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## **The Islamic Veil and Its Discontents: How Do They Undermine Gender Equality?**

Ekaterina Yahyaoui Krivenko

### **Abstract:**

The article addresses the use of notions of gender equality and non-discrimination in the discussions concerning the practice of Islamic veiling by the European Court of Human Rights as well as by French authorities in relation to the recent adoption of the law banning full face veil in public spaces in France. The author argues that the use of the rhetoric of gender equality without the required knowledge and understanding of the justifications for and discussions about this practice existing within Islam is in both cases very inadequate and leads to results opposite to those they intended to promote. Based on insights into the discussions of Muslims about the practice of veiling the author makes some proposals for a more adequate and productive from the point of view of women's status as well as relationship between Islam and the Western approach to this practice.

### **Keywords:**

Islamic Veil; Equality; France; European Court of Human Rights; Sexuality

### **Introduction**

Around mid-October of last year several newspapers reported a case of a retired French teacher who faced a trial for tearing *niqab* – a face veil – from the face of a Muslim

woman shopping in Paris.<sup>1</sup> The victim was a tourist from United Arab Emirates. A more detailed account of the case reveals the hatred of the French attacker who after removing the face veil off the woman a first time, returned to her once she noticed that the face veil was put again in place by the victim. According to in-depth accounts of the case, she even slapped, scratched and bit the victim.<sup>2</sup> The court's ruling released on 4 November 2010 stressed that the defendant's violent behaviour reveals an intolerance of others that defies explanation and denies cohabitation and dialogue between people who have different ways of life or contrasting beliefs.<sup>3</sup> The attacker explained her behaviour by her desire to defend women's rights. She also stated that she wanted to create a kind of a scandal.<sup>4</sup>

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<sup>1</sup> Lizzy Davis, 'French Woman Faces Fine for Tearing Niqab From Tourist's Face', *The Guardian*, 15 October 2010, <http://www.guardian.co.uk/world/2010/oct/14/woman-fined-tearing-niqab-tourist>, 21 March 2011 or 'Retired French Woman on Trial for Ripping Veil off a Muslim Woman', *France 24*, 15 October 2010, <http://www.france24.com/en/20101015-french-retired-teacher-trial-assault-veiled-muslim-woman-burqa-niqab>, 21 March 2011.

<sup>2</sup> See for example, 'Un mois avec sursis pour avoir arraché un niqab', *Le Monde*, 4 November 2010, [http://www.lemonde.fr/societe/article/2010/11/04/un-mois-de-prison-avec-sursis-pour-avoir-arrache-un-niqab\\_1435584\\_3224.html](http://www.lemonde.fr/societe/article/2010/11/04/un-mois-de-prison-avec-sursis-pour-avoir-arrache-un-niqab_1435584_3224.html), 21 March 2011.

<sup>3</sup> Ibid. However, it is worth mentioning that despite this obvious degree of intolerance and hatred the punishment finally imposed (Euro 200 fine and one month suspended jail term) does not even attain the half of punishment requested by the Prosecution, namely Euro 759 fine and two months suspended jail term.

<sup>4</sup> Explanations of this French woman were reproduced in French media. See, for example, 'Jugée pour avoir arraché le niqab d'une touriste', *Le Parisien*, 14 October 2010, <http://www.leparisien.fr/faits-divers/jugee-pour-avoir-arrache-le-niqab-d-une-touriste-14-10-2010-1108298.php>, 21 March 2011; 'Une retraitée jugée pour avoir arraché un niqab', *Le point*, 14 October 2010, [http://www.lepoint.fr/societe/une-retraitee-jugee-pour-avoir-arrache-un-niqab-14-10-2010-1249043\\_23.php](http://www.lepoint.fr/societe/une-retraitee-jugee-pour-avoir-arrache-un-niqab-14-10-2010-1249043_23.php), 21 March 2011.

This case raises many questions but can also be regarded as a symbol of the passion with which many opponents of the veil are filled, not only in France but also in many Western democracies. The adoption of a law banning the face veil from public spaces in France and Belgium as well as similar legislative projects discussed in many other European States is also an expression of this strange interest in the exotic and incomprehensible practices of the 'other'.

This article attempts to shed some additional light on this animosity with which the practice of veiling is viewed in many Western democratic settings and to explain this strange hate-love between the Western public and the Muslim practice of veiling. Some questions surrounding the issue of Islamic veiling from the point of view of gender equality and through the lens of the latest developments in France are revisited.

More generally, the article will demonstrate how the rhetoric of gender equality and non-discrimination is used to construct a religious 'other', to create an enemy. It will also show that in doing so this attitude creates and reinforces a certain vision of gender roles, a certain vision of 'a woman', and a certain vision of masculinity. It will be argued that this process of gender and religious creation of an 'other' is a circular process which needs to be interrupted. In order to formulate some suggestions about possible ways of disrupting this process, the nature of gender roles implicit in the process will be analysed. Paradoxically, despite the centrality of women's rights, gender equality and non-discrimination in the Western discourse, the image of women thus created is quite similar in its presumptions to that which it blames in the universe of the religious 'other'.

The article will start by discussing the most widely disseminated religious justification of the practice of veiling. One important observation should be made from

the outset. While the study concentrates on this particular justification, the diversity of meanings attributed to the practice of veiling should not be forgotten. The choice of this particular justification will be explained later in this study. Similarly, despite the focus on one particular justification it will be demonstrated that the analysis made in this article has wider and more general implications. It will become clear from the point of view of the widely disseminated religious justification analysed in this article, that veiling is a means of regulating sexual behaviour of men and is only incidentally linked to the issue of gender equality. As a next step, the justifications invoked for prohibiting veiling in two Western democratic settings (European Court of Human Rights and the French Republic) will be analysed. In both cases the main argument revolves around the necessity to protect Muslim women from discriminatory practices and thus to ensure the respect of the principle of gender equality without any reference to the diversity of either religious or individual Muslims' visions of the practice of veiling. Finally an inquiry into the reasons and consequences of this absence of understanding between both sides – Muslims and Western democracies – is made whereas the analysis of the circular process of enemy creation is developed.

## **I. Muslims and the Veil: a Brief Overview**

The issue of Muslim women's dress codes, especially the wearing of the veil, including the complete facial veil became one of the predominant preoccupations of several European democracies.<sup>5</sup> Apart from the fact that in many lay societies of which France is

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<sup>5</sup> For an overview of the discussions see Dominic McGoldrick, *Human Rights and Religion: The Islamic Headscarf Debate in Europe* (Oxford and Portland: Hart Publishing, 2006); Wasif A.R. Shadid and Sjoerd

the best example, the veil is regarded as a strong religious symbol; the politics of veil prohibition or restriction also employ very widely the rhetoric of gender equality. Before going into detail of the relationship between gender equality and the practice of veiling, the article will turn to visions and justifications of the practice of veiling as formulated by Muslims themselves. Due to the limited space the article will concentrate on one particular justification very frequently invoked by Muslim men and women even if the primary motivation for the adoption of this practice can be linked to other considerations. The spread and popularity of this justification can be explained by its links to the original religious sources of Islam. Therefore, the reasoning underlying this justification will be presented briefly.

Hierarchically, the most important source from which Islamic jurists can derive an obligation for women to cover themselves is the following passage from the Quran:

Say to the believing men that they should lower their gaze and guard their modesty: that will make for greater purity for them (...) And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what (must ordinarily) appear thereof; that they should draw their veils over their bosoms and not display their beauty except to their husbands, their fathers, their husband's fathers, their sons, their husbands' sons, their brothers or their brothers' sons, or their sisters' sons, or their women, or the slaves whom their right hands

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P. Van Koningsveld, 'Muslim Dress in Europe: Debates on the Headscarf', 16 *Journal of Islamic Studies* (2005), pp. 35-61.

possess, or male servants free of physical needs, or small children who have no sense of the shame of sex (...)<sup>6</sup>

This fragment is open to various interpretations. Firstly, as to the nature of the veil, there is a discussion as to whether it should be just a head cover or a hole-body garment.<sup>7</sup>

Secondly, with regard to the rationale of the command contained therein, the question is posed: does it really require a head cover or simply a modest dress?<sup>8</sup> This ambiguity determined the emergence of discussions and diversity of opinions surrounding the issue of Muslim women's dress within Islam itself.

There is no need to go into detail of all the interpretative efforts made by Islamic scholars but it is important to emphasize that there are many visions of the Islamic dress code for women. Some of these visions will simply emphasize the necessity for both men and women to dress appropriately, modestly. For the purposes of this paper it is important

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<sup>6</sup> *The Holy Qur'an*, sura 24, verse 30 and 31 (Abdullah Yusef Ali trans., available online at <http://www.usc.edu/schools/college/crcc/engagement/resources/texts/muslim/quran/024.qmt.html>, 21 March 2011).

<sup>7</sup> The fact that there is definitely a strong resistance within Islam to this vision of Muslim women's dress is best illustrated by the following book: 'Abd Al-Halîm Aboû Chouqqa, *Encyclopédie de la Femme en Islam: La femme dans les textes du Saint Coran et des Sahîh d'al-Boukhârî et Muslim*, Vol. 4 La tenue vestimentaire et la parure de la femme musulmane (Paris: Éditions Al Qalam, 2000). The more than 300 pages volume is entirely devoted to the issue of appropriate dress for Muslim women and is based on traditional, classical sources. Out of eleven chapters of this volume seven attempt in one way or another to bring arguments against the requirement and even recommendation for Muslim women to cover their faces.

<sup>8</sup> See, for example, the commentary to the sura 24, verse 31 in the English translation of the Qur'an by Muhammad Asad: Muhammad Asad, *The Message of the Qur'an* (Gibraltar: Dar al-Andalus, 1980).

to keep in mind two facts. Firstly, the text of the Quran itself, the primary source does not contain any clear imposition of a head cover, even less so of a face veil or an entire body-cover for women. What is clearly present in this primary text is the requirement of modesty for both men and women. This fact is acknowledged by opponents and supporters of veil.

Let us now turn to the formulation of the underlying justifications and explanations used by Islamic scholars to support their interpretation imposing on women some forms of dress codes. What is recurrent in their writings is the reference to the nature and predisposition of both sexes, but especially of men. They usually argue that modesty is a value which is beneficial to constructive social interaction between men and women because it will reduce the number of close intimate contacts between unmarried men and women which are illicit in Islam.<sup>9</sup> This logic if pushed to its extreme would mean that women are required to cover as much of their body as possible not only and

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<sup>9</sup> It should be emphasized again that this particular vision of the practice of veiling is not the only possible or existing even within Islamic tradition. However, this reasoning is predominant in what can be described as a popular vision of veil among Muslims and one which is actively promoted by conservative Islamic forces. For discussion of other theological, cultural and political visions of veiling see for example Fadwa El Guindi, *Veil: Modesty, Privacy and Resistance* (New York: Berg, 1999), Jasmine Zine, 'Unveiled Sentiments: Gendered Islamophobia and Experiences of Veiling among Muslim Girls in a Canadian Islamic School', 39 *Equity and Excellence in Education* (2006), pp. 242-244, Helen Watson, 'Women and the Veil: Personal Responses to Global Process', Akbar S. Ahmed, Hastings Donnan (eds.), *Islam, Globalization and Postmodernity* (London, New York: Routledge, 1994), pp. 137-155. For a presentation of the popular traditional version see for example *Encyclopédie de la femme en Islam*, Vol. 4, *supra* note 7 or widely promoted explanations provided about a 'proper' Islamic veiling and other 'women issues' by official religious authorities from Saudi Arabia on the website <http://www.fatwa-online.com>.

even not so much because women have something wrong with their body or face, but because men are highly receptive to the beauty of women and will not be able to concentrate on their other daily tasks if they would have to face beautiful and not so beautiful women around them. The works of most conservative authors are very telling in this regard. Consider, for example, the following explanation:

Apart from the efforts that have been made to keep women out of men's sphere and men out of women's sphere, no one has yet found a better means than the hijab to enable men and women to live in accordance with God's commands. If a woman is obliged to pass through men's sphere of activity once a day, for example, she can veil her face and go about her business without being in danger of causing temptation. However, if women's faces and the other aspects of their physical beauty remain uncovered, and if men are still commanded to lower their gazes and remain chaste, this becomes unbearable for men; hence, the divine laws are free from such unreasonable demands.<sup>10</sup>

The temptation which is mentioned by the author relates to the prohibition of adultery and any extra-marital relationship which is subject to severe punishment. From this point of view, the entire requirement of veiling is linked to the necessity of preventing sexual contact between unmarried persons. Even the authors who defend the view that Islam simply requires both women and men to dress modestly will justify this requirement by the necessity to prevent excessively close contacts between unmarried persons. It is more important to emphasise the presumptions about women's and men's sexuality implicit in these justifications. Unfortunately, these presumptions are not discussed either by Muslim

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<sup>10</sup> Suleiman Bin Abdul Rahman Al-Hageel, *Human Rights in Islam and Their Application in the Kingdom of Saudi Arabia* (2001), p. 210.

or other authors working on the issue. Firstly, woman's appearance is regarded as being too appealing to men's sexual desires. Secondly, it is the woman who has to do something in order to manage these sexual desires of men who are considered unable to do it themselves. Finally, no temptation is feared at woman's own initiative: whatever the veil chosen by a woman, she is free to observe uncovered men around her. It is supposed that she will be able to control her sexual desires contrary to men.

Thus, the requirement for women to veil whatever form it takes in Islam is not at all linked to the submissive position of women in the sense of discrimination or a lower status of women as compared to men in contrast to Christian tradition where women's veiling is a symbol of submissiveness to God and men:

For a man indeed ought not to have his head covered, because he is the image and glory of God, but the woman is the glory of the man. For man is not from woman, but woman from man; for neither was man created for the woman, but woman for the man. For this cause the woman ought to have authority on her head, because of the angels.<sup>11</sup>

The veil in this version of Islamic tradition is in reality linked to the question of sexuality and symbolizes men's desire for women as well as women's sexuality. It can be regarded as a practice oppressive to women only to the extent that women have to bear the burden of men's excessive and uncontrollable desires. However, it stereotypes both men and women and it represents a particularly degrading vision of masculinity arguing that men are not only highly receptive to women's appearance but even unable to control the slightest emotion or feeling related to their desires.

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<sup>11</sup> *Bible*, Paul's First Letter to the Corinthians, 11:7-11.

## II. Veiling and Western Democracies

If we turn now to the discussion of the issue of veiling in Western democratic States, we will discover that the main argument of those opposing the veil is the principle of gender equality. According to the predominant Western vision the veil is incompatible with the principle of gender equality and discriminatory against women.<sup>12</sup> Some other considerations also emerge from time to time but the discussion of the question of veiling in Western democratic States is never placed in its original context of sexuality, nor are opinions and views of women affected taken into account. In order to clarify the approach of Western democratic States this part will analyse the attitude and issues raised in relation to the practice of veiling by the European Court of Human Rights (ECHR) and in relation to the adoption of the French law banning the face veil in public space.

### A. ECHR: Democracy and Equality

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<sup>12</sup> Academic work on the issue of veiling is more diverse than the dominant media and political discourse but the issue of gender equality also prevails. For some examples of a different approach to this issue see Fadwa El Guindi, *Veil: Modesty, Privacy and Resistance* (New York: Berg, 1999) (an anthropological study of the practice of veiling which demonstrates the centrality of the notion of privacy to those practicing veiling); Jill Marshal, 'Women's Right to Autonomy and Identity in European Human Rights Law: Manifesting One's Religion', 14 *Res Publica* (2008), pp. 177-192 (the issue of veiling is addressed from the point of view of identity formation and women's autonomy); Valorie K. Vojdik, 'Politics of the Headscarf in Turkey: Masculinities, Feminism, and the Construction of Collective Identities', 33 *Harvard Journal of Law and Gender* (2010), pp. 661-685 (the author analyses the issue of veiling from the point of view of masculinities theory and demonstrates its relevance to the construction of masculinities and national identity).

The two most important cases decided by the ECHR with regard to the issue of veiling were brought against Switzerland<sup>13</sup> and Turkey.<sup>14</sup> Both cases address the issue of veiling primarily within the framework of the freedom of thought, consciousness and religion guaranteed by article 9 of the European Convention on Human Rights. It is interesting that in the *Dahlab* case, the applicant also attempted to invoke in conjunction with article 9 a violation of the principle of non discrimination on the grounds of sex formulated in article 14 of the Convention.<sup>15</sup> The applicant argued that a man belonging to the Muslim faith would never be subject to any form of prohibition based on his dress which in her view discriminated unfairly against Muslim women. Thus, the applicant attempted to turn the principle of gender equality in her favour.

The *Dahlab* case being declared manifestly ill-founded and thus inadmissible, the ECHR does not provide a very detailed analysis of the rights invoked. Nevertheless, the decision is revealing in one particular respect. The ECHR affirms that the practice of

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<sup>13</sup> *Dahlab v. Switzerland*, 15 January 2001, European Court of Human Rights, No. 42393/98.

<sup>14</sup> *Leyla Şahin v. Turkey*, 10 November 2005, European Court of Human Rights, No. 44774/98.

<sup>15</sup> Both cases, but especially the *Şahin* case gave rise to numerous comments. See among others Murat Borovali, 'Islamic Headscarves and Slippery Slopes', 30 *Cardozo Law Review* (2009), pp. 2593-2611; Jill Marshall, 'Freedom of Religious Expression and Gender Equality: Sahin v. Turkey', 69 *The Modern Law Review* (2006), pp. 452-461; Niraj Nathwani, 'Islamic Headscarves and Human Rights: A Critical Analysis of the Relevant Case Law of the European Court of Human Rights', 25 *Netherlands Quarterly of Human Rights* (2007), pp. 221-254; Rachel Rebouche, 'Turkey at the Crossroads of Secular West and Traditional East: The Substance of Substantive Equality: Gender Equality and Turkey's Headscarf Debate', 24 *American University International Law Review* (2009), pp. 711-738; Anastasia Vakulenko, 'Islamic Headscarves' and the European Convention on Human Rights; An International Perspective', 16 *Social Legal Studies* (2007), pp. 183-192.

veiling being ‘imposed’ on women “appears difficult to reconcile ... with the message of tolerance, respect for others and, *above all, equality and non-discrimination*”<sup>16</sup> so fundamental to any democratic society. While commenting on the applicant’s invocation of article 14, the ECHR stated that “[s]uch a measure (prohibition from wearing certain articles of clothing) could also be applied to a man who, in similar circumstances, wore clothing that clearly identified him as a member of a different faith.” This very formalistic response ignores reality of Muslim men’s and women’s lives and religious obligations: no interpretation of Islam requires Muslim men to adopt a way of dressing which would single them out in the same way as does the practice of veiling. I believe that in refuting the applicant’s argument in such a simplistic way the ECHR missed a very valuable opportunity to contribute to a deeper understanding of ways in which restrictions imposed on the practice of veiling in European States add a layer of discrimination against Muslim women supplementary to restrictions which conservative Islam attempts to force upon them. In a more cynical way one could say that the ECHR did not really care about the views and opinions of Muslim women adopting the practice of veiling, an attitude which is even more visible in the *Şahin* case.

The judgement in the *Şahin* case after recognizing that the prohibition of the veil at Turkish universities infringes the applicant’s freedom to manifest her religion turns to the analysis of the justifications for this limitation of applicant’s religious freedom. Given the agreement between the parties, the ECHR accepts without any difficulty that the limitation pursues two of the legitimate goals enumerated in article 9 (2) of the European Convention on Human Rights, namely the protection of public order and of the rights and

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<sup>16</sup> *Dahlab, supra* note 13, p. 13, emphasis added.

freedoms of others. Its discussion of the second criterion, ie, of the necessity-in a democratic society prescribed by the same provision constitutes the most interesting and ambiguous part of the judgement which is particularly illuminating as far as the ECHR's understanding of the relationship between gender equality and the veil is concerned. The veil is mentioned as a practice contrary to the principle of gender equality without any further justification side by side with statements which associate the veil with political Islamic extremist movements and place it in opposition to tolerance and pluralism.<sup>17</sup>

It is interesting to read this Court's evaluation of the practice of veiling in the light of its own remarks concerning the role of the State in the context of regulation of the religious freedom. The ECHR emphasises that the State should remain a neutral and impartial organizer and that "the State's duty of neutrality and impartiality is incompatible with any power on the State's part to assess the legitimacy of religious beliefs or the ways in which those beliefs are expressed."<sup>18</sup> Does the ECHR's evaluation of the practice of veiling which in fact repeats in essence the position of the Turkish government respect this neutrality? Is the ECHR's judgement an expression of the "(p)luralism, tolerance and broadmindedness" which according to the ECHR are "hallmarks of a 'democratic society'"?<sup>19</sup> Do the Turkish government and the ECHR abstain from appreciating the legitimacy of this practice as they require it? The answer to all these questions is clearly 'No'. Not only does the ECHR evaluate and assess the legitimacy of the practice, but it even goes further in attributing it a particular meaning

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<sup>17</sup> *Şahin*, *supra* note 14, para. 113, 115, 116.

<sup>18</sup> *Ibid.*, para. 107.

<sup>19</sup> *Ibid.*, para. 108.

which the applicant herself never invoked and even rejected. The appreciation of the practice by the ECHR is anything but tolerant and broadminded as the dissenting opinion of judge Tulkens clearly demonstrates.<sup>20</sup> Moreover, as far as the principle of gender equality is concerned, the ECHR while pretending to take care of this principle through maintenance of the prohibition of veiling at Turkish universities makes women voiceless and subordinated adopting a highly paternalistic attitude in this case. As the dissenting judge points out: “I fail to see how the principle of sexual equality can justify prohibiting a woman from following a practice which, in the absence of proof to the contrary, she must be taken to have freely adopted.”<sup>21</sup>

Thus, the ECHR clearly takes part in the debate on the veil instead of adopting a neutral and objective attitude. It describes the practice as political, intolerant and most importantly contrary to the principle of gender equality. While the Court makes an appraisal of the practice, it fails to take into account not only the multiple interpretations and meanings of this practice, but also its justifications in religious terms as well as the opinions and views of women themselves.

### *B. France: Liberty, Equality, Fraternity*

The issue of veiling in France has quite a long history compared to other Western democratic States. The jurisprudence of the French Conseil d'État over the issue of the wearing of religious symbols in public schools has been developing since 1989. The most

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<sup>20</sup> *Ibid.*, para. 11 of the dissenting opinion where judge Tulkens points to a judgement of the German Constitutional Court of 24 September 2003 where the multiplicity of meanings of the practice has been recognized.

<sup>21</sup> *Ibid.*, para. 12.

widely-known legislative measure prohibiting the veil in public schools dates back to 2004.<sup>22</sup> This part of the article will, however, concentrate on the most recent development in France, namely the adoption of a law prohibiting the face veil in public spaces.<sup>23</sup>

Particularly instructive is the discussion which took place in view of the preparation of the law banning the face veil in France. The law itself approved by the French Constitutional Council already on 7 October 2010<sup>24</sup> is very brief. Article 1 of the

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<sup>22</sup> Law No. 2004-228 of 15 March 2004, *Journal Officiel de la République Française*, 17 March 2004, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000417977&dateTexte=>, 21 March 2011. This Law and the situation which led to its adoption was subject of many scholarly articles and even books. See for example Dawn Lyon and Debora Spini, 'Unveiling the Headscarf Debate', 12 *Feminist Legal Studies* (2004), pp. 333-345; Joan Wallach Scott, *Politics of the Veil* (Princeton: Princeton University Press, 2007); Ellen Wiles, 'Headscarves, Human Rights, and Harmonious Multicultural Society: Implications of the French Ban for Interpretations of Equality', 41 *Law and Society Review* (2007), pp. 699-736; Adrien K. Wing and Monica Nigh Smith, 'Critical Race Feminism Lifts the Veil?: Muslim Women, France and the Headscarf Ban', 39 *University of California at Davis Law Review* (2005-2006), pp. 743-778; Bronwin Winter, *Hijab and the Republic: Uncovering the French Headscarf Debate* (Syracuse: Syracuse University Press, 2008).

<sup>23</sup> Law No. 2010-1192 of 11 October 2010, *Journal Officiel de la République Française*, 12 October 2010, available at <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000022911670&dateTexte=>, 21 March 2011.

<sup>24</sup> Decision No 2010-613 DC of 7 October 2010 available at <http://www.conseil-constitutionnel.fr/decision//2010/2010-613-dc/decision-n-2010-613-dc-du-07-octobre-2010.49711.html>, 21 March 2011. The decision makes the law inapplicable only in places of worship open to public (see para. 5 of the decision) since the application of the interdiction in places of worship would mean the impossibility

law simply prohibits face dissimulation in public space. What the law means by face dissimulation is defined by exclusion. According to article 2, paragraph 2 the prohibition does not apply if the dress is prescribed or authorised by laws or regulations, if it is justified by health or professional reasons or if it forms part of sports practice, artistic or traditional festivals or celebrations. As far as the definition of public space is concerned, it is very large and includes according to paragraph 1 of the same article public ways, spaces open to public or allocated (intended for) to public service.

The remainder of the law does not clarify further the prohibition but deals with ways of punishing violations of this prohibition. The punishment is intended for women who violate the prohibition by appearing with their face dissimulated in public but also for those who exercise pressure on women or force them to dissimulate their face (Articles 3 and 4).

Taking into account the definition of what constitutes face dissimulation, it is difficult to imagine what kind of dress apart from the full Islamic veil could be targeted by the law. Moreover, it is significant that in view of the preparation of the law the French Parliament constituted an information hearing which dealt exclusively with the issue of the face veil.<sup>25</sup> From the very outset the report on the hearing summarizes the essence of its goal and conclusions:

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for Muslim women wearing full face veil to keep their veil in mosques which would constitute a violation of religious freedom.

<sup>25</sup> Mission d'information sur la pratique du port du voile intégral sur le territoire national, established by the Conference of presidents on 23 June 2009. All information about the work of the mission is available online: [http://www.assemblee-nationale.fr/13/dossiers/voile\\_integral.asp](http://www.assemblee-nationale.fr/13/dossiers/voile_integral.asp), 21 March 2011.

Il [le rapport] montre aussi avec précision en quoi le port du voile intégral porte atteinte aux trois principes qui figurent dans la devise de la République : liberté, égalité, fraternité. Le voile intégral est une atteinte intolérable à la liberté, à la dignité des femmes. C'est la négation de l'égalité des sexes, de la mixité dans notre société. C'est finalement la volonté d'exclure les femmes de la vie sociale et le rejet de notre volonté commune de vivre ensemble.<sup>26</sup>

The report clearly places emphasis on its finding of contradictions between republican values of liberty, equality and fraternity and the practice of face veiling.<sup>27</sup> It also stresses that according to its findings the practice of face veiling is a negation of equality between sexes and symbolizes a desire to exclude women from social life.<sup>28</sup> Compared to these statements the attitude of the members of the mission is revealing in many ways. The report resulting from the hearing is described in the introductory part as a clear, serious

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<sup>26</sup> A free (An informal?) English translation by the author: "It (the report) demonstrates with precision why the wearing of a complete veil violates three principles appearing in the motto of the Republic: liberty, equality, fraternity. The complete veil is an intolerable infringement on liberty, on dignity of women. It is a negation of equality of sexes, of diversity in our society. It is finally a willingness to exclude women from social life and rejection of our common willingness to live together." *Rapport d'information No 2262 fait en application de l'article 145 du Règlement au nom de la mission d'information sur la pratique du port du voile intégral sur le territoire national*, Président André Guérin, Rapporteur Éric Rault, Assemblée nationale, 26 janvier 2010, p. 13 available at <http://www.assemblee-nationale.fr/13/pdf/rap-info/i2262.pdf>, 21 March 2011.

<sup>27</sup> *Ibid.*, pp. 87-122. The entire second part of the report deals with contradictions between republican values and the wearing of a face veil.

<sup>28</sup> *Ibid.*, pp. 109-113.

work based on a well-balanced judgement.<sup>29</sup> At a first glance the report really gives an impression of a serious and in-depth analysis especially if one considers the number of persons interviewed during hearings, round-tables and visits.<sup>30</sup> However, a more thorough analysis of the background of persons selected as well as a careful reading of certain hearings reveals a different picture. First of all, very telling is the fact that despite a significant number of members of Muslim communities interviewed there are very few women among them.<sup>31</sup> Moreover, remarks made by several members of the French Parliament during interviews clearly indicate that even these women and men were carefully selected in order to ensure that their statements will not endanger or fundamentally undermine the basic goal towards which the hearing was heading from its very outset: complete ban of the face veil. For example, one of the persons interviewed – a highly contested but widely known scholar writing on Islam and the situation of Muslims in Western democracies, Tariq Ramadan – was told on several occasions that a number of deputies were against hearing him on the issue of veiling.<sup>32</sup>

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<sup>29</sup> *Ibid.*, p. 13.

<sup>30</sup> Just the list of these persons occupies more than ten pages of the report: *Ibid.*, pp. 629-641.

<sup>31</sup> For example, there is not a single woman among religious representatives of the French Council of the Muslim Faith (Conseil français du culte musulman) (*Ibid.*, p. 631) as well as those interviewed in Lyon (*Ibid.*, p. 637) and Lille (*Ibid.*, p. 634) and only one woman among the four representatives of the Regional council of Islamic worship (conseil régional du culte musulman Provence-Alpes-Côte d'Azur) interviewed during the visit to Marseille (*Ibid.*, p. 638). Some women who can be presumed to be either Muslims or of Muslim origin because of their names are among the persons interviewed but in their capacity either as women's rights activists or otherwise involved in community work but not as representatives of Muslim community.

<sup>32</sup> *Ibid.*, pp. 564 and 567.

Another significant statement is made at the beginning of the report. Very poetically, the report starts with a story of an encounter. After numerous official appointments the members of the hearings visited the Umayyad mosque of Damascus. When they were leaving the mosque, a woman in *burqa* talked to them in French, a woman who is native of France, of Moroccan origin and who followed her husband working in the Middle East.<sup>33</sup> The description of this encounter contains many details about the woman's appearance, her voice, her laughter, and her children. It also mentions the fact that the woman desired to talk to the members of the mission not in order to justify herself but in order to explain the sense which she gave to this *burqa*.<sup>34</sup> However, despite all compassion expressed in the report towards this 'ghost', as they constantly label her, what strikes the most is that while the report reserves three pages for the description of this encounter, there is not a single word of what this woman finally explained to the members of the mission about the sense of wearing a *burqa*.<sup>35</sup>

Finally, it comes as no surprise that despite the time and effort deployed by the hearings it did not take even a few minutes of its time to interview at least some of about

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<sup>33</sup> *Ibid.*, pp. 15-16.

<sup>34</sup> *Ibid.*, p. 15: "Elle voulait nous parler, « non pour [se] justifier, mais pour [nous] expliquer le sens qu'[elle] donnait à cette *burqa* » ..."

<sup>35</sup> According to the facts mentioned in the report, the woman took a lot of her time to talk to the members of the mission and the main subject of the conversation was the veil: "Yes, we talked a long time to this attaching phantom who continued to talk to us, to tell us, to explain us the why of this veil. With decency she resumed to us her life with a kid who was saying: 'Mummy, I am hungry!'" (free English translation by the author. French original texte: "Oui, nous avons parlé longtemps à ce fantôme attachant qui continuait à nous parler, à nous dire, à nous expliquer le pourquoi de ce voile. Avec pudeur, elle nous résumait sa vie, avec un gamin qui lui disait « Maman, j'ai faim ! »"), *Ibid.*, p. 16.

two thousand French women who according to its own report can be affected by the law.<sup>36</sup> The report mentions on numerous occasions the invisibility of women wearing *burqa* or *niqab*, the fact that this practice is forced on them and makes them voiceless. It would have been so wonderful if this same hearing would have given voice at least to some of these women, if it would have given them an opportunity to express their concerns and pains, maybe in anonymity but at least publicly. Unfortunately, despite its proclaimed intentions, the hearings simply ignored these women and to a certain extent even silenced them by imposing one particular meaning on their religious practice.

After the coming into force of the Law in April 2011, the available information on the situation of Muslim women wearing the face veil confirms the negative impact of the Law as well as the impossibility of achieving the results proclaimed. For example, according to mass media reports women wearing the face veil have become the target of physical and verbal violence which instead of liberating them makes their participation in social life very difficult.<sup>37</sup> Faced with these difficulties women who freely choose this type of clothing do not abandon their veils but invent different strategies of survival reaching from open political battle<sup>38</sup> to confinement to their homes.<sup>39</sup>

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<sup>36</sup> *Ibid.*, pp. 28-19.

<sup>37</sup> Angelique Chrisafis, 'France's Burqa Ban: Women are Effectively Under House Arrest', *The Guardian*, 19 September 2011.

<sup>38</sup> See for example the case of Kenza Drider, a French woman wearing full veil who announced her intention to stand for presidential elections: Peter Allen, 'As France Issues First Fines Burqa Rebel Says: I'll Stand for President', *Daily Mail*, 23 September 2011.

Both cases demonstrate a one-sided attitude towards the practice of veiling. The discussion is dominated by the question of gender equality. Despite these declared preoccupations with gender equality the paradox which occurs is the silencing of Muslim women. Significantly, there is no inquiry not only into the opinions of Muslim women wearing the veil but also of those who choose not to adhere to this religious practice. Most importantly, there is no discussion of the underlying reasons formulated by Islamic scholars in support as well as against the practice of veiling. It appears as strange and contradictory that in both forums the decision-makers proclaim the necessity of maintaining a certain distance and do not engage in a discussion of religious arguments, while at the same time bestowing upon the practice of veiling a very precise meaning and significance which directly intervenes into the religious justification of this practice and contradicts it. If the decision-makers really want to understand the practice of veiling in order to adopt the most effective and appropriate measures, why do not they engage in a dialogue with religious scholars and most importantly with the women affected by the issue? Even if sometimes the significance of sexuality in relation to veiling is mentioned, why does it not attract attention of these forums? What does this shift in the emphasis from sexuality to equality mean?

### **III. Sexuality, Equality and the Veil**

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<sup>39</sup> Some women according to the information provided in the article by Angelique Chrisafis, *supra* note 37, started wearing bird-flu style medical masks to cover their faces in a way not prohibited by the Law as in this video: <http://www.youtube.com/watch?v=FEYLOhMLboM>.

*A. Why the West Focuses on Discrimination When Discussing the Practice of Veiling?*

In order to understand this focus on gender equality in relation to the practice of veiling within the dominant Western political and media discussion it is necessary to turn to Western sexuality studies. Without going into detail of this rich and multidimensional field of study, this part will concentrate on the application of one particular analysis of men's sexual desire to the conservative Islamic justification of veiling. According to this widely held vision men have more frequent and more intense sexual desires than women.<sup>40</sup> This vision of men's sexual desire is read through the lens of theorisation of male sexuality in Western philosophy. In order to make the analysis more focused an article by Victor J. Seidel approaching the issue of cultural construction of male sexuality though the reading of western philosophical ideas is used as a main reference.<sup>41</sup>

First of all, the very existence of a quite similar presumption about the nature of men's sexual desires in the Western culture as the one that underlies the justification of veiling in Islam is highly symbolic. Obviously, to say that men have more intense and frequent sexual desires is to certain degree different from the statement implicit in the conservative Islamic justification of veiling which presumes that men are even not able to control their sexual drives if women do not cover themselves. The former statement although widely shared by laypersons is subject of scientific inquiry which makes no

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<sup>40</sup> Roy F. Baumeister, Kathleen R. Catanese, and Kathleen D. Vohs, 'Is There a Gender Difference in Strength of Sex Drive? Theoretical Views, Conceptual Distinctions, and a Review of Relevant Evidence', 5 *Personality and Social Psychology Review* (2001), pp. 242-273.

<sup>41</sup> Victor J. Seidler, 'Reason, Desire and Male Sexuality', in Patricia Caplan, ed., *The Cultural Construction of Sexuality*, (London: Routledge, 1987), p. 82-112.

value judgement on the desirability of the stronger or weaker sex-drive.<sup>42</sup> However, it is easily imaginable how the supporters of the practice of veiling will use the results of the study affirming the existence of the stronger and more frequent sexual desires of men to their advantage. On the other hand, on the basis of this study it is also possible to argue at least for modification of the requirements with regard to veiling: The study certainly shows that men are not constantly under the influence of their sexual desires and despite certainly significant – compared to women – frequency and intensity of their desires are able to control them and act independently of these desires. Therefore, it could be argued that even if certain modesty in dress could be required in order not to challenge men's sexual desires a complete veil or may be even the ordinary veil is not necessary for these purposes.

Additional interesting arguments can be made on the basis of philosophical insights into the Western construction of men's sexual desires if we keep the result of the previous research about the nature of men's desires in mind. Western cultural heritage similarly to the conservative Islamic vision regards sexuality as dangerous and threatening but the means to control it are different. Such notions as reason, duty and restraint closely associated with the Western vision of the 'correct' and 'proper' masculinity are built into the representation of the entire Western civilization and symbolize the control exercised over this threatening sexuality:

Issues of sexuality are potentially threatening because they challenge the ideals of control which a rationalist culture has continued. Just as emotions and feelings are treated as mental phenomena, so are sexual desires. This is part of the denigration of the body and

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<sup>42</sup> Baumeister, Catanese and Vohs, *supra* note 40, p. 243.

somatic experience that has been such a pervasive aspect of western cultural inheritance.

The body is to be feared because it threatens to disturb and upset the kind of control so closely identified with masculinity.<sup>43</sup>

However, by identifying reason with masculinity the control over sexuality signifies exclusion and subjugation of women as many feminist authors demonstrated.<sup>44</sup> Thus, while the practice of veiling excludes or makes women less visible physically, the Western means of control over sexual desires of men, namely the domination of reason, subjugates and excludes women socially. Developing further on the role of reason in the construction of male sexuality Seidler affirms:

As men have learnt to identify with their reason, they also learnt to be *estranged* from their bodies, to regard them as having no part in their identities or experience. (...) It is only through turning sex into performance, and separating it from intimacy and personal contact that they can still see it as an issue of control.<sup>45</sup>

Western society is filled with examples of “turning sex into performance”: sex magazines, female nudity in advertising, ‘sexy’ dress etc. All this serves a single purpose of helping men remain rational beings able to control their sexuality. Thus, as paradoxical

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<sup>43</sup> Seidler, *supra* note 40, p. 91 (references omitted).

<sup>44</sup> For some examples see Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York: Routledge, 1990); Genevieve Lloyd, *The Man of Reason: "Male" and "Female" in Western Philosophy* (London, Routledge, 2<sup>nd</sup> ed., 2002).

<sup>45</sup> Seidler, *supra* note 40, pp. 96-97, emphasis in original. This conclusion is made with the reference to Susan Griffin, *Pornography and Silence* (New York: Harper and Row, 1981).

as it might appear, very similar presumptions about the nature of men's desires and sexuality dominate both the Western modern culture and the conservative Islamic discourse. Moreover, women are attributed the same role, namely that of bearing the burden of these excessive sexual desires of men which in the Western version are masked beneath the rhetoric of reason and duty. Simply, the burden is of a different kind, instead of covering themselves in order not to provoke men as in the conservative Islamic discourse, women are required (even if it is not a legal requirement) to appeal to this men's desire by dressing, appearing sexually attractive to men. Moreover, the parallel can go further: the requirement to be and appear sexy is again addressed almost exclusively to women.

The fact that the issue of veiling is presented in Western politics and media as a question of equality and not sexuality serves the purpose of concealing similar Western cultural discriminatory attitudes behind the Other's 'barbaric' culture and divert attention from the real questions. Although feminist scholars have pointed out the discriminatory and degrading character, for example, of certain types of advertising<sup>46</sup> or women's dress<sup>47</sup>

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<sup>46</sup> Mary Barbercheck, 'Science, Sex, and Stereotypical Images in Scientific Advertising', in Mary Wyer, ed., *Women, Science, and Technology: A Reader in Feminist Science Studies*, 118 (New York: Routledge, 2001); Katherine T. Frith, Hsin-I Cheng and P. Shaw, 'The construction of beauty: A cross-cultural analysis of women's magazine advertising', 55 *Journal of Communication* (2005), pp. 56-70; Dennis J. Ganahl, Thomas J. Prinsen and Sara B. Netzley, 'A content analysis of prime time commercials: A contextual framework of gender representation', 49 *Sex Roles* (2003), pp. 545-551; Alyssa Michaelides, *Hidden Messages: Advertising and the Messages They Send to Society About Women*, Senior Honors Theses, Paper 84 (2005), <http://commons.emich.edu/honors/84>, 21 March 2011.

<sup>47</sup> See, for example, Katharine T. Bartlett, 'Only Girls Wear Barrettes: Dress and Appearance Standards, Community Norms, and Workplace Equality', 92 *Michigan Law Review* (1994), pp. 2541-2582; Allison T.

their warnings are regarded as superficial, and their fears as exaggerated because there are somewhere such unacceptable and degrading practices of the Others to combat as for example veiling.

In both cases women have to behave in a way most agreeable to men. Women's body and appearance is put to the service of men's desires. The only difference resides in the rather 'passive' conduct required from women in the conservative Islamic version and the more 'active' behaviour imposed on Western women. Moreover, one could even argue that by veiling women instead of objectifying them, the conservative Islamic discussion conveys a more women-friendly message. The West is simply more creative in masking its own demand on women and women's objectification beneath the vocabulary of gender equality which is made easier by the more 'active' role ascribed to women. This also explains the predominantly hostile attitude of the Western media and political discourse towards Islam. On the one hand, the conservative Islamic view is rejected with reference to the necessity to protect gender equality because it facilitates the condemnation of the practice without making apparent the discriminatory nature of the presumptions behind many Western attitudes and practices. On the other hand, the entire Muslim world is often subsumed under this conservative Islamic vision because starting to discuss and consider seriously the justifications for veiling as well as other equally Islamic but more egalitarian visions of gender roles endangers the operations of these presumptions in the West and makes Western defence of its own position more difficult.

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Steinle, 'Appearances and Grooming Standards as Sex Discrimination in the Workplace', 56 *Catholic University Law Review* (2006-2007), pp. 261-; Kimberly A Yuracko, 'Trait Discrimination as Sex Discrimination: An Argument against Neutrality', 83 *Texas Law Review* 167 (2004-2005), pp. 167-179.

Put differently, the encounter between Islam and the West puts the 'good' of the Western identity into question. For this reason, in order to maintain the belief in the ultimately right and just construction of the Western order, two means are employed: firstly, the entire Islamic culture and the Muslim world is assimilated into one single category described in terms of the most conservative Islamic discourse. Islam is equated with its most discriminatory practices and diversity is forgotten. In doing so, Western media uses the very same language and justifications as the conservative Islam without paying due regard to the diversity of Islam. The second means is the use of bipolar language. There are 'good' and 'bad' cultures, which are either in support of or against gender equality - nothing in between, no nuances. In this way the opposition is created between Islam and the West, the door to discussion and dialogue closed, an enemy created.

The reaction of the Muslim world to such statements and attitudes is ambiguous, but this approach of the Western media and politics is definitely beneficial to the conservative Islamic forces. It facilitates the arguments and the battle of the conservative Islam for gaining more supporters. Many Muslims being faced with such a misunderstanding of their religion will position themselves closer to conservative Islam just as a reaction of opposition against this Western attitude and in order to keep and defend their own religious identity. This in turn gives more arguments to the part of Western media which perpetrates this simplistic and unified vision of Islam. A circular process of enemy creation is put into place. What remains forgotten in this process, is the situation of women and the issue of gender equality, both in Muslim societies and in the West. Women as well as men are stereotyped and forced to play certain roles.

*B. Why Is It Important to Start Discussing the Veil in Terms of Sexuality and Not Equality?*

The circular process of enemy creation is moved by different forces both on the Western democratic States' side as well as on the side of Muslim societies. As far as the former is concerned, these forces which contribute to sustaining the process of enemy creation are, as mentioned above, the following: presenting Islam as a static unified block; projecting a simplistic vision of Islam and Muslims; equating Islam with its most conservative versions. The forces in the Muslim world which also contribute to this process do it among others by 'demonizing' the West and presenting only one vision of Islam as authentically Islamic.

As a result of this circular process a bipolarisation of discourses and visions occurs as well as the disappearance of nuances and multiplicity in visions not only of Islamic practices and their meanings but also of visions of gender equality. Since the West views itself at the forefront of gender equality especially as compared to the Muslim world, it stops to question and develop a criticism of its visions of equality. As a result, persisting problems disappear from political agendas and media discourse. In turn, members of Muslim communities have more difficulties internally contesting conservative and authoritarian interpretations of Islam.

There is an urgent necessity to disrupt this circular process not only in order to engage in a real dialogue with members of Muslim communities, but also in order to become more critical of our own, Western notions of gender equality, sexuality and identity. One of the possible ways of disrupting this process consists in the engagement in

a discussion about ‘disturbing’ ‘Islamic’ practices in terms which will appeal to Muslims applying these practices, which will engage with their underlying motives.

According to one of the traditional religious explanations given by Muslims for the maintenance of the practice of veiling, its main purpose is regulation of men’s sexuality. Thus, the framing of the issue of veiling in terms of gender equality by Western democracies forecloses any possible discussion or dialogue on the issue. This situation is well illustrated by the discussions surrounding the *Şahin* judgement. As mentioned above the ECHR suggests that the practice of veiling is discriminatory against women.<sup>48</sup> The response given by the critics of the judgement and formulated by the dissenting judge appeals to the logic and affirms that according to the facts of the case an educated woman chose the practice of veiling without any external pressure therefore obliging her to remove the veil is not less discriminatory.<sup>49</sup> In rare cases where the studies on Muslim women’s views on the veil were conducted, many women wearing the veil emphasized their free choice and their vision of the practice of veiling as an exercise of their liberty.<sup>50</sup> The opponents of the veil would continue to argue attempting to demonstrate other more subtle ways in which this practice could still have discriminatory effects, as for example the pressure exercised on other Muslim girls and women.<sup>51</sup>

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<sup>48</sup> See *supra* notes 17 and 18 and accompanying text.

<sup>49</sup> See *supra* note 22 and accompanying text.

<sup>50</sup> Caitlin Killian, ‘The Other Side of the Veil: North African Women in France Respond to the Headscarf Affair’, 17 *Gender and Society* (2003), p. 567, 575-580; Wing and Smith, *supra* note 23, pp. 759-761.

<sup>51</sup> See, for example, Karima Bennoune, ‘Secularism and Human Rights: A Contextual Analysis of Headscarves, Religious Expression, and Women’s Equality Under International Law’, 45 *Columbia Journal of Transnational Law* 367 (2007), pp. 367-426.

However, these arguments will not be persuasive to individual Muslim women who choose freely to wear the veil out of a sincere religious belief. Therefore, in order to engage in a real discussion where both sides will actively participate and where arguments of the one side will appeal to the other we need to return to individual and religious justifications of this practice and the underlying assumptions.

Ultimately, I believe in the success of this strategy because this is what many young Muslim women wearing the veil do themselves, even if unconsciously, when they turn to the fashion industry and affirm that they can be beautiful while remaining modest and sexually unappealing to men.<sup>52</sup> Their claim is based on a fundamental distinction between beauty and sexuality. While in the contemporary popular language in the West both terms are used interchangeably and as synonyms to describe women's appearance – in fact describing a woman as sexy is even viewed as a kind of praise by many – the attitude of these young Muslim women draws a distinction between the two terms while combining the issue of modesty with beauty.<sup>53</sup> Combination of the values of modesty and

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<sup>52</sup> Till now the issue of Islamic fashion industry has attracted very limited attention of Western academia. Some analysis has been made in relation to Turkey, but the issue remains largely unexplored. For some remarks see Vojdik, *supra* note 13, pp. 681-683 with further references.

<sup>53</sup> The best expression of this ideas is found in the tagline of the Islamic fashion festival which started in 2006 and had its fourth edition in 2010 in Monaco: "Discover the beauty of modesty". For information on the festival and to view some examples of the Islamic fashion dress see <http://www.islamicfashionfestival.com.my/>, 21 March 2011. The reports in the Western media about this festival are rather rare. For a notable exception see Robb Young, 'Muslim Fashion Designers Moving Beyond the Traditional', *New York Times*, 18 September 2007, <http://www.nytimes.com/2007/09/18/style/18iht-rmuslim.4.7550105.html?pagewanted=1& r=1>, 21 March 2011. For a short report about the last edition of the festival see Grégory Leclerc & Gérard Tinelli, 'La

beauty in one single concept defies the traditional conservative Islamic thinking which associates women's beauty with sexuality. The encounter of these two, according to the logic of conservative interpreters of Islam, irreconcilable notions in the concept of Islamic fashion is a topic highly challenging also to the traditional Western concept of sexuality. Suppressing the voices and the particular way of expressing their views used by these women, namely the veil, even in the name of gender equality, facilitates the spread of the most conservative and authoritarian version of Islam.

At a more general level, the maintenance of this circular process facilitates the political use of Islam and Muslim women's question. There is a need for more research in order to understand to what extent such processes are in place in other areas relating to the relationship not only between Islam and the West, but also at every instance of an apparent contradiction between two cultures used for political purposes.

## **Conclusions**

Islamic veiling remains a highly contested and sensitive issue in the relationship between Western democracies and Muslim communities. Can the ripping off the veils be seen as a liberating gesture? In the case described at the beginning of the article the majority would respond in the negative. However, the rhetoric of gender equality used by the ECHR and the French government attains its goal and leads to the general acceptance of

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mode Musulmane defile au Sporting de Monaco', *Nice-Matin*, 11 August 2010,

<http://www.nicematin.com/article/cote-dazur/la-mode-musulmane-defile-au-sporting-de-monaco>, 21 March 2011.

governmental actions similar to the tearing off of the veils as a means of liberation of Muslim women.

The article demonstrated the inadequacy and even danger of this acceptance and the use of gender equality language in the context of the debate over the practice of veiling. Apart from the fact that the arguments based on the defence of gender equality are not really convincing in themselves, such an attitude stigmatizes, silences, and estranges Muslim women while also creating a barrier to the emergence of a real dialogue. The entire Muslim world is subsumed under one of the most conservative visions of Islam and placed in unreconcilable opposition to the West. As a result, Islam and Muslims are created as enemies. Moreover, this process also endangers the advancement of gender equality in the West by presenting the situation of women in the West as the example to follow for the rest of the world thus hiding persistent problems and difficulties.

One of the ways out of this vicious circle as suggested in the article consists in the return to the reinterpretation and discussion of the issue of veiling in its original context. Taking one of the dominant religious justifications for Islamic veiling as an example the article demonstrated how attention to underlying religious discussions can lead to a constructive discussion. Based on this example, it becomes clear that analysis of sexuality is very helpful in deepening our understanding not only of the practice of veiling but also of the state of gender equality in Western democracies. The approach to veiling from the point of view of sexuality places both sides – Islam and the West – on an equal footing, adds the necessary dose of self-critique to the arguments of the West and is supportive of the often invisible struggle led by veiled Muslim women themselves against

discriminatory and conservative interpretations of Islam. Similar effects can be expected from any serious consideration and discussion taking into account other religious or individual motivations and views instead of insistence on supposedly discriminatory character of the veiling.