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GROUP-DIFFERENTIATED RIGHTS AND THE LIBERAL DEMOCRATIC STATE: RETHINKING THE HEADSCARF CONTROVERSY IN TURKEY

Yeşim Arat*

The development of liberalism with both the courage and the capacity to engage itself with a different world, one in which its principles are neither well understood nor widely held, in which indeed it is, in most places, a minority creed, alien and suspect, is not only possible, it is necessary.

—Clifford Geertz. 2000. *Available Light*. Princeton, N.J.: Princeton University Press, p. 258.

Over the past two decades, the debate over multiculturalism chal-
lenged the justice of neutral, “difference blind” rules in liberal democ-
racies. Allegedly neutral institutions were shown to be implicitly
biased toward the priorities, experiences, or interests of the dominant
groups in the society. Criticism of difference-blind rules and claims for
justice to minority groups defined the relationship between govern-
ment and opposition in many contexts. Arguments for special rights to
protect minorities, women, or ethnocultural groups gained legitimacy
(Young 1990, Jones 1990, Phillips 1991, Taylor 1994, Kymlicka 1995,
Kymlicka and Norman 2000).

Yet, tensions remained. To what extent were these special or
group-differentiated rights given to certain groups or minorities recon-
cilable with the dictates of liberal democratic states? Where would the
limits to special rights redeeming injustice be drawn in the context of
liberal democracies, which were built on principles of neutrality?
Would these special rights merely promote protection or turn into priv-
ileges given to certain groups but not to others? The problems were
complex and led to serious debate when these special rights were given

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thought were misleading.

to illiberal groups or to minorities that did not protect the individual civil rights of their members (Cohen et al. 1999).

In this paper, I would like to examine the question of group-differentiated rights and liberal democratic dictates in the context of the headscarf controversy in Turkey. The Republic of Turkey has faced one of the most serious challenges to its democratic aspirations with its contemporary Islamist opposition. As the Islamists have increased their power and challenged the establishment, through the 1980s to this day, the most tangible, emotional, and prolonged confrontation between the state and the Islamist groups has centered on the headscarf issue. Despite various bans on headcovering, Islamist women insisted on attending universities with their heads covered as, they argued, Islam dictates. Was the ban justified? Should Islamist women be granted this special "privilege" to protect them from the difference-blind rules of the state? Or do these women belong to an illiberal community, one undeserving of special protection from difference-blind rules?

The headscarf issue is an important one, because the long-lasting (more than two decades), heated political debate has serious implications for democracy in the country. Alfred Stepan, who addresses the question of democracy and compatibility of religion, argues that there is need for "minimal boundaries of freedom of action for political institutions vis-à-vis religious authorities and for religious individuals and groups vis-à-vis political institutions"—what he calls "twin tolerations" (Stepan 2000). Twin tolerations need to be operationalized in historically specific contexts. As in all debates over group rights, both the majority and the minority claimed that the demands of justice in a democratic polity were on their side. Those supporting the headscarf—Islamists, a minority of liberals, and some feminists—claimed that they wanted to practice their civil rights. Denying the right to wear headscarves in the universities was anti-democratic, authoritarian, and unjust. Those against the headscarf maintained the opposite view. Civil rights had their limits. If limits were not drawn, those rights would be undermined. Privileging Islamist women by allowing them to wear their religious headcovering in universities would mean privileging a dogmatic ideology. The secular state could not allow Islamic dictates to shape the dress code of its university students. Allowing for headcovering would allow religion to encroach upon the secular and thus democratic public space of the Republic and breach the rights of its secular constituency. One side claimed to experience oppression and the other envisioned a threat to secular democracy.

Despite the ramifications of the debate for liberal democracy in Turkey and in the broader context of the multicultural democracy, it has not been studied closely. Theorists who have worked on problems of multiculturalism and minority rights have not focused on the headscarf issue in a secular context. In France, there was much public debate and divided public opinion when some Muslim girls were expelled from high school because they insisted on wearing their headscarves as a dictate of their religion, despite the school regulations to the contrary. Yet the Turkish case is different, involving university students rather than high school students. While the older students make the case for civil rights seemingly more convincing, the Turkish context—with its predominantly Muslim population, secular *state*, an Islamist party, and large numbers of Islamists who support the headscarf—seems to make a stronger case for fundamentalism or a threat to secularism. The sharp tension between two seemingly irreconcilable, comprehensive world views—namely, between secularism and Islam, both of which have deep roots in the society—should be reconciled in the context of the headscarf debate in Turkey. The debate has meaning only in its historically specific context and needs to be studied as such.

In this paper, I would like to elaborate on this debate and assess the arguments on each side from a liberal democratic perspective. I shall also try to propose what I see as a liberal solution to the problem.

My main contention is that the ban on headscarves imposed by the state assumes and mistakenly identifies a homogeneous group of women with Islamic headscarves, whereas there is no such homogeneous group. Women with headscarves constitute a heterogeneous group; some belong to an illiberal community while others do not. Some would prefer to live in an Islamic state while others would not. I would like to argue not merely that those who belong to an illiberal community and prefer to live in an Islamic state can be accommodated, but more significantly that the latter are not the illiberals who wrongly are assumed to prefer to live in a fundamentalist Islamic state. What is ignored is that even women who claim to prefer to live in an Islamic state still want to preserve the civil rights they have under the secular democratic Republic. Among these "others" are women reconciled with individualistic liberal dictates as well as secularism. These women share the basic, formal, liberal assumptions of the state. In practical terms, the ban on headscarves can radicalize the

former and alienate the latter. Or else it merely suppresses both and restricts democracy.

I shall first discuss briefly the theoretical setting in which the headscarf debate can be better appreciated. Then I shall turn to the Turkish context to sketch the evolving relationship between secularism and democracy where the democratic implications of the headscarf issue can be discussed. I shall draw upon secondary sources, official documents circulated in public universities, and the interviews I conducted in my research with the covered women of the now-disbanded Islamist Welfare Party's Women's Commissions. Because my aim is to evaluate the democratic implications of the ban on headscarves, I shall also develop not only empirical but also theoretical arguments on the controversy.

Group-Differentiated Rights and the Headscarf Debate

The debate on multiculturalism and multicultural democracy has given legitimacy to the concept of group-differentiated rights. Feminist theorists contributed to the debate by showing how seemingly neutral laws hide unequal treatment of women as citizens (Young 1990, Jones 1990, Phillips 1991). Formal equality, they argued, ignored gross inequalities committed against women. Formal equality, in other words, did not mean substantive equality. Kymlicka powerfully argued that liberalism, with its formal laws of equality, was blind to the injustices between groups and the injustices that those very laws of formal equality at times prompted (1995 and 1999). He developed the concept of "external protections" to allow minority groups to guard themselves against the overbearing power of the dominant groups in society (1995, pp. 35-43).

For Kymlicka, there were limits on how much protection or differential treatment of minority groups could be justified. He offered the concept of "internal restrictions" to delineate the boundaries within which group-differentiated rights could be recognized and legitimized. Internal restrictions referred to rights exercised by minorities against their own members, "particularly to restrict individual choice in the name of cultural 'tradition' or 'cultural integrity.'" (Kymlicka 1999, p. 31) In short, the need for "external protection" legitimized differential treatment of groups, and "internal restrictions" defined the parameters within which they could be exercised. As a liberal, Kymlicka was

ultimately concerned about respect for individual freedoms and principles of equality.

The controversy around the headscarves can be reconceptualized within the framework drawn by Kymlicka. The ban on headscarves stipulates that dress codes of the secular universities apply equally to all. Under these conditions, are the Islamist women exposed to the overbearing power of the majority, and are they justified in seeking "external protection" to practice their religion free from the constraints imposed by the latter? Or are the Islamist groups imposing "internal restrictions" on their members, particularly their women, not only to wear headscarves, but also to abide by certain traditional roles, which they claim that Islam prescribes? Are the women in the Islamist groups thoroughly socialized if not indoctrinated to accept these internal restrictions rather than to rebel individually against them? Are the concepts of "external protection" and "internal restrictions" enough to capture the dilemma of liberal democracy if the minority has a comprehensive worldview—in this case, Islam—that it would like to replace with the secular ideology that the majority upholds? I shall respond to these questions in the local context of the headscarf debate in Turkey.

The Story of the Headscarf Debate

The relationship among religion, secularism, and democracy has been complicated if not tense in the Republic of Turkey. Since the foundation of the Republic in 1923, the ruling elites have engaged in a radical secularization project where the state not only separated itself from religion but also tried to control it. The aim was to confine religion to the private realm and keep its public expression under state supervision. The state discarded the religious legal framework, adopted secular laws, and instituted the Directorate General of Religious Affairs that was responsible for all religious issues and tied it to the office of the Prime Minister. The state trained religious personnel and banned all religious schools. Turkish secularization took place in the context of an exclusionary regime that restricted political participation as well as political liberalism. The founders of the Republic believed that secularism, as they understood it, was in the interest of the community and a necessary, if not sufficient, condition of Westernization. The individual was expected to partake in this communal effort to Westernize the country. Secularism under state control was given priority over political liberalism.

The founders of the Republic were successful to an important extent. Over time, the regime democratized. With democratization, public religious expression was more widely recognized, but secularism was not redefined to become genuinely independent of the state. Prayer Leader and Preacher Training Schools opened at the discretion of the political leaders; religious courses were introduced first as electives and then, after 1982, as required courses in elementary and secondary schools. The Islamist National Order Party, founded in 1970, was closed immediately after its foundation as a threat to secularism. Re-established under a different name, it played a key role in the coalition governments of the 1970s. After the military coup of 1980, Islam and the Islamist Welfare Party played an increasingly important role in Turkish politics—a subject, however, that is beyond the scope of this essay. In any case, Islamist politics allowed more marginal members of the population to be integrated into the political system.

Within this particular trajectory of secularization, dress codes always assumed an important role. Civil servants were expected to dress “like their partners in civilized nations of the world.” Even though there had been state intervention in men’s headgear (a 1925 law banned the traditional fez in favor of the Western-style hat), women’s dress, outside public bureaucracy, was not regulated by the state. Women in the modernizing urban areas gradually adopted Western styles of clothing, while those in rural areas and towns continued to tie traditional scarves on their heads.

As parameters of public space expanded to include Islamist demands, women began attending universities with their heads covered. The new headdress was a wide scarf, which, unlike the smaller traditional scarf, covered the hair and shoulders. It was usually worn with a long, wide coat. The state’s response to the growing numbers of women wearing headscarves at universities was protracted and convoluted. In 1981, the Council of Ministers approved a statute that prohibited headcovers for female employees in public institutions and students in schools tied to the Ministry of National Education.¹ In 1982, the Council of Higher Education banned the wearing of headscarves in universities. Islamist groups and headscarfed women protested the decision. Under increasing pressure from the Islamists, the Council of Higher Education in 1984 allowed women to cover their hair with a

¹ On the unfolding of the headscarf saga, see Özdalga 1998. On the particular “headscarf incident” involving an elected deputy, see Göçek 1999.

turban—a scarf tied at the back and covering only the hair. The Council deemed turbans (as opposed to headscarves) to be in line with contemporary dress codes. This time, the secular groups reacted. President Kenan Evren, the former Chief of Staff, took the initiative to ban the turban and, in early 1987, the Council withdrew the article allowing turbans. The students were, once again, expected to dress according to contemporary dress codes (which meant Western dress codes). The decision was again relaxed in the spring of the same year in a meeting of the university rectors. In 1989, the Council of Higher Education withdrew the article that prohibited turbans indoors in the universities.

Politicians and the judiciary also joined the controversy, bringing along their own internal cleavages over the issue. The social democrats, who claimed the heritage of Republican secularism, were against head-covering. The center-right parties were inclined to ignore the issue and let women dress as they wished. In 1987, Prime Minister Turgut Özal of the center-right Motherland Party tried to pass a law to relax the dress code in the universities. President Evren vetoed the initiative.

The judiciary declared headcovering illegal in the universities. Some decisions issued by lower courts were favorable to those who supported headcovering, but the higher courts of the Council of State and the Constitutional Court rejected these verdicts. In 1984, the Council of State rejected an appeal to withdraw the 1982 statute of the Council of Higher Education that banned headcovering. In 1987, the Council of State again rejected a similar court case. In 1989, the Constitutional Court decided that the statute of the Council of Higher Education allowing the turban in the universities was unconstitutional and annulled it.

The issue even went as far as the European Human Rights Commission. When a university administration refused to prepare the diplomas of two graduating students who insisted that their photographs with headcovers be used in their diplomas, the students sued the university and eventually took the case to the European Human Rights Commission. The Commission rejected the case. In this tug-of-war, both sides employed a variety of arguments.

The Case for Headscarves

The women who demand to be admitted to universities with headscarves argue that it is a basic civil liberty. They refer to article 24 of

the 1982 constitution guaranteeing freedom of religious expression and article 10 prohibiting discrimination under law due to religious belief and differences in language, ethnicity, and/or gender. They insist on their right to education, protected by article 42 of the constitution.

Women with headscarves who are not admitted to universities are discriminated against—not merely because of their religious beliefs but also because they are women. Men who share the same beliefs and regard women's headcovering as a dictate of religion are nevertheless admitted to universities because their heads are uncovered.

The women who cover their heads have a different reading of Islam than the state is willing to accommodate. They believe that, according to Islam, women have to be covered at all times in any public space. Ironically, the Directorate of Religious Affairs under the prime minister never publicly refuted the Islamic dictate that women be covered in public. However, the statist understanding of Islam assumes that Muslim women could be uncovered in the public domain and still be good Muslims. The Islamist women, in defense of their understanding of Islam, were ready to protest what was being enforced on them. They could be seen as perforating the boundaries of the narrowly defined freedom of action for religious individuals.

The Case for the Ban

The higher courts gave the most decisive arguments against the headscarf. In response to the argument in favor of the headscarf as a dictate of political liberalism, the courts argued that it would obstruct the latter. In summary, there were four related but separate arguments against the headscarf and for the ban *made* by the courts, as well as those opposed to the ban.²

1. Headcovering restricted women's liberties

The Council of State argued that headcovering was opposed to women's liberation. Many others, including some but not all feminists, opposed the headscarf because they saw it as a means of controlling

² The arguments summarized are abstracted from a leaflet originating from the Council of Higher Education and distributed within universities in 1998. The leaflet was titled, *Yükseköğretim Kurumlarında Kılık Kıyafet ile ilgili Mevzuat ve Hukuki Değerlendirmeler* (YKKM--Statutes and legal judgments concerning dress codes in institutions of higher education). All translations from this document are mine (no author, no publisher).

women. Among secular groups, the headscarf has long been associated with limiting women's options of self-expression and with Islamic law wherein women are deemed to have unequal rights regarding marriage, inheritance, and divorce (because Islamic law allows for polygamy, unilateral divorce, and a greater share of inheritance to men).

2. Headcovering was a symbol of opposition to the Republic (namely, secularism)

The Council of State argued that "rather than an innocent custom, it [the headscarf] has become a symbol of a worldview opposed to the fundamental principles of the Republic" (YKKM 1998). The Constitutional Court explained that it was a symbol opposed to secularism and defended the statist conception of secularism. Accordingly, "in a laicist order, religion is prevented from politicization and becoming an administrative device and kept in its real respectable place in people's consciences" (YKKM 1998). Thus, it was deduced that headscarves could not be recognized within the limits of religious freedom (article 24 of the constitution).

3. Headcovering would lead to unequal treatment

The Constitutional Court argued that allowing headscarves not only would be a privilege given to Islamist students, but it also would generate the circumstances for their unequal treatment by differentiating them from others. Contrary to the claims of the Islamists, the court argued that the headscarf was against the principle of equal treatment before law (article 10 of the 1982 constitution). The argument was similar to those used in France, where religious differences were expected to be neutralized in public schools (Ewing 2000, p. 41). When the headscarf issue was taken to the European Human Rights Commission, the Commission acknowledged the right of a secular state to restrict religious practices, maintaining that this restriction would allow students of different beliefs to coexist. It was further argued that, "particularly in countries where the vast majority of the population belong to a particular religion, exhibition of the rituals and symbols of this religion without regard to any restrictions of place and form can cause pressure on students who do not practice this religion or instead belong to another religion" (YKKM 2000).

4. Headcovering implied the threat of organizing the state according to the dictates of Islam

The principle of religious freedom, as stated in the constitution, explicitly precluded organizing the state's social, economic, political, or legal order, even partially, according to religious dictates. Manipulating the dress code according to religious dictates would be in contradiction to this requirement. Thus, the state aimed to draw its "boundaries of freedom of action vis-à-vis religious dictates" outside the domain of headscarves, to protect itself from the encroachment of Islamic law.

Assessment of the Controversy

One could respond to the case on both sides from different angles. Going over the arguments made by the state and those opposed to headscarves, one could question whether states are always fair judges of what liberates women and what restricts their opportunities (even when one is a citizen of a state that prides itself on a tradition of liberating women). In Turkey, social scientists have shown how women could seek autonomy and individual fulfillment by turning to Islam, particularly in the fight to legitimize their headcovering (Arat 1991 and 1998, Göle 1996, İlyasoğlu 1994). They fight against the system, the state, and sometimes even their own families who oppose the headcovering, thus empowering themselves in the process.

One could make a different argument and point to the fact that women who cover their heads do not share the individualistic perceptions of liberty that liberal women or men share. Islamist women's personal or individual perceptions of liberty are predicated upon the communitarian Islamic norms, which dictate, they argue, that women cover their heads. These women feel more free (unrestrained) if they can attend universities with their heads covered. The ban allows the state to impose its own restricted understanding of liberties on a group that does not share it.

It is true that headscarves were a symbol of opposition to the Republic. However, one could question whether they were symbols of opposition to the fundamental principles of the regime—namely, secularism or its particular statist understanding that has been practiced. Many headscarfed women protest state control over religion and merely want to enlarge the boundaries of freedom of action for religious individuals and groups vis-à-vis political institutions.

Similarly, one could argue that the headscarves pose no threat to a

strong Republic with a healthy democracy. Those who see the headscarfed women as a threat to the state mistakenly underestimate the entrenched nature of secular precepts in the country. Even though there might be those who would prefer to see an Islamic republic, could they not be integrated into the system?

Finally, the argument regarding unequal treatment and neutrality of educational space can be reconsidered. Dress codes do indicate affiliation with certain ideologies. A student who comes to class with pink hair and a punky outfit might be protesting the status quo and differentiating herself from her friends, thus inevitably eliciting different treatment from her colleagues and teachers. On the other hand, an Islamist woman who does not cover her hair could, nevertheless, signal her ideology in a dress with "unfashionable" longer hemlines and long sleeves, even during summer. (Fashion comes from the West, and she could purposefully reject fashion, harking back to a different tradition.) Or, like many Islamist men, she might wear simple silver rings rather than any other jewelry. Regarding the claim made by the European Human Rights Commission (that the exhibition of symbols of one religion can cause pressure on students who do not practice this religion), one could argue that in some urban universities where the covered students are a minority, those who "exhibit the symbols of their religion" are pressured under the unwelcome, if not hostile, glances of the majority rather than those "who do not practice this religion."

These questions raised against the ban should not prevent us from scrutinizing the arguments made for the headscarves. First, we should not exaggerate or generalize the argument that headscarves expand opportunities for women (against the argument that they restrict women's liberties) within Islamist groups. Many women who come from traditional families are expected to cover their heads, and they have no freedom of choice or autonomy in the matter. Even though secular, individual students might have chosen to cover as a dictate of religion, to practice Islam better, how much will the community respect their individual choices, for example, when one of them begins to reinterpret Islam as not requiring women to cover? The Islamic community is very hierarchic, conformist, and intolerant of individualism. Research I carried out among Women's Commissions of the Islamist Welfare Party showed that there was a strong, entrenched glass ceiling within the party (Arat 1999). Women who had been empowered and immensely satisfied by

working for the party, and who had covered their heads in the university, were restricted and confined by men in hierarchical positions within the party. This discrimination, unlike that within secular parties, was legitimized with a reference to Islamic norms and a reverence of hierarchy within the community.³ Outside the party, Islamist women's journals, for example, promote traditional gender roles for women and discourage them from working outside their homes. Prominent Islamist female as well as male opinion leaders condemn secular women and their Western modes of life. They are intolerant of feminism and women's freedom of choice (Aktaş 1986, Demir 1998). In short, even though there are groups who are more tolerant of dissent and "the other," the Islamic community, by tradition and in general, is illiberal and promotes a communitarian conception of self rather than an individualistic one. Under these conditions, Kymlicka's criteria for group rights (to be recognized unless there are internal restrictions within the group) would lead us to draw the boundaries for freedom of action for political institutions vis-à-vis religious authorities outside the realm of headscarves.

At this point, the argument for equal treatment (given by the Constitutional Court and the European Human Rights Commission) and the neutrality of public schools can be reconsidered. This argument was particularly relevant in Anatolian universities, where women who covered their heads were in the majority and those who did not cover were pressured, if not intimidated, to follow suit. Although it is true that headscarfed women are exposed to the unwelcome glances of their peers who are against covering, the reverse is also true, and sometimes violently so.

The arguments that the headcover is a symbol of opposition to the Republic and that it threatens the Republic can also be reread. Among the Islamists in general, and women with headcovers in particular, there are those who would prefer an Islamic republic rather than a secular, liberal democracy. Moreover, wearing the headscarf is not the same thing as wearing a cross or a silver ring, which identifies you as a member of a group. Women wear headscarves because they believe that it is a dictate of Islamic law. They wear it because they want to be better Muslims and practice Islam correctly as it should be practiced, not

³ The Islamist Welfare Party was illiberal not merely in relation to women. Their leaders expressed their instrumental belief in democracy, voted for the dismissal of the Kurdish delegates from the Parliament, and argued that they would come to power at any cost, with blood or without blood. See Güllalp 1999.

merely to identify themselves as a member of a group. Islamic law, if it were practiced as many believe it should be, would legitimize some form of polygamy, unilateral divorce, unequal inheritance, and other dictates that "secular" women find unacceptable. The Republic tried to privatize Islam, and Islam does not necessarily lend itself to simple privatization.

In practice, headcovering and Islamic law can mean many—at times mutually exclusive—things. The women I interviewed as part of my research on Welfare Party Women's Commissions had fought for their headcovers in universities, before they joined the party, and they felt that Islamic law was fair and just. None publicly expressed their allegiance, for example, to the secular civil code, which prohibits polygamy and gives equal rights of divorce and inheritance to both partners. They would not assure the authorities that headcovering does not necessarily mean they support an Islamic state. It looked like it was very difficult to disintegrate their defense of headscarves from their support for Islamic law or an Islamic state.

Yet their reactions were more complicated than their simple endorsement of "Islamic law" would lead one to believe. When they explained why they believed in Islamic law, it was evident that liberal secular values of equality had infiltrated their religious frameworks. They did not want the polygamy, unilateral divorce, or unequal inheritance rights that are generally attributed to Islam and viewed as restrictive of women's liberties. These women cherished women's rights as they were understood by many secular liberals and tried to argue that these rights were compatible with Islam. They argued that polygamy was practically impossible under conditions of contemporary life or because it was impossible for men to treat all wives fairly, as required by Islamic law. They insisted that couples could write contracts before entering an Islamic marriage to specify the particular conditions and understandings of regulating their married life according to Islamic law. Thus, they could establish the terms of divorce and inheritance. Considering their relative weakness within the Islamic community, these proposals probably would not carry much weight for many Islamist men. Or many Islamists would call the women "apologists"—apologizing for Islamic laws inconsistent with Western notions of equality and reinterpreting them to be reconcilable with those notions. However, their answers were important, because they showed that there was no uniform understanding of Islam within the Islamic community and, more important, the so-called fundamentalists who wanted an Islamic state actually did not want it.

Public opinion surveys also point to this seeming contradiction of supporting the Islamic law and opposing its traditional interpretations regarding specific dictates. In a survey conducted with a representative sample of the Turkish electorate, 21.2 percent declared their desire to have a religious state based on Islamic law. Further probes showed that this desire was quite idiosyncratic or Turkish. When questioned whether, in cases of adultery, the guilty should be punished according to Quranic dictates, only 1.4 percent thought they should be (Çarkoğlu and Toprak 2000, pp. 16-17).

Conclusion

The headscarf debate, considered from the perspective of those who defend it and of others who oppose it, shows that it is a complicated issue. In practice, there is no single, simple headscarf, no single Islamic law, and no unified community of Islamists. Turning back to the theoretical framework elaborated by Kymlicka, there are neither simple "internal restrictions" within the Islamic community nor a simple need for "external protections" to be extended to the community. There are no simple internal restrictions because wearing the headscarf does not necessarily restrict women's liberties. Many women make their own decisions to wear the headscarf. Fighting for their right to wear the headscarf, they assert their autonomy. Yet this is not the case for others. The Islamic community that dictates the wearing of the headscarf might, and at times does, persecute women who do not conform. After all, the Islamic community is not very liberal; it restricts women's (and men's) rights to dissent and promotes communal as opposed to liberal norms.

Similarly, to what extent the Islamic community needs "external protections" in the context of the larger secular/Muslim society is controversial. It is true that the secular state imposes on the *Muslim population* a particular understanding of Islam where women are not expected to cover their heads. But it is also true that many among those who subscribe to the particular understanding of Islam where women have to cover their heads also prefer to adopt such other dictates of Islam as polygamy, unilateral divorce, and unequal inheritance rights, and these become a threat to the civil liberties and principles of equality shared by the secular majority. It is difficult to categorize all women who wear headscarves as a threat to the Republic, opposed to its fundamental principles. Yet it is also true that headscarves can represent a worldview opposed to the fundamental principles of the Republic, signaling

the desire to have Islamic law as opposed to secular law implemented in the polity. In short, it is difficult to generalize what the headscarves stand for and what opportunities and restrictions belonging to the Islamic community bring. There is heterogeneity, rather than homogeneity, regarding the meaning and significance of headscarves. The ban assumes that there is one headscarf and that its meaning is clear.

In this context of heterogeneity and flux, where even many who would like to see Islamic law implemented have internalized secular concepts of equality and liberalism, the ban itself can be a threat to the foundations of liberal democracy. The ban declares that the illiberal Islamists cannot be accommodated within a liberal democratic state. Considering that many of those so-called illiberal Islamists are not necessarily illiberal, it is not clear why they cannot be accommodated within a democratic state. Furthermore, by assuming that all those who are covered are the same and represent a threat to secularism, the ban redefines reality and creates a contrived enemy of secularism and liberalism. The covered women are turned into Trojan horses infiltrating the secular Republic, while the state falls into the trap of authoritarianism, alienating the liberals within the Islamic community and radicalizing the illiberal Islamists. At worst, it merely suppresses both.

The goal of the state, which the ban obstructs, should be to integrate the liberals within the Islamic community. Thus, the monopolistic aspirations of Islamists can be contained within the institutions of liberal democracy. Most of the women who cover do so willingly, so forcibly changing what they think is not a realistic prospect. Through negotiation and dialogue, parameters of Islamic practice that, for example, might accommodate the headscarf but not other Islamic laws can be redefined and publicly acknowledged. If not, the state can provide more attractive secular education where students can aspire to secular role models rather than Islamist ones and learn that a political community that seeks legitimacy with reference to a sacred authority lends itself to authoritarian manipulation.

REFERENCES

- Aktaş, Cihat. 1986. *Kadının Serüveni*. Istanbul: Girişim Yayınları.
 Arat, Yeşim. 1991. "Feminism and Islam: Considerations on the Journal *Kadın ve Aile*," in *Women in Modern Turkish Society*, ed. Ş. Tekeli, London: Zed Books, pp. 66-78.

1998. "Feminists, Islamists and Political Change in Turkey," *Political Psychology* (19 March), pp. 117-32.
1999. *Political Islam in Turkey and Women's Organizations*. Istanbul: TESEV.
- Cohen, Joshua, et al., eds. 1999. *Is Multiculturalism Bad for Women?* Princeton, N.J.: Princeton University Press. [S.M. Okin among respondents.]
- Çarkoğlu, Ali, and Binnaz Toprak. 2000. *Türkiye'de Din, Toplum ve Siyaset*. Istanbul: TESEV.
- Demir, Hülya. 1998. *İslamci Kadının Aynadaki Sureti*. Istanbul: Sel Yayıncılık.
- Ewing, Katherine Pratt. 2000. "Legislating Religious Freedom: Muslim Challenges to the Relationship between 'Church' and 'State' in Germany and France," *Daedalus* 129 (fall).
- Göçek, Müge. 1999. "To Veil or Not to Veil," *Interventions* 1, no. 4, pp. 521-35.
- Göle, Nilüfer. 1996. *The Forbidden Modern*. Ann Arbor: University of Michigan Press.
- Gülalp, Haldun. 1999. "The Poverty of Democracy in Turkey: The Refah Party Episode." *New Perspectives on Turkey* 21 (fall), pp. 35-59.
- İlyasoğlu, Aynur. 1994. *Örtülü Kimlik*. Istanbul: Metis Yayınları.
- Jones, Kathleen. 1990. "Citizenship in a Woman-Friendly Polity," *Signs: Journal of Women in Culture and Society* 15, pp. 711-812.
- Kymlicka, Will. 1995. *Multicultural Citizenship*. Oxford: Oxford University Press.
1999. "Liberal Complacencies," in *Is Multiculturalism Bad for Women?* ed. J. Cohen et al., Princeton, N.J.: Princeton University Press.
- Kymlicka, Will, and Wayne Norman, eds. 2000. *Citizenship in Diverse Societies*. Oxford: Oxford University Press.
- Özdalga, Elisabeth. 1998. *The Veiling Issue, Official Secularism and Popular Islam in Modern Turkey*. Surrey, U.K.: Curzon Press, pp. 39-50.
- Phillips, Anne. 1991. *Engendering Democracy*. Cambridge: Polity Press.
- Stepan, Alfred. 2000. "Religion, Democracy and the 'Twin Tolerations,'" *Journal of Democracy* 11 (October), pp. 37-57.
- Taylor, Charles. 1994. "The Politics of Recognition," in *Multiculturalism*, ed. Amy Gutmann. Princeton, N.J.: Princeton University Press.
- Young, Iris Marion. 1990. *Justice and the Politics of Difference*. Princeton, N.J.: Princeton University Press.
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