



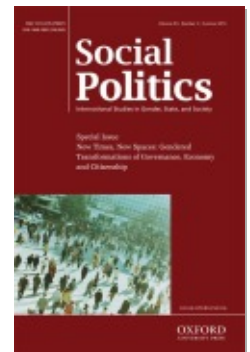
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Tu felix Austria?: The Headscarf and the Politics of 'Non-issues'

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Abstract

Austria has one of the most tolerant regulations concerning the expression of religious beliefs and practices in the public realm in Europe. Concerning the headscarf, the Austrian legislation does not know any restrictions on wearing headgear—neither for cultural nor for security reasons – if wearing a veil is clearly related to religious reasons. These liberal legal regulations have even been strengthened during the recent years. In line with this legal framework, public disputes over religious attire worn in public institutions have remained rather modest in Austria compared with other Western liberal democracies. However, the tolerant legal regulations are contrasted with rather palpable racist attitudes within the Austrian population, the recent adoption of restrictive immigration and integration policies and right-wing parties that systematically foster sentiments against immigrants. This paper explores these diverging policy-strategies by focusing on structures and institutions that account for Austria's tolerant approach towards veiling and argues that it is the legacy of Austria's "pluralistically inclusive" state-church relation, which provides special institutional structures and procedures to deal with religious issues

as well as the dominant framing that constitute the tolerant context for Muslim practices. By focusing on the current headscarf debates, the paper indicates that this silent compromise is getting fragile due to the re-framing strategies of right-wing parties in the context of an ethno-cultural citizenship regime that describes Muslims in Austria as cultural or ethnic and not as religious others.

Veiled Challenges

Currently, Austria has one of the most tolerant regulations concerning the expression of religious beliefs and practices in the public realm in Europe (Schima 2005, 117; McGoldrick 2006). Muslim girls and women are entitled to wear the headscarf in educational institutions and public offices as well as on photos for public documents if the face is clearly identifiable (Bundesminister für Inneres 2002). Even the burqa and the chador are exempted from the general prohibition of disguise during public gatherings or demonstrations (*Versammlungsgesetz* BGBl 127/2002; §9)². Thus, the Austrian legislation does not know any restrictions on wearing headgear—neither for cultural nor for security reasons—if wearing a veil is clearly related to religious reasons. In contrast to international developments, the liberal legal regulations have been clarified and even strengthened during the recent years on the basis of the mentioned law on regulations of disguise during public gatherings of 2002, for example, or the re-issuing of a governmental decree prohibiting any restrictions on veiling of pupils in public schools in 2004 (Keplinger 2002; Gresch and Hadj-Abdou 2007).

In line with this legal framework, public disputes over religious attire worn in public institutions have remained rather modest in Austria in contrast to some Western liberal democracies, like France or Germany, that have been challenged by fierce conflicts about the wearing of Muslim headscarves in state institutions (Altinordu 2004; Ardizzoni 2004; Shadid and Van Koningsveld 2005). The reported and discussed conflicts in Austria primarily concerned pupils wearing the headscarf in public schools but also people wearing headgear in labor market contexts like in public hospitals or employees of the public transport enterprise of the City of Vienna. But all of these incidents were resolved within the institutions or in negotiation with the responsible authorities of the institutions concerned. The public debate did not initiate any further conflicting issues that would have led to court decisions.

In regard to political actors, a broad alliance of Austrian policy-makers, churches, religious organizations, and non-governmental organizations (NGOs) exists, that advocates for refraining the

headscarf-issue from the political realm of contestation. Especially Austria's two major political parties, the Christian-conservative ÖVP (Austrian People's Party) and the Social Democratic Party (SPÖ), have taken some standing in the evolving debate, claiming that wearing the veil in Austria is not disputable due to the legal tradition of the Austrian state–church relationship. Both political actors as well as representatives of religious associations emphasize and praise Austria's model of legal recognition of religious communities that would foster dialogue among the state and faith organizations (Schakfeh 2005; Plassnik 2007).

However, the tolerant legal regulations and the tradition of appreciating the public status of religion are only one side of the coin. The other side comprises rather palpable racist attitudes within the Austrian population, restrictive immigration, integration policies, and right-wing parties that systematically foster sentiments against immigrants. Since the late 1980s, the FPÖ (Freedom Party Austria) has been mobilizing against immigrants using a rhetoric that ranges from cultural alienation to the misuse of Austria's generous welfare system by foreigners (Ter Wal 2002). In the late 1990s, the FPÖ already built its campaigns on anti-Islamic feelings (Karner 2005). But only in the wake of the recent international events, the debates about the role of Islam attracted more public leverage and the consensus of not disputing religious rights has become more strongly contested. Owing to these developments, the Muslim headscarf-issue has been situated in the field of struggle that embraces the broader context of Islam and Turkey's membership to the European Union (Heine 2005). The recent electoral campaigns by the right-wing parties FPÖ and BZÖ (Movement for the future of Austria) run on islamophobic sentiments as well as lingering Islamic threat, and have created a rather hostile environment for migrants and especially for veiled Muslim women, who are portrayed in the public discourse as visibly different from the majority society.

These contradicting developments build the puzzle of the Austrian headscarf policies that this paper wants to explore. Our aim is to explain these diverging policy-strategies, having, on the one hand, Austria's comparatively tolerant regulation of veiling and, on the other hand, fierce anti-foreigner campaigns and Austria's restrictive immigration and integration policies for migrants. To approach an explanation, the paper asks for structures and institutions that account for Austria's tolerant approach towards veiling and rests on the argument that it is the legacy of organizational religious pluralism and cooperation that informs the legal framework of veiling. To make our argument we first describe and analyze Austria's regime of religious pluralism and its historical development with respect to

Islam. The next section will discuss the regulations related to wearing the headscarf in public institutions as well as the actors and sites where debates and disputes over veiling have occurred. The focus of this part will be on the framing strategies of specific actors regarding wearing the headscarf. Third, we will conclude with a summarizing interpretation of the Austrian condition in regard to regulations and conflicts over veiling in the context of a discursive shift from religious freedom to cultural values and traditions.

Approaches to Variations of Veiling Regimes

Veiling policies show a considerable variation across Europe. But considering state approaches of regulating religious head-covering within public institutions, three models can be distinguished: (i) prohibitive approaches, (ii) soft or selective approaches, and (iii) non-restrictive or tolerant models (Skjeie 2007, 130). Nation-states following the prohibitive approach ban all forms of Muslim headgear (like France, Turkey, and some federal states in Germany). The selective approach is characterized by restrictive measures on certain kinds of headgear like for example on full body or face covering (Finland, Sweden, and the Netherlands), whereas the non-restrictive, tolerant model does not prohibit wearing headgear at all (Greece) (Skjeie 2007, 141).

Comparative research has identified three crucial factors explaining those national variations in regulating veiling and accommodating Muslim practices in Western Europe: the citizenship regimes, anti-discrimination policies, and state–church relations. In the following section, we give first a brief overview of these concepts and, second, confront these factors with the situation in Austria.

The *first explanatory factor*, a country's citizenship tradition (Koopmans and Stratham 2000; Koopmans et al., 2005; Saharso 2006), suggests three citizenship models that employ distinct effects on governing religious and cultural diversity (Saharso 2006, 4–6): the civic-assimilationist or republican model, the ethno-cultural model, and the multi-cultural model. The *civic-assimilationist model* presents the nation-state as an undivided community of citizens sharing common values and principles. In general, this model is open to include migrants as citizens and provides relatively easy access to citizenship (*ius soli*) but does not recognize cultural and religious group differences. The *ethno-cultural model* conceives the nation-state as culturally homogenous and imposes strict requirements to immigrants aspiring citizenship. This citizenship model is based on descent (*ius sanguinis*) rather than on consent to common values and principles. Finally, the *multi-cultural model* promotes

cultural and religious diversity by providing relatively easy access to citizenship and recognition of cultural differences (like in the Netherlands and the UK). In regard to the headscarf, the following argument could be made: It is most likely that countries with a *ius soli* citizenship regime and a multi-cultural approach toward accommodating minority groups handle religious difference in a far more open way, while countries using an ethno-cultural citizenship regime (like Germany and Austria) are more restrictive toward accommodating Muslim practices.

A *second factor* shedding light on the accommodation of religious diversity is the tradition of anti-discrimination policies and the influence of equal opportunity institutions. It is argued that countries with strong equality traditions are less inclined to ban veiling because a ban is seen as infringing Muslim women's right to participate in the public realm (McGoldrick 2006; Skjeie 2007).

The *third factor* refers to historically developed distinct systems of relations between the state and religious communities. Fetzer and Soper (2005, 7) point to findings drawn from a comparative study that "the development of public policy on Muslim religious rights is mediated [...] by the different institutional church-state patterns". With respect to veiling, Berghahn (2007) states that secular states tend to ban religious symbols from the public realm, whereas countries with a tradition of a state-church or with strong ties between—mainly Christian—churches and state institutions react more tolerant toward recognition claims made by Islamic communities.

If we look at Austria, the explanation-power of the arguments derived from the citizenship-regimes and anti-discrimination policies approaches vaporizes. Austria's citizenship rights are based on the *ius sanguinis* model. Migrant workers, refugees, and asylum seekers have for a long time been treated as foreigners who would stay only temporarily in the country. But due to migration patterns in Austria and other European countries, the composition of the Muslim community has changed over the last two decades. According to the 2001 census, 4.2 percent of the whole Austrian population stated to be believers of the Muslim faith. This figure indicates a significant increase over the last three decades: In 1971 only 0.3 percent and in 1991 2 percent of the population declared to be of Muslim faith. The Muslim population is mainly composed of migrant workers and their families from Turkey, who have been attracted in the 1970s to balance out the shortage of the Austrian labor force. The second largest group of Muslims in Austria is ethnic Bosnians who were accommodated as war refugees in the 1990s. With respect to gender, the Muslim community is still male dominated: In 2001, 45 percent of the Muslims were women (Statistik Austria 2006, 54–55). New

forms of migration, mainly family reunion, changed the composition of the Muslim community as well as the aims of life of first- and second-generation Muslim migrants: They seek for permanent residence and, eventually, for participation and resources. However, out of 338,998 persons, approximately only 80,000 Muslims possess the Austrian citizenship (Schakfeh 2005, 155).

Despite these changes in migration patterns, Austria's foreigner laws are rather restrictive. The latest amendments of Austria's Citizenship Act (2005/06) as well as its recent linkage of the Asylum Law (2005), the Settlement and Residence Act and the Aliens Police Law to its Aliens Act (*Fremdenrechtspaket* 2005) show a reluctance to introduce the *ius soli* principle for second- or third-generation migrants and continue requiring "cultural and social integration" as a precondition for naturalization (Kraler and Sohler 2005, 10–27). Moreover, requirements to become eligible for the application process for citizenship as well as for acquiring residence permission were tightened (Valchars 2006).

Again, unlike other countries that hold a tolerant regulation concerning the practices of veiling, like, for example, the UK and the Netherlands (McGoldrick 2006, 173–204; Saharso 2006), Austria does not portray itself as a multicultural society. Only some groups, for instance, ethnic Slovenes in Carinthia and ethnic Croats in the Burgenland are recognized as minorities with specific group rights such as language classes in public schools (see *Volksgruppengesetz* BGBl 24/1988). Furthermore, the country does not value cultural diversity through, for instance, active policies of anti-discrimination and equal opportunity or the recognition of immigrant minority group claims (Kraler and Sohler 2005, 23). Austria's anti-discrimination policies are primarily based on the respective EU-Directives that have been implemented reluctantly in 2005 and are rather weak in terms of resources and capacities.

Considering these policies, the predominant concept of religious pluralism cannot be seen as a result of anti-discrimination policies on the grounds of religion or gender. Taking into account the self-understanding as a non-immigration country, the citizenship regime that follows a rather rigid ethno-cultural pattern and the lack of anti-discrimination policies, Austria should have established a more restrictive policy toward wearing veils in public institutions. Thus, the explanations provided by the citizenship tradition and anti-discrimination approaches regarding headscarf regulations do not hold for the Austrian case. This leaves us with the third factor presented above—the historically developed state–church relationship—to which we will turn now.

In Austria, the historically established framework of state–church relations consists of an institutionalized cooperation between state authorities and religious associations. Part of this model of cooperation is the legal recognition of Islam as religion and the Islamic Religious Community in Austria (IRCA) as the official representative body of Muslims living in Austria. The legal instrument of recognition, the so-called “Recognition-Law”, implies that all recognized religions are treated the same way. The status of a legally recognized religious community and the constitutional guaranteed individual rights provide several privileges for adherents of the Islamic faith. Thus, the distinct state–church framework might be considered most important for explaining Austria’s accommodation of Islamic practices, manifestations, and dress codes.

Governing Religious Pluralism in Austria

State–church relation models in Europe can be distinguished into “separation models” (like in France or Turkey), “cooperative models” (like Germany), or “state–church models” (like England, Scotland, Denmark, or Greece), and Austria is usually categorized as practicing a “mixed or cooperative system” of state–church relation (Brocker et al. 2003, 14). In contrast to other European states which have a “cooperative” understanding of its neutrality, like, for example, Germany and the Netherlands, Austria has no explicit declaration of its identification toward churches or religions communities in its constitutional laws. Thus, Austria’s legislature does not include an explicit definition of neutrality. The relation between religious communities and the state can rather be described as a “pluralistic inclusion” of religion into the public realm (Kalb, Potz, and Schinkele 1996, 50; 2003, 42–45).

On the basis of this self-understanding, it is not considered an infringement of state neutrality if religious symbols are displayed in public institutions like, for example, crucifixes in court rooms or in class rooms of public schools. The so-called “Oath Law” of 1868 (RGBl 33/1868) can be taken as illustration of the Austrian understanding of enacting the “pluralistic inclusion” of religion into the public realm. Owing to that law, court rooms are often equipped with a crucifix because it requests witnesses, parties, as well as experts and adepts in civil law or penal law cases to vow by invocation of God regardless of the faith of the person concerned. This practice is not challenged even though it is not directly deducible from the “Oath Law” (Kalb, Potz, and Schinkele 1996, 88).³

In regard to schools, the “Religious Instruction Law” (§2b, BGBl 243/1962) determines that there must be crucifixes in all class

rooms of those schools where religious studies are mandatory if the majority of the pupils belong to a Christian faith. Moreover, the final protocol of the school treaty of 1962 (BGBl 273/1962), a treaty in which the Catholic Church of Austria is one party and the state of Austria the other, determines that a change in the current regulation has to be agreed upon by the holy see (*Heiliger Stuhl*) (Kalb, Potz, and Schinkele 2003, 372–373; 457)⁴.

Although the mentioned religious signs publicly displayed indicate the privilege of Christian faith and especially the importance of the Catholic Church in the public realm, the concept of “pluralistic inclusion” does not only refer to the Christian religions. On the contrary, Austria’s model of state–church relation is institutionalized through a legal “model of recognition” accessible to all religious communities if they fulfill the legal requirements determined in the so-called “Recognition Law” from 1874 (*Anerkennungsgesetz*/RGBl 68/1874). The then present churches were automatically recognized by the state and their status regulated with particular laws. All religious communities recognized by this law are formally granted the same treatment and entitlements by the Austrian state. Thus, the “Recognition Law” implements a very specific form of freedom of religious expression as a group right (Kalb, Potz, and Schinkele 2003, 6–62).

Moreover, religious freedom of expression is, on the one hand, granted by the “Recognition Law” and, on the other hand, by regulations determining the individual right of religious expression. This right is codified in the Basic State Law (*Staatsgrundgesetz* 1867), the State treaty of St. Germain (*Staatsvertrag von St. Germain* 1919), and the European Convention of Human Rights (1958) that has constitutional status in Austria (Kalb, Potz, and Schinkele 1996, 61).

State neutrality in Austria might thus been described as *first*, embracing and simultaneously practicing an individual as well as collective form of freedom of religious expression that are often regarded as “opposite poles of neutrality [as] being either a principle of individual rights or of collective unity and integration” (Joppke 2007, 315). *Second*, Austria’s model of state neutrality has implemented a legal mode to recognize religious groups for those who aspire legal recognition. This model could be defined as “pluralistically inclusive” and guarantees recognized religious groups an equal treatment as well as specific autonomous domains in which the state retreats from interference.

Religious communities are, for example, entitled to comment on specific public policies, or Austrian bureaucracy asks for the statement of religious communities on bills in the area of social engagement (see also *Protestantengesetz* BGBl 1961/182 for legal

specification). With regard to the granted entitlements, every recognized church or religious community has the right to organize their affairs without interference of the state (Basic State Law, Article 15). The domains of internal affairs of churches and religious communities comprise of, for instance, dogmatics and morales, organization and religious statutes, membership, sacraments, and rituals (Kalb, Potz, and Schinkele 2003, 68). Furthermore, religious studies are mandatory for all pupils who belong to a faith, and are an obligatory subject in every public school and in schools that hold a public status as well as for schools that qualify for specific professions (*Religionsunterrichtsgesetz* § 1.; Gampl, Potz, and Schinkele 1993, 30–305; Primetshofer and Kremsmair 1993, 435–437). Paragraph 2 of the 'Religious Instruction Law' (*Religionsunterrichtsgesetz*) states that churches or religious communities have the right to solely organize, lead, and oversee the teaching including the appointment of teachers. State bureaucracy does neither intervene in religious education nor does it organize and conceptualize the class or the content of the class. Austrian school bureaucracy has only the right to supervise instruction in regard to organizational matters (Pötz and Schinkele 1995, 265–267).

For our purpose—to explain the tolerant regulation of veiling—it is important to mention that Islam is recognized as an official religion since 1912 and as a religious community since 1979. With the annexation of Bosnia–Herzegovina in 1908, a large group of Muslims became members of the intruding Austro-Hungarian Empire. Owing to the lack of an organizational constitution of Muslims, Islam was recognized as an official religion by a special law in 1912, the so-called *Islam Law*. This law entitled people practicing Islam to certain rights, as, for instance, advantages concerning taxation, school- and work-laws, or military service (Heine and Kroissenbrunner 2001, 22). References to these historical developments finally allowed in the 1970s for the approval of the appeal made by a small Muslim organization, the "Muslim Social Service", to obtain the status of a recognized religious community by a 'formal' administrative act. In May 1979, the IRCA was recognized by the Federal Ministry of Education and Culture and established as the official representation of all Muslims residing in Austria (Balić 1995, 42).⁵ Islamic instruction in public schools started in 1982/83.

Interestingly, during the time of the recognition-process, there was no serious discussion concerning the extent to which Islamic practices should be accommodated in the public sphere. The decision to recognize Islam was made exclusively among elites without an accompanying public debate. Furthermore, recognition and institutionalization took place at a time when migration was not a disputed

issue within the political sphere. The recognition of Islam as a religious community was not a policy decided on in relation to (labor) migration in the 1960s and 1970s but was solely linked to the legal recognition entitlement of religious associations and the *Islam Law* of the multi-national Habsburg Empire. The history of Islam within the Austrian Empire was thus an important point of reference during the recognition procedure. Today, the IRCA is the most important and influential political actor regarding matters on Islam. It is asked for statements by Austrian state authorities and entitled to certain decisions if the matters at stake concern the way of life of Muslims in Austria. However, over the time, critique has been expressed that the IRCA would not represent all Muslim voices. Muslim migration groups who do not feel represented by the IRCA cannot rely on any other institutional structure that would enable them to be heard in decision-making processes.

Regulation and Debates in a Religious Pluralist Regime

In this section we will discuss the Austrian regulations and debates about headscarves in the context of Austria's religious pluralism and will trace possible changes in the ways Austria regulates the wearing of the headscarf, which are increasingly articulated within current disputes. Recently, attempts by specific political actors try to shift the headscarf issue away from a religious frame to a cultural "other" frame that resonates with the restrictive ethno-cultural citizenship legislation.

The Right to Veil

According to Skjeie's (2007) typology of the regulation of veiling in Europe, Austria practices the tolerant model. Human rights enshrined in the Austrian constitution, the institutionalization of Islam, and—to a smaller extent—anti-discrimination provisions constitute the legal framework guaranteeing the right to veil. As already mentioned, governmental decrees reinforced the right to wear the headscarf. In contrast to other European states, where conflicts over veiling have been brought to court, Austria has no single court rule on Muslim headscarves at any level of the jurisprudence so far (Potz and Schinkele 2005, 193).

The accommodation of wearing the headscarf as an expression of religious belief is featured by several actors in different areas such as national public education, national public administration, and the public service.⁶ In this part we highlight the public policies that were reinforced or issued to settle conflicts regarding veiling practices.

In 2004, after a controversy over wearing the headscarf by pupils in a public school in Linz, a decree (ZI 20.251/3-III/3/2004) was issued by the Ministry of Education and Culture demanding a non-restrictive approach in the state school system. The order states that wearing the headscarf by Muslim pupils has to be identified as a religious clothing instruction and is therefore protected by constitutional principles enshrined in Article 14 of the Basic State Law—guaranteeing freedom of believe and faith—and by Article 9 of the Human Rights Convention.⁷ The decree also highlights that school bodies are not entitled to interfere into subjects that have to be dealt with by religious organizations only. A similar decree, deriving the right for Muslim head-covering from the Basic State Law, was released twelve years ago by the Federal Ministry of Education and Culture in 1992 (ZI. 20.251/4-III/4/92). In addition to stating the right to wear the headscarf, it was also stressed that school instructions in sport, swimming, and home economics have to respect the believe practices of adherents of the Islamic faith.

Both decrees engage a multi-religious stance but do not differentiate between different types of headgear. This might be explained by the fact that other forms of body-covering than the hijab have not be worn in Austrian public class rooms so far (Götz 2006). In general, it should be mentioned that, with the exception of the interpretation of the law on prohibition of disguise during public gatherings, all provisions refer to the hijab, not to the niqab, or the burqa. Moreover, it has to be stated that the decrees are concerning the headscarf of the pupils and not those of teachers.⁸

The public health service is the second area where the right to wear the headscarf has been explicitly approved due to a classification of the Muslim headscarf as religious expression: After the request of a Muslim hospital employee in 2004 to be allowed wearing the headscarf at work and following disputes, she was finally able to do so (Kubelka and Schian 2004, 61). In addition, the Viennese “Association of Hospitals” (*Verbund der Wiener Krankenanstalten*) advocated for a non-prohibitive attitude in an internal binding decree in 2006 (GED-104/2006/BGD).⁹ Concerning Vienna’s public transportation enterprise, the question of headgear was discussed not with regard to Muslim women but to Sikh men. Although Sikh men were first not permitted to wear a turban because of the obligations of bus drivers to wear a cap, the Viennese public transportation enterprise finally allowed wearing the turban during work (Kubelka and Schian 2004, 62). Like in the headscarf cases, the Sikhs’ head-covering was framed as a matter of religious freedom.

The leading actors in negotiating and strengthening the right to wear the headscarf in public institutions were representatives of the IRCA.

The headscarf-issue represents a case of close cooperation between state authorities and the Islamic Religious Community. The issuing of the decree in 2004 was also advocated for by the IRCA to clarify the legal entitlements of Muslim pupils and to resolve the conflicts in the respective schools (CCC 2004).

Importantly, the tolerant model is currently limited to regulations concerning public institutions. With respect to the private labor market, the situation is completely different. Veiled women rarely appear in visible job positions and they face severe problems to get access to employment (Hofstätter 2004, 18; Kalb, Potz, and Schinkele 2003, 632). Heine (2005, 105) observed that women “dressed in traditionally Islamic clothing are still a particular target of public insults and of discrimination when they are seeking employment”. Up to now, the private business sector lacks pro-veiling policies. This indicates a rather weak commitment to anti-discrimination policies in Austria as well as a lack of a “tradition” in enforcing individual rights with the tool of anti-discrimination. Austria implemented the Anti-Discrimination Directive of the European Union, prohibiting discrimination on grounds such as religion or ethnic origins, only with hesitation. The law on equal treatment, granting protection of discrimination in private employment and in regard the access to goods and services by privates or the state, entered into force in July 2004 (Frey 2006, 52). But the commission is very hesitant to make basic decisions, like, for example, in the case of an appeal of a nationwide Anti-Discrimination NGO. The NGO requested a clarification concerning veiling in the labor market, but the request was denied by the commission with the argument that it was not brought in by a directly affected person (Klagsverband 2006).

Nonetheless, the public policies that were recently issued to settle conflicts over veiling practices thus strengthen the non-restrictive model of headgear regulation. But the public debate concerning veiling practices in Austria reveals a much more contested field.

*Veiling Disputed*¹⁰

The Muslim headscarf has received increasing media attention in the present decade. While the two biggest national quality newspapers “Die Presse” and “Der Standard” published in sum only three articles on veiling in 2000, the number rose to 22 in 2003. Controversies in Germany and France on the issue and the following prohibitive decisions were central catalysts for the Austrian debate. Public attention on the issue emerged primarily from few single conflict cases in Austria, which appeared first in 1995, then in 2001, 2004, and 2006. Most of those conflicts that triggered media attention occurred at public schools

when local school authorities tried to ban pupils with headscarves from schools or to refuse school registration for veiled pupils.

In the public debate, the FPÖ took a strong stand in demanding a general ban on headscarves worn by pupils in public education. Other political parties have been rather reluctant in contributing to a controversial debate. Even the second right-wing party, the BZÖ, did not take a clear position toward the headscarf before 2007. With exception of the IRCA, whose interventions were rather reactive to the debates instead of pushing the topic, no other church representatives took a major role in the debate. This holds also true for ethnic minorities and migrant associations. In all conflict cases, the IRCA interfered and took up a strong role in order to defend the right to veil on legal grounds. Like already stated, the conflicts were all reconciled by the responsible authorities with a reference to Austria's tolerant legal situation.

In general, the media and the FPÖ took the leading role in the headscarf disputes by bringing up the topic, despite a limited scope of actual conflict cases. In contrast, the headscarf issue was not much debated by other actors, such as feminist associations. The few representatives of women movements, who raised their voice publicly usually, took a pro-headscarf attitude.¹¹

Hardly any conflict cases are known in other social or economic sites although public reports on discrimination as well as media reports refer to severe problems exist for veiled women on the housing and on the labor market (KMU Forschung Austria 2007, 3;33). The only case that gained some public attention was a conflict in the "Austrian Labour Market Service" (AMS). This semi-private agency suspended the salary for women participating in a work-program with private employers after they refused the request of their employer to unveil. This decision was drawn after it became public and had to be revoked (CCC 2006).

In summery, we can state that not only regulations concerning wearing a Muslim headscarf are tolerant, the public disputes on veiling are also moderate. All political parties except FPÖ and BZÖ and all state authorities frame the Muslim headscarf as a no-problem issue. However, the issue is increasingly framed with dichotomous, "Anti-Islam"-positions by the two right-wing parties. Thus, right-wing actors prepare and build discourse-coalitions with those who stress the restrictive migration and citizenship regime. Or to put it differently: The institutions of a restrictive migration and citizenship regime might provide the ground for more fierce debates aiming at prohibitive regulations of Muslim headscarves in the future.

Framing: From Religious Rights to Cultural Values

The debates over headscarves show that the right to wear a headscarf is conceptualized as a religious right by the majority actors in the field. This conceptualization of the Muslim headscarf builds its narrative around the image of being a nation-state with a long-lasting tolerant tradition toward religious communities. Political actors and legal experts usually take a strong reference to “the” historically developed model of pluralist inclusion of religious communities and the legal recognition of Islam, presenting Austria as a role model for Europe. In this specific sense, religious diversity plays an important role in presenting Austria as a tolerant state.

Once wearing the headscarf has been presented as a religious right, political actors and responsible authorities in the educational system emphasized that there is no problem with the Muslim headscarf due to the Austrian regulations of religious pluralism.

It is important to note that supporters of a pro-veiling regulation refer to the headscarf as a religious sign rather than a symbol of Islam. The wording is clearly “religious freedom” without pointing to values and practices of Islamic faith. In other words: Advocates of the tolerant headscarf regime use the “religious freedom frame” and not an “Islam frame.”

However, the toleration of veiling is contrasted by a rising political contestation of Islam and its practices. During the last several years, more restrictive policies have been demanded and the framing has changed as well. Opponents of the Muslim headscarf take predominantly a rather cultural exclusionary standpoint in the context of national belonging. Framing strategies addressing both Islam as a threat and Islam as being distinct from values attached to Christianity are applied.

In the first place, the two nationalistic right-wing parties, the FPÖ and later the BZÖ, address the issue of head-covering as an “Islamic issue”, respectively, as a manifestation of cultural divergence. In accordance with the Austrian ethno-cultural citizenship regime, these parties mark Muslims and Islam as “aliens”, or as “Others”, opposed to an imagined Austrian identity. The discursive formation comprises the construction of a modern, gender-egalitarian picture of “us” against a pre-modern, sexist, and patriarchal “them”: Election campaigns of the two parties in 2005 and 2006 referred to equality of the sexes and blamed the Muslim headscarf as oppressive for women but targeted the presence of Muslims and Islam in Austria. These campaigns were also the arenas when the predominantly de-gendered debate on the headscarf-issue became gendered.

During the election campaigns, the major political parties did not show resistance toward the discursive formation of Islam as a threat of "Austrianess." From the perspective of ÖVP and SPÖ, it was merely a nonissue.

The anti-foreigner discourse, which strongly characterized the political campaigns during the 1990s and beyond, focused mainly on ethnically defined migrants. In the course of the split of the FPÖ in 2005 into the ideologically very similar far right parties such as BZÖ and the FPÖ, the latter started to concentrate its anti-foreigner discourse on Muslim migrants. In autumn 2007, for example, a conflict over the enlargement of a mosque triggered a national debate on Austrian values in contrast to Islamic values. In the course of this debate, the BZÖ took for the first time a prominent standpoint on headscarves and demanded a prohibition of Muslim veiling practices.

The counter-framing, however, is not restricted to right-wing parties. In 2005, the then female Minister of the Interior of the ÖVP, Liese Prokop, initiated a controversial public debate on integration, especially emphasizing the problems concerning the integration of Muslims. She claimed a ban for veiled teachers with a similar argument: She defined veiling as "displeasing" because it does not correspond to the values of "our society" and concluded that "we have to teach the Muslim women, who allow their husband to beat them, that this is different in Austria" (John and Klenk 2005). Soon after she gave this interview to a weekly, she had to withdraw her comments. In a common statement with the IRCA referring to the "Austrian culture of dialogue," the minister clarified that religious freedom of expression is part of the Austrian State Basic Law and that social problems, which she previously defined as Islamic, like violence against women cannot be related to Islam (CCC 2005).

The Muslim headscarf, which had been officially framed as religious expression, has thus partly been re-contextualized within the politically strongly contested fields of migration and integration. While the reference to "culture" is value-laden, stresses identity politics, and produces demarcation lines between "them" and "us" (Benhabib 2004; Philips 2007), the religion frame refers to individual and collective rights. The Austrian debates show that the pro-veiling regime is put into question in the culturalist frame, whereas dialogue and integration are policy suggestions in the religion frame.

The statements made by members of the government and by political parties have to be valued as signals toward a re-interpretation of the Muslim headscarf from a religious right to a cultural practice, that aim at turning the primacy of the including state-church

relation into a prevalence of the excluding ethno-cultural model. Interestingly, although we can observe a further increase of statements against Islam including statements against the headscarf also by the political centre, the actors using the “Islam frame” have broadened their attention and now focus more on the accommodation of other Muslim practices, like the building of new mosques and minarets. It thus can be expected that debates about Muslim practices will intensify, but like this paper argued, the present tolerant headscarf regulations were even strengthened during the intensification of the debate.

Conclusions

Despite the strong presence of an ethno-cultural citizenship model in Austria, that tends to exclude or marginalize migrants and despite a discourse that stigmatizes migrants and their practices, the open and inclusive state–church relation prevails in the question of the Muslim headscarf.

Along with the practice of a religiously pluralist inclusive state–church relation, Austria is characterized by a persistent nonrestrictive model in regard to the Islamic headscarf. Public authorities have confirmed this approach in several decrees and policies, and the sporadic conflicts that have occurred were reconciled quickly with a reference to religious freedom of expression and the status of Islam as a recognized religion.

Thus, the tolerant regulation of veiling in public institutions can be explained by the country’s “pluralistically inclusive” state–church relation, which provides special institutional structures and procedures to deal with religious issues and even religious conflicts.

First, being a recognized religious community, the IRCA is included in political decision-making processes by its status if matters are of concern to religious communities. The described regime of governing religious diversity and the recognition of Islam thus entitle the IRCA to a certain political leverage in their claim making. The definition of the headscarf as a religiously demanded dressing code and a form of expression of one’s personal religious conviction is strongly supported by the IRCA and it resonates with the state regulations concerning veiling.

A *second* dimension of these state–church relations concerns the granting of relative extensive autonomous domains to recognized religious communities. With the definition of the headscarf as a *religiously* demanded dressing code, the state also clearly determines that the handling of the headscarf is a matter of the IRCA and does not belong to the realm of other state institutions.

A *third* dimension of the Austrian state–church relation refers to the practice of a “pluralistically inclusive” model that accepts and thus welcomes religious symbols in the public sphere. Following these interlinked practices of Austria’s religious pluralist regime, a prohibition of the headscarf could not be discussed without reference to other religious symbols in the public realm, as, for instance, the habit of nuns or the crucifixes in class rooms and courts. Especially, the latter issues are not touched upon in public debates and Austria’s way of practicing neutrality can, therefore, be described as a political taboo (Suppanz 2003, 43).

Austria’s special version of state neutrality—its strong reference to religious pluralism and to equality of religions—frames the headscarf-issue as an issue of individual and collective rights, guaranteed by the Austrian constitution. The institutional settings of religious pluralism as well as the dominant framing constitute the tolerant context for Muslim practices. However, this silent compromise is getting fragile due to the re-framing strategies of right-wing parties in the context of an ethno-cultural citizenship regime.

And finally it should be considered that there has always been a big gap between tolerant state regulations, modest public controversies over headscarves, and a marginalization of Muslim women in the workplace.

NOTES

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2. The law on prohibition of disguise (*Vermummungsverbot*) during public gatherings was introduced in 2002 as part of the general law concerning the regulations of public gatherings (*Versammlungsgesetz* BGBl 127/2002). It prohibits the participation at a public gathering or demonstration if the facial features of a person are not recognizable and the disguise worn to prevent recognition during a specific gathering. Clothing that

is worn out of religious or medical reasons, like the chador or the burqa, is exempted (Keplinger 2002, 192–94).

3. It would be in accordance with the law if the crucifix, the Thora or the Quran, would be stored in a separate room and brought in if required. If a person belongs to a Christian faith, the oath has to be made in front of a crucifix and two burning candles, people belonging to the Jewish or Islamic faith have to vow in front of the Thora or respective the Quran (Gaml, Potz, and Schinkele 1993, 90–94). Although the “Oath Law” is still applicable law, Kalb et al. stress that the law is issued very carefully and that a handshake in combination with the oath-formula without reference to God is sufficient (Kalb, Potz, and Schinkele 1996, 88–108; 2003, 58–59).

4. In regard to the “negative freedom” of religion, it has to be stressed that parents of a pupil or a pupil who has reached the age of 14 are eligible to sign off religious instruction. Although there have been recurrent debates about the introduction of mandatory ethic studies for pupils who do not attend religious instruction, only pilot projects at some schools have been realized since 1997/98 (see also Kalb, Potz, and Schinkele 2003, 372). So far, no educational training for “ethic studies” instructors has been established at Education academies (CCC 2008).

Additionally, if a pupil attributes a specific meaning to the crucifix due to personal experiences, the mentioned regulation does not know special mechanisms to accommodate the pupil. Thus, legal experts recommend changes of the current law (Kalb, Potz, and Schinkele 2003, 374).

5. Recognized as churches and religious communities by the “Recognition Law” are besides the Islamic Religious Community (Pötz and Schinkele 2005, 142–204): the Catholic Church, the Evangelic Church, the Greek-Oriental Church, the Israeli Religious Community, the Oriental-Orthodox Churches, the Old Catholics, the Evangelic-Methodist Church, the Mormones, the New-Apostolic Church, and the Austrian Buddhist Religious Community. Another ten religious communities are recognized as religious avowal communities. In 1998, however, the law about the public status of religious avowal communities was issued and the conditions of obtaining the status of a religious community changed severely. The recognized avowal communities do not have the same rights as the recognized religious communities and the amendments made to the “Recognition Law” complicate the process of achieving the status of a recognized public corporation in serious ways (Kalb, Potz, and Schinkele 2003, 93–112). Schima (2005, 117) states that this amendment is a severe regress in regard to church–state relations and affects or hampers especially the recognition efforts of minority religious groups.

6. Concerning the sites of education and administration, the respective policies regulating the wearing of headscarves have a national scope and are issued by the Ministry of Education and Culture and by the Ministry of the Interior. The public service knows only one explicit policy for the federal county of Vienna, issued by the Association of Hospitals of Vienna (*Verbund der Wiener Krankenanstalten*).

7. Article 9 of the HRC provides the “(1) right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. (2) Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

8. However, the Austrian model practically also allows wearing the headscarf for teachers. So far no cases occurred concerning problems with veiled public servants. Moreover, there are only very few teachers who wear the headscarf and are not teachers for religious instruction.

9. Wearing headgear is admitted, but has to be in accordance with several principles, such as legal work protection of the employees or hygienic provisions.

10. The authors of this paper conducted a quantitative media analysis of two national newspapers, “Die Presse” and “Der Standard”, for the selected years 1999, 2000, and 2005 as well as a qualitative analysis of the Austrian public debate on the headscarf. For the qualitative analysis, a wide array of documents, ranging in its time-span from 1995 to 2006, from involved actors were considered and their framing strategies analyzed.

11. A prominent exception is a well-known feminist columnist, Elfriede Hammerl, of the Austrian weekly *Profil*, who took an explicit anti-headscarf stance, arguing that the practice of the Muslim headscarf is against gender equality and universal women rights (Hammerl 2004).

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