

Islamic Veils and Public Spaces in the Maghreb and Europe

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The urban landscapes of Maghrebi and European societies have in recent years been the stage for the emergence of items of clothing described by leading members of society and political figures as «Islamic veils». Positions vary in response to this remarkable phenomenon, from acceptance of a *fait accompli* to a total rejection, with some opinions indifferent, and others suspicious and even afraid of this astonishing and sudden «return of the veil». Such an expression, employed largely by the media, makes it impossible to give an objective account of a shifting reality in which a variety of veils are now to be seen in public places, veils through which the new dynamics of contemporary Islam are being shaped. There is not one single type of veil but several, and there are manifestly several reasons why veiled women (*mutahajjibât*) choose to wear such an item in public places in order to distinguish themselves from women who do not (*mutabarijât*).

Unlike the more traditional veils, such as the *'abaya*, *haïk*, *h'râm*, *meliâ* and even the *sefsârî*, which were worn in public by large numbers of women in towns and villages in the period between the wars, and the Islamic *hijâb* of the 1970s and 1980s, the new veils are often multicoloured and of varied geometrical designs. These veils are primarily worn around the head to cover women's hair and ears, leaving the face uncovered and permitting greater

freedom of movement in public places than the earlier veils.

Islamic women are thus presented with a wide range of choice, as well as the change or inversion in the *'awra* (the part that must be hidden from view, according to Sharia), which is now situated around the face (*wajh*): the social «mask» (*maschera*) par excellence. In this way, the new veils reveal an evolution in the identity-related function (psychological, cultural and socio-political) of women's clothing, which has moreover changed considerably in recent years – by becoming more uniform – among those young women who do not wear a veil. The new veils are not exclusive to young women, but are worn by all generations as a covering for the head, often combined with their everyday clothes. The veils are a distinctive item that expresses belief in a moral code, a way of life, an identity and even a style of matrimonial, social and political outlook.

The list of cases and reasons for wearing a veil is too long to be detailed in full here. In the absence of in-depth studies that are difficult to conduct within the appropriate context today, marked as it is by censure and reserve (such as in the Maghreb), or by a debate that has become disproportional to the subject (as has occurred in France), or simply because the context is lacking or avoided (as in the rest of Europe), we might ask ourselves whether the new veils are not an identity-related issue for the individual rather than the community, and whether the option of wearing one does not go beyond what is considered a «rise in religiosity», even if the veil seems to go hand in hand with faith and religious

practice that can at times be both passive and aggressive.

In any case, the new veils have appeared for the expression of the individual and at the collective desire of (veiled) women, in order to demand recognition of their visibility and the integration of their cultural and political differences in a perspective of pluralism and the democratisation of societies in the Maghreb and in Europe. The new veils are in effect worn by individual women who are demanding a central position in their society and in their cultural portrayal, which are increasingly open to the world view, despite recent withdrawals in individual identities and rejection of alternative characteristics. As a manifestation of the new public voice of women and of new concepts in culture and democracy, the new veils raise the issue of the boundaries and intervention between the state and civil society, as well as public and private sphere.

The veils, functioning as symbolic items, are given a «historic dynamism», as their functions and forms change according to the context. The question is to discover whether the veils as a form of dress can indeed lead to «new attitudes and behaviour», and whether the issue constitutes a «mechanism of resistance» or an «instrument of liberation» and of «self-affirmation», to use the words of Franz Fanon in his celebrated essay «L'Algérie se dévoile» (Algeria Unveiled) of 1957.

Debates on women and the veil have, thanks to the media and the new technologies, become international debates of an intensity that varies from country to country. Whereas France has become the European country where the «challenge of the veil» has,

for reasons linked to secularism, the integration of immigrants of Maghrebi origin and relations with Islam in the past, generated considerable controversy, Tunisia is the Muslim country that would seem to be the least quantitatively affected by the veiling of women, yet it is also the country where the use of the veil is felt to be a «disturbing phenomenon» by the authorities and by most women and men, who like to think of themselves as modern.

In Algeria and Morocco, the question is posed differently, although it remains closely connected to the regional and international political situation. President Chirac's visit to Morocco on 10th October 2003, for example, provided the occasion for King Mohammed VI to propose a substantial change to the «Mudawana», instituted in 1957 and revised in 1993. The terrorist attacks in May in Casablanca, which resulted in forty-five dead and almost a hundred wounded, made it possible to carry out an assault on the «Sharia bases» of the Personal Statute Code with the consent of the Islamists and even of Nadia Yassine. In Algeria, where Islam has risen as a reaction to authoritarianism, injustice and corruption, and has incorporated itself into the religious, social and political sphere without taking the reins of power, the state has preferred until now to maintain the status quo based on the highly conservative family code instituted in 1984. According to the code, the husband is declared pre-eminent and he is expected to provide for his wife's needs. She is not allowed to marry without the agreement of a guardian, generally her father, and has no right to a divorce, to money for her keep or custody of her children, and may be repudiated or have to accept polygamy, whether as a reality or as a threat. Despite the protests of women such as Zohra Dharif, the wife of the Parliamentary President of the time, Rabah Bitât, and the tireless efforts of Algerian feminists, the situation remains unchanged.

In Tunisia, however, thanks to the intelligence of Bourguiba and the nationalist elite, who are modern in their outlook and who have benefited from a longstanding history of reforms and debates on the status of women and the veil, a feminist revolution took place immediately following Independence,

with the Personal Statute Code promulgated on 3rd August 1956. Under this code, which has no equivalent in the Muslim world apart from the laws passed in Turkey under Ataturk in the 1920s, women are equal to men in the eyes of the law. Repudiation and polygamy are forbidden, while marriage and divorce are civil rights open to both sexes. The reforms of 1992 and 1997 have furthered these achievements, which have become the authentic constitution of the country.

Against the background of legal reform, the question of the veil, or rather, of veils as a collective term, appears to be unified and varying at the same time. The issue varies to the extent that only a minority of women do in fact wear the identifying veil in Tunisia, whereas it is the majority elsewhere. Certainly, fewer women wear the veil in Algeria and Morocco than in Libya and Mauritania, or in Egypt and Syria, for example. The *hijâb* is, moreover, respected and tolerated as a personal choice in Algeria and Morocco, whereas in Tunisia it is virtually prohibited in state and private organisations and its use is closely monitored in public places.

Morocco is also moving towards an institutional ban on the veil through the standardisation of schoolchildren's clothing, which was justified by Habib al-Maliki, the minister for education, in September 2003 on the grounds of preserving social values and protecting schools from the tendency to wear Afghan clothing and other items of apparel that are deemed to be a badge of Islam, and which have become more popular in recent years.

This state of affairs confirms the fact that the debates regarding the veil that regularly appear in local and international media are often passionate and almost irrational. Public debates on the veil are characterised by intolerance, whether it runs deep or shallow, and this is linked in some respects to the exclusive logic of the authorities in power and the political elites.

Though legal reforms have made it possible, firstly in Tunisia and more recently in Morocco, though not yet in Algeria, to remove the sacred aura surrounding the issue of women, conservatives and opponents of women's progress are still strongly supported.

Ample evidence of this is provided by the street demonstrations organised in 2002 in Morocco and earlier in 1989 in Algeria by the supporters of the so-called «God's Laws», which mobilised a remarkable crowd made up of tens of thousands of women.

It is obvious that we cannot regulate a problem rooted in culture or society by means of a law. Moreover, the refusal of schoolgirls to remove their veil could strengthen the fundamentalist and traditionalist approach of excluding Muslim women from the public space, all the more so as women will become more visible and because a certain Maghrebi middle class, dubbed the «*beur-geoisie*» (from *beur*: young Arab born in France, child of immigrant parents), will be tempted to withdraw into their own community to avoid the discrimination they suffer in employment and in everyday relations. Nevertheless, the choice of France, which hopes, in keeping with the country's code on secularity, to reaffirm the Republican principle of equality, will inevitably have an impact on internal politics and on the cultural strategies of the people involved. It demonstrates above all that in Europe and the world as a whole, France, as an individual though not exceptional case, is opposed to the manipulation of religious, community and identity-related issues for political ends. Only time will tell if the country's recent legal and political approach will constitute a bastion against inequality, Islamophobia and the dangers of the creation of ghettos.

Other European countries have until now taken different approaches to the veil: Britain and the Scandinavian countries are more tolerant and permissive, whereas Germany, Spain and Italy are starting to be partially influenced by the «French syndrome», but have not yet adopted a legal solution. In Germany in the case of the veiled teacher Fereshta Ludin, the German Constitutional Court agreed to leave it to the discretion of the *Länder* to decide whether to forbid or tolerate the wearing of veils in the classroom. Unlike in France, which has been debating the issue of the veil in public schools since 1989 (Bayrou circular) and which is manifestly nervous, due to the current crisis situation of the country's secularity, and the failure of

THE REFORM OF THE *MUDAWANA*

After years of intense debate in society and profound confrontations in the political sphere, on 10th October 2003 King Mohamed VI announced the general lines of the reform of the *mudawana*. The reform marks a major achievement for women's and human rights associations, which have been trying to raise the legal status of women since 1981 with the aim of putting an end to the gender inequalities perpetuated by the country's legal code.

In 1999 in his coronation speech, HM Mohamed VI expressed his concern for the situation of women and set a maximum term for the presentation of a reform project. During that same year, the Yussufi Government announced a programme directed at the integration of women in development, with the support of the World Bank, including the incorporation of women in the political, economic and social spheres and access to education and health, in addition to reforming their legal status. The reluctant sectors declared direct opposition to the programme, on the grounds that that the reform went against the sharia. This division of opinions became even more evident during the demonstrations held in March 2000, one organ-

ised in Rabat by feminists and liberals in favour of the reform, and another against it carried out in Casablanca by Islamists and conservatives. Faced with this situation, the Government temporarily shelved the issue. However, the Monarch continued to show interest in the subject, creating in 2001 the Royal Advisory Committee, which in September 2003, after two years of silence, delivered a report to the King containing its conclusions on the issue. During his opening address at Parliament in October 2003, the King announced the general guidelines of the reform, and this time very few protests were made. One of the reasons, among others, for this silence is attributed to the situation created by the terrorist attacks of May in Casablanca. Those who had previously been fervently against the reform, such as the Islamist parties and organisations accused of being the moral instigators of the Casablanca attacks and the radicalisation of Islam in Morocco, now justified the applicability of the principle of *ijtihad* and reform as a sign of an open and tolerant Islam.

The Eleven Key Measures of the Reform

1. Marriage becomes a legal act performed by the magistrate.

2. Equality between spouses in marriage and before the authorities.
3. No woman who is legally of age is subject to wardship for marriage.
4. The legal age for marriage is raised to eighteen for both sexes.
5. Minors aged fifteen and over have the right to choose their legal guardian.
6. Polygamy requires authorisation by a judge and legal conditions are imposed that complicate the status.
7. A marriage can be dissolved by either spouse and must be subject to court control.
8. Custody of a minor is awarded first to the mother, then to the father and then to the maternal grandmother.
9. Acknowledgement of paternity of children born outside marriage in the case of marriages that have not been formalised due to reasons of force majeure.
10. The grandchildren born from a daughter will have the same rights to inherit from their grandfather as the grandchildren born from a son.
11. Establishment of the principle of separation of estates.

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immigrant integration (seventeen percent of young people and twenty-five percent of those of Maghrebi origin are reduced to poverty), Islamic veils have not generated major debates or legislative processes despite the interest of the question.

Beyond the controversy of constraint versus liberty, the real symbolic issue of the veil is linked with the place of religion in society, and the relationship between religious and political is-

ues. Islam, which crystallises the fear of the West and secular Maghrebis both for legitimate and imaginary reasons, is thus to be found at the heart of the problem. It is for this reason that the debates around the delicate matter of the veil may be the long-awaited opportunity, in the Maghreb and in Europe, to revitalise democracy, which is now going through a crisis regarding its credibility and representative value. The sense of the

neutrality of public places within democratic society is being called into question, as are the issues of the integration of immigrants and minorities, and the recognition of cultural and political differences in the context of globalisation, in which the nation-states are pushed one way and another between the values of economic and political power and the universal principles of equality between the sexes, cultures and peoples.