

Adopting a face-veil, concluding an Islamic marriage: autonomy, agency, and liberal-secular rule

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1. Introduction

In the Netherlands a wide range of Islam-related practices have been at the center of heated public debate in the course of the last decade. In this contribution, I focus on two of these practices, face-veiling and what is commonly referred to as ‘Islamic marriages’,¹ which have not only drawn the attention of the media, but also of politicians, policy makers and parliamentarians.² Various attempts have been made to ban these practices. In the case of face-veiling, this concerns either proposals to prohibit wearing face-coverings in all public space or more limited locational and functional prohibitions. With respect to Islamic marriages nearly forgotten legislation has been revived, while the association of Islamic marriages with forced and cousin marriages has triggered new legislation. However, this paper only marginally engages with the question whether governmental actors have succeeded in producing and implementing specific laws or regulations. Instead, it broadens the scope and investigates the wider range of effects that the problematization of these practices produces.

My point of departure is that face-veiling and Islamic marriages did not simply appear as problems in need of regulation, but that particular actors turned these practices into issues that require state intervention. In order to better understand how debates about face-veiling and Islamic marriages emerged and the work they do, I use Foucault’s notion of problematization, which draws attention to how producing and presenting particular issues as a problem is part and parcel of the process of governing (Rose and Miller 1992: 181; Bacchi 2015). When practices are turned into problems, the language used does not simply describe

¹ The term ‘Islamic marriages’ refers here to those marriages that the couple involved considers Islamically acceptable and that are concluded without the prior conclusion of a civil marriage. According to Dutch law, these Islamic marriages do not have legal effects. Moreover, it is prohibited to conclude a religious marriage prior to a civil marriage (Art. 1:68 Civil Code), but only the religious functionary concluding the marriage is punishable by law (Art. 449 Penal Code). According to Islamic law, the presence of a religious functionary is not required for a marriage to be valid.

² In this contribution I use the results of two research projects I am engaged in, one focusing on face-veiling (Moors 2009, 2012, 2014), the other on Islamic marriages (Moors 2013). This contribution builds on these earlier publications. Starting in 2013, research on Islamic marriages has been funded by the European Research Council (ERC) advanced grant ‘Problematizing “Muslim marriages”: Ambiguities and contestations’.

reality, it also (co)produces it. In other words, discursive practices have material effects. In our case, this then raises the question how, by whom, and under which conditions face-veiling and Islamic marriages have become defined as a problem, the kinds of questions this raises, the answers these evoke and the wider societal effects this engenders. At the same time, we need to recognize that there is potentially always a gap between hegemonic discourses and how subjects respond to them (Butler 1997). This is evident when we turn to the narratives of the women concerned, and analyze how they engage with the ways in which these practices have become problematized.

Although wearing a face-veil or concluding an Islamic marriage are different kinds of practices, in both cases participants in public debate directly or indirectly draw on personal autonomy and related notions such as free choice or free consent. In doing so, tensions between ‘women’s rights’, ‘cultural rights’, ‘gender equality’, ‘the freedom of religion’ and/or ‘the freedom of expression’ become apparent. Hegemonic discourse considers both face-veiling and Islamic marriages as contributing to the gender discrimination of Muslim women and to their oppression by their families and ‘the community’. The women engaging in these very practices commonly state, however, that they themselves opt to cover the face or to conclude an Islamic marriage and that they frequently do so against the wishes of their parents. Criticizing attempts to ban face-veiling and Islamic marriages, they appeal to civil rights, in particular the freedom of religion and the principle of non-discrimination, and point to the double standards those arguing for such bans employ. Hence, these issues seem classic cases of minoritized women defending their right to choose to engage in practices that the majority society considers discriminatory and detrimental to them. Before analyzing the kinds of work the concept of ‘personal autonomy’ does in these debates, I first briefly turn to how debates about personal autonomy and cultural rights are gendered.

With respect to liberal democracies, Susan Okin’s influential essay ‘Is multiculturalism bad for women’ (1999) functions as a paradigmatic text. Okin argues that even if ‘Western liberal cultures’ also still practice many forms of sex discrimination, these have ‘departed far further from them than others’, as women in these Western cultures are ‘legally guaranteed many of the same freedoms and opportunities as men’ (Okin 1999: 16-7). In her view, recognizing cultural rights is highly problematic in the case of cultural minorities that are characterized by strong patriarchal control of men over women, especially in the domestic sphere and with respect to sexuality and reproduction. Okin has been widely criticized for using a strongly reified and static notion of culture and for limiting minority

women's agency to active resistance against their own 'cultural tradition'.³ Juxtaposing second-hand cases of male domination in minority culture's private sphere with the formal gender equality in Western liberal society's public sphere, she provides little or no insight in the wide range of positions the women concerned take up with respect to such practices.

This variety of positions is central to Deveaux (2006), who discusses how personal autonomy and cultural traditions are at stake in debates about arranged marriages in the UK. She proposes to move from questioning whether 'contested cultural practices undermine or support personal autonomy' to investigating 'the range of actual and possible individual and social responses to specific customs and arrangements' (Deveaux 2006: 162). Employing a broad understanding of agency, she argues for a 'thinner, less idealized view of autonomy' that takes into account the various ways in which 'women in traditional cultures challenge, revise, and reaffirm aspects of cultural practices and arrangements' (Deveaux 2006: 173). In other words, her concern is about agents' abilities to reflect upon and respond to social practices, which includes how 'vulnerable group members may revise and reinvent certain traditions to empower themselves' (Deveaux 2006: 179). Such an approach is critical of labelling people's relations to cultural practices as a matter of either autonomous choice or oppressive constraints and points out how employing liberal norms of consent and choice frame contested cultural practices as overly static (Deveaux 2006: 184). Arguing against simple binaries of force versus choice, she highlights the need to empirically investigate the motivations of women who engage in practices that to the majority public may seem contrary to their interests.⁴

In the following, I start with tracing how and under what conditions wearing a face-veil and concluding an Islamic marriage have become problematized in the Netherlands. In the next section, I then present the range of motivations, desires and intentions the women who engage in such practices, present. In doing so, I focus on how notions such as autonomy or agency are employed both in hegemonic discourse and in the narratives of the women themselves. I conclude with a note on how liberal-secular rule produces more and less acceptable forms of religion and sexuality, and hence considers some expressions of autonomy desirable and other expressions undesirable or even transgressing what may be tolerated.

³ See, for instance, the responses to her essay in Cohen et al (1999) and Abu-Lughod (2006).

⁴ Bracke and Fadil (2012) have elaborated on the ways in which this problematic opposition works in the case of headscarf debates, drawing on the work of Mahmood (2005). While not referring to Mahmood's work, Deveaux also criticizes the restriction of agentic power to resistance to authority.

2. Problematizing face-veiling and Islamic marriages: a lack of personal autonomy

In the course of the first decade of this century, both wearing a face-veil and concluding an Islamic marriage have been turned from a non-issue into a hotly debated topic. In the case of face-veiling, it concerns an exceedingly small number of women that has become hypervisible in public space. Islamic marriages, in contrast, are far more widespread, yet remain largely invisible to the general public. Still, there are strong similarities in how both issues have become problematized with much debate centering on women's personal autonomy, or rather, the lack thereof.

The emergence of the 'burqa' debates

Although not a completely new phenomenon, it was only in early 2003 that face-veiling became a major issue of public debate in the Netherlands.⁵ This happened when three Moroccan-Dutch students who had started to wear a face-veil were refused entry to a school for vocation training and adult education and raised a complaint with the Equal Treatment Commission (Moors 2009: 396). In the end, the various parties opposing face-veiling at educational institutions were all satisfied with the outcome of this case. Individual schools could prohibit face-coverings, as long as they did not refer to religion and if they provided a valid justification, such as, in this case, impeding communication, hindering identification and hence posing a security risk.⁶

Whereas at the time, there were no voices expressing the desire to prescribe a prohibition at the national level, let alone to implement a general ban, two years later the situation changed dramatically. In December 2005, a parliamentary majority voted in favour of Geert Wilders' resolution 'to prohibit the public use of the *burqa* in the Netherlands', and the Netherlands became the first country in Europe to attempt to introduce such a general ban.⁷ The arguments used were also very different. Wilders' resolution explicitly referred to a specific Islamic garment, 'the *burqa*' (or 'the *niqab*') and stated that the *burqa* is a symbol of

⁵ For an overview of debates about and attempts to ban face-veiling in Europe, see Shah and Grillo (2012) and Brems (2014). For an analysis of how face-veiling became a media hype at particular moments see Moors (2009: 396ff)

⁶ See CGB case no. 2003-40 (www.mensenrechten.nl/publicaties/oordeelen/2003-40). In a rather similar case in 2000 (www.mensenrechten.nl/publicaties/oordeelen/2000-63), the CGB stated that there was no objective justification to prohibit face-veiling. At the time, neither the media nor politicians paid any attention to this case.

⁷ France implemented a ban on wearing face-coverings in public space on 11 April 2011 and Belgium did so on 23 July 2011.

women's oppression and hence inhumane, that it is unacceptable that people appear in public who cannot be identified, and that it widens the gap between the native Dutch and others.⁸

Wilders was not alone in drawing heavily on the common trope of Muslim women's subordination, amplifying and sedimenting this discourse through the performative power of words. When de media reported on the 2003 case, a variety of terms, such as face-veil, niqab (the term the women themselves use), chador and burqa had been used interchangeably to refer to face-veils, with the term niqab far more often mentioned than the term burqa. Within a few years this had, however, changed and by 2006 the variety of terms had narrowed down to one preferred term, the burqa (Moors 2012: 284ff). This is remarkable as face-veiling women in the Netherlands do not wear the Afghan-style burqa (a one piece garment with a mesh in front of the eyes) but rather cover the face with a thin piece of cloth, often leaving the eyes visible, a style more commonly worn in parts of the Middle East. The point, however, is not that a technically incorrect term is used to describe face-veils, but rather that 'the burqa' is an overdetermined term that evokes Muslim women's gender subjugation. In 2001 and 2002 this term had already regularly been used in the media (and hence known to the public) as evidence of the particularly gender-repressive nature of the Taliban regime in Afghanistan. In the years to come, this link between face veiling and the Taliban regime was not only reiterated in the media. The term burqa, with its associations of women's oppression, was employed in similar ways in parliamentary debates and in popular culture (Moors 2012).

These attempts to ban the face-veil need to be seen within the context of an ongoing process of the culturalisation of politics and citizenship (Mamdani 2004; Moors 2009; Geschiere 2009). From the early 1990s on, those who had been labelled previously as guestworkers and ethnic minorities, were increasingly categorized first and foremost as Muslims (with some also self-defining as such). Simultaneously Islam came to be seen as the root cause of a wide range of societal problems and, more generally, as incompatible with European values.⁹ By the end of the 20th century a populist anti-Islam movement started to gain ground, arguing that the way of life of the majority population was under threat of Islamisation. Proposing a more muscular neo-nationalism, its proponents distanced themselves both from the ancient regime of a pillarized society they (or their parents) had freed themselves from in the 1960s, and from the 'multicultural tolerance' of the 1980s (Van

⁸ Parliamentary document TK 29754, no. 41.

⁹ A major turning point was Frits Bolkestein's speech at the Liberal International in Luzern in 1991, in which he asserted the incompatibility of Islam and Western, liberal values (*NRC* 21 September 1991), another was Paul Scheffer's article 'The multicultural drama' in which this prominent Labour Party ideologue considers Islam as the main reason for the failure of the integration of minorities (*NRC* 29 January 2000).

der Veer 2006).¹⁰ Pim Fortuyn was an early exponent of this trend, whose popularity skyrocketed after the 9/11 terror attacks that were the starting point of the global ‘war on terror’.¹¹ His murder in May 2002 by an animal rights activist a few days before the national elections, and the enormous election victory of the List Pim Fortuyn, caused a political landslide. In the years to come, and especially after the murder of Theo van Gogh in November 2004 by a Moroccan-Dutch young man who stated to have done so on religious grounds, also mainstream political parties increasingly took up an anti-Islam stance.

The turn to ‘Islamic marriages’

In the same year that Wilders was preparing his resolution for a general ban of face-veils, Islamic marriages also emerged as a topic of debate and policy making. Whereas prior to 2005, hardly any attention was paid to Islamic marriages, in the years thereafter, there were two distinct peaks in media attention (ebbing away in the years to come), the first occurred in 2005 in relation to the Hofstad network, and the second in 2008 centered on ‘salafi imams’.¹²

The sudden hype about Islamic marriages in 2005 emerged in the context of the trial of the members of the Hofstad network, when journalists started to report about the Islamic marriages that were concluded in the circles around this network. These marriages were not only unregistered but were also concluded in a highly informal manner, without the knowledge, let alone the involvement, of the parents of the young women. Many newspaper articles referred to information provided by the two Dutch civil security services, the AIVD and the NCTb (now NCTV) and in February 2006 the NCTb even published a report asserting that Islamic marriages formed a threat to national security (NCTb 2006). The main arguments were that these marriages may function as a means to recruit women for the violent jihad, that they can be considered as an indication of the man entering the last phase prior to becoming a martyr in a terrorist attack, and that they may in time be a threat to the democratic rule of law, as ultra-orthodox Muslims refuse to register a civil marriage on ideological grounds (NCTb 2006: 26-7).

¹⁰ ‘Pillarization’ refers to the segregation of society along confessional and ideological lines (‘pillars’), with the elites of these pillars cooperating in state administration (Lijphart 1968).

¹¹ Pim Fortuyn had already published his *Tegen de Islamisering van onze samenleving* (Against the Islamization of our society) in 1997. Half a decade after his murder, two new anti-Islam political movements had emerged, Geert Wilders established his *Party for Freedom* in February 2006 and Rita Verdonk her movement *Proud of the Netherlands* in October 2007.

¹²For an analysis of how Islamic marriages became a media hype at particular moments see Moors (2013: 149ff).

In 2008, Islamic marriages became again a topic of extensive public and parliamentary debate. This time the target was imams attached to salafi mosques, who were accused of concluding an Islamic marriage between partners who had not yet performed a civil marriage. The regulation prohibiting religious functionaries to conclude such religious marriages, part of the early 19th institutionalization of civil marriage as the only form of marriage with legal effects, had largely remained dormant until it was revitalised in the course of these 2008 debates on ‘salafi imams’.¹³ In this case, members of parliament, including the social democrats (PvdA), the Christian democrats (CDA), the right-wing liberals (VVD) and Geert Wilders’ anti-Islam Party for Freedom (PVV), played a pivotal role in turning Islamic marriages into a matter of public concern. The press extensively reported about the parliamentary questions they posed and the investigation of salafi imams and mosques they requested. These Islamic marriages were considered as evidence of and as an instrument for the development of a strictly orthodox Islamic ‘parallel society’ that purposely distanced itself from Dutch society. As had been the case with the newspaper articles in 2005, the arguments presented by members of parliament resonated strongly with that of the reports produced by the Dutch security services (especially AIVD 2007).

Although two different categories of Muslims were the target of these two hypes, first violent jihadist and later salafi imams, the women entering into these marriages were framed in similar terms: They were by and large defined as victims. During the first hype it was argued that they were recruited by unscrupulous male extremists, who employed ‘loverboy-like’ practices in order to mobilise them for the jihad (NCTb 2006: 22). In the case of salafi imams, they were considered as the victims of those who wanted to institutionalize shari`a and its assumed gender inequality (AIVD 2007: 68). In the years to come debates about these ‘Islamic marriages’ have engendered attempts at law-making about other kinds of marriage that had become associated with Islamic marriages, that is forced marriages and cousin marriages (De Koning et al 2014).

Face-veiling: oscillating between a limited and a general ban

In the meantime, face-veiling had remained an issue of debate and policy making. Depending on the composition of the coalition government, parliamentarians and policy makers either attempted to impose a general ban, or instead worked towards a number of functional bans (in

¹³. Van der Leun and Leupen (2009: 8ff) describe debates in the field of law about the relation between civil and religious marriages.

education, health, public transport, for civil servants and in government buildings), with the most recent coalition agreement including a more extensive version of such functional bans.¹⁴ The fact that also the social-democrats now insisted on imposing a locational or functional ban, rather than leaving this up to individual institutions, needs to be seen in the broader context of shifts in Dutch identity politics, with policy makers on the right and on the left increasingly agreeing that post-migrants will only integrate if the Dutch national identity is more firmly established. The net result is that public discourse and national policy making have become more explicitly assimilationist, placing increasingly high demands on Muslims in particular to prove their belonging to the nation and their loyalty to the state. The cabinet's 2011 Memorandum of Integration officially declared the end of Dutch multicultural society.

Both those arguing for a limited ban and those proposing a general ban link face-veiling to women's subjugation. When the Cabinet argued for locational or functional bans on face veiling in 2008 specific reference was made to Islamic face veils.¹⁵ Analyzing the problems the latter cause in society, the Cabinet argued that they 'evidently hinder open communication, . . . are considered oppressive to women, and, to many, are a symbol of a fundamentalist Islam that does not suit Dutch society.' It further explained that it 'considers open communication between citizens, participation, and equal chances for men and women essential values of Dutch society and our democratic rule of law' (2008: 3). In a similar vein, when in 2012 the Cabinet explained its reasons to ban face-coverings in all public space, it argued that what matters is 'not the quantity of the phenomenon, but its fundamental incompatibility with the social order in our country'.¹⁶ Such a ban is considered legitimate because it protects an important element of public order, the equivalence of men and women. The fact that women (and not men) need to conceal themselves is seen as an expression of a non-equivalent position in public life, as 'in our society covering the face is a symbol for women's subordination to men'. Moreover, covering the face would hinder women's participation in society and is an obstacle for women to exert their social and economic human rights on an equal footing with men. In addition, as the Cabinet stated, a prohibition will protect those women who may cover their faces because of physical or social pressure from their environment. In this way, a stance against face-veiling has become a matter of principle (2012: 2).

¹⁴ See coalition agreement, 29 October 2012, www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2012/10/29/regeerakkoord.html

¹⁵ See the letter to parliament of 8 February 2008 that argued for specific, functional bans of face-covering, parliamentary document TK 2007/08 31 200 VII, Nr. 48, 8 February 2008.

¹⁶ See the Explanatory Memorandum to the 2012 Draft Law banning face-coverings in all public space, parliamentary document TK 33165 nr. 3, 6 February 2012.

3. The women involved: an excess of agency?

If both in the case of face-veiling and with respect to Islamic marriages, the hegemonic discourse frames women as victims, how then do the women engaged in these practices position themselves? In their narratives, they refer to two different discourses, one the discourse of religion, of submission to God, the other the liberal discourse of civil rights, in particular freedom of religion, freedom of expression, and non-discrimination (Moors 2013, 2014).¹⁷ Women who wear a face-veil refer to religious commitment as their motivating force, whereas amongst the women who conclude an Islamic marriage some highlight religious considerations, while others foreground practical or instrumentalist reasons.

Wearing a face-veil: religion and civil rights

The common denominator in the narratives of women who have adopted face-veiling with some level of consistency is their strong commitment to Islam and their desire to become a more pious Muslim. They consider wearing covered styles of dress, including a face-veil, first and foremost as a recommended or obligatory religious practice. To them doing so is above all an act of worship and a means to express their love for God. Next to this, face-veiling also functions as a technique of the self, a self-disciplinary practice, that works to produce particular feelings and sensations and helps to shape their actions.

Narrating their move towards adopting a face-veil, the women concerned strongly distance themselves from any suggestion of force or social pressure. Instead, they frame their motivations in terms of affective experiences as well as of acquiring Islamic knowledge. Some women had started to wear the face-veil because of an intensely felt urge to do so. For others it was through learning about Islam that they understood the need to change their appearance. For many it was a combination of both. Whereas some appreciated a literalist interpretation of the central texts and followed the opinions of salafi-oriented religious scholars, they all agreed that, because there is a difference of opinion amongst Islamic

¹⁷ Starting ethnographic fieldwork with face-veiling women in 2007 and with women concluding Islamic marriages in 2009, I have conducted topical life-story interviews with over twenty women who were wearing a face-veil, had done so previously, or were seriously considering doing so, and have in-depth information about how women have concluded an Islamic marriages and their motivations to do so for more than 20 cases. In addition, I have had numerous informal conversations with women engaged in these practices.

scholars whether wearing a face-veil is obligatory or not, they had to use their own judgement about this issue and to evaluate the evidence themselves. They also underlined that, in order for face-veiling to work as an act of worship, one needs to wear it with a pure intention, to please God. Such an emphasis on the importance of intentionality resonates with the liberal discourse of personal autonomy and choice and stands in strong opposition to the portrayal of these women as pressured by their environment to adopt face-veiling. On the contrary, their narratives time and again highlight how their families as well as their husbands try to convince them not to cover their face, sometimes because they fear for their safety.

Discussing attempts to ban face-veiling, the women concerned employed a liberal civil rights discourse, and pointed to the inconsistencies and double standards that, in their eyes, characterize arguments to implement such a ban. They considered a ban on face-veiling not only as an infringement of their freedom of religion, but also of their right as women to choose how to appear in the public and what to wear, ‘like other women in the Netherlands’.¹⁸ To them the ban was a form of discrimination because it excluded face-veiling women from access to education, health care, public transport, or, in the case of a general ban, all public space. More generally, they also pointed out that there are other categories of women, such as orthodox Christian women, who prefer not to work outside the house when they have small children and for whom immaterial, religious values are more important than paid employment, yet these women are not similarly targeted. While they recognize that their style of appearing in the public may create a sense of discomfort, they also pointed out that there is a wider range of sartorial practices, forms of body language or behavior that may also cause a feeling of unease. It is, however, only in the case of face-veiling that such feelings become a ground for legislation.

Concluding an Islamic marriage: religious and practical motivations

Islamic marriages are not a new phenomenon in the Netherlands. Amongst post-migrant Muslims, an Islamic marriage was sometimes concluded prior to a civil marriage, when people adhered to the sequence of rituals common in their country of origin, where there could be a considerable lapse of time between concluding the marriage contract and celebrating the wedding which signaled the moment of cohabitation. If they followed the

¹⁸See also the petition and the letters posted on the facebook page *Blijf van mijn niqab af* (Hands off my niqab), an initiative of face-veiling women in response to the latest threat to implement locational and functional face-veil bans in the Netherlands, <https://www.facebook.com/blijfvanmijnniqaabaf/>, last accessed 1 July 2016.

same sequence in the Netherlands then the civil marriage was usually concluded close to the wedding, also because in more conservative circles the period ‘in-between’ the concluding of the marriage contract and the celebration of the wedding was sometimes used as a ‘dating period’.

There were, however, also more specific reasons, why the parties concerned would first (or only) conclude an Islamic marriage. Some couples simply were not able to enter into a civil marriage, for instance, because they did not have a legal residency status or did not have the required documents. Others did not fulfil the conditions for a civil marriage, as they were too young or already married. Some also preferred not to conclude a civil marriage because they considered it financially too disadvantageous. In all these cases they may conclude an Islamic marriage, if they felt the need to accommodate to the expectations in their own social circle, or because they themselves were strongly convinced of the necessity to make their relationship *halal* (Islamically permissible). In other words, for some the main reason to conclude an Islamic marriage was more instrumental, accommodating the desires of their family, while for others religious conviction was their driving force.

Some young couples opted for an Islamic marriage in order to appease their parents. In more conservative Muslim circles in the Netherlands, parents may find it hard to accept that their son, and especially their daughter, are involved in ‘a dating relationship’. The couple may then feel a strong social pressure to enter into a marriage for which they themselves do not yet feel ready. In such cases, concluding an Islamic marriage may be a convenient solution. To their parents, and the community at large, dating is more acceptable once the Islamic marriage contract has been concluded. Such an Islamic marriage may, occasionally, also function as a means for women to convince their family to agree with a marriage with the man of their choice. Although family pressure in circles of Muslim migrants, especially those longer present in the Netherlands, has gradually diminished, parents may still refuse to accept the partner a daughter has chosen. Some may, for instance, be hesitant about a partner from another ethnic background, or one who is not a born Muslim but has converted to Islam. Once the Islamic marriage has been concluded, parents may well resign to the situation, realizing that there is not much they can do.

There are also couples for whom religious considerations are the main motivating force to conclude an Islamic marriage. To them an Islamic marriage is their first priority as it makes their relationship *halal*. They often strongly support the normative notion of gender segregation, and reject the idea of free dating. Before the marriage contract is concluded, the couple only meet a limited number of times, and always in the company of others or in a

public setting. They use these meetings to exchange ideas about how their concerns and ambitions, what they expect from each other and how they would like to organize their marital life. Such Islamic marriages are not only very different from the Dutch mainstream notion of dating and marriage, but also from those arranged marriages amongst post-migrants, when parents focus more on family relations and material matters than on character and religiosity. Still, their commitment to an Islamic marriage does not imply that they reject concluding a civil marriage. Rather, they deal with the civil marriage in a pragmatic manner. At some point in time, they may well conclude a civil marriage, because it is the most convenient way to organize the relation with their spouse and children (including paternity) and material rights such as entitlements to their husband's pension and their rights to a share in the inheritance. In doing so, they act in ways that are very similar to how non-Muslim Dutch deal with the question whether to officially marry or not.¹⁹

4. Women's autonomy, agentic power and liberal-secular rule

Wearing a face-veiling and concluding an Islamic marriages are strong examples of minority women engaging in practices the majority considers detrimental to them. In order to better understand the divergent positions governmental actors and the women concerned take up, it is not very helpful to frame these contestations in terms of the presence of absence of personal autonomy. Instead, we need to engage with the different notions of agentic power and liberal-secular rule that the various parties concerned employ.

As evident from the above, in these debates one particular trope was persistently present, that is Muslim women's lack of autonomy. In the hegemonic discourse the women concerned were framed as victims of the men of 'their own community' and as suffering from a particularly strong form of gender oppression. State actors have often taken for granted that Islamic practices such as covering the face and concluding an Islamic marriage are signs or instruments of women's subjugation. This is not surprising, if we consider the long history, dating back to colonial times, that links such practices to Muslim women's subordination (Ahmed 1992, Yeğenoğlu 1998). Moreover, to a liberal secular public, engaging publicly in religious practices in itself stands in a tense relation to the notion of personal autonomy. In the Netherlands this is further compounded as such practices may well

¹⁹ In the course of the last thirty years, the Netherlands has witnessed a trend towards increasingly informal marriages. A growing number of couples simply cohabit without entering into a civil marriage or concluding another form of contract (Latten 2004).

evoke memories of the old system of pillarization that many consider a relic of the past. It is not so much these acts in themselves - covering the face with a thin piece of cloth or conducting a private ritual and calling it a marriage - that are deemed problematic. Rather, the fact that those engaging in those acts are Muslim women inspired by Islamic motivations is what turns these acts (*Islamic* face-veils and *Islamic* marriages) into particularly pressing problems in need of regulation.

Yet, the women themselves often denied being pressured into wearing a face-veil or conducting an Islamic marriage; they underlined that they themselves had opted to do so, more often than not against the wishes of their direct environment. Those driven primarily by religious motivations - virtually all women who wear a face-veil with some level of consistency, and many of those who conclude an Islamic marriage -, highlight that they opted to engage in these practices as a form of worship and submission to God, as part of their project to live a pious life. The notion of individual agency this entails does not start from an inert desire to be free from restraints, instead, these ethical practices may more productively be seen as a form of willful submission.²⁰

At the same time, while these women's acts are not motivated by resistance against authority, their desire to follow religious prescriptions pushes them to oppose both mainstream and minority cultural practices. Also those who conclude an Islamic marriage mainly for instrumental reasons, often accommodate some cultural-religious practices (no free dating) and reject other cultural practices (forced marriage). In other words, when they opt to wear a face-veil or to conclude an Islamic marriage, the women concerned cannot simply be defined as lacking autonomy or agentic power. Rather, what is at stake is that state actors and the wider public consider the forms of agentic power they exert as undesirable.

This is also evident when we turn from engaging in religious practices to attempts to prohibit these. When they reject attempts to ban such practices, many of the women concerned employ a liberal-secular discourse and claim their rights as citizens. In doing so, they simultaneously engage with the cultural politics of national belonging. Whereas politicians have increasingly emphasized the need for a stronger and more homogeneous notion of Dutchness, these women draw on alternative notions of Dutchness, be it the pillarized system of governance or 'multicultural tolerance' to argue respectively for the right to practice their religion in orthodox ways and for the right to opt for an alternative lifestyle.

²⁰ This builds on Mahmood's (2005) argument about the ethical practices of women involved in the mosque movement in Egypt, who warns against equating agentic power with resistance to authority or domination. Instead, she proposes a broader understanding of agentic power as 'a capacity for action that specific relations of subordination create and enable' (2005: 17; 28) that includes willful submission.

Whereas it has not been possible to implement a prohibition of wearing face-coverings or to prevent the conclusion of Islamic marriages, problematizing these practices has nonetheless had material effects. It has not only engendered lower order regulations, for instance at educational institutions, and has triggered indirect legal consequences, such as legislation restricting cousin marriages (De Koning et al 2014), it has also produced particular categories of people. Problematizing certain practices (and not others), turns some people into a negatively marked minority, driven by particularistic interests, while simultaneously enabling the majority to position itself as the unmarked category, representing the public and the common good (Mah 2002: 167ff). As majority and minority positions are always inherently unstable, debates about face-veiling and Islamic marriages are performative in the sense that they contribute to the (re-)constitution of particular majority and minority positions. Whereas donning a face-veil and engaging in an Islamic marriage are seen as imposed on women, majority practices in the fields of dress and marriage are self-evidently considered as expressions of individual autonomy (Brown 2006). Such a binary of force versus choice overlooks how the ability of all individuals to exert agentic power is always constituted through processes of subjectivation, that is subject formation through submission to normative structures.²¹

To better understand the positions various actors take up in contestations about face-veiling and Islamic marriages, we need to also briefly turn to the notion of liberal-secular governance. To many of the women concerned, adopting a face-veil and concluding an Islamic marriages are religious practices. Liberal-secular forms of governance claim to be grounded in the separation of church/religion and state, as well as in the divide between the public and the private, with the former the domain where public opinion is shaped through rational deliberation and the latter the sphere of intimacy, passions and emotions. In practice, however, the secular state does not only relegate religion, sexuality and family relations to the private, it also defines and regulates these fields and in doing so categorizes some forms as more and other forms as less acceptable or even transgressing the boundaries of what may be tolerated.²² Face-veiling and Islamic marriages are deemed problematic because they are linked to highly undesirable forms of religion and sexuality. In contemporary liberal societies, such as the Netherlands, where women's emancipation has increasingly come to be

²¹ For a discussion how this works in the case of dress, see Moors and Tarlo (2013: 14ff).

²² Asad (2006) and Mahmood (2009), who theorized how secular power has constituted religion as a category in specific ways, have developed this argument with a focus on religion. For insightful discussions about how sexuality and secular rule are intertwined see especially Scott (2009), Surkis (2010), and Fernando (2014), with the latter highlighting how secular rule simultaneously constructs and trespasses the public /private divide (2014: 687).

defined in terms of sexual freedom and the public display of women's bodies, the full covering of face-veiling women and the rejection of non-marital sexual relations are considered as signs of women's oppression. With citizenship increasingly defined in terms of shared values rather than with respect to legal rights and obligations, it has become evident that particular categories of the population far more than others are distrusted and required to provide evidence of their internalized commitment to the substantive values which regulations and laws are grounded in. When the women concerned state that it was their own choice to engage in such practices, state actors had great difficulty to recognize such actions as a form of personal autonomy. In response to the women claiming sameness with other Dutch citizens (in their position vis-à-vis the state), state actors would highlight their difference from other Dutch citizens based on the private values they presumably adhere to. One may then argue, that the women concerned show a stronger commitment to the proclaimed principles of secular rule – the separation of state and religion, of the public and the private - than those attempting to ban these practices.

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