THE LIMITS OF POPULISM: ACCOMODATIVE HEADSCARF POLICIES IN AUSTRIA, DENMARK, AND THE NETHERLANDS

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INTRODUCTION

While ‘multiculturalism’ was once positively associated with a political ideal of a diverse society, Europe has in the past years witnessed a backlash of multiculturalist discourses and the rise of political actors that call for a reduction of or even a stop to immigration. In public debates the idea that immigrants have a right to maintain their culture is replaced by the idea that some cultures contradict with liberal universal values, and many countries have therefore introduced stricter immigration rules and obligatory civic integration tests for immigrants. Cultural diversity is no longer regarded as an asset, but as a problem for social cohesion and collective identity. In particular, Islam and immigrants from Islamic countries are often perceived as posing a threat to Western European societies defined by liberal values such as individualism, secularism, and gender equality (Parekh 2006; Joppke 2007; Zúquete 2008; Betz & Meret 2009). The Netherlands shifted from a multicultural approach to assimilation (Entzinger 2005). Likewise, Denmark moved towards one of the most restrictive European immigration and integration laws (Mouritzen 2006), while Austria has never considered itself as an immigration country and already had an exclusive approach towards the rights of immigrants, which has even been strengthened in the last years (Mouraõ Permoser & Rosenberger 2009). In particular, right-wing populist parties have been engaged in politicizing Islam and Muslim immigrants, stigmatizing them as the alien and backward

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‘other’ (Zúquete 2008). Most notably, veiling has been portrayed as a sign of the oppression of immigrant women and, eventually, restrictions on the wearing of the Muslim headgear have been claimed by both the radical right and feminists alike (see Lettinga/Andreassen in this volume). In some countries, this change in attitudes and policy positioning went together with a change towards more restrictive measures regarding veiling (see chapter XY in this volume), but it did not in others. Decision makers in Austria, Denmark and the Netherlands, three countries with very electorally strong radical populist parties, took a different path. Despite increasing politicization of immigration and Islam, these countries continue to pursue an accommodating veiling policy.1

This paper explores the structural and discursive factors which influence the continuity of accommodating veiling policies despite heavy populist challenge for restrictions. Focusing on specific policy decisions in Austria, Denmark and the Netherlands, we identify and discuss both institutional arrangements and frames of references within these three countries which are similar in regard to the major independent variable, the strength of populist parties proposing an anti-veiling agenda. The puzzling question examined in this chapter is how it can be understood that despite the increasing political contention over immigration and Islamic issues, policy makers in these three countries stand out among our eight cases of the VEIL project as having kept to their accommodating policies regarding the wearing of headscarves in the public realm (within the time frame from 1990s to 2004). For clarification, we define accommodating policies as policies that explicitly allow wearing the headscarf in public institutions (schools, universities, health care institutions).2

In our search for an explanation we will investigate the underlying mechanism of the political debate on veiling that preceded policy formation: We assume that policy outcomes depend on
configurations of political power (e. g. the governmental status of political parties) and to a large extent on long-standing institutional arrangements (in our case the relationship of religion and politics). It is expected that political decisions follow a path dependency in this respect, which leads to the argument that the demands for policy change launched by populist parties are confronted with institutional limits to challenging and mobilizing against rights of immigrants and their religion (Fetzer & Soper 2005). Moreover, our research is led by the idea that in order to explain policy outcomes we must reflect upon the discursive construction of social problems in the political sphere by political actors, whether as constituting policy or as communicating (or even legitimizing) (future) policy. Translated to the subject at hand, this means that we expect the important factors to explain the continuation of accommodating regulation of headscarves in Austria, Denmark and the Netherlands to be: the established state-church relationship, the status of the given populist party within parliament and government, prevalent political principles with respect to anti-discrimination and equality, and whether debating the headscarf issue is aimed at communicating and legitimizing restrictive immigration policies or producing policy change within the area of religion and politics. By comparing three countries with similar policy outcomes, we identify which factors are most relevant for explaining the accommodating policy in these countries.

The paper is structured as follows: the following section describes the accommodating policies and explores how these policies became contested by populist parties; the next and central section comparatively analyses how and why accommodating policies stayed in place, that is what the institutional and discursive limits of populist parties are; and the final section summarizes and concludes the analysis.

ACCOMMODATION DESPITE POPULIST CONTENTION
The year 2004 was a remarkable year in the history of policing the headscarf. It was the year the French law banning any ostensible religious symbols in public schools was passed. Yet, in the very same year Austria, Denmark and the Netherlands (in different ways) all confirmed pro-veiling policies. The Austrian Federal Ministry of Education and Culture issued an administrative decree confirming that the wearing of the headscarf by Muslim pupils is a religious clothing instruction and is, therefore, protected by the freedom of religion as enshrined in the Basic State Law and by Article 9 of the European Convention of Human Rights (A40). In addition, it stated that school bodies are not entitled to interfere into subjects which belong solely to the sphere of governance of religious organizations, as the headscarf is considered to belong to that sphere. Also, in spring of 2004, the populist anti-immigration Danish People’s Party presented its first motion to “prohibit culturally determined head coverings” of public employees in Parliament. This proposal was, however, rejected by all other political parties as it would violate the right to religious freedom protected by Article 67 of the Danish Constitution as well as Article 9 of the Human Rights Convention. Finally, in the same year, the Dutch government issued a policy report in which it institutionalized the right of women to express their faith by covering their hair in regular public service functions and in public schools. It thereby confirmed the standing practice that public officers may wear a headscarf provided that the clothing does not form a safety risk, as might be the case with certain gym exercises, or blatantly harm the officer in fulfilling her function. The only public functions for which the government did consider it legitimate to restrict this right were the police force and the judiciary because, according to the government, these jobs required that they avoid all appearance of partiality. All accommodating policy statements were made in a period during which veiling was already a contested issue in all three countries. They were a re-assertion of accommodation in the face of contention.
The political landscape of Austria, Denmark and the Netherlands is characterized by strong populist radical right-wing parties with a relatively large electoral base. In 1999, the Freiheitliche Partei Österreichs (FPÖ, Freedom Party of Austria) attracted 26.9 per cent of the vote in general elections, coming second behind the Social Democrats; in early elections in 2002, the party gained 10 per cent of the vote (Luther 2005). In Denmark the Dansk Folkeparti (DFP, Danish People’s Party) won 12 per cent of the vote in the general elections in 2001 and became the third largest party, providing the parliamentarian support for the new liberal-conservative government coalition. In the Netherlands the Lijst Pim Fortuyn (LPF, List Pim Fortuyn), named after its founder who was killed by an animal rights activist nine days before the elections, gained a vote share of 17 per cent in the parliamentary elections of 2002, thereby becoming the second largest party in the country. What these parties, often labeled as radical populist parties with regard to their exclusive communication style and ideological positioning (Mudde 2007; D’Amato & Skenderovic 2007) have in common, among others, is their opposition to immigration in general and to Muslim immigrants in particular.

Having highlighted the strength of the radical populist parties in the three countries at the time of policy making, we turn to the broader framework in which populist parties started to contest the right to wear a headscarf. In Austria, the administrative decree, emphasizing that wearing a headscarf in schools is a religious right, was initially triggered by a controversy in a junior high school about a veiled pupil in 2004. The headmaster of the school had instituted a general prohibition of head coverings to which the father of the Muslim schoolgirl objected. When the regional school council declared that a prohibition was unlawful because of the right to express religious freedom, the conflict was solved very quickly as the pupil was
permitted to attend school wearing a headscarf. Despite this quick settlement of the dispute, in order “to prevent discrimination for Muslim girls” and “to make aware of the legal situation,” the officially recognized representative body of Muslims, the Islamic Religious Community in Austria (IRCA), pushed the Federal Minister of Education and Culture to clarify that the headscarf is identified as an expression of religious freedom by launching a decree. In the beginning, the minister was hesitant to issue a decree, arguing that the principle of religious freedom is already enshrined in the Austrian constitution. Finally, the minister agreed with the president of the IRCA on a respective action (Gresch et al. 2008). Both the minister and the representatives of the IRCA continuously framed veiling as related to religion; no reference was made to migration or integration. Most notably, this decision was taken during a period in which the Austrian Freedom Party was an influential political actor both in government and parliament. After its electoral gain in 1999, it moved into a coalition government with the Christian conservative Österreichische Volkspartei (ÖVP, Austrian People’s Party), which lasted from 2000 to 2005. The FPÖ began its campaign against Islamic issues already in 1999 and took up the debate against the headscarf in 2003 in the context of the French and German debates (A24). Yet, what is most remarkable, the FPÖ refrained from protesting against the headscarf decree issued by a ministry held by its coalition partner, the ÖVP. In 2004, the party introduced an anti-Muslim mobilization strategy on regional levels but not on the federal level. At this time the topic was taken up by the then Viennese FPÖ leader, Heinz-Christian Strache, who called for a comprehensive ban on veiling by civil servants in all public buildings, especially schools and universities. The headscarf was marked as conflicting with religious neutrality and viewed as being rather a political than a religious symbol, contradicting with gender equality (A23; cf. also A20; A21; A22). It was only in the wake of the split in 2005 of the FPÖ into two parties, the Bündnis Zukunft Österreich (BZÖ, Alliance for the Future of Austria) and the FPÖ, that Islamic issues were put center stage to a
substantial degree at the national level, too. Since then, the radical populist right parties have been continuously addressing the issue of veiling in the policy area of migration and deficient integration on the side of migrants. In sum, it was the FPÖ and later also the BZÖ (A25) that actively took up the issue, while other political parties referred to veiling as a religious or a women’s right only as direct or indirect reaction to populist claims to ban the headscarf (A16; A26; A30) (cf. Rosenberger & Hadj-Abdou 2010).

In Denmark, politicization of the headscarf issue was part of an overall immigration debate, which intensified during the 1990s. The opposition parties on the right (the Liberal and Conservative Parties) demanded a more restrictive legislation and the Social-Liberal leftist government defended the relatively liberal Danish approach to immigration. The immigration issue was central in the 2001 elections where the Right won and the Liberal and Conservative coalition government with the support of the Danish Peoples’ Party replaced the previous government of Social-Democrats and Social-Liberals. From 2004, veiling became a hot issue in public and political debates (Siim & Skjeie 2008). In April 2004, the Danish Peoples’ Party presented a parliamentary proposal to ban the headscarf in the public sector (DK1). This was rejected by all the other political parties (DK2; DK3; DK6; DK7; DK9). In March 2006, there was an intense media debate when Asmaa Abdol-Hamid, who wears the hijab, was hired to host a talk show on the national Danish public service channel, DR, sparked by the recent cartoon controversy. This was strongly opposed in a press release by the Women for Freedom organization stating: “Women for Freedom takes distance from the hostile use of the religious headscarf.” (DK19). In spite of many protests, the editor of DR news, Anne Knudsen, declared that the hiring was not to be reversed (Andreassen & Siim 2007). In the spring of 2008, a new debate about the right of elected politicians to wear the hijab when speaking in parliament erupted. The issue was raised because this same Asmaa Abdol-Hamid
was elected as a substitute candidate for the Red-Green Alliance, and therefore would be likely to appear and speak in the national parliament. The parliament had to take a decision on this issue, because the Danish People’s Party demanded a ban against veiled politicians speaking in Parliament. This case ended with an accommodating regulation, when the Danish Parliamentary Presidium issued a resolution stating that there was nothing to prevent parliamentarians from wearing a veil when speaking from the podium as long as the face is visible and the person can be identified. The rationale behind the resolution was to protect the right of a veiled parliamentarian to speak from the podium no matter what religious affiliation as well as the citizens’ democratic right to be represented. Finally, a controversial debate concerning rules for religious and political garments for legal judges erupted in April 2008. It was inspired by a public announcement by the independent Board of Governors of the Danish Court Administration (Domstolsstyrelsen) stating that there was no legal basis for a ban against Muslim judges wearing the hijab in Danish Courts. This case ended with a government decision to propose a bill aimed at securing the neutrality and impartiality of the court by prohibiting religious and political attire for legal judges. The bill was adopted by a large majority in May 2009, despite massive criticism by the majority of the legal and academic community. The bill expressed a more restrictive Danish approach to veiling in the public arena, although it was explicitly limited to legal judges in the courtroom. DFP’s demand to extend the ban to jury and lay judges was rejected by a large majority, arguing that these groups should be representative of the civilian population (Andreassen et al. 2008).

In the Netherlands it was the List Pim Fortuyn (LPF) which in 2004 requested a parliamentary debate on headscarves in the public service that eventually led to the government issuing the above-mentioned policy report. Fortuyn had explicitly reacted against Islam – according to him Islam was “a backward culture” – as well as against the politics of toleration by the “left-
wing Church” and against the continual influx of immigrants and asylum seekers (Poorthuis & Wansink 2002). From 2004 onward veiling became a highly politicized issue within the context of a wider political debate in which Islam became framed as hampering integration and also Muslim women’s emancipation (Roggeband & Vliegenthart 2007; Prins & Saharso 2008). Relevant political actors at that time were Rita Verdonk, the Minister of Integration, who later established her political movement ‘Proud of the Netherlands’ (Trots op Nederland) and Geert Wilders, leader of the Freedom Party (Partij voor de Vrijheid, PVV). Moreover, Ayaan Hirsi Ali, at that time a member of the Liberal Party, aimed to combat what she considered to be instances of gender oppression in Islam (Hirsi Ali 2007; NL6). Together with Theo van Gogh she produced the film Submission, because of which van Gogh was murdered in 2004 by a radical Islamist. However, it was not so much headscarves (hijab) but face veils (niqab and burqa) that were the object of discussion (NL11; NL24). This changed in the regulation regarding headscarves, when the government in 2008 specified that uniformed police officers and police officers that have contact with citizens may not wear religious symbols whereas other police officers may.8

So, in Austria, Denmark and the Netherlands– with the exception of Ayaan Hirsi Ali, who saw her struggle in global terms – it was the populist right-wing parties that politicized the headscarf issue within a broader framework of a nationalist anti-immigrant and anti-Islam political platform. Despite contention, the three countries have kept to a largely accommodating policy regarding the headscarf. In legal terms, Austria places no limits at all, in Denmark legal judges are not allowed to wear a headscarf in court, and in the Netherlands the headscarf is forbidden in certain functions in the judiciary and the police force.

Table 1: Regulation of hijab
THE LIMITS OF POPULIST CHALLENGE

This part discusses several mechanisms which can contribute to the understanding of why the populist challenge to restrict veiling did not lead to the implementation of restrictive public policies. One of the relevant findings is that anti-veiling claims were formulated as a part of symbolic politics in the broader framework of opposition to migration, rather than being used instrumentally in terms of policy making. Other explanatory factors are the party configurations within the parliament and specific political principles that are prevalent in the particular versions of liberal democracies. Last but not least, the institutionalized state-church relationship that impacted on the framing employed by mainstream political parties and pro-veiling advocates has been decisive for the policy outcome.

Veiling as symbolic politics

In all three cases observed, claims to restrict veiling can be characterized as a discursive tool of symbolic politics rather than a policy goal itself. According to Edelmann (1964), symbolic politics can be understood as part of the expressive dimension of political action, which signifies the presentation of political action to the public.

One striking commonality in the three national cases investigated in this paper is that it was the populist right-wing parties who after 2004 were agenda-setters in the political debates on veiling. When these parties gained electoral support and became strong political actors in the parliamentarian arena, veiling was not framed as an isolated religious issue but was used more broadly as a symbol to present and legitimize concerns about immigration, national belonging, and, in the case of Austria, Turkey’s membership to the EU (A19; A21;
Rosenberger & Hadj-Abdou 2010). Most importantly, the populist right-wing parties evoked images of ‘parallel societies’ with Islamic immigrants unwilling to integrate and respect the basic values of the national communities (A19; DK4; NL14; NL15). In other words, veiling was actually more of a side issue, a communicative strategy used instrumentally to push through other political agendas in adjacent policy areas such as immigration control and civic integration, rather than being an issue that in itself needed to be tackled.

In Austria, the FPÖ presented itself as a defender of the national identity coined as ‘Leitkultur’ (dominant culture), which consisted of Christian values and modernity and protected women from “archaic tribe structures” (A20). Illustrations of the headscarf were used as the visible proof of the incompatibility of Muslim immigrants in general and of Turkey with Europe in particular with its presumed value order. In election campaigns the party ran on anti-Islamic sentiments by using placard slogans such as “Free women instead of forced headscarf” (Freie Frauen statt Kopftuchzwang). The popular initiative launched by the FPÖ against the accession of Turkey to the EU in 2006 employed the headscarf as a campaign motive: A women veiled with an EU-flag was meant to symbolize future developments opposed by the initiative. Already these few activities illustrate that the references to veiling were in the first place intended to create a hostile public opinion against both Muslims residing in the country and Turkey’s accession to the EU rather than to legally restrict veiling as such (Bunzl 2007). Although veiling has become a hot issue in the mass media, in parliament it has been rarely debated. Compared to Denmark and the Netherlands, the FPÖ never proposed or drafted a bill to ban or restrict wearing the headscarf. Restrictions on veiling were only mentioned in interpellations to the government, and it was referred to in the context of a variety of other issues such as the danger of terrorism and security issues, failed integration, not complying with Austrian values and cultures, and gender inequality in
migrant families. The actions taken by the FPÖ were mainly addressed to the media during election campaigns (Hadj-Abdou & Rosenberger 2009). In sum, in Austria there was no parliamentarization of the veil debate, it remained outside of the parliament. This also holds true for the liberal decision itself, which was a government policy beyond the parliamentarian arena.

In the 2004 Danish parliamentary debate on the Danish People’s Party’s proposal to ban “culturally determined headgears” (kulturbestemt hovedbeklædning) in the public sector, Louise Frevert, the then DFP spokesperson, said:

> Muslim women’s headscarves are expressions of a gender coercion which does not at all belong in a modern society like the Danish society. Head coverings, especially a *hijab* [represents] precisely a person who is against the Danish norms and against the values in Denmark and in our culture.⁹

(DK4)

In the 2004 debate most parties regarded the headscarf as a symbol of female oppression but perceived it to be an individual religious choice and thus rejected banning as the solution (DK3; DK5; DK7; Andreassen & Siim 2007: 39-42). In the 2008 debates about veiled politicians’ right to speak in parliament and legal judges’ right to wear a headscarf, the DFP filled the cityscape with a poster with a *burqa*-wearing judge titled: “Submission.” In this way the party presented Muslim judges, and with them Islam, as being equivalent to *Sharia*, and Muslim judges and Islam were claimed to be a threat to Danish legislation (Andreassen *et al.* 2008; Betz & Meret 2009).
The Dutch LPF and its populist successors framed accommodation of the headscarf as a threat to Dutch democracy and its principles of secularism by referring to a fundamentalist Islam that undermined Western liberties. In a discussion about public morality, MP Mat Herben of the LPF argued:

We have been liberated ages ago from inquisitors and Ayatollahs, and we would like to keep it like that. Even the pope respects the separation between religious and civil law. That’s why I would like to ask our Prime Minister to constitutionally lay down the formal separation between church and state.¹⁰

The burqa and niqab – the debate had come to focus more on these garments – were seen as symbols of this increasing polarization and segregation. This concern could not be ignored by the other political parties and hence they began responding to these claims. Similar to Austria and Denmark, controversies over veiling thus became a form of symbolic politics linked to other political issues and goals. The ‘problem of veiling’ was framed strategically in highly emotional terms. The underlying issue seemed to be raising fears about immigration and about Islam tearing apart the fabric of society.

Thus in all three countries veiling debates raised by populist parties were symbolic politics aimed at triggering exclusive notions of national belonging or at pushing through stricter regulations in the policy fields of integration and immigration control; or, as in the case of Austria, at mobilizing public opinion against Turkey’s future accession to the EU.

The political power structure and prevalent political principles
The populist right was apparently not strong enough to win a parliamentary majority for their attempts to restrict the right to veiling. Moreover, it could not prevent pro-veiling decisions. Against this background, we look at the political actors advocating accommodating decision-making. Surprisingly, stakeholders outside the parliamentarian arena, religious communities and experts played a decisive role in the pro-veiling decision-making process in 2004.

When looking at the actors involved in the launch of the Austrian accommodating regulation, we see that the Islamic Religious Community in Austria (IRCA) in cooperation with responsible state authorities was indeed the decisive player for decision making in the field of religious clothing. With regard to schools, the actors who were involved in the decision of 2004 included the Federal Ministry of Education and Culture and the IRCA. At the time, the launch of the executive decree attracted neither media attention nor political contention. The minister was not confronted with significant opposition expressed by rival political parties. As for intra-coalition dynamics, the FPÖ was part of the federal government and was expected to be loyal to its partner, the Christian-conservative Austrian People’s Party, which has been in favor of a strong position of the Catholic Church within the Austrian society. Former President of the Austrian National Council and mandatary of the Austrian People’s Party Andreas Khol aptly expressed this position when he circumscribed advocates of prohibition as “enemies of any religion, who are also hostile against the ring of church bells and steeples”\(^\text{11}\) (cf. also A16). Given this governmental constellation, only regional FPÖ branches let their voice be heard in the mass media and framed the headscarf as a symbol of an alien culture and the oppression of women within immigrant communities (A24). All other political parties represented in parliament remained silent. They neither protested publicly nor expressed consent to the policy (Gresch \textit{et al.} 2008).
Moreover, the chosen policy tool indicates that the policy makers aimed at preventing political protest: An administrative decree was to be characterized as a binding governmental instrument implemented without the involvement of the parliament. In fact, the main purpose was to meet the religious claim made by the IRCA to settle the case and regulate in an explicit manner, albeit without any significant public consultation and dispute.

In the Danish case the parliament played a key role in policies on veiling in the public sector. The current center-right government coalition of the Liberal Party (*Venstre*, V) and the Conservative Party (*Det Konservative Folkeparti*, KF), confirmed by the most recent election in 2007, represent a minority government supported by the populist Danish People’s Party. The government used this majority to adopt a highly restrictive anti-immigration legislation including the infamous 24-year rule, citizenship tests and an integration agenda close to assimilation (Emerek & Bak Jørgensen 2009). From this perspective, it is a puzzle that the Danish approach to veiling has been relatively accommodating. A look at the arguments with which the other parties rejected the 2004 DFP proposal to ban all forms of veiling in public institutions gives an indication why a prohibition was prevented. The then conservative Minister of Employment, Henriette Kjær, legitimized the dismissal of the proposal as follows: First it was targeted at one specific religion; secondly, it would violate the Law against Discriminatory Behavior in the Labor Market (*Lov om forbud mod forskelsbehandling på arbejdsmarkedet*) and the Law on Ethnic Equal Treatment (*Lov om etnisk ligebehandling*). Finally, the proposal would be against the law because it differentiated between citizens.¹² The minister further explained that a realization of the proposal would go against § 67 and § 70 of the Danish Constitution (i.e. freedom of religion and prohibition of religious discrimination), and would be in violation of the Convention of Human Rights’ article 9 (i.e. freedom of religion) and article 14 (i.e. prohibition against discrimination). In Danish
democracy and political culture individual rights stand in high esteem, and despite the existence of the state-church, religion is considered to be a private matter. Thus, the most powerful arguments in favor of non-regulation referred to principles of ‘equal rights’, ‘freedom of choice’ and ‘freedom of religious expression’ (Andreassen et al. 2008). These arguments refer to political principles supported by the liberal conservative government, which on this issue chose to side with the opposition and not with its parliamentary support party, the Danish Peoples’ Party.

The Dutch political system has been dominated for over a century by the Christian parties. The current government is a coalition of the Social Democrats, Christian Democrats and the Christian Union, a small strict Christian party. The Christian parties traditionally favor an active role of religion in society. Curtailing the right to wear a headscarf would amount to curtailing religious freedom and would thus eventually backfire on the parties’ own rationale of existence. Other political parties, like the left-wing Greens, were and still are against a ban on headscarves, because their ideal of a multicultural society include the right to express one’s religion through dress. The Social Democrats were against a ban because they believed that would hamper Muslim women’s participation in society (Lettinga & Saharso 2009). Yet, it is not only political parties that are pivotal for the Dutch regulation, but also the judgments of legal expert commissions. The Commission on Equal Treatment is an autonomous body of nine experts that tests whether cases do not contravene equal treatment legislation. The Commission considers veiling as protected by the freedom of religion. The Commission’s basic position is that religious freedom is a fundamental right that can only be outweighed by a second party’s fundamental rights. Although the judgments of the Commission are not legally binding, it has great authority and parties usually voluntarily accept them. The policy report of 2004 in which the government institutionalized the right of women to wear a
headscarf was also derived from the Commission’s judgments. Legal experts also played a key role when it came to the *burqa*. When parliament in 2005 had decided on a ban on *burqas*, the then responsible Minister, Rita Verdonk, installed a legal commission to investigate the legal grounds for such a ban. This commission (Vermeulen 2006) advised against a ban, because it would infringe on several constitutional principles, notably the principle of religious freedom and of equal treatment. The government then refrained from further action.

We see that in Austria and the Netherlands the influence of the Christian parties was important to retain or even strengthen liberal policies, while this was not the case in Denmark. Another major difference is the role of democratic institutions in the three countries. In the majoritarian Danish democracy (Kelstrup *et al.* 2008), the parliament played a key role in policy making compared to the executive and judiciary powers, while in Austria and the Netherlands legal commissions and representative bodies were important actors. Still, many questions remain unanswered: What explains the deafening silence over headscarves in Austria? Why did the majority in the Danish parliament believe that equal rights demanded that veiling be accepted? Why was the tolerant ruling of the Commission on Equal Treatment in the Netherlands so widely accepted and even taken over by the government? To answer these questions we turn to the national institutions, particularly to historically established church-state relationships and liberal rights.

**National state-church relations and liberal rights**

As Islam is a religion that is introduced in Western Europe through immigration and veiling is a gender-specific religious prescription, three types of institutional arrangements may thus
contribute to explain headscarf policies: regimes for handling immigration and integration, gender equality policies and state-church relations. As explained in the introduction of this chapter, in the past years all three countries have shifted towards a more restrictive immigration and integration policy, and in the Danish and Dutch cases emancipation policies for immigrant women play a central role. This makes it highly unlikely that these three countries’ accommodating policies regarding headscarves can be explained by their immigration and integration regimes or by their gender equality policies. The main explanatory factor is the countries’ state-church relations.

Austria’s state-church relations are based on the principle of ‘religious pluralism’ and the recognition of Islam as one out of 14 recognized religious faiths. The Austrian model guarantees equal treatment to all recognized religious communities as well as church autonomy, i.e. specific autonomous domains in which the state may not interfere. The range of domains of internal affairs of churches and religious communities into which state intervention is not allowed is extensive (Robbers 1996). One example is religious confessional education in public schools, which is mandatory for all pupils within each confession. Islam has been recognized as an official religion since 1912, when after the annexation of Bosnia-Herzegovina in 1908 Muslims formed part of the citizenry of the Austro-Hungarian Empire and were given a parallel legal status with members of other religious minorities. In 1979, the Islamic Religious Community in Austria (IRCA) was recognized by Austrian state authorities as a legal corporate body serving as official representation for all Muslims residing in Austria. The IRCA is – alongside with other such institutions – included in political decision-making processes in matters of concern to religious communities and has due to this status an influential public voice. As religious communities are granted relative extensive autonomy in religious affairs and because the
headscarf is a religiously demanded dress code, the state has determined that the handling of the headscarf is a matter of the IRCA and does not belong to the realm of other state institutions. The institutionally enshrined religious pluralism explains why Austria can hold restrictive citizenship and integration policies which marginalize parts of the (Muslim) immigrant population with regards to economic, social and political participation (Fassmann 2007), while at the same time entitling Muslim immigrant minorities to comprehensive religious rights. This historical tradition moreover contributes to explain why veiling was politicized so little and so late in Austria (Mouraõ Permoser & Rosenberger 2009). As the status of the religious communities and their far reaching autonomy in religious affairs is regarded as a political taboo, religious matters are usually kept outside politics. In addition, veiling has been constantly considered as a matter of religion by the majority of politicians. Only the populist parties attempted to signify the headscarf as a matter of unwanted immigration and a symbol of failed integration.

Religion plays a more ambiguous role in Danish democracy. On the one hand, the country has an established state-church, but on the other hand the church plays a limited role in politics and religion is generally perceived to be an individual or personal matter. The political institutions and political culture are based upon the belief that there is a close relation between Lutheranism and national Danish belonging (Østergård 2003; Christoffersen 2010). The Evangelical-Lutheran state-church called the Danish People’s Church (Den Danske Folkekirke) is inscribed in the Danish constitution, and the Danish version of religious pluralism\(^\text{13}\) dates back to the first Democratic Constitution in 1849. This model formally guarantees freedom of religion and protects religious minorities (§ 67), but there is no equality between religions (Christoffersen 1998). The Constitution states that the Danish National Evangelical Lutheran Church has special privileges, but Denmark has signed several
international laws that guarantee equal rights for religious minorities. The country is relatively homogeneous in relation to religion and about 80 per cent of the population are members of the People’s Church. Despite of this, the country has a strong semi-secular tradition and the majority of members of the Danish Protestant Lutheran Church are what can be labeled ‘cultural Christians’ who may not even define themselves as religious. Islam, which recently has become the second largest religion, has formally, although not in practice, an equal position with other denominations. To sum up: Although the critique of veiling in the public arena does resonate with the secular Danish political culture, the major parties have preferred dialogue, as the prohibition of the headscarf goes against the individual right to freedom of religion, which is a strongly adhered to principle in Danish democracy.

The Netherlands has a long history of religious tolerance that can be traced back to the final decades of the 16th and 17th century, the Dutch Golden Age. Tolerance was guaranteed in the Union of Utrecht (1579). Minority religions were tolerated provided that their religious practices stayed private, and many persecuted religious minorities from other countries found shelter in the Netherlands (van der Burg 1998). Religious pluralism is a strong Dutch tradition that was further revived in the late 19th century by efforts to protect the freedom of religious minorities against the liberal state. Catholic and Calvinist minorities had established local and regional politically organized religious subcultures to oppose the liberals’ secular nation building project, later joined by the Social Democrats that likewise had begun to organize parties, professional and leisure-time associations (Kersbergen & Manow 2008). Secular (leftist) liberals in the Netherlands were forced to make a compromise about social and political life. This resulted in the segmentation of Dutch society along confessional lines, known as pillarization. Under the system of pillarization religious communities (and the socialists and liberals) had, and to a large extent still have, the right to set up their own
institutions, such as schools, hospitals and broadcasting companies. The Dutch corporatist pillarized model of secularism also means that the state finances schools, social welfare activities or broadcasting agencies of religious communities, without interfering with the religious life of the adherents (Bijsterveld 2005). The religious communities moreover were included in the political decision-making process on specific policy issues through consultative bodies. The institutions of pillarization were extended to the new religious and cultural minorities. The Netherlands therefore has an elaborate system of representation of delegates of ethnic and religious organizations. In sum, the Dutch pluralist tradition grants a large space to live according to (and to be recognized on grounds of) particular identities and traditions of groups in the public sphere. Given the Dutch tradition in which religion is highly visible in public life, it would go against the established custom to ban headscarves. And thus the Equal Treatment Commission’s judgments that offered headscarves strong protection by making the right to religious freedom almost paramount could for a long time count on broad consensus.

So we conclude that in both Austria and the Netherlands, the state-church regime is one of religious pluralism, giving Islam the same rights as other (recognized) religions with an ‘open’ and ‘cooperative’ understanding of neutrality. Neutrality is achieved through evenhanded treatment of all (recognized) religions. The state supports and encourages the activities of the religious communities to a certain (albeit different) extent. In Austria, the state cooperates even more strongly with churches than in the Netherlands, but religion is allowed to play a visible public role in both countries. Denmark also has a long established religious pluralism, but here the state does not act in a neutral way towards religions. The model secures freedom of religion but not equality of religion. The Danish/Lutheran state-church has a strong tradition of semi-secularism. Visible religious symbols are perceived to be
a challenge to the secular political culture, but dialogue is generally presented as the preferred solution. The prohibition of the headscarf would go against the strong adherence to individual rights in Danish democracy, which includes the right to freedom of religion. In light of this it seems reigning state-church relations combined with specific interpretations of liberal principles are the key factor in explaining the three countries’ accommodating headscarf decisions.

Table 2: Factors in favor of accommodation

CONCLUSION

The chapter started off by questioning why, despite the increasing political contention over immigration and Islam in particular, Austria, Denmark and the Netherlands kept to their accommodating policies regarding the wearing of headscarves in the public realm.

We suggested firstly, that the political contention around veiling is to a considerable extent symbolic politics, used instrumentally by the populist right to make and legitimate claims about restricting immigration, or has been used by other political actors challenged by the populist right to position themselves on the issue of national identity and migration, rather than being an object of policy-making in itself.

Secondly, we noted that in Austria and the Netherlands the Christian parties played a pivotal role in politics. The behavior of the parties in that matter indicated that they have no interest in limiting the role of religion in public life. While in theory they could have claimed a public role for Christianity, but not for Islam, they did not do so. For historical reasons – in Austria, Islam has been inherited by the Habsburg Empire, and the Netherlands has a tradition of religious tolerance – they chose to include Islam into their understanding of religious
pluralism. In Denmark, by contrast a secular country with no important religious political parties, other concerns inspired the Danish political parties to vote against restrictions on the right to wear religious headgear. They were influenced, we suggest, by a strong notion of individual rights, which is deeply ingrained in Danish democracy and political culture combined with the fact that the country’s version of Lutheranism considers religion to be an individual, personal matter into which the government should not interfere.

Lastly, we emphasized the institutionalization of state-church relations. Austria and the Netherlands have a regime of open neutrality that includes cooperation with religious communities and a tradition of religious pluralism that demands that Islam is treated on a par with other religions. This explains why in both countries Islam gained the same rights as other religions and why in Austria the IRCA could successfully exert influence on policy making. Given their historical tradition of open neutrality and the presence of religion and its symbols in the public sphere is not considered as contravening public neutrality. Therefore, in both countries religious symbols are accepted in public life, and their understanding of equality between religions demands that also Islamic religious symbols are accepted. Moreover, in the Netherlands the legal expert commissions, which have no formal power but great authority, were crucial. In Denmark, in turn, the strong adherence to people’s individual religious rights and the principle of non-discrimination between all world-views linked to an understanding of religion as a private matter even when expressed in the public sphere, played a pivotal role.

While political power relations and discursive use of veiling as constituting or legitimizing policy change are important factors, we have argued that they only gain meaning within the context of political institutions and state-church relations. In the Austrian and Dutch cases, historically established institutions support an inclusive state-church system. Powerful political actors interpret liberal principles like state neutrality in accordance with their
institutional traditions. Therefore, when weighing religious freedom against other principles and interests, the balance tipped off to religious freedom. Headscarves were not considered as conflicting with public neutrality or not enough to justify major restrictions of religious freedom and the right to wear a headscarf. In the Danish case, religious freedom was not combined with religious equality and state neutrality but is perceived as an individual right that the government has no right to interfere in, even when exercised in the public sphere. As underlined, this resonates with the Danish democratic institutions and political culture in which, next to equality, individual freedom and rights are highly valued. This is why, despite heavy political pressure from the radical populist right to curtail the right to veiling, political parties across the political spectrum paid respect to these national traditions and kept to the historical ways of regulating expressions of religion.

These observations illustrate that there are limits to what is politically possible, that is limits to populism. In the political struggle across Western Europe the rhetoric ‘defense of liberal values’ is used as a strategy against Islam. However, this chapter demonstrates that liberal democratic values may also contribute to the defense of democratic diversity.

REFERENCES


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1 By the end of 2009, in the Netherlands a law was being prepared which, if accepted by the second and first Chamber, will forbid all types of face covers in education; the government sent a directive that face-veils are forbidden for public servants (TK Kamerstuk 2007-2008, 31200 VII, no. 48, 19 February 2008). All policy documents discussed in the Dutch Tweede Kamer (TK, Second Chamber) can be accessed through the electronic search engine Parlando <http://parlando.sdu.nl> by referring to the parliamentary year, date and document number.

2 The focus is on public institutions; as for private institutions, European anti-discrimination legislation applies for all EU countries.

3 Proposal titled: “B201 Forslag til folketingsbeslutning om forbud mod at bare kulturbestemt hovedbeklædning” (“B201 proposal to parliament bill about the prohibition of wearing culturally determined headdress”). See the Danish frame analysis of document DK1 (Andreassen & Lund 2007). The proposal spoke of “culturally determined head coverage,” that is “any kind of veil or head coverage which is not included in the Christian-Judean culture.” Christian symbols or Jewish kippas were not to be banned. It argued “that headscarves have become a growing problem, which has become offensive to ordinary people.” Original text: “hovedbeklædning, specielt tørklæder, er blevet et stigende problem, der virker stodende på mange almindelige mennesker.”
Danish debates on veiling included employment debates, about the right of private employers to prohibit a headscarf for their employees, media debates and parliamentary debates. Denmark is exceptional in terms of regulation of religious dress of employees on the private labour market. According to Supreme Court decisions from 1999 and 2005, prohibition of headscarves is legal when it is in accordance with a company dress code and does not violate the anti-discrimination act.

The legal experts argued that the veil is not a problem in Danish courts (in *Berlingske Tidende* December 16, 2008). Other experts argued that the bill may be in conflict with the Danish Constitution, Human Rights Convention and EU Law. Finally, the bill was perceived as an attack on the separation of powers and Danish democracy. The Minister of Integration and Church, Birthe Rønn Hornbech, publicly warned that a ban on religious dress for legal judges would be against the Danish version of Lutheran Protestantism characterized by a separation between religion and law. In addition, a ban would interfere with the basic tenant of (Danish) liberalism; “Frihed for Loke såvel som for Thor,” “Dommertørlædet og de to regimenæter,” *Politiken*, 14 May 2008.

The Danish version of religious pluralism is divided between the old recognized groups – Christian and Jewish denominations who receive special treatments – and the more recent Muslim and Eastern denominations who are accepted but not recognized on par with the old denominations (Christoffersen 1998).