beyond safeguarding particularistic ends in terms of identities and religious belonging. The questions are twofold. Firstly, have they considered the possibility that by pressing the religious issue too hard they may, inadvertently, play into the hands of those who do not want to see women in engaged public affairs in the first place? Secondly; as claimants to religious rights do they also see themselves as co-responsible for the “architecture” of the society as a whole? (Habermas 1994).

To the extent that the question is understood as a questioning of the content of belief itself, and in this case to make Muslim women accountable for their interpretation of the *Qur'an* in terms of the civil rights of all members of the society in which they live, it may be dismissed as illegitimate. After all, faith is still a private matter, and besides, it is impossible to argue with a religious conviction. And particularly, members of a white, (semi-) secularized majority have no business to trespass on Muslim privacy by raising doubts about the democratic intent of belief and worship. It takes a Muslim to

counter objections of this nature. Irshad Manji has put it this way: In the world today “How the Koran is allowed to be interpreted – and how it isn’t – has become everybody’s business” (Manji 2004:204). Hence, I feel free to maintain that what I would like to hear, both from believers and multiculturalists of every persuasion is that they are prepared also to contribute to the reproduction of the universal good of citizenship.

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