***Is it the State concern how a woman decides to dress?***

*Introduction*

Some Western countries, such as France, seem to have developed a legal interest in Muslim attire: The Shayla, the hijab, the Khimar, the Chador, the Niqab and Burqa. The interconnection with different a culture, especially after the 9/11, has transformed the public and political views on multiculturalism. Today, a veiled woman tends to attract more attention than an unveiled woman. However, it is important to remember that the world is shifting towards globalisation, and every government should work to accept ethnic and religious difference. In reality, the opposite is currently happening; the risk is the universalisation of genders, towards a Western model. The analysis will be based on the headscarf ban introduced by France, the principle of neutrality claimed by France, Turkey and Switzerland and various positions on the matter. The feminist discourse is polarised by feminists who think that the veil is a sign of submission to patriarchy and religion and by feminists who believe that it liberates women from a sexualised society and therefore choose to wear it. The issue of intersectionality is present and will be explored.

*France*

Mullally expresses in ‘Retreat from multiculturalism’ that France is the perfect example of placing the concept of gender equality and human rights in a Western light, simplifying the society structure and removing any complexity or reality of multiculturalism. The European is the perfect citizen (Carrera, 2009) because in line with a Western vision of a liberated woman, finally free of male dominance, opposite to a Muslim woman, who is oppressed and will always be, by the family, husband and religion (Mullally 2013).

The French Law 2004-228 established in 2004 and published in the Official Journal of France, legislates on schools’ religious attire. It is now prohibited to pupils to display a particularly visible religious symbol, including a piece of clothing, in schools. The law refers to all religions, including Christianity, Jewish, and Sikh. However, Muslim symbols, such as the veil, tend to generate a broader public debate and very polarised opinions. In France, the headscarf debate is based on the *‘laicite’*, the secularism of the State, which is disassociated from religion. The State and the rule of law are sovereign, and all public bodies are too, including schools. This is the rationale behind the implementation of the 2004-228 law. All female Muslim pupils are not allowed to wear any type of veil during school time. However, the opposed debate is the breach of freedom of religion is a liberal democracy such as the French State (Dawn Lyon and Debora Spini 2004). On the other hand, it can be argued that neutrality should come from the State and not from its citizens, and therefore allow any religious symbols. The debate is complex, and many arguments are put forward.

The European Court of Human Rights is the body that supervises the right to religion, which is guaranteed by article 9 of the Human Rights Act 1998 (freedom of thought, belief and religion). However, the ECHR reserves the prospect to restrict the right to religion to protect public order and the right to freedom of other individuals in society.

*Turkey and Switzerland*

France is not the only State that does not allow religious symbols at school. The case of *Karaduman v. Turkey*entails a female pupil who submitted her photograph with the headscarf for her graduation certificate at a Turkish university. The picture was not accepted and the university refused to issue her graduation certificate due to the inclusion of the religious symbol in an official document. Turkey and the ECHR agreed on the conclusion reached by the Turkish State. The protection of neutrality, or laicite’, amounts to no religious symbols in education. (Dawn Lyon and Debora Spini 2004)

Another example is in the Swiss case of *Dahlab v. Switzerland, 2001****.*** A public school teacher in Geneva converted to Islam from Catholicism and started wearing the headscarf. The school did not allow her to wear the religious symbol, and the Swiss Federal Court denied her appeal. The rationale behind the decision is the principle of neutrality, which wants schools free of religious symbols. The European Court of Human Rights intervened and analysed the right to freedom of religion in this instance. Since the school had already been asked to remove the Christian religious symbol, the crucifix, from the classrooms, it was equally fair to ask for the principle of denominational neutrality in this instance too. The following argument put forward by the teacher, Dahlab, was the right to non-discrimination, under article 14 of the Human Rights Act 1998, as the neutrality principle seems to affect women rather than men on a larger scale. However, the Court concluded that it would have requested neutrality from a male teacher also. (Dawn Lyon and Debora Spini 2004).

*Analysis*

A superficial Western argument against the Islamic veil is the perception of an anti-modern religious practice that should be changed by democratic States, the saviours. Women should either abandon their inferior culture and blend in or leave (Mancini 2021).

Muslim feminists aim to distinguish between the religious (tarha) and the social veil (khimaˆr), which may carry patriarchal traditions. However, they want to disassociate from Western feminism because it bears some colonial ideologies. Muslim women wear the new veil, and do not remove it in private settings, as a symbol of religious and social freedom. (Dawn Lyon and Debora Spini 2004).

Catharine MacKinnon argues that gender inequality can be found in the sexualisation of a female body for male pleasure. It is a patriarchal systemic structure that keeps women from entering the public sphere, and remain halfway. Western society is based on a gender-related construction and would automatically reject women that do not want to take part in it (Muslim women).

The philosopher Élizabeth Badinter does not support the social or religious Muslim veil. She states that Muslim women are in society but do not have a body because covered by the veil, they attract curiosity because concealed by the veil and become the object of a fantasy. The philosopher also questions the claimed protection that the veil offers and thinks that liberal democratic values should prevail.

The opinion of Lady Hale (House of Lords) in the *Begum case* supported the decision of refraining pupils from wearing religious symbols, because the State should protect children from a dominant culture a teach them freedom of choice and equality; a type of attire that covers women but does not conceal men, does not promote equality. However, out of schools, women should be free to wear whatever is preferred by them.

The complex headscarf debate shows the need of creating a society open to multiculturalism and based on cultural exchange, cooperation and equality. Giacomo Marramo has proposed the notion of a ‘*narrative’,* based on the narration of each State culture and value, rather than an ‘*argumentative’* public sphere. It is, however, an ambitious project when large communities, with very different beliefs, come into contact and share the same geographic territory and legislation. The answer cannot lie in forcefully removing the veil. Regardless of personal views, influenced by society, the State should recognise that Muslim women end up being the most affected by the headscarf ban. The ban is not an organic choice and women risk to be constrained at the margin of society, relying economically on a male figure.