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The limits of populism. Accommodative 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 contest 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 (Joppke 2007). 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 (Betz and Meret 2009). The Netherlands for instance 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 immigrants, which has even been strengthened in the last years (Mouraõ Permoser and Rosenberger 2009). Most notably veiling has been constructed as a sign of the oppression of women by different actors across the political spectrum (see Lettinga/Andreassen in this volume). In particular right wing populist actors have been engaged in stigmatizing Muslim immigrants as the alien “other”. Across Europe this change in attitudes and immigration policies went together with a change towards more restrictive policies regarding veiling.

Austria, Denmark and the Netherlands, three countries with very different national legacies however stand out in respect to veiling policies: Despite increasing politicization of immigration and Islam, these countries continue to pursue an accommodative policy.¹ However, since 2003 immigrant women have gained a popular place in the Dutch emancipation policy.. With policy programmes to combat Female genital mutilation and honour related violence the Dutch government emphasizes gender inequalities within immigrant cultures (see Prins and Saharso 2008). The same holds true for Denmark where the official gender equality policy of the Liberal-Conservative government since 2002 has been directed primarily towards the perceived oppression of immigrant women (Siim and Borchorst 2007).

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 Austria) attracted 26,9 per cent of the vote in general election, coming second behind the Social Democrats (Luther 2005). In Denmark the Dansk Folkeparti (DFP, the Danish People's Party) in 2001 won 12,0 per cent of the vote in the general election and became the third largest party and provided the parliamentary support for the new Liberal- Conservative government coalition. In the Netherlands the Lijst Pim Fortuyn (LPF, List Pim Fortuyn), named after its establisher who was killed by an animal rights activist nine days before elections, gained a vote share of 17 per cent in the parliamentary elections of 2002 and thereby ended up as second largest party in the country. These parties, with respect to the political communication style and the ideological feature often labelled as populist parties (Mudde 2007, D'Amato and Skenderovic 2007) have in common, among others, the opposition to immigration in general and to Muslim immigrants in particular. Hence, they also claim restrictions of the Muslim headscarf. The puzzling question we deal with in this chapter is how it can be explained that despite the increasing political contention over immigration and Islamic issues policy makers in these three countries stand out within our eight cases of the VEIL project as countries that kept to their accommodative policies regarding the wearing of headscarves in the public realm. We define accommodative policies as policies that explicitly allow

wearing the headscarf in public institutions¹ such as schools, universities, health care institutions and the courts.

In our search for explanation we will investigate the underlying mechanism of the political debate on veiling that preceded policy formation, the institutional context, and political principles prevalent in each version of liberal democracy in the three countries: We assume that policy outcomes depend on configurations of political power and to a large extent also on institutional arrangements. We expect that political regulations follow a path dependency in this respect, which leads us to the assumption that populist parties are confronted with institutional limits to challenging and mobilizing against rights of immigrants and their religion.

Moreover our research is led by the idea that in order to explain policy outcome we have to reflect upon the use and 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 accommodative regulation of headscarves in Austria, Denmark and the Netherlands to be: the state-church relationship, the power structure, prevalent political principles, and whether debating the headscarf issue is aimed at communicating and legitimizing or producing policy change. Through the method of comparison of three similar countries we identify which of these factors is most relevant for explaining the accommodative policy in which countries.

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

¹ The focus is on public institutions as for private institutions European anti-discrimination legislation applies for all EU countries.

ACCOMMODATION DESPITE POPULIST CONTENTION

2004 was a remarkable year in the history of policing the headscarf. It was the year of the release of the French law against any ostensible religious symbols. 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 a 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 Human Rights Convention. In addition, it stated that school bodies are not entitled to interfere into subjects which belong solely to the sphere of religious organizations, as the headscarf is considered to belong to that sphere.ⁱⁱ 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.ⁱⁱⁱ This proposal was, however, rejected by all other political parties as it would be against religious freedom protected by the Article 67 of the Danish Constitution as well as against 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 these jobs required according to the government that they avoid all appearance of partiality.^{iv} All accommodative 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.

What was the broader framework in which populist parties started to contest the right to wear a headscarf? In Austria the ministerial decree stating that wearing a headscarf in schools is a religious right was triggered by a controversy in a junior high school about a veiled pupil in 2004. By then the school forum launched a general prohibition for head coverings to which the father of the Muslim

schoolgirl objected. When the school council of the county declared that a prohibition is 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”^v, the officially recognized representative body of Muslims, the Islamic Religious Community in Austria (IRCA) asked the Federal Minister of Education and Culture to clarify that the headscarf is identified as expression of religious freedom by launching a decree. In the beginning the minister was hesitant to issue a decree, as 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 decree (Gresch/Hadj-Abdou/Rosenberger/Sauer2008). Most notably, this decision has been taken in a period in which the Austrian Freedom Party was an influential political actor. After having achieved 26.9 per cent of the votes in the general election in 1999, it moved into a coalition government with the Christian-conservative Österreichische Volkspartei (ÖVP, Austrian People’s Party) lasting from 2000 to 2005. The FPÖ already started in 1999 to run against Islamic issues and took up the debate against the headscarf in 2003 in the context of the French and German debate. Yet, what is most remarkably, the FPÖ refrained from protesting against the headscarf decree issued by a ministry held by its coalition partner, the Christian conservative ÖVP. In 2004 the party introduced an anti-Muslim mobilization strategy on regional levels but not on the federal level. The topic was taken up by the then Viennese FPÖ-party leader, Heinz-Christian Strache who called for a comprehensive ban for civil servants in all public buildings, especially schools and universities. The headscarf was marked as conflicting with religious neutrality, and being rather a political than a religious symbol, contradicting with gender equality.^{vi} It was only in the wake of the split 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 centre stage to a substantial degree on national level too. Since then, the populist right has been continuously addressing the issue of veiling in an aggressive manner. It was the FPÖ and later also the BZÖ which actively took up the issue, while other political parties

referred to veiling as only direct or indirect reaction to populist claims to ban the headscarf. (Rosenberger and Hadj-Abdou 2010)

In Denmark politicization of the headscarf issue was part of the 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 relative 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 the public debates (Siim and Skjeie 2008)^{vii}. 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. In spite of many protests the editor of DR news, Anne Knudsen, declared that the hiring was not to be reversed (Andreassen and 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 make a decision on this issue, because the Danish Peoples Party demanded a ban against veiled politician speaking in Parliament. This case ended with an accommodative regulation, when the Danish Parliamentary Praesidium issued a resolution stating that there was nothing to prevent Parliamentarians from wearing a veil when speaking from the rostrum 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 rostrum 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^{viii}. 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, Lund and Siim 2008).

In the Netherlands it was the List Pim Fortuyn (LPF) which in 2004 requested a parliamentary debate about headscarves in the public service which 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’ – but also against the politics of toleration by the ‘left-wing Church’ and against the continual influx of immigrants and asylum seekers. 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 and Vliegthart 2007; Prins and Saharso 2008). Then there was ‘iron’ Rita Verdonk, as she was known when she was Minister of Integration, who later established her political movement ‘Proud on 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). Together with Theo van Gogh she produced the film ‘Submission’ because of which film the latter was murdered in 2004 by a radical Islamist. It was however not so much headscarves (hijab) but face veils (niqab and burqa) that were the object of discussion. 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.^{ix}

To conclude this section: In Denmark and the Netherlands with the exception of Ayaan Hirsi Ali who saw her struggle in global terms - it were the populist right wing parties that politicized the headscarf issue within a broader framework of a nationalistic anti-immigrant and anti-Islam political platform. In Austria anti-immigrant populism was also a strong political force, yet remarkably the Austrian populist while in government remained moderate in claiming restrictions to the right to wear a headscarf. Despite contention the three countries have kept to a largely accommodative 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.

Chart 1: Regulation of hijab

	Austria	Denmark	Netherlands
Arena	Schools, Public Health sector	Public arena, Parliament	Schools, police, courts, ministries
Instrument	Decree	Parliamentarian debate; Praesidium decision	Directive (Governmental policy document)
Limits	No	Courts	Courts, police

THE LIMITS OF POPULIST CHALLENGE

This part discusses three factors which may explain why the populist challenge to restrict veiling did not lead to restrictive public policies: anti-veiling as a matter of symbolic politics; the political power structure; the political principles that are prevalent in the specific versions of liberal democracies and institutionalized state-church relationship.

Symbolic politics

In all the three cases observed veiling debates can be characterized as a tool of symbolic politics rather than the object of political action in itself. With Edelmann (1990) symbolic politics can be understood as part of the expressive dimension of political action, which signifies the presentation of political action to the public, that is a dramaturgical symbolic value, rather than the instrumental dimension, that is a principal value, which represents the actual effect of a political action. In other words veiling was actually more of a side issue, respectively a communicative strategy, used instrumentally to push through other political agendas in adjacent policy fields, such as immigration control and integration, than it was an issue that in itself needed to be tackled:

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 parliamentary arena, veiling was no longer framed as an isolated religious issue, but was used more broadly as a symbol to present and legitimize concerns about immigration, national belonging, and Turkey's membership to the EU. 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.

In Austria the FPÖ has been using the headscarf as the visible proof of the incompatibility of Muslim immigrants and Turkey with Europe. The party presented itself as a defender of the national identity coined as 'Leitkultur' consisting of Christian values and modernity and protecting women from "archaic tribe structures"^x. In election campaigns the party run on anti-Islamic attitudes by using placard slogans as "Free women instead of forced headscarf" (*Freie Frauen statt Kopftuchzwang*). The popular petition launched by the FPÖ against the accession of Turkey to the EU in 2006 employed the headscarf as a motive of campaigning: A women veiled with an EU-flag was meant to symbolize future developments opposed by the initiative. These activities illustrate that the references to veiling were in the first place intended to create a hostile public opinion against Muslims and

Turkey's accession to the EU rather than to restrict legally veiling as such (cf. Bunzl 2007). Although veiling has become a hot issue in the mass media, in parliament it has been rarely debated. Thus, the FPÖ never drafted a bill to ban or restrict wearing the headscarf. Veiling was 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 (Hadj-Abdou and Rosenberger 2009).

In the 2004 Danish parliamentary debate about the Danish People's Party's proposal to ban "culturally determined headgear" (kulturbestemt hovedbeklædning) in the public sector, Louise Frevert, the then DFP spokesperson literally 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."^{xi} In the 2004 debate most parties regarded the headscarf as such a symbol of female oppression but perceived it to be a result of an individual religious choice and thus rejected banning as the solution (Andreassen and 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-clad 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, Lund and Siim 2008; Betz and 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 Minister-President to constitutionally lay down the formal separation between

church and state”.^{xii} Burqas and niqabs – the debate had come to focus more on these garments – were seen as symbols of this increasing polarization and segregation. This could not be ignored by the other political parties and hence they had to respond to these claims.

Similar to Austria and Denmark, debates about veiling thus became a form of symbolic politics for other political issues. The ”problem of veiling” was framed strategically in highly emotional terms. The underlying issue seemed to be fears about immigration and about Islam tearing apart the fabric of society.

In all three countries thus veiling debates were symbolic politics in order to trigger exclusive notions of national belonging or to push through stricter regulations in the policy fields of integration and immigration control, or – as in the case of Austria – to mobilize against Turkey’s 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. Who were the political actors advocating accommodative decision-making? Surprisingly, actors outside the parliamentary arena, religious communities and experts played a decisive role in the decision-making process.

When looking at the actors involved in the launch of the Austrian accommodative 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. In regard to schools the actors who were involved in the decision of 2004, were the Federal Ministry of Education and Culture and the IRCA, the official representation of Muslims residing in Austria. By then, the launch of the executive decree did neither attract media attention nor political contention. The minister was not confronted with significant opposition expressed by rival political parties. The FPÖ generally critical towards immigrants was part of the federal government and was, thus, expected to be loyal to its partner, the Christian-conservative Austrian People’s Party, which has been in favour

of a strong position of the Catholic Church within the Austrian society. The former President of the Austrian National Council and mandatory 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".^{xiii} Given this power constellation, only regional FPÖ-branches let their voice be heard and framed the headscarf as a symbol of an alien culture and the oppression of women. All other political parties represented in parliament remained silent. They did neither protest publicly nor express consent to the policy (Gresch/Hadj-Abdou/Rosenberger/Sauer 2008).

Moreover the policy tool chosen indicates that the policy makers aimed at preventing political protest: An administrative decree can be characterized as a binding governmental instrument implemented without the involvement of the Parliament. The main purpose was to meet the claim made by the IRCA to regulate in an explicit manner but doing this without any significant public consultation and dispute.

In the Danish case parliament played a key role in policies about veiling in the public sector. The current Centre-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, represents 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 and citizenship tests and an integration agenda close to assimilation (Emerek and Bak Jørgensen 2009). From this perspective it is a puzzle that the Danish approach to veiling has been relatively accommodative. 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 at the Labor Market (Lov om forbud mod forskelsbehandling på arbejdsmarkedet m.v.) and the Law about Ethnic Equal Treatment (Lov om etnisk ligebehandling).

Finally the proposal would be against the law because it differentiated between citizens.^{xiv} 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 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 favour of non-regulation referred to principles of "equal rights", "freedom of choice" and "freedom of religious expression" (Andreassen, Lund and Siim 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.

Dutch political culture 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 favour 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 leftwing 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 and Saharso 2009). Yet, it is not only political parties that are pivotal for the Dutch regulation, but also the judgements of legal expert commissions. The Commission on Equal Treatment is an autonomous body of nine experts that test whether cases are not contravening equal treatment legislation. The Commission considers veiling as protected by the freedom of religion. The Commission's basic line is that religious freedom is a fundamental right that can only be outweighed by a second party's fundamental rights. Although the judgements 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 judgements. 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 accommodative 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/Martinsen/Wind 2008) 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 in the Netherlands the tolerant ruling of the Commission on Equal Treatment 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 relationship 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 have a central place. This makes it

highly unlikely that these three countries' accommodative 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.

The Austrian 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 (jf Robbers 1996). One example is religious confessional education in public schools, which is mandatory for all pupils within each confession. Islam is 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 recognised by Austrian state authorities as a legal corporate body serving as official representation for all Muslims residing in Austria. The IRCA is – along side 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 definition of the headscarf as a religiously demanded dressing 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 marginalise 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 explains why veiling was so little and so late politicized in Austria (Mouraõ Permoser and Rosenberger 2009). As the status of the religious communities is regarded as a political taboo, religious matters are usually kept outside politics.

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 Peoples Church (Den Danske Folkekirke) is inscribed in the Danish constitution, and the Danish version of religious pluralism^{xv} 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.^{xvi} 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 and 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 judgements that offered headscarves strong protection by making the right to religious freedom almost paramount could for a long time reckon 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 (recognised) religions with an 'open' and 'cooperative' understanding of neutrality. Neutrality is achieved through even handed treatment of all (recognised) 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 public role in both countries. Denmark also has an old religious pluralism, but here the state is not neutral towards religions. The model secures

freedom of religion but not equality of religion. The 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 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. With this it seems reigning state-church relations combined with nation-specific interpretations of liberal principles are the key factor in explaining the three countries' accommodating headscarf decisions.

Chart 2: Factors in favour of accommodation

	Austria	Denmark	Netherlands
Decisive Institutional factor	Recognition of Islam	Political pluralism	Pillarization
Political principles	Religious pluralism	Recognition of religion as private matter	Religious tolerance
Pivotal party	Conservative	Liberal, Conservative	Christian

CONCLUSION

The chapter started off with the question why despite the increasing political contention over immigration, and Islam in particular, Austria, Denmark and the Netherlands kept to their accommodative 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 claims about restricting immigration or by other political actors challenged by the populist right to position themselves on the issue of national identity and migration. Secondly, we noticed that in Austria and the Netherlands the Christian parties played a pivotal role in politics. These parties indicate 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 was since 1908 so to speak an indigenous religion, while the Netherlands has a tradition of religious tolerance – they chose to include Islam into their understanding of religious pluralism. In Austria the official representation of Islam the IRCA played an important role, while in the Netherlands legal expert commissions, which have no formal power but great authority, were crucial. In Denmark parliament was the decisive actor and a parliamentary majority was against restricting the right to wear religious headgear. As a secular country with no important religious political parties, other concerns inspired the Danish political parties to make this decision. 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, a personal matter into which the government should not interfere. Lastly, we mentioned the institutionalisation 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 is listened to. 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. In Denmark a parliamentary majority was against restricting the right to veiling not because of religious beliefs, but because of 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. 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 populist right to curtail the right to veiling parties across the political spectrum paid respect to these national traditions and kept to the historical ways of regulating expressions of religion.

This illustrates 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.

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ⁱ By the end of 2009 in the Netherlands a law is being prepared which, if accepted by the second and first Chamber, will forbid all types of face-covers in education and the government sent a directive that face-veils are forbidden for public servant (see 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 retrieved through the electronic search engine Parlando by referring to the parliamentary year, date and document number.

ⁱⁱ Decree of the Federal Ministry for Education, Science and Culture on Muslim Headscarf ZI 20.251/3-III/3/2004.

ⁱⁱⁱ Proposal titled: "B201 Forslag til folketingsbeslutning om forbud mod at bære kulturbestemt hovedbeklædning" ("B201 proposal to parliament bill about the prohibition of wearing cultural determined headdress"). See the Danish frame analysis of document DK-1.(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 stødende på mange almindelige mennesker".

^{iv} TK Kamerstuk 2003-2004 29614, no. 2, 7 June 2004.

^v www.derislam.at/haber.php?sid=39&mode=flat&order=1, retrieved 18 April 2006.

^{vi} See Press Release by the Viennese FPÖ, OTS0070 from 18 May 2004.

^{vii} Danish debates about 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.

viii 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*', "Dommertørklædet og de to regimenter", *Politiken*, May 14, 2008.

ix TK Kamerstuk 2008-2009 29 628, no. 109, 24 November 2008.

x Press Release, 22 June 2006, OTS0205 (Kickl, Kopftuchverbot wäre Befreiung für Mächen und Frauen).

xi Original text: "tørklæder er et udtryk for kønslig tvang, som overhovedet ikke hører hjemme i et moderne samfund som det danske...et tørklæde, det er lige præcis en person, som er imod de danske normbegreber, værdibegreberne I Denmark og I vores kultur". Parliament debate re. B210, available via http://www.ft.dk/?/samling/20031/beslutningsforslag_oversigtsformat/B201.htm, retired 1

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xii MP Herben, LPF, TK Handelingen 2004-2005, no. 73, 14 April 2005, p. 4471.

xiii Die Presse, 21 September 2007.

xiv Parliament debate re. B210, available via

http://www.ft.dk/?/samling/20031/beslutningsforslag_oversigtsformat/B201.htm retrieved 1

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xv 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 equal foot with the old denominations (Christoffersen 1998).

xvi The information is from the Ministry of Church's website, see: <http://www.km.dk/kirkestatistik.html>.
Retireved 1 August 2009. See also Christoffersen 1998

Abbreviations

BZÖ Bündnis Zukunft Österreich/Alliance for the Future of Austria

KF Conservative Party/Det Konservative Folkeparti

DFP Dansk Folkeparti/Danish People's Party

FPÖ Freiheitliche Partei Österreichs/Freedom Party Austria

IRCA Islamic Religious Community in Austria

V Liberal Party/Venstre

LPF Lijst Pim Fortuyn/List Pim Fortuyn

ÖVP Österreichische Volkspartei/Austrian People's Party

PVV Partij voor de Vrijheid/ Freedom Party