

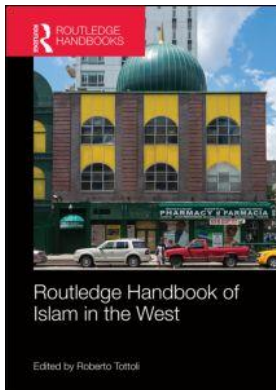
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Roberto Tottoli

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Francesca Forte

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Ethical questions in Western Islamic experience

Francesca Forte

In this contribution I focus on the current debate on fundamental ethical questions within the Islamic minorities of the United States of America. As the Islamic presence in the United States is extremely diverse and plural, both in ethnic and religious terms, and as it is a relatively old one (a fair chunk of the African American community chose Islam when they were able to self-determine their religious affiliation), the protagonists involved have to be clearly defined. In this context, getting a unitary picture may prove difficult. Besides, there is a problem of representation (who speaks on behalf of whom?). On the other hand, we are witnessing a unique workshop on coexistence and cultural mediation: in the USA, Muslims have to mediate between different positions and to tackle issues which are often absent in the public debate of many Muslim majority countries, particularly religious pluralism, tolerance and respect for different ways of living one's faith and for minority groups, matters of gender in the broadest sense of the word – not only rights of women but also of believers with a different sexual orientation – the human rights agenda, etc.

Given this context, I start analyzing the plurality of voices of American Muslim intellectuals and scholars who explicitly face the abovementioned ethical questions (human rights, gender, pluralism), and I give an account of the echo of their work within the Islamic community. I also make some brief notes on the comparison with the state of affairs and the intellectual debate in Europe.

Islam says nothing ... Muslims do

The dialectic between universalism, pluralism, and the problem of authority

When discussing social ethics and the way Western rights are perceived by the Islamic minority, the dialectic between universalism and pluralism with reference to Islam should be dealt with. This is a central theme in one of the most recent works of the renowned philosopher Martha Nussbaum (2012). Compared to the European context, the American model of integration and coexistence of minority groups, based on respect for and preservation of differences, on shared ideals of citizenship rather than rights and obligations towards the State, clearly reveals the urgency of the issue of the identity of minorities, particularly the Islamic one. After 9/11, the

fear of Islam exploded in the USA, and a reassessment of the models of integration of minorities has been required. For a part of the American public opinion, the attack on the Twin Towers has revealed that an actual *clash of civilizations* is taking place. Abou El Fadl, a scholar attentive to the changes within Islam and to radical and neo-fundamentalist currents, underlines that the premise of the Islam/West polarization is to be found in the undue association of some universal ethical values with one of the two parties:

The terrorist attacks are symptomatic of a clash between Judeo-Christian civilization, with its values of individual freedom, pluralism, and secularism, and an amoral, un-Westernized, so-called “authentic Islam.” Islamic civilization is associated with the ideas of collective rights, individual duties, legalism, despotism and intolerance.

(*Abou El Fadl 2002: 3*)

Islamophobia has caused an alarming restriction on freedom and civil rights (Patriot Act) which jeopardizes historical achievements. In order to preserve the American pluralist model, Nussbaum proposes distinguishing between constitutional principles, which guarantee equal freedom in religion, and ethical norms. The author hopes that Europe may start a serious reassessment of the guarantees of religious freedom, which represent a shared ground in the United States (shared even by Sarah Palin, as noted by the author herself). On the other hand, given the growing climate of Islamophobia after 9/11, a strong need for reassessment of its role in the public debate has emerged within the Islamic community, along with a reflection on the problem of authority and representation.

The key issue seems to be the conciliation or assimilation within the Islamic culture of values which are perceived as Western. On this matter, attitudes vary considerably; Amina Wadud, mostly known for her studies on women in the Qur’an and for her strong stance against male supremacy within the community, points out that the globalization of some Western values is one of the causes of the identity crisis in Muslims:

There’s no getting around it. Muslims have been struggling through an identity crisis not only as a consequence of colonialism’s infiltration and corruption of Muslim complacency, but also in response to the globalization of ideas like pluralism, Western secular human rights universals.

(*Wadud 2006: 187*)

In the agenda of the *Progressive Muslims* (Safi 2003), the problem of the universalism of ethical values appears resolved by the assumption that the Islamic framework remains the fundamental ethical reference, and that it is possible to find in it values which are identical to those expressed by Western secular culture. Gender justice, respect for human dignity in all its aspects, social justice, and democracy are values that are not unknown to Islamic culture; on the contrary they represent its accomplishment and its fulfillment. The critique of the arrogance of modernity, shared by postmodernism, requires a new interpretative effort – *ijtihad* – which takes on the need for change against the neo-fundamentalist currents that impose a closed and violent view of Islam. “Our agenda has to be both progressive and Islamic” (Safi 2003: 8): it is thus necessary to take a stance that can mediate between neo-traditionalism and a modernism that refuses the confrontation with tradition and takes on uncritically so-called Western values. The action of Muslim intellectuals who agree with this agenda should be rapid and firm; as children of their time (*ibn al-waqt*), Progressive Muslims are called to act against any form of discrimination and oppression (both direct and indirect). It is obvious that the premise of Omid Safi’s “manifesto”

is the idea that some fundamental ethical values are universal, although they are articulated in different ways by different cultures: while in the West respect for the dignity of human beings has been the achievement of a reason-based law (natural foundation of rights), for Islam it is a duty towards all God's creatures, thus a religious duty:

We do not grant this dignity to one another: it belongs to all of us simply because, as the Qur'an teaches us, all of us have the divine spirit breathed into us.

(Safi 2003: 26)

The author's emphasis on the necessary reference to Islam is clearly polemical against the intellectuals who exploit it only to spread typically Western ideologies (Marxism, socialism, etc.); Islam provides the fundamental ethical framework, and a dialogue with the religious tradition (an intense and open dialogue) seems the only way to bring about the change. The Islamic message of social justice requires a transformation of society by means of a renewed *jihad*:

For progressive Muslims, a fundamental for our struggle (*jihad*) to exorcise our inner demons and bring about justice in the world at large is to engage in a progressive and critical interpretation of Islam (*ijtihad*).

(Safi 2003: 8)

The relationship with tradition is fundamental in the definition of identity and of the political agenda, as it clarifies the approach to religion: while fundamentalists and the Wahhabi crystallize tradition as a transcendental and untouchable entity, Muslims who want to act for change consider tradition as something in progress which answers and adapts to the needs of those who make it and question it, since "Islam says nothing ... Muslims do" (Safi 2003: 22).

Criticism of such a rigid and essentialist idea of religious tradition, shared by the majority of intellectuals involved in the debate, has also been thematized by the African American intellectual Sherman Jackson, who writes about the need to unmask false universals, i.e. dehistoricized concepts such as those of *Islam* and *race*. In his seminal study on Blackamerican Muslims (Jackson 2005), the author makes an interesting methodological remark by referring to Ibn Taimiyya's critique of Greek logic: the Hanbalite theologian contrasted the Islamic concept of *fitra* (natural reason) with the ontological universals of the Greek philosophical tradition, by arguing Aristotelically that only the individuals are real. Ibn Taimiyya's critique aimed at showing the partiality of the Greek doctrine and of doctrines inspired by it, by referring to the value of the contingency of human experience and to an epistemology more open than the Greek logical paradigm.

This critique proves functional when applied to some contemporary false universals, such as the concept of Islam as something fixed and immutable in time and space: it is the religious idea maintained by the fundamentalist groups, and not only them, but also by immigrant Islam (as opposed to the indigenous Islam of black Americans). Jackson emphasizes that there is not a true and authentic Islam beyond the various forms it has taken throughout history: the problem of authenticity, then, is a false one, as it conceals logics of power and hegemony of a human group over other men. In the specific instance the reference is to the delegitimization suffered by the Islam of Blackamerican Muslims after the massive waves of immigration from the Middle East, starting from 1965. The aim of this methodological remark is to acknowledge the partiality of any point of view, be it that of immigrant Muslims or that of whites, in defining universal ethical standards:

The absolute man exists only as a mental concept. But the masterful conflation of this absolute human with the perspectives of the dominant group is what has established and sustains the power of white supremacy.

(Jackson 2005: 15)

As for the Blackamerican Muslims, the point at issue is not the acknowledgment of supposed Western values, which they helped to make universal through their fight against slavery and white supremacy, but the definition of religious identity in relation to the culturally dominant group (the immigrant Muslims). According to Jackson, the prospect for a third resurrection of the community is to “reconcile blackness, Americanness and adherence to Islam” (Jackson 2005: 19), and this can only be achieved through a reappropriation of the Tradition by Blackamerican Muslims. On the other hand, the basically open and anti-authoritarian features of the Sunni theological-legal tradition (infallibility of the community, flexible instruments of adaptation to various situations) give American Muslims the right and obligation to develop their own corpus of doctrines and to legitimate their positions by overcoming the self-alienation they found themselves in after immigrant Muslims had assumed religious authority.

Abou El Fadl, too, clearly defines the centrality of the issue of religious authority in order to get over the supremacist creed of the puritan groups. He underlines the fact that the contemporary Islamic world has experienced a considerable intellectual impoverishment due to the loss of centrality of the traditional religious authorities and a consequent *profound vacuum* (Abou El Fadl 2002: 7). In the past, religious authorities were relatively independent from political power and institutions were decentralized: theological-legal schools and doctrines developed all over the *dar al-islam*, and important figures such as the *fuqaha'* were acknowledged and respected. With colonialism and the birth of Nation-States the previous systems were replaced by centralized religious institutions which depended on governments, and pluralism ceased to be tolerated. Far from opening the gates to a renewal, the destruction of the institutions of knowledge and of the system of religious education has made room for a veritable anarchy where everyone feels legitimated to be the mouthpiece of Islam:

It was not so much that no one could authoritatively speak for Islam, but that virtually every Muslim was suddenly considered to possess the requisite qualifications to become a representative and spokesperson for the Islamic tradition, and even Shari'ah Law.

(Abou El Fadl 2002: 47)

S.H. Nasr, probably the most influential and best-known American intellectual in the Islamic world, reports the same danger: the Iranian-born author emphasizes that

anyone with an Arabic or Persian or Urdu or Turkish name can claim to be a “Muslim Thinker” ... There are many people who present themselves as authorities on Islam but are not.

(Nasr 2003: 75)

According to Abou El Fadl, to defeat the *cultural schizophrenia* to which contemporary Muslims have fallen victim, it is necessary to re-examine the tradition and to restore it against the temptation of bypassing it for a direct relationship with the – dehistoricized – sources. In this context the issue of historicity and of interpretative communities becomes central, as the sources are challenged by ever-changing points of view and answer moral standards which vary each time. Muslim intellectuals who criticize Islam from within in order to renegotiate the significance of religion in the contemporary world and to unmask the violent movements

which use it as a flag, are accused of a lack of loyalty to Islam and are seen as servile imitators of the West. All attempts at criticism from the inside are labeled false Western universalism, and *puritan orientations* consider particular values to be the cultural result of the West, without recognizing their validity. The weakness of such a perspective is the inability to perceive values as cultural and historical constructions to which all civilizations have contributed throughout the centuries:

this points to a basic and very serious fallacy, and that is the tendency, usually exhibited by religious fundamentalists and ideological purists, to presume that moral values have a pure lineage that can be precisely identified as Western or non Western. Whether Muslims or not, purists tend to classify particular values as squarely Judeo-Christian while others are Islamic.

(*Abou El Fadl 2003: 42*)

The theme of the universalism of ethical values provides a backdrop for a reflection proposed by Abdullah an-Na'im, a jurist of Sudanese origin and a pupil of the well-known reformer Mahmud Taha: the Islamic reform proposed by this intellectual goes through a complete reassessment of *shari'a* and moves from the assumption that human rights, as they have been codified by international treaties, have universal value. His plan is to integrate the human rights agenda into the Islamic ethical-legal framework, purged of all that is openly in contrast with these standards. Nevertheless, the universality of human rights cannot be imposed, but

has to be constructed through an internal discourse within and among different cultural and religious traditions, rather than simply proclaimed through International declarations and treaties. The objective of internal discourse is ... the deliberate promotion of cross-cultural consensus and solidarity on universal values.

(*an-Na'im 2005: 40*)

In conclusion, the debate appears lively and open, and in some cases the conciliation between Islam and Western values becomes a search for foundations and religious legitimation of ethical norms that cannot be considered the exclusive property of the West. In some other cases (Blackamerican Muslims) it is a matter of reconciling the typically Western way of life of the black community with the religious standards imported by immigrant Islam. Beside this, there are intellectuals such as an-Na'im who adopt altogether the universality and the validity of human rights: it is Islam that should adjust to ethical standards which are *de facto* universal (by means of a reform of the *shari'a*).

Global Muslims: a comparison with Europe

Within the debate on the universalism of ethical values, the main problem seems to be that of religious authority (who is entitled to speak in the name of Islam?), the characteristics of which in the USA vary considerably compared to the extremely fragmented European context.

While in the United States the division within the Islamic minority is between the African American Muslim community and that of immigrants from Islamic countries, the most apparent break in Europe is between different generations of immigrant Muslims, which has been described as a division between ethnic Islam and global Islam (Cesari and Pacini 2005).

The issue of religious authority emerges in Western contexts as appropriation of leadership in the religious community. In Europe, different forms of religious authority correspond to

different ways of experiencing the affiliation to Islam which have been developing on the Old Continent and which play a fundamental role in guiding believers' interpretations and in spreading a certain image of Muslims. We are actually witnessing the making of a new cosmopolitan elite (often educated in European universities) capable of meeting the requirements of the new believers (young people of the second and third generation who experience a deterritorialized Islam). One of these personalities who has become very popular with young European Muslims is the naturalized Swiss intellectual Tariq Ramadan, grandson of Hasan al-Banna. The problem of authority emphasizes that of the transmission of knowledge: who can convey the theological-religious knowledge required by the young Muslims (Ramadan 2003)?

The break within the Islamic community in Europe is predominantly generational, and two forms of religious affiliation can be distinguished: the former, mostly practiced by first-generation immigrants, is characterized by an ethnically differentiated adherence. This is why ethnic groups show a tendency to form communities whose habits are modeled on those of their home countries, and their religious practices are often mixed with and influenced by territorial traditions. This kind of religious adherence does not satisfy the religious needs of young people born or educated in Europe, or their search for identity. The answers to ethnic Islam are several: on the one hand a form of *secularized Islam* comes to the fore, which provides for the individualization of the religious-ethical sphere (faith is primarily seen as a private matter, not communal or a matter of identity); on the other hand there emerges a form of orthodox Islam which in its turn is articulated in *cosmopolitan Islam* and *fundamentalist Islam* (Cesari and Pacini 2005). In both cases ethnic Islam is overcome in favor of a religious affiliation experienced as global: the loss of power of national identities brings back the *ideal of the community of the faithful (umma)*, even if only imagined or dreamed of. It is a kind of deterritorialized identity which coexists with other types of affiliation on the local level (political affiliation, associations, etc.). For young people of the second generation this type of religious affiliation, which purifies the message of faith of the elements of territorial tradition, provides a more convincing answer to their theoretical and identity needs.

The *globalized Islam* practiced by global Muslims (Roy 2002) leads to a *search for authenticity*: when the religious element is deterritorialized and loses its dimension of social norm (which is very evident in their home countries), it leaves room for a more intimate and authentic adherence to religious principles. A globalized Islam, which uses the web to communicate and to create transnational links among associations and believers, witnesses an uncontrolled proliferation of interpretations and readings of the doctrine. This interpretative anarchy is deplored by, amongst others, Abou El Fadl: without an authority which acts as the mouthpiece of orthodoxy, there is room and legitimation for the most diverse interpretations.

Although it shares similar problems, the context in the United States is different. Here immigrant Islam has made religion the basic identity element from the very beginning, leaving ethnic affiliation in the shade, while the African American community seems more attached to ethnic-racial identity. As Wadud clearly emphasizes, this element represents a factor of great division within the Islamic minority: the indigenous (African American) element came into contact with Islam through the experience of liberation from slavery and the relationship with *black religion*; blacks share a past made of struggles for liberation, and affiliation to the black community (beyond faith divisions) is a basic element of self-representation. Moreover, they feel part of American history, of which they have been active protagonists by contributing to the making of the modern idea of citizenship based on civil rights:

African-American Muslims are intimately linked with other Americans through the history of horrific racial slavery in the Americas and with the development pains of American

pluralism in the period of Civil War, through the civil rights movement, and even up to the present. As a part of their collective heritage, slavery links all African-Americans, not just African-American Muslims, in a unique way and affects our identity and relationship to America.

(Wadud 2003a: 280)

The definition of citizenship current amongst the immigrant Muslims, for whom religious identity prevails over ethnic identity, is different. This globalized Islam emerged especially with the migration waves of the 1960s and 1970s, and corresponds to the assumption of leadership of the Arab element, which arose also through the creation of national organizations (the most influential being the Muslim Students' Association, followed by many others). The making of this global Islam seems to be a direct consequence of the failure of Arab nationalism and of the struggle for liberation inspired by Third World movements. Besides, the massive funding by Arab monarchies of rigorist and puritan movements which promote a strict interpretation of Islam has contributed to the creation of this break within the Islamic minority in the United States.

Human rights in the Islamic agenda

The modern idea of human rights spread by the United Nation Charter of 1948 – and subsequent international treaties – presents two basic characteristics. It is universal and secular: universal, because it affirms rights and obligations which concern any human being (regardless of religion, race, sex, etc.); secular, because of the non-recognition of any religious base or legitimation for the rights. The debate which has always accompanied the signing of these international documents is linked to their true universality and to the fact that they have been built on the model of the Western white man, spreading values of the individualist and liberalist societies where they were born (Mutua 2001).

The theoreticians of universalism of rights (Ignatieff 2001) justify it on the basis of natural law, whose theoretical origins date back to Greek thought, although it is closely connected to the Roman concept of *jus gentium*. Natural law is based on the abstraction of a universal (cross-cultural and transhistorical) human nature and on the idea of the knowability of this nature without resorting to any kind of superior source (revelation or mystical intuition), with only the use of reason, another concept supposed universal and universally intelligible. Culturalist critique has expressed some perplexity about the value of individualism inherent in the international charters, which apparently contradicts the historical role that other cultures attach to the individual within a community (Cowan et al. 2001). Moreover, there is the risk of disguising, behind the exportation of rights and democracy, a precise, capitalist, economical-social model founded on rampant liberalism.

The Islamic world has been an active protagonist since the beginning (1948), expressing criticism and doubts: it has found a degree of common cause with the supporters of so-called Asian values (Dallmayr 2002), but it has above all intervened with regard to the issue of the foundation of rights, beginning from a different concept of law.

For Islam, religious law sets the limits of human intervention, with the purpose of protecting God's rights (to be worshipped, glorified, etc.) and to limit man's absolute freedom to act, by subjecting him to constraints with regard to other men. If man's rights are those established by God through revelation, they are evidently not natural, but mediated by the revealed word, or, rather, they are inborn to man as such, but mediated by revelation, therefore they concern the Muslim subject (the person who has access to Qur'anic revelation, who chooses to submit to

the only God, etc.). This weakness in the notion of natural law makes it difficult for Islamic juridical thought to accept the concept of human rights which has become established in the West. Starting from these premises, several Muslim intellectuals have tackled tradition in order to trace a distinctive Islamic path towards human rights which, though not admitting a natural law basis, can find in some concepts of classical theology or in the reform of religious law the elements necessary to open up towards a modern idea of law, and the possibility of establishing a distinctively Islamic space for human rights.

I will now examine some particularly significant voices in the contemporary debate in the United States: first, the proposal for a reform of *shari'a* made by an-Na'im as long as twenty years ago and subsequently developed into a *cross-cultural perspective*; then the issue of rights with reference to gender, on the one hand taking into consideration the proposals of authoritative Muslim women scholars (Wadud, Mattson, Simmons) for a new reading of tradition which favors women's empowerment, and on the other hand analyzing the (still isolated) attempts at interpreting the sources with a particular attention to the rights of homosexual people in Islam (Kugle).

The proposal of Abdullah an-Na'im

Jurist of Sudanese origin Abdullah an-Na'im is one of the contemporary intellectuals who have proposed a systematic reflection on the relationship between Islam and human rights. His reflection has been inspired by the hermeneutic proposal of Mahmud Taha, a Sudanese political activist and thinker executed in 1985 by the dictator of Sudan Nimayri (an-Na'im 1988): an-Na'im's discourse can't be understood without considering Taha's proposal of reading the sacred text of Islam by means of new interpretative tools.

According to Taha, *shari'a* remains the basic cornerstone which should inspire the Islamic peoples' actions, but it is a *shari'a* reinterpreted in the light of a new exegesis of the sacred text: it does not propose a weakening of the divine character of the law or its reduction to ethical principle (as his pupil will actually do); on the contrary Taha wants to affirm the divine origin of religious law, thus respecting its universal message. Its weakening is, instead, caused by a strict use of it, which does not consider its malleable and changeable character or its adaptability to all kinds of contexts.

Starting from this exegetic principle, an-Na'im embarks upon a road of reconciliation between Islam and human rights, accepting the assumption of the existence of universal values which can be and have to be integrated into differing cultural contexts. The Sudanese jurist goes so far as to deny the divine character of *shari'a*, emphasizing instead its completely human nature (as a result of man's interpretation and elaboration). Actually, in an-Na'im's proposal *shari'a* becomes an extralegal principle, a set of criteria regarding justice to which the norms of a positive legal system can be related.

Through a revival of *naskh*, the science of abrogation, an-Na'im advocates that the verses linked to the historical context of the first centuries (in practice the Medinan verses) are abrogated by the most universal ones (the Meccan ones), where there are fewer prescriptions which contrast with modern international human rights standards. He therefore proposes a new *ijtihad* (interpretative effort). Understanding who can claim such a task, which has been codified very precisely in classic law, remains a problem. An-Na'im takes up the challenge posed by Islam: everybody can question the text and carry out *ijtihad*, there is no dogma in Islam, and every believer should be allowed to directly approach the texts, so the Islamic community becomes an interpretative community in the true sense of the word. However, this attempt at reform encounters opposition even from those Muslim intellectuals who work on integrating human

rights into the Islamic context: Ahmad Moussalli questions an-Na'im's choice of making a "minor" concept such as abrogation the methodology for changing the law, thus neglecting more important doctrines such as *shura* (consultation) and *ijma'* (consensus) to expand the historical meaning of *shari'a*. In practice an-Na'im considers historical *shari'a* unreformable and he takes it only as an ethical principle to be integrated into a secular normative context (Moussalli 2001: 8).

This interpretation of *shari'a* as an extralegal principle rather than a positive set of norms is (as has been said) functional to an integration of human rights into the Islamic cultural context, and, starting from reflections specifically regarding Islam, an-Na'im proposes an interpretation of human rights from a cross-cultural point of view, in order to overcome the opposition these might face in contexts different from the Western one:

The universality of human rights should be seen as a product of a process rather than an established given concept and specific predetermined normative content to be discovered or proclaimed through International declarations and rendered legally binding through treatise.

(*an-Na'im 2003: 2*)

Legitimation of the universal value of human rights can only be achieved through interaction and assimilation of these rights by the culture and values of a particular society, and in no way can it be imposed from above:

The difficulty in achieving agreement – agreement among all communities – or a single foundation for human rights indicates that we should promote instead an overlapping consensus among multiple foundations.

(*an-Na'im 2005: 57*)

The universal applicability of human rights implies their universal value within religious and philosophical cultural traditions. If the individuals do not accept these rights as binding from a cultural, religious, or philosophical point of view, they will never voluntarily conform to them in practice, nor will they ask their governments to respect and promote them in the execution of their official role. An-Na'im considers interdependence between human rights, religion, and secularism to be the cornerstone to promoting rights culture in differing contexts:

Legitimizing human rights in local cultures and religious traditions is a matter of vital importance for the survival and future development of the human rights paradigm itself. Religions must be also encouraged, from within, to provide moral underpinnings for fresh development of the paradigm in order to address emerging issues in differing contexts. The contribution of secularism to these critical developments must be provided the political stability and communal security essential for negotiating a unique dynamic relationship between human rights and region in every setting internationally.

(*an-Na'im 2005: 68*)

According to the Sudanese jurist, it is possible to find within each cultural tradition a set of fundamental and universally shareable values where the original core of basic human rights can be recognized. The next step should be that of expanding this original nucleus, considering it not as a target but rather as a starting point for the elaboration of a real process of universalization.

In the specific case of Islam, *shari'a* itself, considered as an extralegal principle which should inspire positive law, and not a set of unchangeable norms, represents a resource within such a specific cultural context for integrating human rights values.

Shari'a, or rather its traditional interpretations, presents elements which are explicitly in contrast with human rights (male guardianship of women – *qiwama*; sovereignty of Muslims over non-muslims – *dhimma*; and violently aggressive *jihad*). It is thus necessary to reassess the interpretation of religious law in order to make it an instrument of promotion and protection of rights:

Significant Islamic reform is necessary to reformulate such problematic aspects of *shari'a*, but should not and cannot mean the wholesale and uncritical adoption of dominant Western theory and practice in these fields.

(*an-Na'im 2008: 337*)

For example, the traditional concept of *dhimma* may evolve into a coherent and human principle of modern citizenship by referring to the Islamic principle of reciprocity (*mu'awada*), also known as the *Golden Rule*; this example shows that it is possible to find within the Islamic tradition the foundations for the promotion of a rights culture (an-Na'im 2010). An-Na'im's proposal of reform implies, therefore, the acceptance of a secularized legal context as a framework where every religious and cultural tradition may contribute to developing an ethos of rights and coexistence. The rational foundation of human rights is not questioned, while *shari'a* is weakened; this appears, in the view of the author, as a result of human exegetic practice:

[*shari'a* is a] product of a very slow, gradual and spontaneous process of interpretation of the Qur'an and collection, verification and interpretation of Sunna during the first three centuries of Islam.

(*an-Na'im 2008: 325*)

Gender issues

The gender *jihad*

The debate on women's rights and Islamic feminism in the USA, which involves various American women scholars who have been acting in the front line against gender discrimination in American society, and particularly within the Islamic minority, deserves specific attention.

The theme of the relationship between Islam and gender appears a very delicate one, as it risks leveling out differences experienced by Muslim women depending on the country they live in, the ethnic group they belong to, or their social status. Nevertheless, there are Islamic specificities demonstrated by the fact that in Muslim majority societies, and within religious minorities in the West, women's subordinate position is somehow favored by the religious element: religion plays an important part in defining and maintaining the position of gender roles (social constructions) and it often provides a justification for these roles. This is why introducing a female point of view in the field of theological studies, which has traditionally been a male prerogative, appears so important: Islamic feminism in all its forms intends to make the religious element and the new reading of the texts of tradition a factor of empowerment for Muslim women, in order to overcome social traditions and patriarchal and sexist habits, which have been unjustly associated with Islam. Scholars such as Amina Wadud (1992, 2003), Asma Barlas (2002), Khaled Abou El Fadl (2001), and Ingrid Mattson (2008) have opened new

hermeneutic spaces for Qur'anic exegesis and proposed corresponding interpretations of *shari'a* and religion-based law to promote gender justice.

Against the criticism often directed towards these interpretations, which are accused of being excessively related to the personal experience of those who practice them, the African American scholar and activist Gwendolyn Simmons refers to the authority of Abd al-Karim Souroush, who talked of *experiential basis of religious knowledge*. Nevertheless, it appears undeniable that there is a textual basis for the sexist readings of the Qur'an: as an-Na'im has shown, it is not a matter of denying the discriminations present in the *shari'a*, but rather of considering them inapplicable to the modern context. This has already happened for the legal institution of slavery:

Just a few Muslims would publicly advocate a return to the historical accepted practice of slavery, Muslims should no longer advocate discriminatory treatment of women. Muslims must begin to find such discrimination in all of its form as abhorrent as slavery.

(Simmons 2003: 208)

Therefore a new Qur'anic hermeneutics which encourages women's empowerment appears necessary in order to reform not only Islamic societies, but also Muslim communities in the West. The American context is particularly interesting from this angle, and extremely varied. American women are often subject to a twofold discriminatory system: on the one hand, as women, they are subject to forms of discrimination within their communities, and do not have the instruments to appeal to American law, which protects them to a larger extent; on the other hand, as Muslims, after 9/11 they are seen as foreigners and dangerous. Besides, in the case of African American women there is also ethno-racial discrimination. Nevertheless, as Wadud (2006) emphasizes, in the USA women and Muslim believers in general show a more direct approach to the sacred text and religious sources: it is a quite unique condition, as the traditional interpretative apparatus which usually mediates between the faithful and the text is full of patriarchal and sexist readings. It is therefore a privileged position for embarking upon a new hermeneutics of the text in line with the requirements of modernity. However, as Abou El Fadl points out, this condition can prove dangerous because it may generate an uncontrollable *interpretative anarchy*. To avoid this risk, priority should be given to a historical perspective which clarifies the way in which some reforms have been introduced in existing contexts: historical contextualization allows one to see the progressive realization of the ultimate goal of *shari'a* – that is, social justice (Wadud 2003b: 193) – and to overcome the sexist point of view. Wadud therefore considers Qur'anic hermeneutics the necessary instrument to transform Islam from within, in order to recreate the relationship between Muslim men and women on an equalitarian basis. However, this is not sufficient and should be integrated with the implementation of social reforms. If it is true that Muslims cannot rewrite the Qur'an, because it is considered God's word, they can rewrite the law, *shari'a*, through *fiqh*. Moreover, it is a real duty:

by rewriting legal codes, through distinguishing their sexist reflecting, we can achieve an Islamic reality more meaningfully reflecting Qur'anic principles in an harmonious equilibrium.

(Wadud 2006: 205)

An interesting voice in the debate is that of the current president of the Islamic Society of North America (ISNA), the Canadian-born convert to Islam Ingrid Mattson. Just like Wadud, she does not define herself as a feminist because this word has too many connections with Western colonialism; moreover, its use might delegitimize her stances in the eyes of the Muslim

community. Her reading of the Qur'an and of early Islamic history is not explicitly characterized by claims of gender equality, but the way she takes various ethical issues of the text shows her willingness to find in it the foundations of justice for women (Mattson 2008: 3). This scholar directs her attention to the way the revelation was inserted into the context of pre-Islamic Arabia, amending many discriminatory practices against the weakest subjects, women in particular; in the same way, the life of the prophet Muhammad is read with an emphasis on his positive and respectful attitude to women and to their role as religious guides in the early years of the community. One of the themes that unite Wadud and Mattson is indeed the reflection on female religious authority in historical and contemporary Islam; while Wadud made a strong gesture by breaking the taboo of leading the Friday prayer in front of the faithful in 2005, Mattson shows a more moderate approach and brings the question into the wider debate of religious leadership in Islamic communities by referring to the sources of the law:

The majority of legal schools consider it “recommended” (*mandub* – a technical term indicating a religiously meritorious act) for women to pray together in congregation with one of them leading as imam, if they are not praying with the general (i.e., male inclusive) congregation.

(Mattson 2009)

The scholar's conclusion is an appeal to the American Islamic community in its entirety to encourage an increase in and the spreading of religious education among its members, and also an appeal for the emergence of a leadership which represents and embraces its different components.

Fundamentalists and secular feminists do not share the premises of these exegetic approaches to the Qur'an and to tradition, as shown by the criticism and perplexities posed by a female scholar of Iranian origin, Haideh Moghissi:

How could a religion based on gender hierarchy be adopted as the framework for struggle for gender democracy and women's equality with men?

(Moghissi 1999: 126)

In the opinion of this scholar, religious Islamic law is based on explicit discrimination against women and minorities and for this reason cannot possibly provide the legal framework for promoting the rights of these categories of individuals. Why is Islamic feminism proposed nowadays as the only, and most authentically indigenous, ground on which the demand for women's rights can take root in Muslim societies? According to Moghissi, the problem lies in the fact that the secular discussion on the promotion of gender equality has been discredited as elitist, modernist, or white and pro-Western, delegitimizing every critical view.

It should not be forgotten that active feminists are divided in relation to their political orientations: an authoritative voice in the debate, that of the Egyptian writer Nawal El Saadawi, starting from an openly Marxist position, criticizes those feminists who do not take into adequate consideration class affiliation and access to economic resources as central elements in the subordination of Muslim women. It is a matter of what she defined a *double consciousness*, generated by subordination to and participation in the system of economic globalization and by imperialism, on the one hand, and religious conservatism, on the other: what is lacking is a strong political awareness which shows women that the systems of power (economical and patriarchal) are closely connected.

Compared to the United States, the European debate on Muslim women's rights appears more centered around the problem of the political model with respect to minorities: apart from Great Britain, where there is a model of strict multiculturalism, in other European countries the policy of integration of minority groups is still to be defined.

One of the issues which is being debated is the protection of cultural rights (including religious differences), which might confine women within consolidated discriminatory mechanisms. In Western democracies (particularly in the USA) multiculturalism has become the dominant theoretical approach to the theme of relationships between State and minority communities. This position, however, with its insistence on the necessity of respecting and tolerating diversity and differences, hides some problems which have been highlighted by some feminist scholars (Moller Okin 1999); the discussion on multiculturalism often tends to consider minority groups as homogeneous realities with no differences of class or gender. Therefore, power relations within the group, which originate precisely in the existence of such differences, are not recognized. In addition, this model can prove anti-democratic if the relations between state and minority groups are mediated by leaders who were never elected by anyone, who are men, and who are generally affiliated to socially conservative circles. The majority of these people come from the religious world, whose main interest is the protection of the family and of traditional values.

The so-called *affaire du foulard* stirred up in France by a ruling of the Council of State which in practice forbids girls to wear the veil at school (Gaspard and Khosrokhavar 1995) typically represents the approach adopted by part of the States of the Union: the state intervenes to impose in the public sphere a kind of autonomy and equality greater than those apparently required by the concerned subjects themselves (Muslim girls), precisely referring to the dangers inherent in the culturalist model (Lévy and Lévy 2004). The French case has triggered a long and very lively debate in Europe, and the position of the well-known intellectual Tariq Ramadan seems to summarize the contradictions of the French choice: *if imposing the use of the veil is against Islam, forbidding it is a violation of human rights*.

We thus go back to the initial question: to what extent can different habits be tolerated without threatening the identity, and without considering violated the principles of equality and freedom of the individual which underlie the Western democracies? According to Nussbaum, the problem stems from the ideals of citizenship and of national identity, which in Europe have been built on an alleged cultural, linguistic, ethnic, and religious uniformity rather than on the sharing of ideals and political struggles (as in the USA, India, and Australia). In addition to approving of the multicultural model practiced in the USA as an instrument for the real promotion of equality and rights, Nussbaum's judgment points out the difficult definition of the model of integration of minority groups in Europe, particularly the Islamic minority, whose customs and habits apparently increase the fear of differences, bringing back old Orientalist prejudices.

A sexuality-sensitive interpretation

To complete the picture of the American debate on gender issues, we should mention the studies of Scott Siraj al-Haqq Kugle on the Islamic culture's vision of homosexuality, and in general on the approach of Islamic sources to different sexual orientations. In the wake of feminist exegesis of the Qur'an, the American scholar hopes for a new *ijtihad*, which can introduce a more balanced perspective with regard to sexual orientation, as can be verified in the sources and attested to by Islamic history, rejecting as inauthentic sexist and patriarchal readings which present the heterosexual point of view as the only possible one. Kugle mentions

a project in progress that so far has only been started and that requires huge interpretative work and an in-depth philological study of the sacred sources as well as of early Islamic history. The scholar starts from two basic assumptions: the positive vision of sexuality in Islam has been universally acknowledged, because it is linked to a form of spirituality and because sexual pleasure represents a positive element in itself; besides, the Qur'an, as shown by studies on pluralism in Islam, proclaims diversity as a value (cf. Qur. 49:13), and this can include gender relationships:

With the Qur'an's vivid portrayal of diversity at so many levels of the natural and human world, it would be logical to assume that this diversity of creation plays out on the level of sexuality as well.

(Kugle 2003: 196)

Amreen Jamel was the first to attempt a *sexuality-sensitive interpretation* of the Qur'an, as Kugle himself defines it, with his new reading of the story of the prophet Lut (Jamel 2001): in short, the story of this prophet does not appear centered on sexual acts at all, but rather on the meaning of his prophecy to the inhabitants of Sodom; there emerges a question of social ethics in Qur'anic history, and the divine condemnation of the city's inhabitants is due to their lack of generosity and to their failure to respect the sacred duty of hospitality towards foreigners (the weak subjects), rather than to their sexual acts. On the contrary, subsequent legal tradition has interpreted these Qur'anic episodes in order to prohibit and condemn homosexuality, although the same cannot be said of the whole intellectual history of Islam, where illustrious examples of authors and scholars who have shown a great sensitivity and respect toward all kinds of love relations can be found:

As Ibn Hazm demonstrates many Muslim authors, ethicists and intellectuals saw hetero- and homoerotic love as being equally love.

(Kugle 2010: 27)

The scholar proposes to start from Jamel's reading and to analyze the ancient sources, especially the literary genre of stories of the prophets, which are less strict than traditional *tafsir*, to show that it is far from certain that homosexuality was condemned at the time of the Prophet and in the early years of Islam. On the contrary, in Muhammad's life there is no trace of acts of violence or condemnation against people with a different sexual orientation, although these can be found in later traditions. The aim of Kugle's research is

to separate what is imposed by culture from what is essential to faith, on the one hand, and to sift what is essential to faith from what is enshrined in religious tradition, on the other hand.

(Kugle 2010: 3)

It is a hermeneutic project that is in continuity with the feminist exegesis of the Qur'an, to overcome the sexist and androcentric reading of the text, as well as with the attempt to release faith from the shackles of tradition and to propose a renewed approach to Islam. As Kugle himself points out, the process has only started, and it should be developed further in order for the political potential of sexual, emotional, and intimate life to emerge.

Conclusion

The path outlined in this contribution began with the aim of giving an outline of the American debate on some ethically sensitive issues, and to make a comparison, where possible,

with the European situation. For this reason, the first part has attempted to place the debate within a theoretical framework: through an analysis of the dialectic between pluralism and universalism, the assumptions and positions of some Muslim intellectuals with respect to the possibility of integrating so-called Western values within the Islamic framework have been clarified. While an intellectual such as Abou El Fadl has devoted various studies to the concept of tolerance and pluralism in the Islamic tradition, with the purpose of delegitimizing supremacist-puritan interpretations, Omid Safi proclaims the need for a new *jihad*, which Progressive Muslims have the duty to fight in order to renew the tradition and to achieve social justice, the ultimate goal of the Islamic message. On the other hand, the African American scholar Jackson warns against so-called false universals, stressing the need for a reappropriation of tradition by African American Muslims (Blackamerican Muslims), in order to make it a factor of empowerment within the Islamic minority as well as in the whole of American society. A central theme in this debate is that of religious leadership, a historically complex issue in Islamic culture, which is even more difficult to define in contemporary Western societies: it is necessary to rediscover pluralism and to abandon the strict vision of tradition of the radical groups (Abou al-Fadl), considering Islam as a set of diversified practices, expression of different interpretative communities. The same question has been debated in Europe with respect to the leadership of the community for the new generations of Muslims (Ramadan): the problem here is to find a leadership suitable for the new deterritorialized Islam experienced by young second- and third-generation Muslims who reject the ethnic Islam of the first immigrants.

The second part of this contribution focused on some specific questions of social ethics: in particular, I have tackled the issue of human rights on the Islamic agenda and, within this framework, the issue of the rights of women and of homosexuals. So-called Islamic feminism now has numerous women scholars who have devoted themselves to the exegesis of the Qur'an, tackling the issue of gender equality (Wadud, Barlas), or who work to bring out within Islamic history and tradition the often neglected role of women as religious guides (Mattson). Although an interpretation attentive to emotional and sexual aspects in its entirety is still to be defined, these studies are multiplying (Kugle). It is an extremely complex and varied picture; the plurality of voices examined represents just a small part of the intellectual debate, but the opinions of men and women active in the religious community, but who lack a recognized academic production, have had to be excluded. Nevertheless, the sensitivity of the authors who have been taken into account and their active role within the academic and religious community have made this gap less obvious, respecting as far as possible the idea that

when we speak about the meaning of Islam today, we are really talking about the product of cumulative enterprises that have generated communities of interpretation through a long span of History.

(*Abou El Fadl 2003: 39*)

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