

THE ISLAMIC VEIL IN THE WESTERN COUNTRIES: HUMAN RIGHT OR SIGN OF SEPARATION?

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Abstract: Aim of this paper is to explore the real nature of the Muslim veil: is it a fundamental right that reveals female identity or is it just a barrier that increases cultural separation? And how contemporary democracies should manage this issue moving on boundaries between private and public sphere? The paper will be divided into three parts. The first part will concern basic assumptions of a symbol, as an “invisible reality-force that reveals itself only through effects”¹. will devote the second part of my paper to the Muslim veil as a religious symbol, starting from the interpretation of Koran verses. The third part will concern a socio-legal analysis of French legal system about the right to wear the veil in public spaces, in order to understand if the veil is a human right or a sign of cultural separation among races. I have chosen this country because it is a strong example of legal system that does not recognize the veil as a potential human right. The question can be put in these terms: should we say that Western democracies are not able to protect and implement human rights in a context of reciprocal recognition? In a multicultural society the inclusion of every form of life that has rights consists of the recognition for everybody to have “the opportunity to grow up in the world of cultural heritage and to have his or her children grown up in it without suffering discrimination because of it”². The possibility for the Muslim veil to be a fundamental right will depend on socio-political will to create a space of sharing, where everybody, adopting the behavior of reciprocal solidarity, can argue the reasonableness and validity of his/her own claims, trying to justify them for their universalization.

Keywords: universalization; Islamic veil; human right.

O VÉU ISLÂMICO NOS PAÍSES OCIDENTAIS: DIREITO HUMANO OU SINAL DE SEPARAÇÃO?

Resumo: O objetivo deste trabalho é explorar a real natureza do véu Muçulmano: é ele um direito fundamental que revela a identidade feminina ou é apenas uma barreira que aumenta a separação cultural? E como as democracias contemporâneas deveriam administrar esta questão movendo-se em limites entre a esfera particular e pública? O trabalho será dividido em três partes. A primeira parte diz respeito a premissas básicas de um símbolo, como uma “força da realidade invisível” que se revela somente através de efeitos”. A segunda parte do trabalho diz respeito ao véu Muçulmano com um símbolo religioso, iniciando com a interpretação dos versos do Koran. A terceira parte vai se preocupar com uma análise sócio-jurídica do sistema jurídico francês sobre o direito de usar o véu em espaços públicos a fim de entender se o véu é um direito humano ou um sinal de separação cultural entre as raças. Escolhi este país pois é um exemplo forte do sistema jurídico que não reconhece o véu como um direito potencial humano. A questão pode ser colocada nestes termos: devemos dizer que as democracias ocidentais não são capazes de proteger e implementar os direitos humanos num contexto de reconhecimento recíproco? Numa sociedade multicultural a inclusão de cada forma de vida que tem direitos consiste no reconhecimento para todos terem “a oportunidade de crescer no mundo de herança cultural e ter seus filhos crescer nele sem sofrer discriminação por causa dele”. A

¹ Limone, G., *Dimensioni del simbolo*, Arte Tipografica, Napoli, 1997, p. 31.

² Habermas, J., *Struggles for Recognition in the Democratic Constitutional State* in Taylor, C., “Multiculturalism and the Politics of Recognition”, Princeton University Press, Princeton, 1994, pp. 131-132.

possibilidade para o véu Muçulmano ser um direito fundamental vai depender da vontade política criar um espaço de partilha, onde todos, adotando o comportamento de solidariedade recíproca, pode discutir a razoabilidade e a validade das suas próprias reivindicações, tentando justificá-las por sua universalização.

Palavras-chave: universalização; véu Islâmico; direito human.

1. The Muslim veil: sign or symbol?

The issue of the veil, as a human right to protect and implement or as a male practice that should be forbidden, concerns the intrinsic nature of the veil itself.

Should we consider the Muslim veil as a sign or as a symbol? Which is the difference between symbol and sign? According to Peirce³ sign means the possibility to link something to someone, in the sense that sign is a further *something* that helps the interpreting element to identify the object (*something*). One of the possible relation between a subject and an object through the sign is the symbolic relation.

The word ‘symbol’ originates from the Greek verb *sym-ballein* that literally means *throwing together*. In its transitive conjugation it can be translated as ‘putting together’ or ‘joining’⁴. In the ancient tradition, the *symbolon* stood for an object used for the confirmation of contracts: each party had a part of the object which had no value unless linked with the other one.

The primary meaning of the term ‘*sýmbolon*’ is centralized in the recognition of unknown elements. The term ‘*sýmbolon*’ is in fact used by Gadamer who writes: “in its presentation, it is something in which you can recognize something else: for examples the *hospitalis card* or similar. The symbol represents not just what is worth for its content but the possibility, of it, to be shown too, it is a document through which the members of a community can recognize themselves: whether if it is a religious symbol or if it is presented in profane meaning like a recognition sign, a pass or a key-word – in all these case the meaning of the *symbol* is founded on its concrete presence and only in its exhibition or mention it plays its representative function”⁵.

Even if we usually think that a symbol is linked to a specific object, we should admit that symbols also represent indeterminacy and ambivalence. We could say that the most relevant difference between sign and symbol consists in the fact that the sign indicates a meaning, a reality of an object that is immediately perceivable⁶. When we say that an object is a sign (such as the signal “Stop”) we mean that the content of the sign is easily understandable because who sees a signal of “Stop” knows that he must stop.

³ Peirce, Ch. S. *Semiotica. I fondamenti della semiotica cognitiva*, Torino, 1980.

⁴ In the ancient tradition, the *symbolon* stood for an object used for the confirmation of contracts: each party had a part of the object which had no value unless linked with the other one. The united parts showed the agreement between the parties. In fact, in their famous dictionary Henry George Liddell and Robert Scott, define the word ‘symbol’ as follow: “tally, i.e. each of two halves or corresponding pieces of an *astrágalos* or other object, which two *xénoi*, or any two contracting parties, broke between them, each party keeping one piece, in order to have a proof of the identity of the presenter of the other” (See: Lidell, H.G., Scott, R., *Greek-English Lexicon, based on the German work of Francis Passow*, Harper and Brothers publishers, New York, 1968, p. 1676).

⁵ Gadamer, H.-G., *Verità e metodo*, Italian translation by G. Vattimo, Bompiani, XIV ed., Milano, 2004, p. 100. English personal translation: “Nel suo esser presentato è qualcosa in cui si riconosce qualcos’altro: così per esempio la *tessera hospitalis* o simili. Il simbolo indica ciò che non vale solo per il suo contenuto ma per la possibilità di essere esibito, ed è quindi un documento, attraverso il quale i membri di una società si riconoscono: sia esso un simbolo religioso, o si presenti invece in senso profano come un distintivo, un lasciapassare o una parola d’ordine – in tutti i casi la significazione del *simbolo* si fonda sulla sua concreta presenza e solo nell’essere esibito o pronunciato acquista la sua funzione rappresentativa”.

⁶ Eco, U., *Semiotica e filosofia del linguaggio*, Einaudi, Torino, 1997.

On the contrary, a symbol doesn't always express an immediate reality because it is ambiguous. This concept of symbol ambiguity is clearly expressed by Hegel when writes that we often don't care that a symbol is connected with a dynamic content in which more meanings are shaped⁷. In the Hegel's analysis what emerges is the strong link between symbols and societies characterized by *anonymity*, *complexity* and *temporal deferment*⁸.

Under these premises I could say that the Muslim veil can represent a symbol of the Islamic society: it expresses a figurative power in which cultural, religious, political and, social issues are shaped. The Muslim veil is the expression of a complex world whose features should be decode and meant in the specific context of their belonging.

From a theoretical point of view the ambiguity of the symbol expresses its own nature, that is to say the possibility of going far from the sensible phenomena, in order to reveal a different and indivisible reality.

From another point of view, the ambiguity allows the survival of a lot of expressed meanings. I don't want to mean that the symbol is arbitrary or purely representative but I would like to underline that the symbol, unlike the sign, never will contain or reveal just one meaning. It hides different reality to be discovered and interpreted. We can compare the ambiguity of the symbol to the open texture model described by the philosopher Herbert Hart⁹.

As the indeterminateness of the juridical language and the impossibility to discipline every case gives the rules an open texture, so to justify judge's defeasibility, in the same way the ambiguity of the symbol doesn't permit to think about it as a sole reality.

As a symbol, the Muslim veil cannot express only religious features but it should reveal a larger reality in which more elements are shaped. Only if we individuate all these factors, symbolized by the veil, we can answer to the initial question of this paper: is the veil a human right or a male practice not admitted?

2. A socio-anthropological investigation concerning the origin of the Muslim veil

Having defined the difference between sign and symbol and having said that the Muslim veil is the symbol of the Islamic society, meant in its complexity and indeterminacy, I would like to focus on the complex reality that the veil, as a symbol, represents.

The Veil, the *hijab*, means "what can divide"¹⁰. In other words the *hijab* reproduces one of the most important dogma of the Islamic world: the separation between man and woman. As everybody knows, the Islamic world shapes political and cultural meanings with religious ones. The basic idea of the Muslim society, transmitted by the Koran, is that there is a strong separation between man and woman inspired to an asymmetry established by the Divine Will. In marriage, heritage, testimony institutions and in public

⁷ Hegel, G.W.F., *Vorlesungen über die Ästhetik*, Duncker & Humblot, Leipzig, 1835-1838; Italian translation by Nicolao Merker and Nicola Vaccaro, *Estetica*, Einaudi, Torino, 1967, see especially p. 397.

⁸ *Ibidem*.

⁹ See: Hart, H.L.A., *The Concept of Law*, Clarendon Press, Oxford, 1961; Italian translation by Mario Cattaneo, *Il concetto di diritto*, Einaudi, Torino, 2002.

¹⁰ Guolo R., *L'Islam è compatibile con la democrazia?*, second edition with a postface by Renzo Guolo, Editori Laterza, Roma-Bari, 2007, p. 88.

general sector the prevalence of male individuals can be easily seen and not modified.

On one side, woman represents the purity of the family and community; on the other one, she can be the *cause* of the alteration of the social order, being responsible of the sin and contamination. Woman, in short, oscillates on this delicate balance line, between purity and impurity, between religious principles respect and sin.

To control woman body means to control the social order: adultery, betrayal and homosexuality are considered as disturbs and are strongly punished. The veil becomes the way to control woman and her body: a woman without her veil, in fact, can be seen only by her family members.

The obligation of wearing the veil is reconnected to an interpretation of the Koran, verse 31: “*Tell believers to glance down, to be pure and not to show their ornaments but just what appears; to leave their veil reached to their breast and not to show their ornaments to other but their husbands, their sons, their husband’s sons, to their brothers, to their brothers’ sons, to their sisters’ sons, to their women, to their female slaves, to their male desireless slaves, to that impuberal boys with no interest in women hidden body parts*”.

Indeed there is no in the Koran a precise prescription imposing to women to wear the veil and the Koran verse nr. 53 too, even though it mentions the word *hijab*, seems to refer not to an object (the veil) but to an action: the action of covering themselves, using a tent in order to avoid indiscrete glances. The verse 53, in fact, says: “*when you ask for an object to a bride, ask it remaining behind a tent: this will be useful for your hearts purity and their ones too*”.

In the opinion of the writer Khaled Fouad Allam¹¹, the veil doesn’t historically represent a juridical obligation nor a religious symbol. The jurist Qayrawin, dead in 996, spoke about the veil with the only reference to the ritual Friday prayer made by the women in the mosque. In his opinion women used to wear a *khimar*, that is a veil that covers them from the head to the feet, to go to mosques.

The passage from the action of “covering themselves” to enter in the Mosque to the action of wearing the veil should be contextualized in the 14th century, when the jurist Ibn Taymiyya refers to *hijab* as the veil that distinguishes the Muslim women to the no-Muslim ones. Ibn Taymiyya is the first to interpret the Verse nr. 31 of the Koran, Sura 24, as a prescription for the women to wear the veil. Even if his interpretation is restrictive and partial and not comforted by the literal data of the verse, it is just from this moment that the action of covering women in the public places or in Mosques becomes a specific juridical obligation for women. From a sociological point of view the imposition of that obligation can be explained with the consideration that in the Islam classic period (7th-16th century) the woman simply lived into the domestic set and she could come out her house only in special events (ceremony, pilgrimage) but not without a man assent and only if accompanied by a man (father, brother, husband). The first changes occur in the period of Mongolian invasions, led by Gengis Khan, in 14th century (curiously when the jurist Ibn Taymiyya lived), that brought the Big Islamic Empires decline. Muslim world is forced to compare itself with other ethnic groups, cultures and religions and the danger of its own identity contamination and loss, becomes really strong. Woman has to ensure reproduction and the species keeping. The veil prescription

¹¹ Khaled Fouad Allam, *Koran does not impose the veil*, published on the Italian newspaper *La Repubblica*. The article is available at the following website: <http://ricerca.repubblica.it/repubblica/archivio/repubblica/2004/01/22/ma-la-legge-del-corano-non-impone.html>

doesn't want to express an individual freedom limitation, but it wants to express the Islam necessity to control itself, to avoid, in a society no more dominated by the Muslim people, that the Muslim identity disappears. The veil is the defence reaction adopted by the Muslim people to the haughty principles coercively imposed by Mongolian invasions. The circumstance, underlined by the Koran in several points, that the women don't look, don't show their body to men and that they use to cover themselves, is exasperated till the realization of the femaleness just in terms of sexual desire and sin. Woman swings from a sacral character, with a reproductive role, to a contamination and sin danger, related to the fact that she is desired and so she can cause chaos and community and social disorder. So the veil becomes the instrument to preserve women purity and with it to ensure the society, the culture and Muslim community order survival. The veil becomes the symbol of a society that wants to protect itself from the indiscrete sight of the other. Muslim identity is on risk since 20th century, when the mass society diffusion, favoured also by globalization phenomena, the literacy and the emancipation process shift the women from the familiar to the external world.

The entrance in the school and in the work field, the West TV programs that transmit a different image of the woman and the modernization in general – that comes over a westernization process too – lead the Islamic woman to compare herself to a model imposed by the Muslim tradition. So, one more time, when the danger of a contamination comes, the dialectic between pure and not pure is reconstructed with a juridical apparatus imposing the use of the veil. The veil represents the attempt to avoid the Muslim identity external contamination. Faced with the westernization danger, the Muslim countries react with the introduction of the veil in the public sphere that favours the construction of a barrier between male and female, and so it makes possible the fundamental dialectic between pure and not pure leaving it completely unchanged.

3. The right of veil in the French legislation

As we have seen in the previous section, the use of the Muslim veil is a no-peaceful right for the Islam itself and in some countries, especially Western countries, is not well accepted. From a particular perspective the veil can be adopted as the metaphor of the contemporary society, characterized by the co-existence of different cultures in the same territory. As Beck has well evidenced, “we are living in a world where all the different cultures are present at the same time. We have no walls (...), we have no borders anymore”¹². But at the same time this reality generates fears and inquietude: everybody is neighbor but the neighbor is unfamiliar and seen with suspicion because he/she doesn't share the same cultural values. This paradox seems to be felt very strongly in a Western country such as the France.

In France there is a strong will to claim and reinforce the laic principle, even if this need often shifts towards excessive decisions and wrong perceptions: secularity does not mean that the veil always is the sign of a male religion that humiliates women.

The secularity principle has its own source in two normative French documents: in the Constitution of 1958 (specifically at the article 1), which is established that “*France shall be an indivisible, secular, democratic and social Republic*”, and in the Separation of Churches and State Act (1905), which explic-

¹² Beck, U., *Living in World Risk Society*, Italian edition by Carlo Boris Menghi, Giappichelli, Torino, 2008.

itly prohibits direct public funds to any religion in France. French legislation forbids to support religious majorities or minorities established in the national territory.

Despite of this general legislation, there have been many episodes of intolerance against the Muslim veil.

In 1989 some Muslim girls went to the French school wearing the *burqa*, that is the integral veil that completely covers face. The director of the school stopped lections and he forbade them to follow lections wearing the veil. The same episode also happened in 2003 at a public high school, *Henry-Wallon*, where two female Muslim students were expelled because they refused to participate to the lessons without their veil.

After these episodes the issue of the veil became fundamental for the political, cultural and, social French debate: politics, intellectuals, sociologists started to discuss around this issue, trying to understand if the right to wear the Muslim veil had to be considered as an external coercion, coming from the Muslim system based on the superiority of “man”, or a right claimed by Muslim women living in the Western countries. In any case, the right to wear the Muslim veil had to take in account the Constitutional principle of the secularity. With the aim of investigating around the effective and real application of the laic principle, in July 2003, the French President Jacques Chirac encouraged the birth of the *Stasi Commission* whose role was to analyze the implementation of the secularity principle in the educative area.

The *Stasi Commission* ended its investigation with the publication of a report, on December 11, 2003, where it expressed the need of enforcing the secularity principle that seemed to be in danger because of the phenomena of ostentations of religion symbols. In these symbols the Commission included the Muslim veil too. Consequently, the Commission argued the protection of cultural minorities but, at the same time, it evidenced the need of a national law for the application of the secularity principle in the schools. Public French schools, pointed out the Commission, must “*transmit knowledge, teach students critical awareness, assure autonomy and openness to cultural diversity, and encourage personal development. Schooling aims both to train students for a professional career, and to train them to become good citizens of the French Republic*”¹³.

Even if the Commission Stasi recommended to the French government to protect Muslim girls from invasive practices of their religion, such as the genital mutilation, the combined marriages and, other impositions, on another side, the Commission defined the headscarf as a cause of conflicts and inequalities. These recommendations were literally followed by the French state that, on March 15, 2004, promulgated Law n. 2004-228, regulating the prohibition of wearing religious symbols or clothes in schools, colleges and public high schools¹⁴.

In the Commission report it is clear that some religious symbols, such as the headscarf, are seen as a religious imposition, as the sign of a patriarchal (and unacceptable) system. The Muslim veil, for example, is interpreted as the male dominance on the women that are forced to cover their faces and their identities. Prohibiting the right to wear the veil the French State intended to make Muslim women free by a system of coercion based on physical and psychological abuses, perpetrated by men and justified by the Muslim

¹³ Translation available on the Net at the following website: http://ospitiweb.indire.it/adi/Laicismo/Stasi_frame.htm

¹⁴ At the article 1 of the Law, it has established that “*it is forbidden in the schools, collages and public high schools to wear signs or clothes showing the visible membership to a religious group*”.

legal system.

What the commission seemed to ignore was the real nature of the religious signs, and in particular the Muslim veil. For some women the Muslim veil is not the expression of the male domination but a symbol that contributes to construct their identity.

French trend has been approved by the last President, Nicolas Sarkozy. In June 2010 he declared: *“The burqa is a sign degradation for women. It is not welcomed in France. We are not talking of a religious problem, but of the female dignity. The French Parliament is dealing with the issue and this is the best way, because it is necessary that every opinion is expressed”*.

In September 2010 the French Sénate, following the decision adopted by the National Assembly, promulgated a law that forbade to wear the veil in the public places. In April 2011 two women, wearing the niqab, were stopped and arrested. The official version was that they were participating to an illegal manifestation but the circumstance that they were wearing the veil allowed to the Police to arrest them.

The French legislation has provoked different reaction: Belgium, for example, is trying to follow the French example; on the contrary, other States seem do not approve the French policy in times of multiculturalism and globalization.

4. Possible conclusions

At this point of our analysis, having said that the Muslim veil is a symbol of the Islamic society and having analyzed the French repressive legislation, what we can say about the Muslim veil? I wish to start from a declaration by President Sarkozy concerning the issue of the veil and of the Muslim women request to wear the veil: *“If you want to live here, live like us!”*¹⁵. I think that this assertion well shows the narrow link between the issue of the Muslim veil and the issue of the multiculturalism, in times of globalization (here I mean social, political, economic and, cultural transformation caused by globalization). States have lost their power in terms of policy, security and strategy¹⁶; Parliaments do not represent the ideal place for the processes of public will rational construction¹⁷ because the socio-political complexity is reducing their power and autonomy. National policy has been replaced by global networks and financial operations spaced in a supra-national dimension¹⁸. The presence of immigrants in socio-political and cultural contexts different from their home countries has caused a subtle change in terms of the continuity of identity. The cultural membership determines the identity of the individual, in the sense that it contributes to construct the *Self* (of everyone) as he/she is perceived by the others. This happens because, as Kymlicka has well pointed out, *“national identification is based on the membership and not on the acquisition (...) even if the acquisition plays a role in people’s perception of their own identities, at a fundamental level the sense of our identity depends on criteria of membership more than on acquisition”*¹⁹. The cultural membership en-

¹⁵ *Daily Mail*, June 24, 2009, on line version.

¹⁶ In the globalized era States are unable to protect their citizens and the de-localization is transferring power’s States to other organizations (multinational companies, bank, financial networks). Citizen is alone: he feels to live in a global village, but people living with him are unknown.

¹⁷ About the issue of the Parliament as the ideal *place* where the rational will should be deliberated, see also Abignente, A., *Legittimazione, discorso, diritto. Il proceduralismo di Jürgen Habermas*, Editoriale Scientifica, Napoli, 2003.

¹⁸ Beck, U., *Living in World Risk Society*, cit.

¹⁹ Kymlicka, W., *La cittadinanza multiculturale*, Il Mulino, Bologna, 1995, p. 157.

riches the meaning of the individual's action that ends to be a single moment for becoming the expression of a "creative effort for constructing and re-constructing a culture"²⁰.

In this frame the issue of the veil is firstly linked to the question of the "different", perceived in terms of risks and fear. To accept the other (the 'Alter') means to "trust in the person's reliability about a specific series of results or events"²¹. But the concept of "trust" inevitably depends on the category of the risk. Luhmann has been one of the first sociologist to argue that "to trust in individual abilities has to be related to a series of results or events"²². To trust somebody (person having a different political, historical, cultural and, religious substrate) requires the acceptance of a risk, that we can express with the dichotomy security/danger for the own identity.

If by one side globalization has accelerated the phenomena of multiculturalism, eliminating geographical borders and distances, on the other side the crisis of States in terms of legitimacy has made processes of integration more and more difficult. The problem is to implement the so-called "*inclusion of the other*" in a context based on the dichotomy risk/trust because for including the other it is not enough "to show that minorities' rights are compatible with freedom and justice principles. It is also necessary to establish if they are compatible with requisites of a liberal democracy in the long run"²³.

As a symbol of what is considered different from the similar, the Muslim veil is perceived as a cultural risk, a barrier to the *inclusion of the other*. The problem is that in the Western countries the *inclusion of the other* is meant as the acceptance, by the immigrants, of the majority's values, that is to say the imposition of a culture that is unknown for the immigrants²⁴. On the contrary for the German philosopher Jürgen Habermas, *inclusion* is an "opening to everybody of the boundaries of the community. This opening is valid also for those people that are foreign and that want to continue to be considered foreign"²⁵. In a multicultural society inclusion of every form of life having rights, consists in a recognition to everybody to have "the opportunity to grow up with the world of a cultural heritage and to have his or her children grow up in it without suffering discrimination because of it. It means the opportunity to confront this and every culture and to perpetuate it in its conventional form or transform it"²⁶. Habermas understands that in a pluralistic and multicultural society, such as for example the described contemporary French society, where every group has its own ideologies, cultures, traditions and customs, it is not possible to realize a consensus sharing procedural schemes and legislative mechanisms to produce laws and to regulate the exercise of the power. An individual's consensus must be achieved through the creation of a public shared space, where everybody, adopting a behaviour of reciprocal solidarity, can argue the reasonableness and validity of his/her own claims and rules and justifies them asking for their legal acceptance.

²⁰ Tamir, Y., *Liberal Nationalism*, Princeton University Press, Princeton, 1993, p. 41.

²¹ See Giddens, A., *Le conseguenze della modernità. Fiducia e rischio, sicurezza e pericolo*, Il Mulino, Bologna, 1994, p. 42. Personal translation from Italian: "confidare nell'affidabilità di una persona in relazione a una determinata serie di risultati o di eventi".

²² Luhmann (Luhmann, N., *Familiarità, confidare e fiducia: problemi e alternative*, in D. Gambetta (a cura di), *Le strategie della fiducia*, Torino, Einaudi, 1989) wrote that trust is specifically meant in relation to the risk.

²³ Kymlicka, W., *La cittadinanza multiculturalare*, cit., p. 157.

²⁴ Habermas, J. and Taylor, C., "*Multiculturalismo. Lotte per il riconoscimento*", Italian translation by Leonardo Ceppa, Feltrinelli, Milano, 1988.

²⁵ Personal English translation from Italian: "(...) *inclusione significa che i confini della comunità sono aperti a tutti, anche e soprattutto a coloro che sono estranei e che estranei vogliono rimanere*", Habermas, J., *L'inclusione dell'altro. Studi di teoria politica*, Italian Edition by Leonardo Ceppa, Feltrinelli, Milano, 1998, p. 10.

²⁶ See Habermas, J., "*Struggles for Recognition in the Democratic Constitutional State*" in Taylor, C., "Multiculturalism and the Politics of the Recognition", Princeton University Press, New Jersey, 1994, pp. 131-32.

What Habermas describes in terms of the *inclusion of the other*²⁷ should be realized for the issue of the Muslim veil: first, we have to admit that the Islamic women, living in the Western countries, must participate to the public debate, arguing and claiming about their right to wear the veil.

If in this public debate the veil is perceived as a component of the female identity that contributes to the construction of the Muslim women's *Self* it will mean that it is represented as an human right to be protected and implemented. On the contrary, if the veil is individuated as the symbol of the unaccepted male supremacy, justified in the Islamic society but not shared by the Islamic women, it won't be protected by the Western legislation.

The point is that we cannot think to solve the issue how it has been done in France with a legislation that it hasn't considered the Muslim women's thought and voice. We should move toward a new concept of citizen that does not mean to include the immigrant, imposing to him/her the majority's cultural values, but consists in the inclusion of the immigrant in a public space, opened to the debate of the different (and divergent) perspectives. According to Danilo Zolo, "the concept of citizen does not find its own identity in ethnic and cultural affinity but in a praxis of citizens that assert their own democratic rights through a responsible participation and with a reciprocal communication"²⁸.

The veil constitutes and institutes the Muslim woman identity, underlining the separation between males and females and making the woman purity possible. So the veil can be considered a symbol, since it put us in the cultural, social and religious order of the Islam of which it's part. But this is not enough. To rise its real function and not to confine itself to a mere sign, the veil, considered like a symbol, should become a universal mediator, because it allows the Muslim woman to recognize and identify herself in her Islamic belonging group, also when she decides to live abroad.

The right to wear the veil should be inserted in the democratic conversation agenda, to overcome the cultural barriers and to permit the rational discourse opening to all individuals, no matter their political, cultural and religious belonging. This can occur only if the veil is understood as a symbol of a culture and a religion difference from the major western countries ones.

²⁷ Habermas talks about *solidarity among foreigners*. This concept is also used by Engelhardt (Engelhardt, H.T.Jr., *Manuale di Bioetica*, Il Saggiatore, Milano, 1991) who observes that modern society is laic and pluralistic, because is made from "moral foreign". It is not possible to share every moral value; so policy needs create procedural rules and bureaucratic mechanism in order to protect individuals rights. This idea was supported by Aristotele too, that wrote that friendship with a foreign is possible only if everybody share commitments to achieve common goals and wells. See Aristotele, *Etica Nicomachea*, libro VIII, 2, 3, 4 in Lombardi Vallauri, L., "Amicizia, Carità, Diritto. L'esperienza giuridica nella tipologia delle esperienze di rapporto, Giuffrè, Milano, 1969. By the way I also should say that the Habermas' philosophy has been criticized because its own Western approach. Some scholars, especially Southamerican ones (such as De Sousa Santos) have observed that the Habermas model has been conceived for the Western democracies and it couldn't work in other societies.

²⁸ "Il concetto di cittadino non trova la sua propria identità in un'affinità etnica e culturale ma in una prassi di cittadini che esercitano i loro diritti democratici attraverso una partecipazione responsabile e con una comunicazione reciproca". Personal English translation from: Zolo, D., *La cittadinanza: appartenenza, identità, diritti*, Laterza, Roma-Bari, 1994.

