Gender Equality, and

The Muslim Women Subject,

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# Introduction

**France**

French President Emmanuel Macron’s ruling centrist party has barred a Muslim candidate, Sara Zammahi, from running in local election after she was photographed in a hijab for a campaign flyer. Sara Zammahi was planning to run with LREM (The Republic on the Move). However, Macron’s LA Republique en Marche said the party line was that in secular France, there should be no place for the overt display of religious symbols on electoral campaign documents.[[1]](#footnote-1)

ALJAZEERA News, May 2021

**Germany**

A December 2021 article on the Aljazeera News: When 24 years old Shilan Ahmad arrived to start work at nursery in Erfurt, Germany, she was immediately turn away. She had applied for the job with her resume and a photo. When she received approval by phone, she was excited. But as she went for a meeting last December, the director took one look at her and turned to the colleague who had organized the meeting. “How can it be that you’ve allowed this woman to come speak with me?” She said. Ahmad, who is from Syria, was wearing a headscarf. “I did not think this would be a problem, because I assumed the team had seen the photo with the hijab before bringing me in”, Ahmed said.**[[2]](#footnote-2)**

ALJAZEERA News, September 2021

**Canada**

A December 2021 article on the American commercial broadcast television (CBS): “Anvari, a Quebec teacher removed from classroom for wearing Hijab under Bill 21 banning religious symbols, arguing that this sends a troubling message to kids”. Neither Anvari nor the parents blame the school, described by them as fosters a welcoming and inclusive atmosphere. Instead, they blame the Law, arguing that it should never have been passed.[[3]](#footnote-3)

CBS News, December 2021

These stories are not surprising, neither new. Due to the enactment of a series of state laws in the last two decades in several countries, mainly in Europe, prohibiting Muslim women from wearing a headscarf, many cases reached the doorstep of the European Court of Human Right. The European Court of Human Rights, therefore, had to deal, with the constitutionality of these state laws. [[4]](#footnote-4)

Going through the Court’s cases, resulting in remaining the state laws and supporting Governments’ positions, banning Muslim women wearing the headscarf, [[5]](#footnote-5) I noticed, strikingly, that while applicants, i.e. Muslim women, argued for a violation of various rights, such as the right of education and equality (Not necessarily gender equality) and other rights, the Court, choose to focus only on whether there was a violation of the ‘freedom of religion’ under the convention’s Article 9, and whether limiting it, is constitutional.[[6]](#footnote-6) Others rights, as the right of education and others, barely discussed. I also noticed that, the Court, during its examination, led by two assumptions, or starting points: First, the Court focused on religion and on the headscarf, as a sign of oppression, giving no support to Muslim women’s education and flourishing. Second, the Court focuses of the question of choice, led by the assumption, without thinking twice, that Muslim women were not telling the truth about whether they wore the headscarf of their own free will and choice. Put differently, the Court suspect the Muslim women’s words about wearing the headscarf out of free choice, considering them, borrowing from Carl Marx, as living in a “false consciousness”.

Therefore, from the eyes the Court, by keeping these laws banning the wearing of the headscarf, the court is actually “Saving” them, or “liberating” them, from the oppression of both their religion, Islam and from Muslim men and by doing so, it promote the principle of gender equality, a principle that, from the court perspective benefits these Muslim women and many other women on society.

In any case, these series of judgments have provoked both public and academic attention. Much academic literature in Europe, and outside of Europe has been written, criticizing the Court’s Judgments. Many critical voices, arising from legal scholar’s experts of religion and minorities rights, legal feminist scholars, constitutional law scholars and many others – All together, impressively, were united, against the Court’s judgments. A significant portion of the academic literature has been focusing on critically examining the European Court of Human Rights interpretation of the freedom of religion,[[7]](#footnote-7) joining a previous on-going literature calling for “protection” of religious minorities, arguing that the historical record, and the continuing “vulnerability” of these minorities requires ensuring their protection, *inter alia*, through international law.[[8]](#footnote-8) Some other literature focus on criticizing the negative way the Court approached the practice of wearing the Islamic headscarf, arguing that the Court approach to the Islamic practices based on stereotypes and the way it presented by the Court was simplistic, contributing to Islam phobia.[[9]](#footnote-9)

Further to, some criticism argued that the Court’s negative approach to Islam, is an expression to the Court’s Eurocentric approach.[[10]](#footnote-10) A comparison with other Court’s judgments, for instance those who dealing with Christian symbols, reinforced these critiques, due to the fact that the Court was in the favor of the Christian applicants in these case, protecting their rights of religion under Article 9.[[11]](#footnote-11) Some criticism, especially those which came from legal feminist scholars, referred to the case of Muslim women as a “unique” case, borrowing from Kimberle Crenshaw,[[12]](#footnote-12) due to her “intesectionalty”. These critiques, propose an understanding of gender equality as challenging – multiple and intersectional – form of “disadvantages”, calling to challenge the formalistic conceptualization of discrimination, and the Court’s simplistic and paternalistic understanding of gender equality, which is, from their eyes, “insensitive” to the Muslim women “intersectionality”.[[13]](#footnote-13)

These critics, had, with no doubt, some impact on the Court later rulings, For Example, in a later case, the case of S.A.S v France, the Court refrained from attributing a negative meaning to wearing a face covering, even though, it consider more “problematic”, compared to the headscarf.[[14]](#footnote-14) However, to me, it seems that both the Court and these “critical” Academic literature, starting from an alarming premise, victimizing the Muslim women, presenting her as an imposed, oppressed, one that lacks agency, and sometimes even lacks personality. A “Unique” women who lives, not only in one form of disadvantage, but in a “Multiple” and “Intersectional” form of “disadvantages”, a victim, one that needs the other to “save” her, or “liberate” her.

By focusing on one case as such, *Leyla Shain* case,[[15]](#footnote-15) this paper aims the challenge this victimized, lack of agency, obsessed Muslim women image, asking whether anthropology, and recent cultural sociology theories - the other disciplines I’m coming from - devoted to understanding and exploring how people understand and act in the world – can have anything to offer to the legal discourse in general, and the Human Rights discourse in particular, especially when they discussed Muslim women rights, and other minorities group, or borrowing from the American doctrine naming it “suspicious groups”, who historically have been subject to discrimination . With doing so, this paper aims to suggest an alternative way to speak about equality, when it comes to Women, to religious paper, in particular when it comes to Muslim women.

First, I critically look at the way the Court presents the Muslim women, as always embedded in power struggles, shaped and made-by her religion and culture, women who live in a false consciousness and make choices not out of free choice. Instead, I seek to suggest shifting toward a different alternative, one that see the Muslim women as embedded in worlds of meaning and significances, one that not only embedded in a worlds of meanings as being part of a culture, but also one that has agency, and uses her culture and religion in a ways that serve her in a different social and daily situations.

Second, I critically and suspiciously look at the focus of the Court on Article 9 Freedom of religion, while giving no room to the women arguments about violation of the right of education and equality. I will bring some historical record, where – concentrating, negatively, on Islam and mobilization of Muslim Women – had been done for the purpose of political policies. By doing so, I suggest that rather than seeking to “free”, or “liberate” others from their religion and culture, and rather than promoting “Gender Equality” on force, we might better consider these women first as a subject. Not a subject that embedded only in a different and multiple power struggles, but a subject that embedded in a words of meanings, significances, and most important, a subject with subjectivity.

Finally, this paper won’t stop with bringing anthropology and cultural sociology to suggest an alternatives for the use of the law. inspired by the writings of Siegel and Nejaime, legal scholars, who were dealing for years with reconciling commitments to religious freedom, reproductive rights and LGBT equality in the American context, I will make some points, using, in particular, the three points they raised in their 2017 Article “Religious Accommodation, and Its Limits, in a Pluralist Society”, in a different – perhaps contradicted – circumstances. While in this article they call to limit, in certain circumstance, religious accommodations, I use them to give more religious accommodations. By doing so, and applying their point in the context of religious women - I suggest that Siegel and Nejaime work did manage to reconcile commitments to - religious freedom, and other rights such as reproductive rights and LGBT rights. At the end I will add another point that courts might consider in such cases.

# Part I – Case Law

# 2. Leyla Shahin vs. Turkey

In this part I present the Turkish case of *Leyla Shahin* at the European Court of Human Rights,.[[16]](#footnote-16) This is just one example out of many other cases dealing with the same laws, banning Muslim women from wearing the headscarf. Because of the similarities in this case to the other cases, I choose to bring this specific one, as a representative of the other cases, and also due to the fact that it was discussed twice in the European Court of Human Rights while referring in these two discussion to other similar cases.

Leyla, born in 1973, coming from a traditional family of practicing Islam and consider it her religious duty to wear the Islamic headscarf, was a student at the Faculty of Medicine at Istanbul University. In her fifth year of study, the university issued a circular regulating students’ admission to the university campus, banning students from wearing the Muslim headscarf, and other students with beards from entering lecture, stating that disciplinary measures will be taken, if students refuse to leave the university premises.

Leyla was denied access by invigilators to a written examination, enrolment in a course and admission to a lecture, for the reason of wearing the headscarf. After several occasions in which Leyla refused to remove her head scarf, disciplinary proceedings were taken against her and she was suspended from her studies.

The Turkish constitutional Court ruled that the ban is constitutional, and anchored it in the need to protect the secular character of the county, explaining that when Muslim dress imposed on women by men, it could not be considered an autonomous choice worthy of protection. The Turkish constitutional Court also stated that non-enforcement of the ban may lead to a violation of equality due to the fact that women who don’t wear a headscarf will be seen as opposed to religion, and will be pressured to wear a headscarf, against their will. The court found that the impugned measure primarily pursued the legitimate aims of protecting the rights and freedoms of others and protecting the public order, stating:

Having regard to the circumstances of the case and the terms of the domestic courts’ decisions, the Court finds that the impugned measure primarily pursued the legitimate aims of protecting the rights and freedoms of others[…][[17]](#footnote-17)

The European Court of Human Rights dealt with this case. The first decision was given in 2004, and the second decision, given by the Chamber of the European Court of Human Rights was given in 2005, expanding the legal hearing and largely outlined the way the Court analyze in later case law which also deal with prohibiting the wearing of the headscarf.

In the European Court of Human Rights, Leyla alleged that a ban on wearing the Islamic headscarf in institutions of higher education in Turkey violated her rights and freedoms under *Article 8* (Right to respect for private and family life), *Article 9* (Freedom of thought, conscience and religion), *Article 10* (Freedom of expression), and *Article 14* (Prohibition of discrimination) of the European Convention of Human Rights, and *Article 2* of Protocol No. 1 (Right to Education).

The European Court of Human Rights, examined the ban under Article 9, accepting Turkey’s position that the ban was intended to fulfill the legitimate purpose of protecting public order and the rights of others, referring in its ruling to the *Dahlab* Case deals with the Islamic Headscarf of a primary teacher,[[18]](#footnote-18) that wearing the headscarf is a practice imposed on women. On the question of whether the ban was “necessary in a democratic state”, the Court accepted Turkey’s position that the ban is indeed necessary for the protection of secularism, because it constitutes a necessary basis for the protection of democratic values in Turkey and the protection of gender equality:

Wearing the headscarf represents a powerful external symbol, which appeared to be imposed on women by a religious percept that was hard to reconcile with the principle of gender equality. Wearing the Islamic headscarf could not easily be reconciled with the message of tolerance, respect for others, above all, equality and non-discrimination that all teachers in a democratic society should convey to their pupils.[[19]](#footnote-19)

The Court of Human also accepted the argument that wearing a headscarf by women who choose to do so may be a means of pressure on other women who choose not to wear it. In this regard, he referred to the Constitutional Court judgment on 7 March 1989, mentioning:

Secularism also protected the individual from external pressure. It added that restrictions could be placed on freedom to manifest one’s religion in order to defend those values and principles. [[20]](#footnote-20)

In the additional hearing in 2005, the Grand Chamber confirmed the Court 2004 ruling, but compared to the 2004 ruling, this time the Court expanded its reasoning on the right of education. However, similarly to the discussion regarding the freedom of religion under Article 9, and with the same result, also here, no violation of the right of education was found.[[21]](#footnote-21) As for the violation of the right of Equality, the Court stated that there was no evidence of a violation of equality, since the applicant didn’t prove that the ban was directed at her as a member of a particular religion. The imposition of the ban on wearing the headscarf, according to the Court, was within the framework of the state’s “Margin of appreciation”.

The dissent opinion in the 2005 additional hearing, Judge Tulkens emphasized that the majority opinion recognized the wearing of the headscarf with the oppression of women, and accordingly, the majority saw the ban as a means of promoting equality between women and men, without clarifying the connection between the ban and gender equality:

Wearing the headscarf is considered on the contrary to be synonymous with the alienation of women. The ban on wearing the headscarf is therefore seen as promoting equality between men and women. However, what, in fact, is the connection between the ban and sexual equality? The judgment does not say.[[22]](#footnote-22)

In Tulken’s opinion, wearing a headscarf cannot be attributed to a single meaning, and some women see it as a symbol of liberation. Tulken argued that it was not the role of the Court to assess and attribute meaning to religious practices, and that the voices of women were missing in the hearing – both who wear the headscarf, and those who are not:

What is the signification of wearing the headscarf? [...] Wearing the headscarf has no single meaning; it is a practice that is engaged in for a variety of reasons. It does not necessarily symbolize the submission of women to men and there are those who maintain that, in certain cases, it can even be a means of emancipating women. What is lacking in this debate is the opinion of women, both those who wear the headscarf and those who choose not to... It is not the Court’s role to make an appraisal of this type – in this instance a unilateral and negative one – of a religion or religious practice, just as it is not its role to determine in a general and abstract way the signification of wearing the headscarf or to impose its viewpoint on the applicant.

Following Leyla’s argument in front of the Court that she is wearing the headscarf out of free choice, Judge Tulkens stated that the Court can’t, in the name of gender equality, to prevent a woman from practicing a practice she chose to follow, and that equality and non-discrimination are subjective rights which must remain under the control of those who are entitled to benefit from them:

The applicant, a young adult university student, said – and there is nothing to suggest that she was not telling the truth – that she wore the headscarf of her own free will. In this connection, 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. Equality and non-discrimination are subjective rights which must remain under the control of those who are entitled to benefit from them.[[23]](#footnote-23)

1. https://www.aljazeera.com/news/2021/5/12/macrons-party-bans-muslim-candidate-for-wearing-hijab-in-poster [↑](#footnote-ref-1)
2. https://www.aljazeera.com/news/2021/9/24/muslim-women-struggle-with-germanys-hijab-ban-in-workplaces [↑](#footnote-ref-2)
3. https://www.cbc.ca/news/canada/ottawa/fatemeh-anvari-removed-from-grade-three-classroom-1.6278381 [↑](#footnote-ref-3)
4. For example, See: ECtHR, Dahlab v. Switzerland, Judgment of 15 February 2001, Application No. 42393/98, ECtHR, Leyla Sahin v. Turkey, Judgment of 29 June 2004, Application No. 44774/98, ECtHR, Leyla Sahin v. Turkey, Judgment of 10 November 2005, Application No. 44774/98, ECtHR, S.A.S. v. France, Judgment of 1 July 2014, Application No. 43835/11. [↑](#footnote-ref-4)
5. First time the European Court of Human Rights has ruled in favor of Muslim women’s freedom of religion to wear a headscarf was in September 2018 in a Belgium case of Lachiri. In this case, the Court held that a prohibition on wearing the hijab in the courtroom constitutes an infringement of Article 9 of the European Convention of Human Rights. See: ECtHR, Lachiri v Belgium, judgment of 18 September 2018, Application No. 3414/09. [↑](#footnote-ref-5)
6. Article 9 of the European Convention of Human rights: (1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching practice and observance. (2) Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interest of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others. [↑](#footnote-ref-6)
7. Hoopes, Talvikki. "The Leyla Şahin v. Turkey Case before the European Court of Human Rights." *Chinese Journal of International Law* 5.3 (2006): 719-722.‏ Lyon, Dawn, and Debora Spini. "Unveiling the headscarf debate." Feminist Legal Studies 12.3 (2004): 333-345.‏ LEWIS, T., “What not to Wear: Religious Rights, the European Court, and the Margin of Appreciation”, *International & Comparative Law Quarterly* april 2007, 56, afl. 2, 395–414. Bleiberg, Benjamin. "Unveiling the real issue: Evaluating the European court of human rights' decision to enforce the Turkish headscarf ban in Leyla Sahin v. Turkey." *Cornell L. Rev.* 91 (2005): 129, Belelieu, Christopher. "The headscarf as a symbolic enemy of the European court of human rights' democratic jurisprudence: Viewing Islam through a European legal prism in light of the Sahin judgment." *Colum. J. Eur. L.* 12 (2005): 573 [↑](#footnote-ref-7)
8. Lerner, Natan. "The nature and minimum standards of freedom of religion or belief." BYU L. Rev. (2000): 905.‏ Lerner, Nātān. Group rights and discrimination in international law. Vol. 77. Martinus Nijhoff Publishers, 2003.‏ [↑](#footnote-ref-8)
9. Peroni, Lourdes. "Religion and culture in the discourse of the European Court of Human Rights: the risks of stereotyping and naturalising." *International Journal of Law in Context* 10.2 (2014): 195-221.‏ [↑](#footnote-ref-9)
10. CELIKSOY, Ergul. "A CRITICAL ANALYSIS OF THE JURISPRUDENCE OF THE ECtHR ON ISLAMIC HEADSCARVES AND RELIGIOUS SYMBOLS." *Human Rights Review* 14 (2018): 81-100.‏ [↑](#footnote-ref-10)
11. The Case of *Lautsi v. Italy*, known as the “Crucifix Case”, the Court accepted Italy’s position that crucifix consider to be a religious symbol and having them in public schools, is not offensive. In other case, *Ewida v. United Kingdom* the Court accepted a British airway employee petition who was asked to cover up a cross necklace which depicted a Christian cross. The Court found that her rights had been violated under Article 9 of the European Convention on Human Rights. See: Lautsi v. Italy, app. No. 30814/06, 2011 and Eweida v. UK, App. No 48420/10, 2013. [↑](#footnote-ref-11)
12. Crenshaw, Kimberlé. "Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics." *u. Chi. Legal f.* (1989): 139.‏ [↑](#footnote-ref-12)
13. See, for example: Radacic, Ivana. "Gender equality jurisprudence of the European Court of Human Rights." *European Journal of International Law* 19.4 (2008): 841-857.‏ [↑](#footnote-ref-13)
14. See: S.A.S. v. France, Judgment of 1 July 2014, Application No. 43835/11. [↑](#footnote-ref-14)
15. Leyla Sahin vs. Turkey, Judgment of 29 June 2004, Application No. 44774/98, ECtHR, Leyla Sahin vs. Turkey, Judgment of 10 November 2005, Application No. 44774/98 [↑](#footnote-ref-15)
16. ECtHR, Leyla Sahin vs. Turkey, Judgment of 19 June 2004, Application No. 44774/98. [↑](#footnote-ref-16)
17. Leyla Sahin vs. Turkey, 2004, Para 84. [↑](#footnote-ref-17)
18. Dahlab vs. Switzerland, a European Court of Human Rights case deals with the Islamic Headscarf of a primary teacher in the canton of Geneva. See: ECtHR, Dahlab vs. Switzerland, Judgment of 15 February 2001, Application No. 42393/98 [↑](#footnote-ref-18)
19. [↑](#footnote-ref-19)
20. Leyla Sahin vs. Turkey, 2004, Para 104. [↑](#footnote-ref-20)
21. Grand Chamber of the ECtHR, *Leyla Sahin* vs. *Turkey*, Judgment of 10 November 2005, Application

    No. 44774/98. [↑](#footnote-ref-21)
22. Grand Chamber of the ECtHR, *Leyla Sahin* vs. *Turkey*, Judgment of 10 November 2005, Application

    No. 44774/98, dissent opinion of Judge Tulkens, para 11. [↑](#footnote-ref-22)
23. Dissent opinion, para 12.

    # Part II – The Muslim Women Subject

    # 3. An Alternative Ontology

    Going through the European Court of Human Rights Judgments, and its reasoning, in a cases of Muslim women, a disturbing picture emerges.

    I seems, that the Court has an ontological position, one which places the foundation of the social world only in a relationship of power and control, one that sees the autonomous and free individual as being trapped in these relationships and in these systems of power and oppression. Therefore, according to the Court’s ontological position, the Muslim Women is necessarily trampled by religious and masculine oppressive forces, perceived as one that trapped within oppressive power structures and suffering from the adoration of religious and cultural boundaries. It seems it me that the Court assumes there is, undoubtedly a connection between the Autonomy of the Individual and her self-realization. I argue that this ontological position, limits and reduce the Court’s interpretive abilities.

    In the face of the person trampled by oppressive forces, I want to place the Muslim women subject, one like Leyla Shahin, as a women immersed in a world of meanings, and embedded in a social layers of meanings within which her moral life, and her experiences and worldview were shaped. Later I will argue that this subject not only a **product** of the layers of meanings and networks of meanings, in which he lives, but rather, he is a **maker**, and thus its creative existence is derived. Later I will also argue that social conflicts are not derived only from the forceful nature of man, who seeks to control and limit the other. Instead, I will argue that the source of not little conflicts and human suffering, is in the structural forces, mostly the political and economic ones, therefore the court should look at the Muslim women in a broad sitting.

    The idea of the subject deeply immersed and embedded in layers of meaning and significances, is a very central idea in Anthropology and Cultural Sociology, seeing culture as a component of explanations of social phenomena. Jeffrey Alexander, a Yale Professor, was one of central scholars attributed to the cultural sociology scholarship, which is different from Sociology of culture. While sociology of culture sees culture as a dependent variable, that is, a product of other factors, such as economy and politics, cultural sociology sees culture as having more autonomy and more weight to inner meanings is given. Put differently. While Sociology of culture, to a large extent, tends to see individuals, as always embedded in power struggles, and in material inequality, Cultural sociology, as Anthropology to a large extent, sees individuals as embedded in layer of inner meanings.

    Saba Mahmood, for Instance, an anthropologist who used to teach in Berkeley before she died two years ago, influenced by the work of Talal Asad, she wrote on issues of gender, religious politics, secularism and Muslim and non-Muslim relations in the Middle East. In her book about the women’s mosque movement in Egypt, Mahmood begins with the question many western feminists ask about women who support Islamist movement: She writes: “Why would such a large number of women across the Muslim world actively support movement that seems inimical to their own interests and agendas?” Mahmood begins by challenging the very frameworks within which such a question is asked. Her ethnographic study exposes assumptions of both feminist theory and “Secular Liberal Thought” about the nature of the self, agency, and politics. Mahmood suggest we consider other ways of conceptualizing the self, authority, and tradition. Particularly, to identify multiple forms of agency beyond that of subversive agency.

    Mahmood describes the women of the mosque as moral agents, whose work is rooted in religious non-liberal cosmological logic. Therefore, their agency experience is also radically different from the liberal agency experience. It is an experience that is nurtured by a connection to tradition instead of defiance against it, by fulfilling duties, instead of exercising rights, and by sanctifying the existing order instead of dismantling it. This interpretive move, allows Mahmood to look back at the ontological position of liberal feminism, which presupposes a necessary connection between the autonomy of the individual and self-fulfilment, and to point out the limitations of the interpretive position derived from it. Mahmood also emphasizes, that also radical feminist scholars, such as Judith Butler, suffer from these limitations. According to Mahmood, these feminist scholars, also tend – despite their critical stance – to focus on studying actions that seek to disrupt social norms, oppose and challenge existing social order. These limitations, are also true when it comes to post-colonial approaches, such as of Gayatri Chakravorty Spivak, a feminist critic theorist, considered one of the most influential postcolonoal intellectuals, and best known for her essay “Can the Subaltern Speak?”. Even these critical approaches, focus mainly on voices that are consistent with the critical-progressive approach.

    # 4. An Alternative Interpretation

    Another thing that was striking about the Court’s judgments was its interpretive approach, one that led by over-suspicion in relation to the overt reality, one that rejects the possibility that this overt reality might be the truth. Instead, I will suggest a new interpretive position, based on “suspicion in suspicion”. This new interpretive position, based on shifting from “over-suspicion” position toward an interpretive position take into consideration the Peron being embedded in layers of meanings. To put in other words, I’m suggesting we faithfully read the social reality, out of empathic listening to the real subjects, to Leyla Shahin and others, rather than, nonstop suspecting them and think that they are not telling the truth because they are probably live in a false consciousness. This position taken by the court, thereof, based on suspicion of the overt reality, I argue, reducing the Court interpretive horizon, and make it blind to different kinds, and meanings for the principle of equality. While writing these lines, I was thinking about the American Doctrine “Suspicious groups”. It was Wittgenstein, who pointed out how the words we choose to use, to describe or conceptualize things, affect the way we perceive these things.

    Back to the ‘hermeneutics of suspicion’ and ‘hermeneutics of faith’, Recoeur distinguishes between two forms of hermeneutics: a ‘hermeneutics of faith’ which aims to restore meaning to a text and, a ‘hermeneutics of suspicion’ which attempts to decode meanings that are disguised. From the point of view of a hermeneutics of faith, the interpretive effort is to examine the various messages inherent in an interview text, giving “voice” in various ways to the participant, while the researcher working from the vantage point of the hermeneutics of suspicion problematizes the participants’ narrative and “decodes” meaning beyond the text.

    According to Recoeur, the first positioning aims at the *restoration* of a meaning addressed to the interpreter in a form of a message. It is characterized by a willingness to listen, to absorb as much as possible to the message in its given form and it respects the symbol, understood as a cultural mechanism for our apprehension of reality.

    By contrast, hermeneutics may be approached as the *demystification* of meaning presented to the interpreter in the form of a disguise. This type of hermeneutics is characterized by distrust of the symbol as a dissimulation of the real and is suggests that it is the latter type of hermeneutics which is practiced by Marx, Nietzsche and Freud. All these of these ‘master of suspicion’, Recoeur calls them, look upon the contents of consciousness as in some sense: ‘False’. The three of them, recoding to Recoeur, aim to transcend this falsity through a reductive interpretation and critique.

    It is important to note that these two positions, however, cannot be distinguished by spatial metaphors of surface and depth, nor by temporal ones of multiple and shifting planes of self-experience. Within the hermeneutics of faith, which aims at restoration of meaning, meanings can nevertheless be implicit. They can lie “deeper” than the symbolization apparent on the surface, but symbols are understood as manifestations of the depth. In the hermeneutics of demystification, symbols are viewed as disguised or distorted pointers to other layers of meaning.

    Finally, a crucial point I want to make here is that by suggesting so, I’m not saying that all veiled women are the same, and have the same nature. Indeed, we need to be careful not to argue for essentialism. Historically, beliefs as such, posit that social identities as gender or religious identities, are essential characteristics that define who people are have led to harm, not benefit. Indeed, the Muslim woman in Saudi Arabia, is not the same as the on in the United States, or the one in Turkey. Indeed, the Arab-Palestinian woman in Israel, is not the same as the Arab-Palestinian woman in the Palestinian occupied territories. Woman are different, with different, with different histories and legacies. As Nawel Boumedhdi, a citizen of France, put it “We, veiled women are divers in our complexities and our unity”.

    # 6. The Muslim Women Agency: Strategies of Action

    Now I want to argue that wearing the headscarf, is the contrary of lack of agency. The Muslim women it not only a social being belonging to a particular community that shapes her desire and choices, and not only that there is many different meanings for the headscarf. But also the Muslim women is a maker, an agent, an active.

    Current sociological theories reflect a new conception of the relationship between people and the culture (or religion) to which they belong. In the 20th century, theoreticians viewed culture as a unified system, working hierarchically downwards from above, instructing people how to act and dominating how people shape the various meanings they give to their lives. Challenging this approach, recent theories have begun to adopt a notion of culture as something to be used by people. These new recent theories submit that people don’t merely live within a culture, passively absorbing its attributes, but actively draw upon elements of that culture to inform their behavior and decision-making. They thus use “cultural equipment” to make sense of their world. Other scholars sharing this approach suggest that people selectively use culture to inform or justify behavior rather than simply being affected by it without question. Yale Professor, Jeffrey Alexander, for example, posits that culture is not only a product of meaning-making processes, but itself possesses a relative autonomy in shaping actions and institutions.

    Ann Swidler pioneered this new approach to culture, perceiving culture as a frame of reference to be used by individuals, offering them different toolkits for constructing their action strategies. And provides individuals with a certain degree of freedom of choice and actions for navigating the world, enabling each person to find the most suitable course. Swidler shifted the focus to a cultural toolkit of symbols, stories, rituals, and worldviews as motivators of strategies of actions that people use to cope with various kinds of problems. Consequently, culture’s significance lies not in determining ends of action, but in providing cultural components that can be used to construct strategies of action. By referring to culture as a toolkit offering certain choices, we can better ascertain how people act within their cultures in the course of creatively apply the culture’s selection of elements to meet the challenges of diverse situations and contexts. According to Swidler, because a culture must offer a variety of options in its toolkit, it is inevitable that some will be contradictory. Therefore, when individuals choose an option or materials from the toolkit to devise strategies of action, it is highly likely that these strategies may occasionally differ, or even be antithetical to one another.

    One example of how the Muslim women ‘use’ their headscarf for their own interest, I, myself, encountered during an ethnographic research I’m currently working on for contribution to Rutledge’s Volume focusing on the study of the complex relationship between gender and COVID-19. As part of the research, I conducted in-depth interviews with Palestinian Muslim students which I virtually taught last year during the pandemic. Before Yale, I used to teach a course called “Introduction for Anthropology”, an undergraduate mandatory course for students in their first year in the Anthropology department at Tel-Aviv University. I was teaching two sections. The first section was a mixed one where I taught both Israeli Jewish students and Arab-Palestinian students. The second section was given only for Arab-Palestinian students, as an extra section aiming to help them overcome the academic and linguistic obstacles they face as Arab-Palestinian students in Israeli Higher education institutions. During one Section, the one that was given only for Arab-Palestinian, I noticed that there is one Muslim Woman Student who was without a headscarf. It was surprising for me, since it was the first time I saw her without the headscarf. When I asked her about the reasons, she said that it’s because all of us are Arab-Palestinian women, and she is at home (The class was given virtually). Her answer, then, made me be curious about the other women who choose to wear the headscarf, despite the fact that we are all women, and Arab-Palestinian women and I assume all of us were Muslim Women. I didn’t keep this question to myself and I asked it within the conversations with them for the Routledge research. I was given very creative answers such as: Since the pandemic all classes were via Zoom, and I was studying at home, in my room, the place I consider informal. Being with the headscarf, makes me feel more formal, and therefore more serious, and a better student. They choose to put it, despite the fact that they do have the option, and choice, same to the other woman who decided to take it off, and they choose not to do so because they use the headscarf to be a more serious student. Another Muslim student, however, gave another answer. She said that when she put on the headscarf, she feels more “adult” and therefore people perceive her as such and that she doesn’t want to be a little girl anymore, she wants to be an “educated” woman.

    Similarly to my own findings, can be found in other research, such as showing the modest dress that many educated Muslim women have taken on and can be read as a sign for modernity and being educated. For instance, Anthropologist Saba Mahmood, I mentioned before, in her ethnography of women in the mosque movement in Egypt, shown that this new form of dress is perceived as part of a bodily means to cultivate virtue, the outcome of their professed desire to be close to god.

    Another examples of how the headscarf can be used in a creative way, and out of free choice, by Muslim women, can be found in several of ethnographic works done by Anthropologists who focus on gender in the Muslim communities. For example, Anthropologist Hanna Papanek, and following her, Anthropologists Abu Lughod described the burqa as a “Portable Seclusion” or “mobile homes”, noting that many saw it as a liberating invention because it enabled women to move out of segregated living spaces while still observing the basic moral requirements of separating and protecting women from unrelated men”.

    # Part III - The Muslim Women in a Broad Settings

    # 6. Why to Focus only on Religion?

    As I presented in the first part of this paper, the European Court of Human Rights framed the legal question in Shahin Case as only an issue of freedom of religion under Article 9 of the Convention, and therefore the Court dedicated a significant part of its Judgments examining whether there was a violation of the right of religion, and the restriction that could be put on it under Section B of Article 9. Accordingly, as I also presented in this paper first part, the Academic literature, and even the one that considered to be the most critical literature, focused, mostly, on critically examining the interpretation given by the Court to the freedom of religion in general, and to the Muslim Women freedom of religion in particular. The violation of other rights, caused by the ban of wearing the headscarf, such as the right of education and equality, to a large extent, was a secondary issues, in the Court judgments, but also in the Academic literature.

    Although Leyla alleged that a ban on wearing the Islamic headscarf in institutions of higher education in Turkey violated her rights and freedoms under *Article 8* (Right to respect for private and family life), *Article 9* (Freedom of thought, conscience and religion), *Article 10* (Freedom of expression), and *Article 14* (Prohibition of discrimination) of the European Convention of Human Rights, and *Article 2* of Protocol No. 1, the European Court of Human Rights, almost only examine the ban under Article 9 of the convention. The ban under other Articles, such as the Article 14, and others, got a secondary and abandoned place in the Court’s Judgments

    Both the Court and legal scholars, remained within the bounds of discourse about religion and culture. In the next section, I want to point out the dangers of concentrating only on religion, while ignoring other rights and issues, such as the right to equality and education. I will show that this is a historical rhetoric, using religion, culture, and the Muslim Women and her headscarf, to cover other things. B y doing so, I argue we need to suspect when the focus is on Muslim women and their headscarves.

    # 7. The Mobilization of Muslim Women for Political Purposes

    In her article, Lila Abu Lughod, an American anthropologist, who has devoted more than twenty years of her life to study women and gender in the Middle East, specifically in Egypt, makes an argument about the mobilization of Muslim women, particularly female symbols in the U.S. War against Terrorism following September 2001. One out of many examples she brings in her article refers to Laura Bush’s speech enlisted women to justify the American bombing and intervention in Afghanistan, saying: “Because of our recent military gains in much of Afghanistan, women are no longer imprisoned in their homes. They can listen to music and teach their daughters without fear of punishment. The fight against terrorism is also a fight for the rights and dignity of women”. Following that, Abu Lughod suggests one should be sceptical about the focus on the “Muslim woman”, or “culture”, and particularly its religious beliefs and treatment of women. According to her, such cultural framing, prevents the serious exploration of the roots of human suffering, and artificially divides the world into to binary spheres, such as West versus East, or American versus Muslims.

    Similar to Abu Lughod, other scholars made similar observations, in different context. For instance, Leila Ahmed, an Egyptian-American scholar working on women and gender in Islam. Her pioneering book, focusing around official and missionaries in colonial service during the European colonial missions in the Middle East, outlined the idea of colonialism in the guise of feminism. Calling it “Colonial Feminism”, Ahmed pointed out the fact that this kind of feminism was worried about the plight of Egyptian women, focusing on the Islamic headscarf as a sign of oppression, but gave no support to women’s education and flourishing. In her other writings, Ahmed analyses the veiling of the Muslim women in the United States, rejecting her own previous, and current other’s critiques of the veil a sexist, and promoting the idea of the veil, when it is voluntarily chosen, as a progressive and feminist act.

    These examples didn’t stop in the United States, Afghanistan, and Egypt. Marnia Lazreq, Professor of Sociology, makes a critical shift from - traditional studies of the Algerian women, which usually examines female roles in relation to Islam – to an interdisciplinary approach, arguing that Algerian women’s position, affected by different structural factors, including colonial domination in Algeria, and other factors such as nationalism and capitalist economy. Lazreq also make a connection with broader political disruptions in the twenty century, such as the attacks on New York, similar to Abu Lughod, and other events related to the “Arab Spring”. As for the French colonialism, Lazreq offered some examples of how the French mobilized the women for their cause. She writes:

    Perhaps the most spectacular example of the colonial appropriation of women’s voices, and the silencing of those among them who had begun to take women revolutionaries [such as…] as role models by not donning the veil, was the event of May 16, 1958. On that day a demonstration was organized by rebellious French generals in Algiers to show their determination to keep Algeria French. To give the government of France evidence that Algerians were in agreement with them, the generals had a few thousand native men bused in from nearby villages, along with a few women who were solemnly unveiled by French women [..] Rounding up Algerians and bringing them to demonstrations of loyalty to France was not in itself an unusual act during the colonial era. But to unveil women at a well-choreographed ceremony added to the event a symbolic dimension that dramatized the one constant feature of the Algerian occupation by France: Its obsession with women. Little is known about the handful of women who were unveiled publicly by French women, their circumstances or the conditions under which they were brought in.

    These mobilization of women didn’t pass over Palestine, where I’m coming from and where I have been raised. Manar Hassan, a Palestinian Professor of gender studies in Israel, in her ethnographic research focuses on the phenomenon of “Honor killing” in the Palestinian community in Israel. Hasan points out the factors and mechanism that work together and separately to preserve the honor killing phenomenon, and with doing so, she points out the politics of honor, which originates from the state of Israel. Hasan shows how both the State of Israel, and the Patriarchy, join hands in sacrificing women on the name of honor, and politics order. As for the State, she shows how Israel, a Jewish Zionist State, under the quise of “Multiculturalism” and “Cultural relativism”, Israel is not making any efforts to save these women lives, even when Palestinian women, go to the state, especially to its legal institutions, such as the police, and welfare , they returning them back to their houses. Manar shows that behind this act there is a political interest, aims to prevent a Palestinian national organization against the State of Israel, and its Zionist agenda. Although Manar Hasan wrote this pioneering article more than twenty years ago, data shows that nothing changes until these days.

    I brought these examples, to argue that some suspicious should be there, when cultural icons are covered a nasty historical and political narratives, so the European Court of Human Rights should be wary when the Turkish government in the case of Leyla Shahin, and other government as such, claim to be “Saving” or “liberating” Muslim women. Instead of strengthen these rhetoric, and support their continuity, reproduction, and their reinforcement, the court should and could at least discuss other violations of rights, not only the “freedom of religion”.

    # 7. Conclusion

    Siegel and Nejaime, in their “Religious Accommodation, and Its Limits, in a Pluralist Society”’ article make three points about claims for religious exemption from laws that protect contraception, abortion, and same-sex relationships, seeking to reconcile commitments to religious freedom, reproductive rights and LGBT equality. Although their article is written in a different - perhaps even contradicted - circumstances, compared to this paper’s circumstances, I do think their three points can give the European Court of Human Rights insights on how to approach cases regarding religious matters, such as the Muslim women headscarf. This part of the paper will be in a discussion with Siegel and Nejaime’s three points, to show how some of their points could be applied even when the two sides of the equation are reversed. By using their points in the context of Muslim religious women, I’m actually giving a concrete example of how their suggestions can be used to defend religion rights. Within the conversation, I will try to contribute by adding some questions and comments.

    Siegel and Nejaime’s first point is very much relevant to the case of Muslim women headscarf, since they distinguish between claims for religious exemption from laws that protect contraception, abortion, and same-sex marriage, and claims involving ritual observance in dress or prayer. They write: “We assume that religious objections to contraception, abortion, and same-sex marriage are asserted in good faith. Yet, these claims differ in form from traditional religious liberty claims involving ritual or ceremonial observance – such as wearing a headscarf or observing a Saturday Sabbath”. The case of Leyla Shahin, and other cases as such, fall into the second category according to Siegel and Nejaime, since it involving ritual or ceremonial observance.

    One main deference they point out is that while accommodation claims from the first kind (i.e., religious objections to contraception, abortion, and same-sex marriage) have the capacity to inflict targeted harms on other citizen who don’t share the claimant’s beliefs, the second kind less likely to harm other citizen. I’m very much agree with this argument, however, I do think that the definition of “harm other citizen” is necessary here. In Leyla Shahin case, the governments and following that, the court, argued that the headscarf consider to be threat for the public order, and could harm others, such as other women who choose not to wear the headscarf. In other cases, such as Muslim teachers, the governments and the court argued that the headscarf can harm kids, since it could give them harmful educational massages. Therefore, this kind of argument, in some circumstances, could be subject to broad interpretation, and could be therefore used in a way that harm certain groups. This is mostly true when the one who defines what is harm, and whether there was, or could be harm, is the one who is dominant, and belong to the hegemony. In the case of Leyla Shahin, for instance, it the Turkish secular government. Siegel and Nejaime, however, did emphasize that the religious practitioner’s faith claims, such as wearing the headscarf, are not focused on other citizen, and would not have fallen on an identified group of citizens, therefore the costs of accommodating their claims are minimal and widely shared.

    Siegel and Nejaime also point out that ritual observance claims differ in another dimension. According to them, in the typical ritual observance case, a member of a minority religious is challenging a law adopted by members of a majority religious sect. This is mostly true in the context of Muslim women in Europe, where they belong to the minority group in society.

    The second point Siegel and Nejaime make it that the US constitutional and statutory law recognizes concerns about third-party harm as reason for limiting religious accommodation. As I mentioned above, the main concern raises here is the way the “harm” argument could be used by others. There, I suggest that when using such an arguments, we want to consider to support such an argument with empirical data pointing to concrete harm, rather than “public harm”. The recent December 2021 Canadian case, with it I started this paper, could be a good example on how the parents, those parents the Court and the governments were worried that their children will be affected by the fact that they have a teacher with the headscarf, they were the one to say that this law should not have been passed, and they blame the law for firing the teacher. Therefore, making such an argument, should be supported by empirical and statistic data.

    In their third point, Siegel and Nejaime argue that religious accommodation serves pluralist ends only when the accommodation is structured in such a way that other citizens who do not share the objector’s beliefs are protected from material and dignitary harm. This point of Siegel and Nejaime made me think about whether the ban of wearing the headscarf is structured in such a way that women who will need to take it off because of the law, are protected from material and dignitary harm. In the case of Leyla Shain, Leyla continued her studies in another university, which accepted her despite wearing the headscarf. But what about other women, who gave up the possibility to study or work, because they would not take the headscarf off just because of the law. Some of these women probably chose to stay at home, in the private sphere, where the patriarchy is celebrating, and no one knows what happen there. Indeed, the law not only banning them from wearing the headscarf. The law also excluded these women, aggressively, from the public sphere, and prevented them from professional and personal progress and prosperity, which is contrary to the key principle of all kinds of liberalism. As Abu-lughod put it:

    Liberals sometimes confess their surprise that even though Afghanistan has been liberated from the Taliban, women do not seem to be throwing off their burqas. Did we expect that once “free” from the Taliban they would go “back” to belly shirts and blue jeans, or dust off their Chanel suits? We need to be more sensible about the clothing of “women of cover”, and so there is perhaps a need to make some basic points about veiling.

    One last point that I want to raise is how much the public, or professional service that the Muslim women, or the religious applicants in Siegel and Nejaime article is directly related to the question of religion? Put differently, Do Muslim women, when they teach, they are giving a modeling service or they gave knowledge and education? Perhaps this distinction can be another variant we might want to consider when we encounter a conflict between religious rights, conscience and other rights.

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    To conclude, the problem of gender inequality cannot be laid at the feet of religion alone. Poverty and authoritarianism―conditions not unique to the Islamic world, and produced out of global interconnections that implicate the West―are often more decisive. The standard Western vocabulary of oppression, choice, and freedom is too blunt to describe these women's lives. We might want to consider rethinking our approach to these groups, and to try to give them what they really need, not what we want for them, and what we want them to be.

    In their article, Siegel and Nejaime write:

    Courts and legislatures entertaining claims for religious accommodation should consider whether providing the accommodation will promote equality or perpetuate inequality. Before granting religious objectors exemptions from laws designed to promote equality for groups of citizens who historically have been subject to discrimination, decision-makers must decide whether the exemptions will undermine protections provide by the law and frustrate its aim of bringing into being a more egalitarian society.

    Borrowing from them, I would like to suggest two small [but big] adjustments:

    Courts and legislatures entertaining claims for religious accommodation should consider whether **not** providing the accommodation will promote equality or perpetuate inequality. Before granting **objectors of religion** exemptions from laws designed to promote equality for groups of citizens who historically have been subject to discrimination, decision-makers must decide whether the exemptions will undermine protections provide by the law and frustrate its aim of bringing into being a more egalitarian society.

    Finally, writing this paper, and being engaged in both the European Court of Human rights’ judgments and the extensive literature written about the court judgments, made me think about a follow-up research.

    During this study, I could not help but to think about what is criticism, who is criticizing and who are the recipients of the critics. As I presented in the opening of this paper, I was very much striking about the court’s legal framing of this cases, but also about the way the literature in general, and the feminist legal literature in particular, responded to the Court judgments.

    Feminists’ legal scholars have developed extensive critiques of law and proposals for legal reforms. However, going through the feminist critical literature written about the European Court of Human Rights judgements, it seems to me, that while they supposed to seek to challenge the law existing structures of power, they do that with the same methods that have defined what counts within those structures. By doing so, they actually keeping, perhaps strengthen, the illegitimate power structure that they seek to undermine. For instance, I noticed that, as the court did, also the literature focused, mainly, on the question of religion. In addition, the ontological premise of these literature, as that of the Court, is that women are embedded in a power relations.

    **העמדה הפרשנית**

    לעמדת החשד, המאפיינת את השיח הביקורתי, יש תפקיד מכונן בצמצום המרחב הפרשני העומד לרשותו. אבחנה זו נסמכת על ההבחנה של פול ריקר (Ricoeur 1970) בין "הרמנויטיקה של חשד" (Hermeneutics of Suspicion) לבין "הרמנויטיקה של משמעות" (Hermeneutics of Meaning). בספרו "פרויד והפילוסופיה" טען ריקר (ibid) כי הפעולה הפרשנית מוּנעת ממוטיבציה כפולה: מן הנטייה לחשוד ומן הנטייה להקשיב. פרשנות החשד, שאותה הוא מכנה "הרמנויטיקה של חשד", מוּנעת מן המוטיבציה לגלות את המשמעות האמיתית של הטקסט, ההכרחית להבנתו, אך מצויה מתחת לפני השטח וסמויה מן העין. החפירה בטקסט נועדה, אפוא, לגלות משמעות אחרת, נכונה יותר, וכך גם לחשוף את טבעה הנאיבי, ולעתים אף המוטעה, של המשמעות הראשונית שניתנה לו. בניגוד להרמנויטיקה של החשד, ההרמנויטיקה של המשמעות מוּנעת מן המוטיבציה לפענח את משמעותו המלאה של הטקסט כהווייתו, ולכן היא כרוכה בהקשבה מלאה וברצון ללמוד את הטקסט ומן הטקסט, כלומר להיות פתוחים להשפעתו ולשחזר ככל הניתן את משמעותו המקורית – את כוונתו האמתית של מחולל הטקסט, בין שהוא המחבר ובין שהוא הפוֹעֵל החברתי.

    לטענתו של ריקר, שתי העמדות הפרשניות הללו נחוצות לצורך הפעולה הפרשנית עצמה, ולא ניתן לוותר על אף אחת מהן. במילים אחרות, אף על פי שהחשד יתגלה בהמשך כמסוכן, הוא נחוץ ואף הכרחי לפעולה הפרשנית באשר תהא (מזרחי 2017). חשוב להבין שפרשנות של משמעות בשדה המחקר אין פירושה קריאה נאיבית של המציאות, או תיאורה בלשונם של מושאי המחקר בלבד. נהפוך הוא, היא מאפשרת המשגה תאורטית עצמאית וביקורתית, היינו חיפוש אחר תנאי האפשרות העומדים בבסיס פרשנויותיהם של מושאי המחקר. בהקשרים רבים של הפעולה הפרשנית נשמר האיזון העדין בין קריאה של המציאות מתוך הרמנויטיקה של משמעות לבין פרשנות של חשד. ואולם, כאשר המטוטלת ההרמנויטית נוטה לכיוון החשד, הדבר עלול להוביל להפעלה בלתי מבוקרת של חשד פרשני, שמשמעה אימוץ עמדה אותה מכנה ריקר "חשד יתר". הכוונה בחשד יתר היא לצמצום גורף של המשמעות הנגלית מעל פני השטח למבנים הסמויים מן העין, כשהתוצאה היא יצירת תיאוריה אובייקטיבית ללא סובייקטיביות. בהקשר הסוציולוגי, משמעות הדבר היא שהסובייקט החברתי מדוחלל, והמציאות החברתית נקראת מבעדו. הדבר צורם במיוחד באותם המקרים שבהם הסובייקטים הנחקרים "מתעקשים" להתנהג באופן שונה מזה הנתפס כרצוי על ידי החוקר. או אז, התנהגותם האנומלית עוברת רדוקציה מוחלטת לתנאים המבניים שבהם הם חיים, והעושר של חוויות חייהם והעומק התרבותי בתוכו משוקעת עמדתם המוסרית, או הפוליטית, מועם כליל.

    כתנאי מקדים לתפנית הפרשנית מחשד למשמעות נדרש אימוץ של עמדה אפיסטמולוגית צנועה ברוח "האתיקה של הקרתנוּת העצמית" (an ethic of self-parochialization) שהציעה האנתרופולוגית סאבא מחמוד (Keane 2018). מדובר בנכונות לאתגר את העמדה המוסרית היקרה ביותר לליבנו כחוקרים וכחוקרות – זו המהווה חלק בלתי נפרד מזהותנו הגרעינית – וזאת, באמצעות ניתוח של עמדות מוסריות חלופיות ואף מנוגדות. מהלך של "קרתנות מתודולוגית" משמעו ויתור על עמדת הוודאות המוסרית של החוקר/ת כעמדת מוצא למחקר, והוא הכרחי לפתיחת המרחב הפרשני לעמדות שונות ואף מתנגשות.

    # 8. Bibliography

    [↑](#footnote-ref-23)