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Questions of Autonomy

Feminist Perspectives on Multiculturalism and Possible Solutions to Okin's Dilemma

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Abstract

Due to immigration most European nations are inhabited by multicultural societies. The tensions between multiculturalism and feminism were famously introduced by Susan Moller Okin (1998) in her essay, “Is multiculturalism bad for women?” Okin’s dilemma shows that there is no consent among feminists of all generations on what constitutes autonomy. The main question that is promising to resolve Okin’s dilemma is: What is autonomy and how can it be determined? The literature discussion on the intersections of multiculturalism and gender equality has taken a new turn in recent decades. An increased inflow of refugees to Europe in 2015 to 2016, as well as the resulting growingly multicultural population within European countries has translated the discussion onto the public stage.

According to Lébinard (2011), in the current political sentiment, the link between minority cultures and gender inequality can easily be transformed into an immediate political currency by populists. Thus, this may frequently have legal effects, such as the “Burka ban” in France. Also, the discursive frame of gender equality may be used to cover up racist motives, especially when it comes to integration policies. This thesis therefore places emphasis on the lessons learned from post-colonial studies and questions the power of discourse: Is the perspective of women targeted by these laws even taken into account? Can the migrant speak?

Additionally, different theories to form a new account of autonomy are introduced. These accounts can be categorized in ‘Authentic Choice’ and ‘Participation’ models. Both types bring forward important insights when it comes to the autonomy of women from minority groups. Since conflicts that can be categorized as instances of Okin’s dilemma can cumulate a sheer variety of perspectives and interpretations, this thesis argues that there is no ‘one size fits all’ solution. The lessons learned from this discourse, which stretches over two decades subsequent to the publication of Okin’s text, give important insights as it relates to the solution of these societal conflicts. Thus, when integrative measures are taken, politicians in charge should consult these lessons. Since these conflicts usually integrate inter- as well as intracultural aspects, policies should be aimed at both minority and majority cultures.

Key Words: Okin’s Dilemma, multiculturalism, feminism, cultural essentialism, female autonomy, authentic choice, participation, female migrants, integration policy

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Abbreviations

&	and
§	clause
%	percent(s)
etc.	etcetera
ed.	edition
UN	United Nations
EU	European Union
UNDP	United Nations Development Programme
ÖVP	Österreichische Volkspartei
FPÖ	Freiheitliche Partei Österreichs

1 Introduction

Due to immigration most Western societies are now multicultural. They incorporate minority cultures that often differ significantly from the predominant culture (Saharso, 2003). In this context, the concept of the "nation state" has been revived in Europe in recent years. The so-called "Brexit" has been one of the most significant results of this revival. The relationship between minority cultures and gender inequality is routinely and increasingly transformed into immediate political currency. As a consequence, it may have frequently legal effects such as the "Burka ban" in France and Austria. In this context, gender equality is presented as a national achievement, which has to be protected against foreigners. It is seen as a new norm that will determine who can be integrated into western societies and which practices should not be tolerated (Lébinard, 2011).

Since the 1960s, about 49 percent of migrants coming to Europe were female. In 2012, the numbers grew to 53 percent. Therefore, the majority of migrants to Europe were women. This fact is underrepresented in public discourse, which mostly focuses on male immigration. However, this migration is often female and self-determined and is ignored. Instead, female migrants are perceived as a dependent on their fleeing husband or father, passive and oppressed (Hadj-Abdou, 2012). Women were generally only mentioned on the sidelines when topics, such as the veil, forced marriages and honor killings, as well as their incompatibility with "our" culture were discussed. Nowadays, there is almost no discussion on immigration that does not mention women or focus on them. Traditions and habits perceived as dangerous towards gender equality are dominating the public debate and are presumed as deeply rooted in foreign cultures (Saharso, 2008).

In the light of these developments the tension between feminism and multiculturalism is more pressing issue than ever. It needs to be resolved in order to enable a fruitful discourse resulting in policies that actually support women's autonomy regardless of their cultural background.

Susan Moller Okin famously introduced the tensions between multiculturalism and feminism in her 1998 essay, "Is multiculturalism bad for women?". The main issue that emerged from Okin's dilemma is that whether or not a liberal state should tolerate cultural traditions of minorities even if they impair the rights of women. It is important to note that when this issue is being raised, it is also essential to question whether

certain traditions actually infringe women's rights and what discursive strategies underlie such argumentations. Moreover, it has to be questioned what actually constitutes a 'cultural' practice. Women are raised within different cultures, imprinting different norms that will influence for example how they dress in migrant, as well as Western cultures. Where does autonomy begin and end? When can we for certain say that a woman acts on her own free will and when does she do so, is it because of what is culturally expected of her and was taught to her? These questions become vital when discussing legal responses such as the "Burka Ban" in France or Austria, as well as others.

This thesis will place emphasis on practical discursive strategies and theoretical concepts of autonomy that have been discussed to resolve the dilemma of multiculturalism versus feminism without resorting to argumentation in the tradition of colonialism and racial stereotyping. What would legal measures targeted at oppressive cultural practices that neither neglect openness towards other cultures nor the goal of achieving gender equality in all spheres of society look like? In the context of the rising numbers of minority cultures, especially in in Western nations, as well as the simultaneously rising electoral success of right wing parties, it is a vital question to ask. The interpretations of autonomy and culture are influencing political decisions, leading to laws affecting women in all spheres of life. Therefore, Okin's dilemma, which will be explained in detail in the following chapters, is more present than ever today and the new conception of autonomy is a crucial task.

2 Conceptualization and Research Question

In short, this thesis is focused on the concepts of multiculturalism, feminism and female autonomy and their interplay. Multiculturalism and feminism (in this case understood as means to accomplish gender equality) seem to present certain tensions that need to be resolved. Feminist theorists suggest that a new concept of female autonomy is the key to relief these tensions. As there is a multitude of definitions of these terms, the understanding of the concepts applied in this thesis will firstly be introduced:

Feminism: According to Okin (1998), feminism is understood to be the belief that women should not be disadvantaged because of their sex. They have human dignity equally with men and should be able to live a life as autonomously shaped as men

can. To put it another way, all means (theories, policies, proposals, and so forth) truly aimed at achieving gender equality are perceived as feminist expression.

Culture: The term culture has been defined in a multitude of ways. What one person perceives as an expression of culture, can be perceived as a result of logic by another. The term culture and what actually is an expression of culture will be partly discussed throughout this thesis and in more detail in the sections, 'Post-Colonial Perspectives: Can the Migrant speak?' and 'Cultural Essentialism'. Despite the critical review of differing understandings of what culture is throughout this thesis, a basic understanding of the term will be provided. Raymond Williams popularly said that '*Culture is ordinary'*. According to Williams (1958), culture represents the means through which societies develop and reproduce themselves, as well as the processes that transfer shared meanings from one generation to another. Additionally, culture can be something we identify with or something we choose not to incorporate in our identity. Another useful definition of culture in that sense and on a more personal level is that brought forward by Monica Mookherjee (2005). Her theories will be introduced in the section, 'Participation Theories'. According to Mookherjee (2005), cultural identity can be seen as the framework that hosts '*the negotiations of meanings'*. With this wide definition, the term will be opened to refinement throughout the following chapters of this thesis.

Multiculturalism: As it relates to the definition of multiculturalism, Okin and many others refers to Will Kymlicka's theories and his 'Multicultural Citizenship' (1995 and 2011). Kymlicka notes that while a shared language and history are often a part of distinct cultures, as well as markers of multiculturalism in a state, multiculturalism in the context of tensions between minority and majority cultures is more concerned with various differing *societal cultures* living within a nation. Okin's dilemma is concerned with the situation of a majority and various minority cultures inhabiting the same state, which (mostly) originate in different geographic locations. Usually this situation occurs as a result of immigration, even if this immigration, like in some of the examples brought forward in this thesis, dates generations back.

Okin's dilemma: In the section, "Explaining Okin's dilemma", the crucial points of her text will be introduced, as well as the challenges proposed by numerous critics. Throughout this thesis the term 'Okin's dilemma' will not merely be used to refer to her text or the examples she brings forward in it. The term will serve as a category to

describe conflicts that are rooted in tensions between multiculturalism and feminism. A practical example would be whether polygyny should be possible in a multicultural, liberal society. It may be argued that on one hand, this practice is a manifestation of male oppression, while on the other hand it can be defended as a tradition of minority cultures in European countries. In this example, the goal of gender equality would be in conflict with certain openness towards multiculturalism. It therefore constitutes an instance of Okin's dilemma. A similar dilemma would be the question whether schoolgirls should be allowed to wear a Muslim headscarf or if it should be forbidden and viewed as an oppressive practice. Whether or not boys should be allowed to wear a kippah, a religious symbol, in schools does not constitute an instance of Okin's dilemma, as the openness towards minority cultures does not conflict with feminism in this case. This is attributed to the fact that advocates of a kippah-ban do not argue for it to further gender equality, but merely to ban religious symbols. In that sense any societal, multicultural conflict in the intersection to gender equality can be described as a manifestation of Okin's dilemma.

Female autonomy: The conception of female autonomy is a crucial task that promises to resolve Okin's Dilemma. Female autonomy and autonomy will be used interchangeably in this thesis. The frequent use of *female* autonomy is meant to highlight the additional challenges that occur when we talk about women's autonomy in comparison to male autonomy. As already mentioned, the conception of a useful definition of female autonomy is considered to be the key to Okin's dilemma by multicultural feminists. In conclusion, different accounts of autonomy, as well as their critical reflection will be discussed in this thesis, especially in the sections, 'Authentic Choice' and 'Participation Theories'. The assessment of these accounts and their viability in current political discourse on integration and gender equality is the main and concluding task of this thesis. Therefore, the conception of female autonomy in the context of multicultural states also represents the main normative/critical research question to be answered:

- *What concept of autonomy is capable of resolving Okin's dilemma?*

When asking this question a number of accompanying issues and questions have to be considered:

- *What are feminist perspectives on multiculturalism?*

- *How can we ask this question without resulting in cultural stereotypes and essentialism?*
- *What are the lessons learned from feminist post-colonial studies that need to be considered when defining autonomy?*
- *What should be the political response to practices of minority cultures that oppress women?*
- *How can the actual potential to promote female autonomy by such policies be assessed?*

3 Explaining Okin's Dilemma

In her famous essay the liberal and feminist Scholar Susan Moller Okin (1988) describes tensions between Multiculturalism and Feminism. In decades following the publication of her essay, these tensions were often referred to as "Okin's dilemma" in scientific and especially feminist literature. According to her theory, gender equality is suffering from the excessive practice of multiculturalism and exaggerated openness towards minority cultures. This is an interrelationship that is frequently picked up in public, political and media discourse on minorities, especially in Europe since the "refugee crisis" arguably peaked in 2015 and 2016.

In the late 1990s and the following decade, Okin's text received much attention. It is still frequently discussed and referred to in the debate on 'multiculturalism versus feminism'. In her essay, Okin (1998) addresses the demand mostly brought forward by liberal scholars as it relates to special group rights for minorities. Liberal theorists ask for policies more responsive and sensitive to cultural differences within a nation. Group rights would secure certain rights for minority groups in order to protect their distinct culture and religion. It is argued that minority groups would otherwise not be able to maintain their culture surrounded by a dominating majority culture. This argument was the major liberal defense for group rights in the late 90s and is still frequently debated. In her essay, Okin attempts to answer to these liberal requests for group rights from a feminist perspective. While there are also cultural relativist argumentations for them, Okin decides not to engage in them. In her opinion, the liberal demand is the most valid one from a feminist standpoint. It is based on the well-being of individuals rather than on the survival of cultures in their own right.

An argument for group rights that is referenced in most texts concerning this issue was brought forward by Will Kymlicka, who according to Okin and many of her critics the leading liberal defender of group rights for minorities. In his text on “Multicultural Citizenship” he points out that having a distinct culture is more than sharing common language and history within a defined group. He posits that protecting distinct cultures is necessary because it provides its members with meaningful ways of life in the private and the public sphere. Additionally, he states that rich and secure cultural structures are important to the development of self-respect, as well as an environment in which people can develop the ability to make choices about how they want to lead their lives. Kymlicka therefore argues that culture gives its members an environment to develop autonomy in the first place and thus needs to be preserved and protected. In his work he frequently points out that a distinction between liberal and illiberal cultures is necessary and that only liberal cultures should be the beneficiaries of this protection (Kymlicka, 1995).

Prior to Okin addressing the issue of minority groups in majority societies, focusing the discussion on gender equality and co-creating the icon of the female migrant victim, the tensions between Liberalism/Social Justice (depending on the author) and Multiculturalism were already being extensively debated. Three main strategies that have been formed to resolve this tense relationship can be summarized in the following categories: cultural relativism, political relativism and universalism. The overall dilemma centered in this discussion is that different cultures have different ethical understandings of social justice (Gutmann, 1995).

Cultural relativism suggests that different cultures have different understandings of social justice. Therefore, differing legal frames incorporating one or the other are justified. For example, wearing a veil can be seen as unjust towards women in one culture and as just in another. Our personal understanding of social justice is dependent on the cultural norm the society we are part of constitutes. Therefore, according to Gutmann (1995), views of social justice that refer to individuals of a certain culture have to be judged by the collective understanding of this culture. In this way, cultural relativism suggests that there is no overall concept of social justice that is applicable to everyone.

While *political relativism* does not offer a general definition that determines what is socially just, it allows more flexibility. When a society provides institutional mechanisms

that are capable of resolving inter-societal differences of opinion, then it is socially just to follow the resulting understandings. Political relativism thus sees common political institutions as a guiding principal instead of cultural norms. A certain societal agreement on what is just is a necessary condition for a peaceful coexistence. However, it should be noted these institutions give room for change and conflict over time and therefore propose a more flexible understanding. Gutmann (1995) further stated that this answer, much like cultural relativism, justifies different understandings of social justice in different societies.

From a feminist perspective, these understandings of social justice pose multiple problems. For instance, if enough people agree on them, both cultural and political relativism are capable of justifying misogynist forms of social justice. They would allow claims even if they were scientifically disproved, such as “women cannot study, because their brains are smaller and therefore they are not as smart as men” to influence what is socially just. Gutmann (1995) argues that if enough people agree on this, it would be “justified” not to grant women entrance to universities. In this regard, Okin can be classified more as a *Universalist* based on these definitions.

G*rand universalism* is situated at the other side of the spectrum and suggests that there is a general norm of social justice that everyone can or should agree upon. Some of the most important documents in this context are the international human rights documents ratified by the United Nations (UN). They compose a code of human rights that every person possesses, no matter which culture or political structure surrounds them. This form of universalism is criticized for being prone to reflect a prominent Western view instead of truly incorporating different forms of social justice and sensitivity towards the arising issues of multiculturalism (Afshari, 2015). Throughout the years there have been many theories exploring the options of social justice between those two poles. Yet, Okin’s dilemma has shown that none of these sufficiently offer a solution, especially when gender equality is the focus of attention and the discussion was started from a new angle featuring mainly feminist objectives.

Okin (1998) illustrates the requests for group rights brought forward by Liberals using the example of French Muslim girls demanding to be allowed to wear a head scarf to school. She asks how a modern state should reply to demands of minority cultures or religious groups in contradiction with the norm of gender equality that is (at least officially) acknowledged by Liberal States. She brings further examples, such as

polygyny in France (immigrants were allowed to bring multiple wives to the country), which resulted in the suffering of the women within these minority cultures in question. She ultimately comes to the conclusion that often, female members of minority groups would benefit from the extinction of their native culture as last resort. It should be noted that from her perspective, it is preferable to encourage the culture to alter itself towards a higher level of gender equality, if possible. To derive this conclusion, Okin brings forward three vital claims that she illustrates by colorful examples of different religious and cultural minorities:

1) Cultural habits are mostly driven by the desire to oppress women;
2) Gender equality is most advanced in Western liberal countries; and
3) Group rights only support dominant members of societies.

These claims, which are the foundation that her conclusion is built on, have been the target of a sincere criticism in the following decades, especially by feminists, unwilling to sacrifice Multiculturalism or Feminism for the sake of the other. Additionally, since her first and second claim are often part of the political and public discussion of policy choices in recent years in Europe, almost 30 years after Okin wrote her initial argument, it seems necessary to confront these issues again.

The first vital claim and stepping stone in Okin's (1998) argumentative path is that most cultural rituals and roles are driven by the desire to control women. According to Okin, most cultures feature a variety of gendered practices and ideologies that are aimed at controlling women's sexuality and reproductive capabilities. Furthermore, women are punished for men's difficulty to control their own sexuality. Since men dominate most power structures, cultural constructs are meant to surrender women to men's desires and interests:

> The second important connection between culture and gender is that most cultures have as one of their principal aims the control of women by men… Although the powerful drive to control women – and to blame and punish them for men's difficulty in controlling their own sexual impulses – has been softened…it remains strong in their more orthodox or fundamentalist versions (Okin 1998, pp. 13-14).

Okin brings forward a description of a variety of exemplary cultural rituals that are according to her simply aimed at the control of women and their sexuality. Okin's claim

that most cultural rituals and customs in general are aimed at oppressing women, was met by questioning her knowledge of these cultures and customs by many of her critics (Honig, 1999; Parekh, 1999; L´binard, 2011; Azizah, 1999; An-Na'im 1999, etc.).

The Canadian Scholar of Political Sciences Bonnie Honig (1999) criticizes Okin for summing up cultural practices, such as veiling, child marriage, clitoridectomy and honor murder in one category without distinction. Okin labels all these as example for one underlying cultural phenomenon: male violence towards and domination of women in minority cultures. According to Honig (1999), by doing so Okin does not take into account the perspective of the migrant women in question. She is not interested if they presume these acts as oppressive. Especially in the case of veiling, there are many accounts of women who describe it as an act of liberation and a part of their identity. Honig (1999) concludes that it is necessary to firstly distinguish between these rituals and secondly analyze the perception of the women in question. She further argues that culture is more complicated than a collection of patriarchal subordination of vulnerable women.

Among the examples Okin illustrates, she also refers to a civil rights case in the United States (US). A Chinese immigrant killed his wife because she was unfaithful to him. In court the main defense argument in his favor was that in his culture this is a common and accepted response to infidelity. The defendant received 5 years of probation, which is a much lighter sentence than is usual for manslaughter in the US. Honig went on to argue that similar to most cultures, China has changed in the past 100 years and murder is not culturally accepted. However, Honig argues that instead of questioning the claim, '*My culture made me do it*' Okin accepts it and therefore, wants to get rid of 'culture' altogether (1999, pp. 28). She also revisits Okin's example of veiling, asking the question if maybe it could be a part of a complex effort aimed at men and women to manage sexual relations within a community, instead of a strictly sexist custom meant to suppress women. Honig therefore criticizes Okin's claim that the Western World enhances more gender equalitarian standards than other parts of the world by asking if Okin actually knows the variety of cultures she takes her examples from well enough to come to this conclusion with certainty. Honig further brings up the valid point that there needs to be at least a differentiation between these very different customs Okin uses as examples, if it is not possible to analyze every case individually.

Another scholar asks what would happen to Okin's conclusion if the oppression of women was not the main agenda of culture. Saskia Sassen (1999) brings forward examples of oppression of boys by their mothers and other dominant figures in their cultural groups. Additionally she argues that Okin does not pay enough attention to the power dynamics between majority and minority cultures. Similarly, Abdullahi An-Na'im (1999) also argues that Okin is ignoring the socio-economic disadvantages of minority cultures and the possible relief that group rights could bring here. In other words, they criticize Okin for only focusing on the power dynamics between men and women and thus, subsequently ignoring other important power disproportions that might be relieved by group rights.

Sassen (1999) argues that Okin is overlooking many sources of pain and rage not caused by male oppression that grow in multicultural societies. A discriminatory host culture is able to produce the need for people to withdraw into their native minority culture, despite other problems they might face in this context. While Sassen also sees group rights as problematic, she argues that Okin ignores the risk of the perception that cultures only focus on the organization of gender. This danger is particularly intense, when men and women face racism outside of their native culture. It therefore is important to recognize other sources of discrimination in addition to gendered ones.

The second important claim that leads to Okin's conclusion is tightly entangled with the previous claim. She argues that while Western liberal cultures are much like other cultures, centered on the oppression of women, they have developed further away from these practices than others:

> While virtually all of the world's cultures have distinctly patriarchal pasts… Western liberal cultures have departed further from them than others (Okin 1998, pp. 14).

According to Okin, with some exceptions, it is not communicated to young women in the West that they are inferior to men and that their purpose in life is to be at home serving men and children. They are not told that their sexuality is only of value in marriage and that its sole aim should be to produce children. This cannot be said for many of the other cultures in the world, including those of most immigrants to Europe and North America. She argues that migrant women should not be protected less by the liberal state than native women are, and that group rights have the danger of undermining this.

Honig (1999) ultimately concludes that Okin's conviction that the West is simply less patriarchal than other cultures prevents her from conducting a more grounded analysis of particular practices. While she agrees that the question whether multiculturalism poses a threat to feminism has to be asked, she simultaneously addresses the need to question whether liberalism is not a threat to feminism in some respects as well. She points out how important it is not to equate culture with foreignness. While she dismisses Okin's first suggestion to let certain cultures become extinct, she sees potential in her suggestion to support efforts to alter itself towards more gender equality. However, this success of this approach depends on the willingness of the Western societies to hold their own cultures up to the same standards. What constitutes gender-equality has to be reassessed and reformed conceptually every step of the way.

In this regard, Honig illustrates a fundamental critique that many others have brought forward as well. Among these Azizah Y. Al-Hibri (1999), who sees Okin's stereotypical 'Other' brought forward from a dominant Western point of view, as well as her conflation of a variety of cultures and religions based on secondary sources outside these cultures/religions, as quite problematic. She exemplifies this by the creation myth in the Qur'an, which in contrary to the Christian belief, women and men are created from the same spirits and Adam, as well as Eve, is tempted by Satan. She continues to equate Okin's argumentation that Islam and Judaism are rooted in patriarchal beliefs, that she partly bases on biblical analysis with a serious form of religious reductionism.

In his text, "A Varied Moral World", the Indian-British Scholar Bhikhu Parekh (1999) builds a theoretical bridge between Okin's argumentation and colonialism, as well as post-colonial studies. He sees most of her argumentation rooted in the belief that liberal ideas constitute the ultimate truth of human nature, which used to serve as the justification by the West for colonialism to begin with and therefore, can lead to dangerous outcomes. Nevertheless, he agrees with Okin on her conclusion that respect for other cultures should never be unconditional. If a culture embraces disrespecting individual human beings, such as clitoridectomy, child marriages, callous treatment of rape victims and so forth it cannot be accepted. Therefore, he agrees that respect for all human beings is not necessarily connected to respecting all cultures. While agreeing with Okin's conclusion to some extent, he continues to criticize the

reasons and her wider theoretical framework that led her there. He especially criticizes how she ignores common problems, such as racism, which arise when foreign cultures are judged by a majority culture.

Okin's reviewers often point out this danger that comes with her line of argumentation, which is: it can spark racism. In her essay, "Promises We Should All Keep in Common Cause", Abdullahi An-Na'im (1999) points out that while pursuing the goal to eliminate discrimination on the grounds of sex, one should avoid encouraging discrimination on the grounds of race, religion, language or national origin (Abdullahi An-Na'im 1999, pp. 44). It may be argued that Okin focuses on examples of gendered discrimination and their elimination in all cultures but her own. She seems to accept the degree of gender equality that is lived by the majority culture and only questions "foreign" minority cultures in the process.

This is an important issue since this perspective of Okin's all overshadowing "Western I" is framing the dialogue. The conclusions are easily transformed into immediate political currency by right wing populists in the context of rising immigration in Western countries. Gender equality is thus presented as a national achievement in medial and political discourse that has to be protected against intruders. It is seen as a new norm that will determine who can be integrated into western societies and which practices should not be tolerated (Lébinard, 2011). Additionally, it is important to reflect on the gender inequalities in the West that are not quite as extinct, as some liberal arguments might lead readers to believe. All things considered, these critics have shown that the dominant Western "I" from which Okin brings her analysis forward makes her conclusion questionable.

Okin (1998) also highlights inequalities within minority groups. She argues that the liberal view ignores the power dynamics at play within minority groups that are not as homogenous as it is assumed. Especially, inequalities between the sexes are often overseen since they are strongest in the private sphere. Therefore, when considering group rights it is vital to design options that are considerate of the needs of less powerful members of the group. She further adds:

> Unless women – and, more specifically, young women (since older women are often co-opted into reinforcing gender inequality) – are fully represented in negotiations about group rights, their interests may be

> harmed rather than promoted by the granting of such rights (Okin 1998, pp. 20).

According to Kymlicka (1999), group rights can support minorities when economic and political disadvantages are at play. They can be seen as an “external protection” and are not always concerned with gender issues, like Okin claims. Other examples would be language rights, guaranteed political representation, compensation for historical injustice, and so forth.

To this end, Kymlicka is defending a long standing approach of liberal multiculturalists towards the problems “internal minorities” impose on group rights. When Okin entered the discussion, minority women became a characteristic example for internal minorities that challenge the tension between individual freedom and the freedom of groups. According to Baum (1997), this problem was first highlighted by John Stuart Mill in his analysis of polygamy in Mormon societies. Multiculturalists propose to distinguish “external protections” and “internal restrictions”. The former should be supported while the later should remain unmeet (Lépinard, 2011). In his answer to Okin, Kymlicka again brought forward this approach. He agrees with her when she argues that we must pay attention to power structures and minorities within groups. Multiculturalists further argue that the state should also provide safe exit possibilities of members of minority groups (Lépinard, 2011).

Abdullahi An-Na’Im (1999) takes a step into the future in his text, “Promises We Should All Keep in Common Cause” and asks how theorists like Okin intend to keep their promises once women have exited the minority group. This is a question that was as also a concern of many of Okin’s critics. What is offered to those women who use their right of exit and made the autonomous choice to leave their families and cultural groups? How do the theorists intend to sustain the identity and human dignity of those women? In a later published essay, Okin (2002) answers to the concerns of exit rights and possibilities the women in question have. She argues that often exit is indeed not an option for women, even when they are oppressed through questionable cultural rituals. Exiting the group in many cases equates to total alienation from their family and religion. Okin therefore departs from the notion that these women should exit their group. Instead she argues that it is the state’s responsibility to make oppressive practices illegal. This brings us back to the question what actually constitutes

autonomous choices. However, before the state can intervene, this question has to be answered.

Furthermore Okin's demand would look entirely differently, if she would apply it to all cultures including Western Liberal ones. Based on the assumption that Western cultures are intrinsically less paternal than the minority cultures she takes her examples from, she does not address her own culture with her demands. Authors such as Sawitri Saharso (2003) and Eléonore Lébinard (2008) show that this introduces a separation of women along racial and cultural lines in their quest for self-determination.

In his response to Okin's essay, Kymlicka (1999) agrees with her on the importance of understanding intergroup inequalities when considering group rights for minorities, especially gender inequalities. While he agrees that internal restrictions cannot be accepted when they violate the autonomy of individuals, he questions Okin's denial of a possibly fruitful alliance between feminism and multiculturalism. Feminism demands the same formal individual rights for women that are possessed by men. To achieve this goal, it is necessary to question the structures of social institutions and expectations that are produced by discourse and media, which usually use "male" as norm. Multiculturalists argue that equality between different cultural groups will not be achieved by giving them the same individual rights the majority possesses, much like feminists often demand a legal solutions to compensate for disadvantages women have to suffer from and men do not.

It is also important to question social institutions and medial discourse that predefine the perceived "norm". In the case of multiculturalism versus gender equality, the subject in question, the migrant woman, has to face two strong norms. In addition to the mostly presumed masculinity of the norm, migrant women are also excluded from the norm by their cultural background. In conclusion, Kymlicka argues that the distinctive needs of minority groups were ignored by liberalism for a long period, much like the distinctive needs of women. Subsequently their individual rights have been harmed. Therefore, feminism and multiculturalism could be mutual beneficial allies in the fight for a more inclusive conception of social justice.

All things considered Okin was notably criticized for her portrayal of minority cultures and their behavior towards women. Moreover, critics often link her argumentation to post-colonial arguments. In conclusion, I want to suggest that it is impossible to examine Okin's dilemma and think about possible solutions to it without including the

lessons learned from discourse critical, post-colonial theorists. So before moving on to examining possible solutions to the dilemma in question, some discursive ground rules shall be established on the basis of the findings of four theorists, who questioned the power of discourse, as well as textual depictions of certain cultures in the traditions of colonialism: Gayatri Chakravorty Spivak, Uma Narayan, Leti Volpp and last but not, least Michel Foucault.

4 The Power of Discourse

As introduced in the previous chapters, Okin was criticized for a very Western viewpoint at numerous occasions, subsequently building her theory on knowledge drawn from a one-sided analysis. Her knowledge of the "foreign" cultures she draws examples from to underline her argumentation that 'multiculturalism is bad for women' is frequently questioned. Many authors picked up the cultural practices Okin described and pointed out notable aspects and perspectives that she left out. Questioning the pre-dominant 'Western I' of her analysis introduces another aspect of Okin's dilemma. In addition to challenging Okin's knowledge of the non-western cultures she refers to, it is necessary to question the motives that encourage her line of argumentation that is nowadays frequently picked up by politicians, leading to questionable integration measures.

While government includes rule and legitimacy, it is not limited to these formalities. It involves the influence on human behavior in various spheres of life and exerts political, social and economic powers. Instead of seeing subjects as simply ruled, Michel Foucault suggests an account of them being fashioned, integrated and activated. Their behavior is influenced by discourse on health, society and consumerism (Foucault, 1970 and Brown, 2008), as well as integration and multiculturalism. The media and political discourse on refugees in Europe and how their cultures treat women can influence the voting behavior of the population, which can in turn influence the electoral program the parties present. However, the vote of a citizen is not her/his only item of political power. By replicating and internalizing a view, power also flows through her/his discourse and influences against others.

This fluidity of power can also provide politicians with the ability to deviate the public discourse from other pressing societal issues. By focusing the view of voters on refugees and asylum seekers, the cut of minimum social protection schemes for

example, can be promoted. It is subsequently overlooked that these cuts will, despite rising numbers of immigration, mostly affect impoverished natives. To give an illustration, the Austrian ÖVP, which won the elections in 2017 with 31.5 percent and is now leading the government in coalition with the right wing FPÖ (winning 26% of the votes) promotes cuts of the minimum benefit scheme in their electoral program.

> … um eine Finanzierung der Entlastung zu ermöglichen, ist die Zuwanderung ins Sozialsystem zu stoppen. Der Fiskalrat geht davon aus, dass im Jahr 2018 2,7 Milliarden zusätzliche Kosten durch die Flüchtlinge in Österreich entstehen. Wenn wir weiterhin illegale Migration nach Österreich zulassen, müssen wir in diesem Bereich mit immer höheren Kosten rechnen (Österreichische Volkspartei, 2017a).

While the ÖVP promotes special restriction for foreigners profiting from the benefit scheme, it also promotes general cuts and a restructuring of this last resort income. This is promoted with the fact that foreigners received about 50 percent of this benefit in 2017 (Österreichische Volkspartei, 2017a; 2017b). What this implies is that large numbers of foreigners who just recently came to Austria are among the main beneficiaries of the benefit scheme. But once they become proficient in German and are able to find work, they will probably leave the benefit scheme behind. As a consequence, mostly Austrians who are long time beneficiaries, specifically, people who are in need of assistance due to long-term unemployment, will be hurt by these cuts. Similarly, other budget sensitive issues, for example a tax relief for corporates that was also included in the program (Österreichische Volkspartei, 2017b), which served a key demographic of ÖVP and FPÖ voters, can be withheld from being the center of attention. In this same way, highlighting gender inequalities prevailing in minority cultures can distract from gender inequalities in the majority culture. All this considered, discursive strategies are powerful political tools.

Similarly, power does not only flow through discourse but is also used to construct truth. By proposing an understanding of power as something that flows through discourse, populations and knowledge, Foucault challenged the conventional understanding of power. His concept of power was acknowledged as an important step in feminist literature. Conventional power theories described it as rule, law, wealth or violence, and as a transferable property of the individual. His power understanding represents an important milestone for feminist theory because he managed to dissolve

the strong distinction between power, knowledge and ideology (Foucault, 1970). This is an important keystone for feminist argumentation in Western societies today. In Europe, women are formally acknowledged as equal to men, while societal realities do not yet fully reflect this. By acknowledging that power flows through discourse, other levels of discrimination and disadvantages for women become visible and negotiable.

Questioning the fundaments discourse is built on is an important task for feminists. This may be attributed to the fact that the prevailing norms in society need to be challenged and these norms are carried and spread through discourse. Norms, discourse, ideas, knowledge and even truth are all channels of power, just as the military, institutions and the prime minister. Foucault's perception of power is not limited to enacting will over others, but something that is everywhere and in everything. Power also means the capacity of influencing someone's will of what she/he understands as truth. He describes it as a relation that induces effects and therefore creates human subjects and orders. The idea that human subjects are socially constructed by power, limits the notions of sovereignty as the basic form of power. It constructs subjects in various ways in a multitude of domains (Foucault, 1970 and Brown, 2008).

Knowledge constitutes a truth in discourse, which in turn influences the way subjects are formed. In this regard, relations and authority structures are formed in society. Norms and deviations are conceptualized and through them power flows, influencing subjects and their construction. Butler (2010) further sees the subject as something fluid constantly changing in a never finalized process. The subject is therefore not understood as a preformed foundation, but as a political process of formation that can be problematic itself.

Additionally, a lot of power also lies in scientific and academic discourse. An example is the widely spread theory that women in the Stone Age were the gatherers, while men where the hunters. This powerful theory was used throughout decades to reinforce stereotypes. Recently, scientists could disprove these "facts". When archeologists (mostly white men) found graves from the Stone Age, they were not able to scientifically prove if the found bones belonged to men or women. They just assumed that humans buried with weapons were men. Today we are able to determine the sex through medical procedures and it was proven that women were buried with weapons as well (SWR2, 2016).

Discursive power is also used to frame the discussions around Okin's dilemma. When Okin describes certain aspects of cultures and religions and leaves out others, she uses discursive power that will influence her readers. To question what this usage of power is motivated by becomes even more urgent when politicians take up a similar argumentation. Who profits from minority women in need of protection from their own culture? Migrant women are not able to speak for themselves, since their fathers, husbands and culture oppress them. Hence, theorists like Okin and politicians take up the task of speaking on behalf of migrant women. Thus, by denying these women autonomy, they are deprived of their status as subjects.

In the past there have been demands of feminists to theorize differences among women to create a more inclusive feminism. The subject of the feminist quest has been questioned and many authors have worked on fabricating a wider definition. This was supposed to serve as a strategy to avoid gender essentialism based on the challenges of mainly white, middle class women (Analdúa, 1987; Hooks 1981; Lugones and Spelman, 1983). The subordination of women to men was often seen as a product of the confinement to the domestic sphere. As a consequence, economic exploitation of slaves and working-class women was mostly ignored. Therefore, feminists demanded the acknowledgement of national and cultural differences among women (Narayan, 1998).

With this in mind subjectivity was and still is frequently questioned in the feminist tradition. The deconstruction of the subject was a task undertaken by feminists to fight the exclusion of certain groups from the feminist struggle. This deconstruction of the feminist subject has often been criticized, resulting in the question whether a united feminist approach was even possible without a defined subject. Judith Butler (2010, p. 123) questions the process of constructing subjects and claims, much like Foucault, and states that, "power pervades the very conceptual apparatus that seeks to negotiate its terms" (2010, p. 123).

To establish a normative universality in any form is an act that requires power. The point is not to take away all theoretic foundations to discourse, but to question these theoretical foundations. That is, what they were meant to authorize and what was meant to be excluded from discourse, since the foundations that are stated as unquestionable in a theory are constructed themselves (Butler, 2010).

To some extent, Okin acknowledged this issue in her text. She includes women of other cultural descent in her quest for gender equality in all spheres of society. She examines the various oppressive traditions they face and demands the same liberal rights for them that women belonging to the majority cultures enjoy. Yet she faces strong criticism and is accused of racism and heavy cultural stereotyping. When it comes to the discourse on problematic intersections between multiculturalism and feminism, there frequently is a strong presence of agency and representation. The subjects of possible interventions and the oppressed migrant women are usually not included in the debate or/and do not have the opportunity to speak up. As a result, their perspectives are often excluded from the analysis of their own situation. In conclusion, it seems necessary within feminism and especially in a multicultural context to speak as women for women. This representation and the necessity for it have been questioned by post-colonial feminists including Spivak (1985) in her famous text, “Can the subaltern speak?”

4.1 Post-Colonial perspectives: Can the Migrant speak?

Scholars frequently tie Okin’s argumentation to post-colonial feminism. In his text, “A Varied Moral World”, the Indian-British Scholar Bhikhu Parekh (1999) builds a theoretical bridge between Okin’s argumentation and colonialism, as well as post-colonial studies. He sees most of her argumentation rooted in the idea that western liberal ideas constitute the ultimate truth of human nature. Universalism is frequently questioned and criticized as the justification the West used for colonialism to begin with and therefore prone to dangerous outcomes.

Historically, European Universalism was spread around the world through occupation and capitalism starting in the 16th century. An example is the occupation and annexation of large areas of Latin America by the Spanish. They legitimized their behavior with the ‘barbarian’ cultures residing in this sphere of the world. The British in India used similar strategies. Additionally, the ‘Orientalism’ rising in the 18th century was used to justify European superiority when contact to Persia, India and China intensified. Orientalism was thus used to devaluate cultures that enjoyed certain levels of respect and admiration. This strategy was used to legitimize their conquest in the long run (Wallerstein, 2007) as the Orient was created to oppose the developed and enlightened West. This oriental other became a part of the self-definition of Western Europe and includes the depiction of numerous ‘other’ cultures in painting, books and

political theories. From a position of discursive power, the West was able to incorporate racist and arbitrary stereotypes, similar to how Orientalism and the depictions of other cultures may say more about Western cultures than about those in question (Said, 1995). Heiss (2008) describes this as a mechanism of devaluation and differentiation from ‘other cultures’. These historical discursive developments are often still reflected in perceptions of ‘other’ and especially ‘oriental’ cultures in Europe today.

One of the most recognized contributors to the field of post-colonial feminism, as well as the use and distribution of discursive power between the West and ‘other cultures’ is Gayatri Chakravorty Spivak. Her critical account will give a conceptual counterbalance to Okin’s argumentation and question its legitimacy. Spivak asks if the women whose autonomy we want to protect or enable in the first place, can even take part in the discourse. Discursive power, as introduced in the previous chapter, does not only affect the power relation between men and women but also affected and still affects power relations between “the West” and the rest of the world. Gaytari Chakravorty Spivak an Indian-American literary scholar and is the author of the classic post-colonial theory constructing 1985 text, “Can the Subaltern Speak”. She focuses on how it is possible to communicate while inhabiting a powerless position. She criticizes leftist academics, such as Foucault and Marx that speak for people living in less privileged societies without knowing their perspective first hand (Rohlf, 2008).

She shows how the West investigates other cultures and the difficulties that arise due to the fact that this investigation is rooted in “universal” concepts and frameworks defined by an ethnocentric perception. She further claims that the produced knowledge serves the economic interests of the West. Quite in accordance with Foucault, she states that knowledge is never innocent and always serves the interest of its producer. According to Spivak (1985), research is inherently “colonial”, since it is always defining an “other”. In that sense research always includes a form of representation. Representation and knowledge in turn lead to and represent power. When the west colonialized other parts of the world it started with research. Maps, knowledge on cultures, power relations, weapons and geography where tools necessary to bring forward colonialism and exert power over societies who were defined as the “other”. The west also represented these societies in numerous ways, such as in books and paintings, as well as in political context (Flynn, 2014).

When it comes to minority cultures, they are often represented by members of the majority culture in media, political and scientific discourse. By explaining the difficulties that result from an intersection between multiculturalism and gender equality, Okin is representing minority women whose autonomy she sees endangered. In doing so she is also utilizing power over them. Post-colonial studies question this position of representation “the West” frequently inhabits and Spivak (1985) asks if the “subaltern” as it relates to Okin’s dilemma of the migrant women, can participate in the discourse.

Spivak (1985) went on to illustrate the term “subaltern” in her text with an example. She uses the research on customary widow-burnings in small Indian villages to illustrate the “subalterns” in the form of women who are on one hand celebrated as heroes (because they are facing a misogynist ritual) and on the other hand, as barbarians by the racist British colonial rulers. Stuck in between these two sides, they are not able to articulate their own perception and contribute to the knowledge produced. In the light of this, Spivak went on to discuss what Marx meant by “representation”. She illustrates how people can be excluded to participate in the process of forming knowledge and truth. Moreover, she criticizes that white men are talking to white men about colored men and women leading to a questionable representation of “the others” and criticizes that, “white men are saving brown women from brown men” (1985, p. 29).

In conclusion, Spivak questions if the lowest members of a society can express their concerns and start a dialog with those in power. In her essay she draws the conclusion that the subaltern cannot speak. Female intellectuals therefore have the task to speak for them. She does not like this answer because every representation is naturally a misrepresentation. Even a photograph or a hyper realistic painting are still just that and leave out many levels of reality. One will never be able to tell for certain how that subject on the portrait was feeling and what was actually happening behind the photographer. Nevertheless, until the subaltern is able to develop a political conciseness and the power context gives them an opportunity to speak on their own, this representation is unfortunately necessary (Flynn, 2014).

In order to find a way that respects minority cultures and still allows feminist solidarity to question whether the subaltern or in the case of Okin’s dilemma, the female migrant is able to raise her voice is vital. One of the main problems with the French Burka Ban and similar legislations is the exclusion of the subjects, whose rights are restricted, and

their perspectives from the decision making process. On one hand, excluding these subjects partly has institutional and structural roots. Migrant women are seldom included in decision-making bodies, such as the parliament in European countries. Especially not to the extent that would make it possible for them to influence the legislative process. On the other hand, their exclusion is deeply rooted in the perception that these women are oppressed and not capable of autonomous decisions.

While Okin looks at practices and sees them as oppression, others perceive the same practices as an autonomous act and criticize her for her lack of understanding and knowledge of the cultures she analyses. Even on an individual level it is difficult to make such an assessment of cultural practices, let alone in a general form that applies to a distinct cultural habit such as the headscarf (Honig, 1999). By framing practices such as veiling as a sign of female oppression without taking into consideration the circumstances to these individual choices of appearance, the women who choose to wear a headscarf are victimized without being able to raise their own voice. This process is on one hand rooted in the power of representation and on the other hand, in a frequently deliberately used and unknowingly reproduced discursive strategy known as Cultural Essentialism.

4.2 Cultural Essentialism

In line with Spivak's post-colonial critique, authors such as Honig (1999) accuse Okin of applying a serious form of cultural essentialism during her analysis. In her text, "Essence of Culture and a Sense of History: A Feminist Critique of Cultural Essentialism", the Indian Researcher Uma Narayan (1998) focuses on this motive and draws parallels between gender essentialism and cultural essentialism. She points out that cultural essentialism is a danger to the feminist agenda and brings forward some strategies to avoid this pitfall. She calls upon post-colonial feminists to be careful when it comes to the essentialist contrast between 'Western' and 'Third World' cultures.

Essentialism is rooted in the binary construction of discourse and has been under attack by feminists in the shape of gender essentialism for decades. Gender essentialism is the usage of 'feminine' as the social construct opposing the understanding of typical 'masculine' contributes. In feminist theory the conviction prevails that it is important to separate these terms from 'female' and 'male', which are describing purely biological aspects. This idea is conflicting with long prevailing

‘essentialism’ that is based on the assumption that there is a given female nature in opposition to male nature connected to the biological sex. The patriarchal value system usually assigns an underlying binary opposition to terms such as male and female, feminine and masculine, weak and strong, and so on. In these binary oppositions exists a certain hierarchy that shows a series of negative feminine values opposed with the positive male equivalents. Examples would be strong and weak, logical and emotional, independent and dependent, and so forth. These couples have to be destroyed according to feminists such as Mori Toril (1989) and Judith Butler (1990) in order to deconstruct the feminine and masculine opposition. According to Ntaousani (2010), the goal is to deconstruct gender by breaking up its binary normativity.

As introduced in the section on discursive power, there have been demands of feminists to avoid gender essentialism based on the challenges of mainly white middle class women. As a solution it was proposed to theorize differences among women to create a more inclusive feminism. In the light of this insight the subject of the feminist quest has been questioned and many authors have worked on fabricating a wider definition (for example, Analdúa, 1987: hooks 1981; Lugones and Spelman 1983). Feminists demanded the acknowledgement of national and cultural differences of women and thus, the acceptance of a wider range of struggles and perceptions. While the intentions were and still are good, the practice sometimes leads to questionable results of misrepresentation according to Narayan (1998). She coins the product as “cultural essentialism” and as equally dangerous as gender essentialism.

In the issue of “Multiculturalism versus Feminism” a replacement of essentialist perceptions of women and men with essentialist notions of ‘cultural differences’ between Western and Non-Western cultures is taking place. These cultural differences often carry colonialist and questionable assumptions of ‘Third World Women’. These generalizations even if well intended, only move the problem slightly. Instead of the universalistic category ‘Woman’, there is now a culture-specific essentialist generalization in place (Narayan, 1998). At present in Europe there is a strict line of perception of “Western Women” and “Muslim Women” for example. While these two groups are perceived as belonging to very different categories, only one is assumed to have autonomous control of her own life, while the other must be saved from the males in her culture. This essentialist stereotype is influencing the political and medial

discourse, as well as the law-making processes as will be discussed in the next chapter.

Cultural essentialist pictures are not only used by western agents. They are likewise used by fundamentalists that frame “Third-World” feminists as assimilating with the Western culture and betraying their own. This is an accusation Uma Narayan as an Indian Researcher and feminist philosopher often has to face herself (Nussbaum, 2000). Cultural essentialism can be found among both Western and Third World feminists and often remains unchallenged. According to Narayan (1993), gender equality is coined as a Western value whose extension to the Third World is an imperialist move.

While gender essentialism constitutes a binary about the qualities and abilities of men and women, cultural essentialism creates a binary between western and non-western cultures. The perceived dominant norms of a cultural group are conflated with its actual values and practices. Interestingly enough, cultural essentialism is often a product of the attempt to avoid gender essentialism. According to Narayan (1993) this process is rooted in the construction of ‘cultural others’ by privileged subjects. In this process perceived ‘differences’ are used to constitute the ‘other’ rather than ‘instances of Sameness’ to construct a common ‘we’. However, this process already fueled theoretic justification for colonialist actions and can be dangerous. Narayan therefore argues that a postcolonial feminist perspective needs to be aware of this process of replicating colonial ‘instances of difference’ (Narayan, 1998).

Narayan further exemplifies the misleading depiction of the ‘Western self’ during colonial times. The Western world perceived itself as superior due to values such as liberty and equality (Narayan, 1998) and human rights are often seen as a Western concept. The aim of extending the Universal Declaration of Human Rights to Non-Western Countries is frequently viewed as moral chauvinism but these claims also feature problematic accounts of Cultural Essentialism. Additionally, it is questionable if they actually are Western values to begin with. Western doctrines of equality and human rights for decades co-existed with colonialism and slavery. In these periods Human rights were also denied to women, as well as religious and ethnic groups in Europe. It was a long political struggle that finally extended Human rights to all these groups under Western rule. Therefore, the historic context could also frame these

values as product of struggles against Western imperialism instead of products of it (Narayan, 1993).

Even in post-colonial times, “Third World Countries” are still economically and politically dominated and controlled by Western countries often violating individual rights. Essentialist notions of Western and other cultures often reinforce this. While the feminist agenda tries to pay attention to these issues and the differences between women, they unfortunately often replicate rather than challenge these stereotypes. Furthermore, according to Narayan (1998), while privileged groups of western women are used to exemplify the whole group; marginalized and underprivileged groups dominate the pictures of women of the third world. This is even more the case since privileged western women usually lead the scientific discourse in this field.

Moreover sexual violence in third world countries is framed quite differently to sexual violence in Western liberal societies according to the Asian American law professor Leti Volpp. While incidents of sexual violence are framed as exceptions in Western societies, they are often assumed to be “cultural” when it comes to Third World countries. Volpp (2001) notes that the concept of culture is not used to explain similar incidents in Western countries. She exemplifies this process by dowry murders in India. In these incidents a new wife is burned because her family demands excessive dowry payments. They are considered to be an example of extreme misogyny in India and are frequently confused with widow burning. The New Yorker featured a piece on these incidents framing them in one paragraph as alternative to Western divorces. In numbers, as Narayan calculated in 1997, these incidents are much more comparable to cases of domestic violence resulting in fatally shooting one’s wife in the US. Instead of using these incidents to exemplify the higher misogyny in Indian culture, they could rather be viewed as “They burn their women there” versus “We shoot our women here” (Volpp 2001, p. 1187).

Volpp (2001) and Narayan (1997) highlight another US News Paper article that published a story of a woman of Indian origin (not Hindu though, Christian) being burnt to death by her husband. The whole article frames the incident as a woman not being able to escape her culture, which ultimately resulted in her foreseeable death. In this regard, newspapers provide their Western readers with exotic and thrilling pieces. As Narayan (1997) points out, Indians do not use fire in order to create a dramaturgic effect but to cover up the crime as an accident. For Indians, shooting their wife to death

would seem exotic since firearms are not as easily available in India. There can be seen a general trend of failure to see violence in Western cultures as “cultural” while violent incidents in immigrant cultures or the third world are often coined as such. This failure roots in the assumption that people of color are motivated by culture and white people are motivated by choice. It is often assumed that third world cultures are static and unchangeable, while western cultures are developing and going with the flow of time.

Volpp (2001) refers to one of Okin’s examples, the case of an Iraqi immigrant wanting to marry his young teenage daughters of to two men in their mid-twenties. She asks why child marriages are only seen as cultural threat in the context of immigrant cultures and not in the context of white Christian sects. She brings forward an exemplary case from Utah where a Mormon father wanted to marry his 16-year-old daughter to her 32-year-old uncle. According to Volpp, there seems to be a discursive system that those with power have no culture, while those without power do:

> Western subjects are defined by their abilities to make choices, in contrast to Third World subjects, who are defined by their group-based determinism. Because the Western definition of what makes one human depends on the notion of agency and the ability to make rational choices, to thrust some communities into a world where their actions are determined only by culture is deeply dehumanizing (2001, p. 1192)

Furthermore, other explaining variables, which can heavily contribute to greater gender inequality despite culture, are frequently ignored, for example poverty and deficient means of education. According to the 2016 Human Development Report of the United Nations Development Programme (UNDP, 2016) there is still no country that treats women as well as its men. This is a fact that has not changed since, Martha Nussbaum pointed out in her report in 1999. The UNDP reports that in the year 2016, approximately 15 million girls in developing countries are married before turning 18 years old. Additionally, it is not surprising that these numbers are higher in poorer countries. A family that struggles to meet its ends is more inclined to marry of a daughter sooner so that they will have one mouth less to feed. Since girls usually move in with the in-laws and therefore will not contribute to the family income in the long run, their education is less likely to be a financial focus of the parents. Hence, Nussbaum (2000) argues that gender inequality is strongly correlated with poverty.

Consequently, Narayan (1998) proposes a strategy for Feminists to avoid cultural essentialism in their work. She suggests that we have to work against the view of culture as natural givens with strict borders across countries. It has to be embraced that these borders are manmade and that cultures change over time. She brings an example leaned on Spivak's famous post-colonial critique, the immolation of widows in rural India. This process was constructed as a central ritual in "Indian culture" in colonial times. It was used to exemplify the superiority of "Western culture" justifying the interference with, and the control of the Indian population. Hindu fundamentalists still currently adopt these practices as an example of the "good Indian woman", even though the custom has disappeared in practice nowadays.

Narayan (1998) demands feminists to ask the questions why and how this practice that was at no point in history engaged by the vast population of India (in fact it happened very rarely in rural, small communities) became a "Central Indian Tradition". Essentialist cultural pictures often dilute historical change and political contestation and conceal various concrete social changes (Narayan, 1998). Volpp (2001) argues, much like Narayan, that Okin's fatal misconception is that she assumes culture is something homorganic and static. However, culture is constantly renegotiated and can vary according to gender, social status, age, sexual orientation, and so forth. While Okin illustrates examples of male oppression in certain cultures, she ignores feminist values and contestation that are also part of these same cultures. Recognizing that there is feminism in these communities breaks down the controversy of multiculturalism versus feminism.

Consequently, it may be argued that questioning similar practices in one's own culture, maybe even looking for similarities, will enable a deeper analysis of the powers at play when it comes to the rituals in minority cultures that Okin depicts as strictly motivated to serve patriarchal structures. It may be argued that Okin's analysis is lacking a closer look at Western cultures altogether. For instance, when she illustrates examples of female oppression as it relates to women's dress codes, a more reflected analysis of Western cultures could have added value to her conclusion. In Western cultures women do not dress the same way as men and the line of what is perceived as nudity differs for men and women as well. In countries such as Iran, the line is drawn at a woman's hair, which men are allowed to show. In western countries, the line is drawn at her breasts, which men can show in certain situations, whereas it would be

perceived as a violation of social codes for women. Men for instance, like women are not allowed to show their legs in public in Iran. In most Western societies men are not allowed to show their legs and feet in office jobs, while women are allowed to do so. Women even in quite formal office jobs and events can wear skirts and sandals. Questioning the causes for these gendered instances of difference and the power dynamics leading to them, as well as the autonomy women actually have when it comes to their clothes in Western societies will be a helpful process to understand similar dynamics in foreign cultures. This could allow a more thorough analysis of gendered power relations, as well as a common feminist agenda to uncover them.

As Abdullahi An-na'im (1999) correctly points out, theories brought forward in essays like Okin's are capable of influencing public policy. Therefore, it is necessary to reflect on the discursive strategies, as well as underlying power dynamics that questions the motives behind them. However, it should be noted not only texts like Okin's that are usually discussed in academic discourse influence policies targeted at minority groups.

The public and political discourse on refugees, Islam and immigration in general in Europe was extremely vibrant in recent years, especially since the instability in Syria caused an immense increase in refugee numbers fleeing to Europe. In the late summer of 2015, German and Austrian media discourse strongly focused on the denounced "refugee crisis". In this context of the rising refugee numbers in Europe, Okin's dilemma and the issue of multiculturalism versus feminism moved on the agenda of national newspapers and governments. The discourse was and is increasingly inhabited by cultural essentialist frames and central societal actors like politicians and newspapers and as such, have a strong influence on public opinion (Hemmelmann and Wegner, 2016). A topic that is consistently revisited in these discussions in the European context and often leads to legal response in the form of regulations is sexual violence and Muslim forms of female body covering, such as the hijab and the burka.

These discussions go hand in hand with a cultural essentialist understanding of the minority and the majority culture. A higher identification with the majority nationality leads to a higher potential for negative sentiments towards immigrants (Billiet, Maddens and Beerten, 2003). According to Allport, the resulting prejudices can be defined as an antipathy based upon a faulty and inflexible generalization (1954, p. 9).

In the context of Europe, Muslims represent a group that is frequently targeted by prejudice and the process of othering. This has been especially fueled by incidents of

terroristic nature, as well as the increased inflow of Muslim refugees in recent years (Strabac and Listhaug, 2017). Moreover, the European-Muslim history is entangled with colonialism and military expeditions. This historical context led to prejudice between these groups early on. The perceived red line between European and Muslim values is today often revitalized (Sniderman and Hagendoorn, 2007). Most European countries nowadays feature parties with clear anti-Muslim rhetoric and agendas in their programs. Among these are the PVV in the Netherlands, the FPÖ in Austria, the Front National in France, and the AfD in Germany (Imhoff and Recker, 2012). In the next chapter, some recent examples of the resulting discourse and the legal effects it produced will be explored.

5 Recent Instances of Okin's Dilemma and Legal Responses

The following two chapters will take a closer look at recent political and legal government responses to problems posed by the intersection of feminism and multiculturalism. For this purpose two examples shall be introduced. The first is directed at foreign men as assaulters of women's rights and the second is directed at women as the victims of the restriction of their autonomy through their culture. Both examples lead to legal actions and amendments aimed at resolving these instances of Okin's dilemma. They are set in the context of Germany and Austria, as well as the European 'refugee crisis' that intensified the discourse on Islam and the perceived prevailing gender inequality in Muslim communities. These two examples highlight responses that governments choose to confront instances of Okin's dilemma in the light of increased immigration. They will be revisited when feminist approaches to resolve Okin's dilemma are introduced in the sections '*Authentic Choice*' and '*Participation Theories*' and will also exemplify the discussed options in reality.

5.1 The recent amendment to German rape law and its causes

As a result of the large number of Muslim refugees that came to Germany and Austria between 2015 and 2016, intensified cultural essentialist framing and racial stereotyping is happening in media and political discourse. While the wide coverage of refugee related issues has been generally extensive since 2015, one incident in Germany produced particularly dominated medial discourse and shaped public opinion on

refugees and immigration. During the New Year's Eve celebrations on 31st of December in 2015, a shocking number of seemingly systematic assaults against women took place in Cologne, steering the discourse in a new direction. The online statistic platform Statista periodically releases the 10 most mentioned topics in TV-News in Germany. In January 2016 "refugee-crisis and policies" was ranked first and as a close second was the topic "Assault at New Year's Eve in Cologne", which were leading the debates. When browsing through the media coverage of the event, a few key topics quickly seem to dominate the agenda: sexual violence by Muslim immigrants, the refugee problem, and the perception of women prevailing in Islamic cultures (Schandra, 2016).

Known feminists such as Alice Schwarzer, who is one of the most iconic feminist figures in the German-speaking world, clearly positioned themselves in line with Okin's argumentation. The now prevailing multiculturalism in Germany is seen as dangerous, especially in connection with the predominantly Muslim refugees migrating to Germany (see Schwarzer, 2010). The title of Schwarzer's book published in 2010 (before the 'crisis') perfectly sums up this sentiment, "Die große Verschleierung – für Integration, gegen Islamismus". This title can be translated to, The Big Veiling[1]– For Integration against Islamism. The headscarf worn by oppressed Muslim women, the oriental patriarchate, and the aggression of young male Muslims became symptoms of the impossible task of integration (Dietze, 2016). The calls for policies to strengthen a sense of common citizenship have increased in recent decades. Immigration seems to threaten the social cohesion of Western societies. To protect it, policies like citizen education in schools, classes for immigrants (for instance the "Werteschulungen" immigrants need to attend in Austria since 2016, see Österreichischer Integrationsfonds, 2016) and tests for new citizens, as well as citizenship ceremonies have been implemented. This emphasis on citizenship can be seen as an oppositional trend to earlier prevailing understandings of multiculturalism and the positive aspects of diversity (Kymlicka, 2011).

In this context public discourse often paints a picture that shows Germany as a country that is inhabited by a post-feminist society. This national identification with gender equality is quite new and was fueled by incidents, such as the New Year's Eve 2015 in Cologne. The German value of Gender Equality that is usually quite ignored in public

[1]In German "veiling" can also be used as concealing

discourse, which often marks feminism as a swear word, suddenly became part of the national identity and had to be defended against intruders; the racialized others (Boulila and Carri, 2017).

The discursive incident, namely, the media coverage puts what has happened in a wider frame of reference. The perception by individuals of what has happened and the actual incidents can be estranged. This can happen in media discourse through the linkage of different discourses. In this regard, a certain opinion can be strengthened and serve as basis for further statements leading discourse in the same direction. Consequently, the socially accepted norm of what can be said in public can be extended, which can result in more and more openly racists statements, in this case in the name of gender equality in public discourse (Jessen, 2016). While the resulting discourse is sensitive towards gender issues and critical towards sexism, it only targets minority groups. In doing so it camouflages racist motives and constructs ethnical others. Dietze (2016) who examined the media discourse in connection to the 'refugee crisis' exemplifies this created picture by the cover of the newspaper "Fokus" in the week after the Cologne incidents. It portrayed a blond white female body without eyes, protecting her breasts and pubic area and covered with black handprints. This cover has been broadly discussed and deemed racist by many since it depicts a generalized foreign rapist targeting white German women. Additionally, the black man, producing black handprints, who historically was often conceived as dangerous, is reanimated by such depictions (Dietze, 2016).

I also want to exemplify the dominance of this issue in private, yet political discourse, with personal experiences. In February 2016 I co-founded a small organization based on pro-bono work that dedicates itself to providing refugees, mostly young males from Afghanistan but also women from Ethiopia and Nigeria, with access to free German classes and social contact to Austrians in Vienna. We do not only teach German but also accompany our students to their "Asyl-Interviews"[2], help them to find English and Math tutors for their "Pflichtschulabschluss"[3], as well as everything else necessary to get them settled in Vienna.

In this context I am often confronted with personal opinions on the matter and the overall shift towards the right of the public opinion. A recurring theme, especially in the

[2] Interview that determines if an asylum seeker will be able to stay in Austria
[3] The graduation from compulsory school in Austria can be made up for with an exam

last two years, is the general hostility towards women perceived as deeply rooted in Islamic cultures. Often this is the first topic brought up when people learn what our organization and our team of about seven key members do. We are asked whether it is difficult to deal with our Afghan students since most of us are women; we have only one man in our key-team. This is continued by complaints that women cannot even feel safe anymore in Vienna when walking home at night now that there are so many men from Afghanistan and that we cannot accept this misogynist culture in our country.

Nowadays I often counter this line of argumentation not by openly questioning the stereotypes towards Muslim men but by more or less directly asking, “Ok, let’s say that there is this very problematic view of women in these cultures. Should we then not even work more on helping these women? The way the system works now women have to face horrific situations if they try to get to Europe, often just because they are women.” I explain that this line of argument often causes more harm to the women in question. This is usually the point when the conversation quickly turns to a matter of how many people Austria can even take in and that there are too many refugees already. I grew to be more and more interested in this use of feminism to justify a hostile perception of Islamic cultures with no interest in helping women, unless they are Austrian of course. These conversations fueled by populist political discourse show on a private level how feminism is used to cover up and serve other reasons than the empowerment of women. The “ethnicisation” of sexism as the basis for the political and discursive “othering” of immigrants often remains unchallenged, when the issue is discussed in private.

Through her analysis of the media coverage of the cologne incidents Dietze (2016) comes to the conclusion that migrants and refugees are nowadays assumed to face too much oppression of their sexual needs and desires at home within their families. In conclusion they are equipped with too little self-control when they enter the public sphere. This results in sexual aggression towards women of the majority culture, who are free spirited and whose freedom in conclusion has to be protected. Migrants in turn have no comprehensive understanding of the liberal value of ‘freedom’ and certainly do not understand how to use it. This results in the sentiment that the liberal state has to protect native women from the sexual aggressive and oppressive actions of foreign men, especially Muslim men.

The police chief inspector of Nordrhein-Westfalen Arnold Pickert issued the following official statement after the incidents:

> Wenn es Flüchtlinge gibt, die ein Problem damit haben, sich in unsere offene Gesellschaft zu integrieren und die Freiheitsrechte anderer Menschen zu respektieren, müssen wir mit aller Härte des Gesetzes gegen sie vorgehen. Aber wir dürfen auch nicht übersehen, dass der Großteil der Menschen zu uns gekommen ist, weil sie in ihren Herkunftsländern ihres Lebens nicht mehr sicher sind (Gewerkschaft der Polizei, 2016).
>
> If there are refugees that have problems to integrate themselves into our liberal society and do not respect the right to freedom of other people, we have to meet them with the full force of our law. But we cannot forget that a substantial part of these people came to us, because there are wars in their home countries, where they are not safe.

While he reminds the public to be compassionate towards victims of war, he also ties the assaults to the unwillingness of refugees to integrate into the majority culture. He puts them opposed to 'our liberal society' not capable of dealing with the free spirited German women.

In an interview the then Minister of the Interior, Thomas de Maziere, who is a member of the German Christian Democratic party, states similar sentiments when asked by the "Bild" if there is a connection between the "sex-mob" and the refugee crisis; "sex-mob" is how the newspaper mostly refers to the events. De Maziere answers that while he hopes that all the attackers will be identified and punished without mercy, there is no certainty yet what their background was. He then continues to state that nonetheless it is important that whoever wants to live in Germany must accept the law and order of the society, again linking the event to refugees in general (Bild, 2016). If refusing to oblige, one must face the law. The linkage of sexual assault to not accepting "our" culture paints the picture of an original culture the attackers are based in, where the sexual assault of women is part of the everyday life. It thus starts a process of othering.

Maziere further states that a general suspicion towards refugees is as wrong as the denial of dangerous criminal structures. The Bild continues by asking if the refugee homes were still under control and how it would be possible to prevent refugees from

becoming criminals. In this article, a general thematic linkage of the topics “Cologne incidents” and refugees can be seen. Even though the assaulters’ identity and as a matter of fact if any refugees have been among them was unknown up to this point.

Racial framing in newspapers can have a strong impact on the construction of social reality. It is vital to critically question what kind of reality and public opinion through its usage in media discourse is aimed at constructing. Moreover, it is necessary to pay attention to the power relations that shape the perception towards refugees and the underlying assumptions in the presentation of incidents of policy reforms (Rose, 2014).

As a matter of fact, the Cologne incidents led to legal repercussions. The discourse followed by the incidents triggered a long overdue amendment of German rape law. Up to this point rape victims had to be able to show marks of physical resistance of an alleged rape in order to have any chance towards a conviction in court. In 2005, five out of a hundred rapes ended in court and only two led to a conviction. A simple “no” was not sufficient in Germany to classify a sex-act as rape. But Cologne brought a sudden public interest and a change of legislation. Since sexual violence was linked to refugees and the “open borders”, the German parliament linked the new law covering sexual assault to the German Residence Act. In addition to generally stricter criminal sanctions, a conviction for sexual assault can now lead to deportation when committed by a foreigner (Boulila and Carri, 2017).

At first glance, this amendment of the German rape law is a big and long overdue win for feminism and women in general. The problem it poses is its underlying racism that has been incorporated into the law through this amendment. Instead of amending the rape law for all assaulters regardless of skin color and nationality, it now has significantly stricter implications for foreigners. Without justifying or defending rape in any way, it can be argued that this is racist. Why should someone be punished more than the other for committing the same crime no matter how horrific this crime is?

Additionally, the amendment can also be tied to the prevailing western picture of female autonomy. Foreigners are depicted as unable to control their sexuality, when they come in contact with Western, free and more revealingly dressed women. The clothes worn by western women are equated with a liberal life style free of male oppression. This sentiment can be illustrated according to advertisements published by the right wing party AfD (“Alternative für Deutschland”), which shows women in bikinis under the slogan *“Burkas? - we fancy bikinis!”* Another advertisement of the same campaign

shows female eyes framed by a burka and reads, *"The Islam does not belong to Germany – the freedom of women is not negotiable!"* Women's clothing has also become a symbol of cultural difference, as well as one of the factors influencing the amendment of the German rape law to protect freely dressed women against foreign intruders. This connotation carries heavy cultural essentialism. Women who dress according to western norms symbolize autonomy and their free spirit is worthy of protection, while women who are covered in a Muslim manner are seen as oppressed and not free; in conclusion a miniskirt is a sign for female autonomy, while a hijab is not.

5.2 Protecting Migrant Women: Muslim veiling in Austria

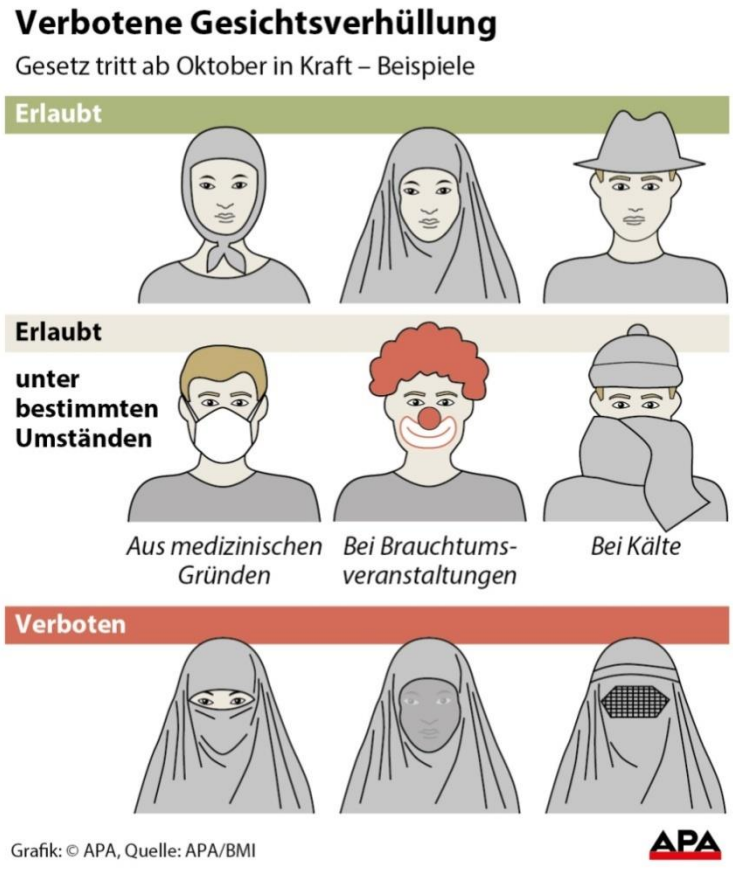
While the previous example illustrates legal changes that are at least partly rooted in cultural stereotyping affecting the perpetrator, there are numerous examples throughout Europe effecting women who are perceived as victims of their patriarchal cultural background. I want to illustrate this by a recently envisaged law proposition in an Austrian policy debate that received wide media coverage and will probably be implemented sometime in 2018. The law constitutes a suitable possibility to translate Okin's dilemma into the Austrian political reality, since it aims at protecting the autonomy of young girls rooted in minority, namely Islamic, cultures. What seems to be soon a reality in Austrian kindergartens and primary schools as the law has not been decided yet, but does not face significant political opposition (see "der Standard", 2018a) is a headscarf ban.

In 2009, the Viennese researcher Birgit Sauer classified distinct headscarf regimes in Europe in her article, "Headscarf regimes in Europe: Diversity policies at the intersection of gender, culture and religion". By selecting three exemplary, paradigmatic countries (Germany, the Netherlands and Austria) she aims at finding differences and similarities in order to produce a refined methodology explaining different types of headscarf regulations. Sauer (2009, p. 3) identifies three models of headscarf regimes throughout Europe:

1) The *prohibitive approach* whereby all forms of Muslim body coverage are banned in public spaces is featured in France and Turkey;
2) The *soft or selective approach*, which prohibits only a certain kind of body covering is featured in Finland, Sweden and the Netherlands; and

3) The *non-restrictive, tolerant approach*, where there are no restrictions is features in Denmark and as I suggest formally, Austria as well.

Austria arguably already moved up from the 3rd to the 2nd category in 2017 when the "Burka-Ban" was legislated (RIS, 2018). This ban does not officially ban Burkas as religious or more specifically Muslim symbols, but bans face disguises of any kind in public spaces as a matter of security. As it relates to the Austrian 'Burka Ban' public spaces include all locations outside private homes inclusive of streets, shops, theaters, and so on. While the law was frequently defended as necessity for the recognize-ability of faces for public security matters, especially, by the politicians in power, many voices argued for it in order to ban the "burka" as a Muslim religious symbol and a sign of male oppression over women. This is the reason why the law was usually referred to as "Burka-Verbot"[4] and not as "Anti-Gesichtsverhüllungsgesetz"[5], which is the official legal term in media and public debate.



Source: http://www.bmi.gv.at/news.aspx?id=4D794D417A3630647947773D

[4] German for Burka Ban
[5] German for Anti-Face-Covering-Law

The law was formulated as a ban for all face coverings, not only Muslim ones because the government was concerned that it would have otherwise led to legal problems due to a confliction with the European Convention on Human Rights (European Court of Human Rights, 2010). Article 9.1 of the convention protects the right to freedom of thought, conscience and religion. Article 9.2 further clarifies that:

> One's religion or beliefs shall be subject only to 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.

As it relates to the ban, Austrian law permits face-coverings only for the following reasons: medical reasons, customary traditions and cold weather (Krone, 2017; RIS, 2018). Nonetheless, according to RIS, the official law reads:

> Ziele dieses Bundesgesetztes sind die Förderung von Integration durch die Stärkung der Teilhabe an der Gesellschaft und die Sicherung des friedlichen Zusammenlebens in Österreich. Integration ist ein gesamtgesellschaftlicher Prozess, dessen Gelingen von der Mitwirkung aller in Österreich lebender Menschen abhängt und auf persönlicher Interaktion beruht (2018, §1).

This first paragraph officially states that the ultimate goal of the law is 'integration'. The universal applicability of the law was not the center of the discourse, political or media when it comes to the so-called 'Burka-Ban'. This is also the conclusion the NGO Amnesty International (2017) reaches in its official statement. The organization comes to the conclusion that the law is targeting women who wear face covering in connection to their Muslim belief. Women who wear the targeted coverings do so either out of free will or because they are forced to do so. Either way, the law hurts both since it constitutes a violation of their basic rights to freedom of mind and religion. Moreover, women who are actually forced to wear them by their husband or their family will be the most negatively impacted by this law since it will make it even more difficult for them to participate in social life outside of their homes.

The initial effort to avoid officially targeting Muslim face coverings can be explained by the Austria's historic sentiment towards religion. The Austrian state has never identified with a strict secular sentiment like France. In France a historical ambition to free schools from any form of religious influence is prevalent. This ambition was interpreted

more strictly after extremist religious groups had attacked unveiled Muslim girls in the 1990s. In 2004, a prohibition of conspicuous religious clothes in public institutions was decided (Mookherjee, 2005). However, the Catholic Church is widely acknowledged as an important force in Austria, also taking on many care duties through the CARITAS, which are often provided by governments in other European countries. The state church cooperation is therefore often extended to educational matters. Furthermore, religious symbols are traditionally not handled as an infringement on the Austrian state neutrality (Sauer, 2009).

In contrary to other European countries, such as France and Germany there have been no substantial debates on the headscarf controversy in Austria up to this point in history. On the contrary, religious symbols were tolerated among public employees. Headscarves were even allowed in public hospitals, as well as incorporated in the uniform of cleaning ladies and also the Sikhs' traditional headwear in the uniform of public transport employees. In the 2000s, two cases occurred where school representatives denied schoolgirls their right to wear a headscarf. Both incidents were resolved by the acceptance of the traditional Muslim dress item. In addition, the Ministry of Education, Science and Culture issued a decree that declared the headscarf as a religious sign and thus it's protection by both the Basic State Law and the European Convention on Human Rights (Gresch et al., 2008; Sauer 2009).

Nonetheless, despite a certain prevailing acceptance of religion in general, the Austrian citizenship act, as well as the Asylum law and the settlement and residence law require cultural and social interaction as a precondition. Migrants are expected to assimilate to the Austrian culture (Sauer, 2009). This expectation has been intensified and denounced more publicly since the 'refugee crisis' moved to the center of public attention in 2015. It is often articulated nowadays, that whoever wants to stay in Austria has to live by the Austrian values, which include gender equality (see for instance Österreichische Volkspartei 2017a; 2017b).

In the historic context of Sauer's analysis conducted in 2009, Austria had not yet started to regulate headscarves in the public or private sphere, while most European countries have regulated headscarves in the public sphere to some extent at this point. By the public sphere usually institutions such as schools and universities, as well as public service buildings or courtrooms are addressed. In media and political discourse surrounding these regulations, the bodies of Muslim women have become the

battleground for conflicts over values and identities, as well as integration and cultural differences. This occurs not only in the perspective of the majority culture. The headscarf disputes are frequently used to strengthen identity policies of Muslim communities. A common 'us' can be created in opposition to the 'other' created by the majority culture. In return, body coverage is not only seen as a sign for female oppression but also for the unwillingness to integrate into the majority culture (Sauer, 2009).

The resulting legal responses to this dilemma aimed at governing cultural diversity are often related to a nation's understanding of citizenship (Saharso, 2006). The '*ethno-cultural model'* according to Sauer (2009) featured in Austria, is based on ancestry and ethnicity rather than on consent and values. This system imposes strict requirements often connected to the assimilation and integration onto immigrants.

The major Austrian parties at the time Sauer conducted her analysis (ÖVP, SPÖ and the Green party) used to frame the headscarf as a non-issue, or at least as an issue that was not of political concern. Often comparison was struck between Muslim women and rural women in Austria, who traditionally often wore a headscarf themselves when working in the fields. Another often cited example was Catholic nuns, who as well traditionally cover their hair. However, another sentiment was already in play at that time. In 2005 the right wing FPÖ, which would gain major shares in the election in the following decade to become part of the government coalition in 2017, had featured a poster of a covered Muslim woman. This picture was accompanied by a slogan that can be translated to, "free women instead of forced headscarves" (Sauer, 2009) reflecting discursive strategies similar to AFD posters in Germany.

Already at this point, when no headscarf regulation was in place whatsoever, Sauer (2009) categorizes Austria as an example featuring the ethno-cultural model that according to the literature, is more likely than the other two citizenship models to be restrictive towards Muslim practices. In the literature on headscarf policies it is argued that European countries, which historically feature strong equalitarian and antidiscrimination sentiments are less likely to ban Muslim body covering (McGoldrick, 2006; Skjeie, 2007). While the Austrian constitution outlaws discrimination on the grounds of sex and religion, gender equality has never been on top of the political agenda. The European anti-discrimination laws have been transferred into national law in 2003 to 2004, but the responsible institutions for enforcement lack the necessary

means. The enforcement of gender equality in Austria can be therefore described as rather weak (Sauer, 2009). Even more surprising is the sudden intensified political interest in the value of gender equality.

In accordance with the historic Austrian sentiment towards religion, the main political argument for the recently discussed headscarf ban for girls under the age of ten in educational, public settings by the current Chancellor Sebastian Kurz (ÖVP) and his vice chancellor Christian Strache (FPÖ) is not the banishment of religious symbols from schools in general. Instead the head of the ÖVP, which is tightly entangled with the Catholic Church and locates many of its voters in this sphere, argues that this ban will support gender equality. They argue that young girls have to be free in their development. It also constitutes an integration measure and should hinder the flourishing of the 'Political Islam' as the coalition parties argue (see "Die Presse", 2018a). In this line of thought, a headscarf ban would constitute autonomy or in other words 'the right not to wear a headscarf' for young girls. However, a veil can also be an expression of free belief, self-protection against male pressure or even symbolize rebellion against secular parents (Mookherjee, 2005). In other words, this law constitutes a restriction rather than a protection of autonomy. Girls are no longer equipped with any possibility to *choose* to wear a headscarf in school. Additionally, this fact does not resolve Okin's dilemma in this case; if the law is not passed some girls will be forced to wear a veil, if the law is passed, some girls will be forced to take off their veil in school. A solution should be capable to protect the autonomy of all girls affected by this controversy.

With regards to Okin's dilemma it is important to add that the dilemma now has a significantly different manifestation than the one discussed in the late 90s. Nowadays introducing group rights for minority cultures to relief cultural differences in a multicultural society is seldom on the table. What is frequently discussed however is the restriction of certain rights. Of course this is a question of argumentation and framing.

When headscarf bans are discussed there are four typical frames: *the religious freedom frame, the state neutrality frame, the political frame and the equality frame.* Until the turn of the century, the headscarf issue was usually framed as the right of women to express their religion and to choose their own clothes in Austria. Equality of religions and antidiscrimination also constituted major frames. The gender equality

frame used to be only invoked by the right wing FPÖ (Sauer, 2009, p. 14). Nowadays, it is also widely spread in public opinion. While Austrian politicians officially framed the Burka ban as a matter of security in 2017, the recently discussed headscarf ban is openly framed under the flag of gender equality.

The example brought forward constitutes a case of Okin's dilemma, since the value of female autonomy is competed with the value of multicultural diversity and freedom. In the context of Europe today, cases in the tradition of Okin's dilemma usually do not question the usefulness of group rights.

The argumentation in political discourse often, like in the Austrian case, centers around the question if certain restrictions of groups are necessary to protect women and girls from their culture. Migrant women in these contexts are depicted as victims of their culture who are in desperate need of protection (Sachar, 2007). This communicated picture and the underlying discursive strategy have been subject to substantial criticism from both multicultural and post-colonial feminists.

Provided that the goal of laws similar to the discussed headscarf ban for schoolgirls and kindergarteners is actually the emancipation of the girls and women in question, it is necessary to ask whether such laws can in fact put girls in a position of higher autonomy and equip them with the means to enact their free will.

6 Concluding Okin: New Concepts of Female Autonomy

Since the late 90s and the introduction of Okin's dilemma, gender equality policies have been more frequently challenged. Debates around headscarves, Burkas and other traditional practices have put migrant women at the center of attention. Female victims of traditional violence are invoked when immigration policies are being discussed, while simultaneously these women are precisely denied the necessity for equal opportunity policies (Sauer, 2009).

In her essay, Okin sparked an important reflection of the meaning of autonomy in feminist discourse. She brought forward numerous examples of minorities' cultural rituals that were obviously oppressing women, therefore restricting their autonomy, especially when analyzed from a Western Liberal standpoint. However, as observed from a less "Western" standpoint, her conclusion that group rights for minorities are bad for women is questionable. Her essay sparked numerous answers from declared

multiculturalists, especially feminists, who do not want to sacrifice Multiculturalism for the sake of Feminism and they accused her of applying cultural essentialism in her analysis.

Whether Okin or her introduced critics discuss on the importance of male oppression in cultural rituals or were concerned with power structures within minority groups, they always had the same goal in mind, which is the genuine autonomy of women. Okin rejects group rights on the ground that minority cultures tend to oppress women. Especially in the context of rising refugee numbers European politicians, like Kurz and Strache, increasingly design legal reforms targeted at such practices, often resulting in a limitation of choices for women.

Okin's critics on the other hand are concerned with the heavy stereotyping that leads her to this conclusion. Among them also is the stereotype that women of minority cultures are not able to act autonomously. They point out the danger of the biased Western view that only sees acts that conform to Western standards as autonomous acts (Hadj-Abdou, 2012). They are concerned that Okin's line of argumentation fuels the process of racialization and ethnitization of minority cultures and simply diverts attention from gender inequalities in the majority culture. Furthermore, her approach has been criticized by liberal multiculturalists as interfering with the right to sustain one's culture (Lébinard, 2011).

This can be illustrated by a much cited example Okin (1998) introduces in her text; the discussion whether Muslim school girls should be allowed to wear a headscarf in French schools. In the case of France, in contrary to the Austrian example, this would actually constitute a group right due to the strict secular school system in France and the ban of all religious symbols. Okin focuses on Muslim girls fighting this group right, who do not want to wear the headscarf but would be forced by their parents to do so if it were allowed. By contrast, her critics (for example Doutje and Saharso, 2012) focus on girls, who fight for having the right to wear a headscarf and feel their autonomy is attacked by the ban.

The Muslim veil is either seen as a symbol of subordination or as a symbol of resistance in Western context (Mahmood, 2005). While the first account simply denies Muslim veiled women the possibility of consent, the opposition understands it as resistance to the West and its sexualized culture. Both accounts frequently ignore given motives of piety and the submission to religious duty (Bilge, 2010; Chapman, 2016). In her text,

"*Politics of Piety",* Mahmood (2005) challenges this dichotomous account of agency by witnessing female members of the mosque movement in Egypt. She depicts practices such as veiling as a form of a devout life style and religious agency, disinterested in dissolving gendered norms and values. She shows a process of self-formation where subordination and self-agency go hand in hand. While she confirms the value of modesty as a gendered virtue, she denies its implicit subordination and agency. Modesty is seen as a virtue that is expressed among other things by veiling. She paints a picture that shows women striving for Islamic virtues through high investment and also high achievement. She also shows a process of personal transformation. In this regard, she breaks up agency and resistance and integrates the practice of veiling into the self-creation of subjects. Additionally, she offers a new perspective on liberal feminist theories, which have tendencies to equate autonomy and individuality.

Both Okin and her critics bring their contrary argumentations and conclusions forward in support of female autonomy. Hence, Okin's Dilemma shows that there is no consent among feminists of all generations on what constitutes autonomy. Therefore, the main question that seems promising to resolve Okin's Dilemma is, *"What is autonomy and how can it be determined?"*

All things considered, Sawitri Saharso (2003) argues in her essay, "Feminist ethics, autonomy and the politics of multiculturalism" that before answering the question, if group rights, or more currently restrictions for minority cultures are acceptable, a new well-grounded concept of female autonomy is necessary. In conclusion it needs to serve as a lens through which different public policy reforms targeting the tensions between multiculturalism and feminism should be assessed.

A constant motive in the discussion of "Okin's dilemma" in the decades to come will be the question of how autonomy can be determined. In pursuit of defining female autonomy and with Spivak's, Narayan's and Volpp's alerting voices in mind, it is important to pay close attention to our own cultural context and our resulting perception of certain cultural norms. However, in feminist theory it is questioned whether true objectivity exits. No theory or researcher is ever 100 percent objective. Most of the theories we base our sciences on today were produced from white male academics with a certain kind of world view. Even things considered as "historic facts" are shaped by their particular perception and we are no exception from the rule. The critical confrontation of the foundations the discourse around Okin's dilemma stands on is

necessary to be able to construct a concept of autonomy that allows us to critically observe media and political discourse, as well as practical legal adjustments that are meant to ‘protect’ women’s autonomy, in this case the autonomy of migrant women.

To truly question the prevailing understanding of autonomy it is necessary to question different perceptions of the concept of culture. Culture is not merely an attribute of exotic others but an attribute of all societies. The study of culture, and in this case its effects on gender equality, is also the study of one’s own society (Phillips, 2006). As feminists and especially feminist scholars we have to be careful not to fall into the pit falls of perceived objectivity when it comes to different perceptions of cultural norms that have dominated gender relations for centuries. While questioning the patriarchal structures of cultures and societies is important, not forgetting to question our own cultural context is crucial as well. Okin’s argumentation would have benefited from the addition of a more reflected account of her own cultural context, when analyzing minority cultures. The discussion on the tensions between Multiculturalism and Feminism, as well as the much needed new concept of autonomy to possibly resolve the issue would gain a lot of insight; if not only the norms of minority cultures, but also the majority culture would be included in an analysis. Thus, a new conception of autonomy will benefit from this insight.

In the discussion around Okin’s Dilemma, which was introduced in chapter 3, a feminist substantive definition of autonomy was prevailing. This definition was inspired by second wave feminism and defines female autonomy by the lack of patriarchal constraints. While its roots stem from classical ‘liberal’ values such as self-determination and independence from social power relationships (Lébinard, 2011), it neglects the discursive power that is exerted through the representation of the women in question by mostly Western scholars.

In this account of autonomy women are able to act out of their free will when there are no boundaries set by the society surrounding them. When such boundaries lead for example to the incapability of women to escape domestic violence, the state is required to protect them. As such, the substantive definition legitimizes state action, often thanks to a long feminist struggle. Lébinard (2011) argues that this substantive definition of autonomy has been challenged by multicultural feminists in numerous ways.

Authentic choice models focus on the empowerment of women in order to exercise choice and control over their lives. They often feature minimalist accounts of autonomy and usually aim at constructing a universal understanding of female autonomy that can be applied to all cases and does not incorporate the understandings of social justice by the surrounding culture. Models in the participation framework on the other hand see the proper representation of women and minorities in decision- and policy-making procedures as inevitable for a lasting emancipation (Baumeister, 2012). They are therefore more sensitive to the concept of discursive power, by aiming and hearing those whose rights are re-negotiated. By trying to incorporate their opinion and therefore their understanding of social justice in the decision making process, participation accounts follow in the tradition of political relativism. They aim at establishing institutional mechanisms that lead to societal compromises on disputed practices.

Neither of these accounts thoroughly promotes cultural relativism. Cultural relativism could arguably only be promoted if culture would be taken as a given and unchangeable element. To take this as a given would probably not serve the feminist agenda well. By incorporating the insights of post-colonialists, the assumption that culture is a given is not perceived as the right strategy to resolve Okin's dilemma. Culture is instead seen as something that is constantly re-negotiated and contested by the theorists introduced in the following sections.

In both categories, authentic choice as well as participation, important insights have been made that should be featured in a fruitful new conception of autonomy. I want to argue in conclusion that both theories need to be incorporated when a liberal state faces contested cultural practices in minority cultures. Neither of the approaches is able to answer to the sheer variety of forms these conflicts can take on. Therefore, every instance of Okin's dilemma has to be assessed individually. The next chapters will give some instructions for the evaluation of such conflicts, as well as possible responses to them. These accounts all focus on furthering female autonomy as the central incentive of their development.

6.1 Authentic choice

This chapter will introduce two authentic choice models that received a lot of attention and are among the most prominent strategies: Marilyn Friedman's consent based model and Martha Nussbaum's capability approach (Baumeister, 2012).

6.1.1 Marilyn Friedman's Relational Concept

Marilyn Friedman's relational approach features some minimalist aspects. As such, it is still tightly entangled with the substantive account of autonomy. This closeness highlights issues that need to be tended to in a more distinctive account and is therefore important to acknowledge (Baumeister, 2012).

Friedman (2003) describes a "basic account" of autonomy as qualities that make choices and actions autonomous and therefore, imply self-determination. To make autonomous choices possible, two sets of conditions have to be available to the subject. The first set enables the subject to make autonomous choices and actions and the second set is necessary for their realization. As such, according to Friedman, "*autonomous action is action that reflects who someone is*" (2003, p. 10).

To feature the first set a person has to reflect on her preferences, evaluate them and then come to a decision. Friedman (2003) places emphasis on the ability of self-reflection without which she doubts autonomous choices are possible. This self-reflection has to be undertaken free from coercion, deception and manipulation by others. Thus, this conception of self-reflection means the reaffirmation of one's own wants and values in the absence of outside manipulation as a basis of future behavior (Friedman, 2003).

Autonomous actions reflect what the subject cares about deeply. The subject lives autonomously when her actions, especially in issues that matter deeply to her, coincide with values that are important to her. Autonomy is a matter of degree in this sense. To choose the ice cream one prefers, does not demonstrate an independent lifestyle in the way a freely chosen education does and no human being is a 100 percent self-determined. Keeping this in mind, Friedman constructs a basic account that presents itself as the minimum of autonomy that everyone should possess. Her concept of autonomy is closely intertwined with self-reflection. The higher the level of self-reflection on one's wants and commitments, the more autonomous the following

actions are. In that sense the reflection of the influence of one's own socialization on one's wants enables a higher capability to lead an autonomous life (Friedman, 2003).

Friedman (2003) sets the entrance barrier low for autonomous actions; any form of self-reflection, no matter how comprehensive, will constitute the necessary minimum of autonomy. As previously mentioned values and desires are strongly influenced by socialization. Therefore, it can be argued that they are not reflecting the subject's own values or personality. This critique is not easily relieved and Friedman's goal is actually not to answer it. She aims at the construction of a concept of autonomy that differentiates some actions from others. The values a person cares about, which are embraced through the process of reflection do not necessarily need to be totally independent from her surroundings.

Friedman's basic account does not require high degrees of self-creation and deconstruction of every component of upbringing and related processes beyond a subjects influence. This would probably prove difficult for many women especially if a lack of education is prevailing. According to Friedman, self-determination, or autonomy, occurs so long as a whole self, as someone with a distinctive particular identity as the self she is, plays a role in partly determining her own behavior (2003, p. 8).

This reflection does not have to be fully conscious as subconsciously held values may influence self-reflection as well. The resulting autonomy does not even need to be highly deliberative. There simply has to be some sort of reaffirming reflection that corresponds with any future actions. This approach follows in the Kantian accounts of autonomy, which also require a threshold of self-reflection. However, these traditional accounts exclude emotions, desires and passions as the basis for such self-reflection (Raz, 1999). Friedman does not exclude emotions as a basis to constitute autonomous behavior. Instead, Friedman (2003) argues that emotions are part of the character of the subject and can therefore influence her choices without coercion from the outside.

The subject is on one hand constructed by her perspectives and her deeper wants, desires, concerns and so forth and on the other hand, by categories such as race, gender, religion and/or ethnicity. However, it should be noted that aspects of the second categories only become a part of the subject's identity when she actually identifies with them. Friedman exemplifies this by waving the flag as an American schoolchild at patriotic ceremonies. Since it never occurred to her as a child that she

could do otherwise, this does not qualify as an autonomous action. Being an American would only be the basis for autonomous choices if she had reflected on this category and cared about it in some way (Friedman, 2003).

If the original desires are reaffirmed after the reflection on their origin, autonomy has been achieved. But if the original desires undergo change after a process of reflection, this could constitute a higher level of autonomy based on Friedman's account (Friedman, 2003).

I want to illustrate this with a short practical example that could be situated in many of the world's cultures. A woman is raised with the ideal that women who have children must stay at home and tend to them. When she is pregnant she reflects on this perception and decides to stay at home to take care of her baby. With this decision she becomes economically dependent on her husband. Friedman (2003) argues that this woman has established an autonomous action by reflecting upon her decision. She autonomously decided to put herself in a less autonomous position, at least economically. However, the decision would have been autonomous to a higher degree, if she had decided to break with the tradition and go to work while employing a babysitter. In this sense Friedman coincides with Stuart Mill's (1985) liberal conception that someone cannot autonomously submit himself or herself into a non-autonomous position. As such, someone who chooses an oppressed position has never acted autonomously in the first place (Mookherjee, 2005). A person's autonomy cannot be simply judged by how they choose but also by what they choose. At least a choice leading to a more autonomous situation is judged as a higher degree of autonomy.

In that sense this approach is not as content-neutral as Friedman claims in contrast to substantive accounts of autonomy. It is more content-neutral than substantive accounts in the sense that actions that reaffirm an oppressed status of the subject are not seen as non-autonomous actions. Friedman sees autonomy as a matter of degree. She consequently argues that her basic account includes actions that are autonomously judged by the substantive account as well. They are autonomous on a higher level while her basic account sets an appropriate minimum threshold for self-agency (Friedman, 2003; Benson, 2005). While Friedman's account gives viable input for a fruitful discussion of autonomy, this is where I identify a problematic sentiment that needs to be addressed. It presents itself as content-neutral, while it still upholds

accounts of substantial autonomy as the higher and better form. In that way it simply represents a minimalist account of autonomy, not a truly content-neutral one.

Minimalist accounts of autonomy are important to expose the cultural and rationalist bias that the substantive definition is built on. The substantive definition of autonomy that Okin arguable uses in her initial argument equates autonomy with individual choice and is in conclusion argued to be a very exclusive approach. But the lack of choice does not automatically exclude the possibility of an autonomous consent. When choice is only possible in the context of total absence of social constraints, women living by their community's rules will always be perceived as suppressed, authorizing a liberal state to take action opposed to multiculturalism. Equating autonomy with independence would mean the ignorance of true consent in many situations. According to multiculturalists, such as Monique Deveaux (2006) who herself designed a participation model that will be explored in the following chapter, this approach is not helpful in the decision whether the state should allow or forbid certain practices.

Lépinard (2011) also questions whether a minimalist account can resolve Okin's dilemma in consistency with feminist values. While the capacity to identify consent in cultures, which seem illiberal to the Western eye is increased, the need to identify consent to figure out if some practice should be banned still remains. Agency is still defined as an individual capacity, even when limited to the capacity of self-reflection. According to Lépinard, this could present a strategy to, "recapture the other subjectivities into the liberal project and the liberal imagination" (2001, p. 8). Hence, Okin's dilemma is displaced rather than solved by finding a way to locate autonomy even in a culture that is deemed illiberal. In conclusion this simply displaces justified intervention by liberal states. While the substantive account justifies state interventions in religious practices that are not physically harmful to women like certain dress codes, this is unjustified when applying a minimalist account. However, an assessment of autonomy is still necessary.

At this point, it is important to stress that content-neutrality is necessary if an account should be designed that successfully prevents any form of prejudices or/and cultural/gender essentialism from influencing the assessment of autonomy. This will never be enabled by a content-based account, such as the substantive account of autonomy as well as Friedman's account. Minimalist and substantive conceptions incorporate opinions on what the result of autonomous action is supposed to look like.

If a subject reaffirms a situation of oppression after evaluation, this is never an autonomous choice or autonomous on a lower level in the eyes of a follower of these accounts. In conclusion, it also prevents the onlooker from reflecting on his/her own understandings of autonomy. This is dangerous because it can replicate prejudices of the onlooker, who as well was raised in a certain culture that influences his/her judgments.

Accounts in the realm of participation on the other hand, which include the subject in the policy creation, are often confronted with the critique (see Nussbaum, 2000) that they reproduce the internalized effects of the socialization of the subjects. A subject that has lived under oppression her entire life has difficulties imagining freedom. When integrating this justified concern into a new account of autonomy, the other side, namely the person examining and judging the autonomy of an action, has to be questioned as well. This is why any substantive or minimal account will not serve as a suitable lens to answer the question of autonomy. Our perceptions of what autonomous actions look like are in the same way influenced by our socialization. In Austria, many people will judge any form of headscarf as the outcome of non-autonomous action. This may be attributed to the fact that the perception that a headscarf is a symbol of female oppression is widely spread and often communicated. Thus, many women, who are part of minority cultures, especially Islamic, are put into a non-autonomous space even though they might perceive their actions as quite autonomous. A fruitful conception of autonomy has to be content neutral and also question the autonomy of the onlooker, who in the case of Okin's dilemma is the majority culture.

What can be taken away from Friedman's account is that true content-neutrality is not easily established. However, it is of fundamental value to a fruitful account of autonomy that is able to resolve Okin's dilemma and relieve the tensions between multiculturalism and feminism. It is not enough to push the boundaries of the substantial concept of autonomy. Any account doing so is still doomed to be biased by a pre-existent, most likely Western vision of a hierarchy of autonomous acts.

Friedman (2003) classifies the minimal conditions that constitute autonomous choices and actions of the subject, as well as briefly introduces the outside conditions that are necessary for the realization of these choices. Firstly, there has to be a certain variation of choices to the subject's disposal that feature not more than a minimal amount of

obstacles, and secondly the actor has to be relatively unimpeded by coercion (Friedman, 2003). To actually act on autonomous choices the subject has to act in a system that allows the realization of free will. This is an important point that Martha Nussbaum incorporates more thoroughly in her universal capability approach, which will be introduced and discussed in the following section.

6.1.2 Martha Nussbaum's Capability Approach

As it relates to her capabilities approach, Martha Nussbaum (2000) consciously selects strategies that are supposed to avert cultural essentialism and its effects. By doing so, she already distances her account of autonomy farther from the substantial account than Friedman. Nussbaum frequently refers to Narayan's work and incorporates her advice to see culture as something fluid and ever-changing that is constantly contested and renegotiated from within.

Nussbaum (2000) designs a universal approach that is based on certain capabilities every human being should possess no matter the cultural or social context. Her approach might be related to Okin's original line of thought to some extent. Similar to Okin, she sees a higher need for action in developing countries, which are often equated with non-Western cultures. However, she does not relate this in an essentialist way to non-western cultures. Instead she draws a connection to poverty and states that the poorer the country the higher the gender in-equality women in that society have to face.

She demonstrates this hypothesis by examining the Human Development Report of 1999 (Nussbaum, 2000) and her example is still valid today. When we take a look at the countries classified as "medium human development" in the Human Development Report 2016 (UNDP, 2016), we see that men attend schools on average 0,9 years longer than women, while it amounts to 1.8 years of additional education in countries that are classified as "low human development". Similar trends can be seen when it comes to the distribution of resources among women and men. Unfortunately there are no reliable statistics for rape and domestic violence since these are often not seen as crimes and seldom reported in many countries (Nussbaum 2000).

Nussbaum identifies her approach as a cross-cultural normative account of human capabilities that is closely related to political liberalism and universalism. Nussbaum

went on to define a list of capabilities representing, “an overlapping consensus among people who otherwise have very different comprehensive conceptions of the good” (2000, p. 6):

(1) **Life:** Being able to live to the end of a human life of normal length; not dying prematurely of before one’s life is reduced as to be not worth living.

(2) **Bodily Health:** Being able to have good health, including reproductive health, to be adequately nourished; to have adequate shelter.

(3) **Bodily Integrity**: Being able to move freely from place to place; to be secure against violent assault, including sexual assault and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction.

(4) **Senses, Imagination, and Thought:** Being able to use the senses, to imagine, think, and reason – and to do these things in a ‘truly human’ way, a way informed and cultivated by an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training. Being able to use imagination and thought in connection with experiencing and producing work and events of one’s own choice, religious, literary, musical, and so forth. Being able to use one’s mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech, and freedom of religious exercise. Being able to have pleasurable experiences, and to avoid non-necessary pain.

(5) **Emotions:** Being able to have attachments to things and people outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, to grieve, to experience longing, gratitude, and justified anger. Not having one’s emotional development blighted by fear and anxiety. Supporting this capability means supporting forms of human association that can be shown to be crucial in their development.

(6) **Practical Reason:** Being able to form a conception of the good and to engage in critical reflection about the planning of one’s life. (This entails protection for the liberty of conscience.)

(7) **Affiliation:** (a) Being able to live with and toward others, to recognize and show concern for other human beings, to engage in various forms of

social interaction; to be able to imagine the situation of another and to have compassion for that situation; to have the capability for both justice and friendship. Protecting this capability means protecting institutions that constitute and nourish such forms of affiliation, and also protecting the freedom of assembly and political speech. (b) Having a social bases of self-respect and non-humiliation; being able to be treated as a dignified being whose worth is equal to that of others. This entails protection against discrimination on the basis of race, sex, sexual orientation, religion, caste, ethnicity, or national origin.

(8) **Other Species:** Being able to live with concern for and in relation to animals, plants, and the world of nature.

(9) **Play:** Being able to laugh, to play, to enjoy recreational activities.

(10) **Control over one's Environment: (a) Political**. Being able to participate effectively in political choices that govern one's life; having the right of political participation, protections of free speech and association. (b) **Material.** Being able to hold property (both land and movable goods); having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizure. In work, being able to work as a human being, exercising practical reason and entering into meaningful relationships of mutual recognition with other workers (2000, pp. 14-17).

Through these capabilities she strives at defining the experiences that all humans share and find worthwhile. One of the commonalities of humans is their activeness in shaping their own lives. Hence, freedom of choice is central to the human experience and should be guaranteed by public policies. Nussbaum's approach can still be categorized as a liberal conception, since public policy is not meant to ensure functions but instead allow for opportunities/capabilities that an individual can choose to evoke or not (Deneulin, 2002).

This can be illustrated by the already introduced Austrian policy debate that aims at enabling autonomy for girls rooted in minority, namely Islamic, cultures. What seems to be soon a reality in Austrian kindergartens and primary schools (see "der Standard", 2018a) is a headscarf ban. The main political argument by the current Chancellor Sebastian Kurz (ÖVP) and his vice chancellor Christian Strache (FPÖ) for the ban is

not the banishment of religious symbols in schools, which is often an argument for such bans, but the support of gender quality. Young girls have to be free in their development. It also constitutes an integration measure and should hinder the flourishing of the Political Islam (see “Die Presse”, 2018a). So how does a headscarf ban perform when Nussbaum’s (2010) capabilities are taken into account?

The acknowledgment of girls as their own moral agents can be achieved through securing the capabilities of *bodily integrity, emotions and practical reason.* While it is important to incorporate the vulnerable condition of young girls towards their parents, teachers and other influential adults, as well as the state and to protect them from harm, it is also important to respect their agency (Caballero, 2016). The capability of *bodily integrity* includes being able to move freely from place to place. It can be questioned if this free movement is given, when a dress code is prescribed in spaces as vital to the participation in society to a young girl as the school. It can hurt their capability of ‘affiliation’, which secures the possibilities to interact freely with other human beings. The capability *senses, imagination and thought* includes, “*being able to use one’s mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech, and freedom of religious exercise*”. While wearing a headscarf is often not solely an expression of religious faith, it is still a religious expression in most cases. To be forced to commit to this expression certainly violates this capability but so does the pressure to give it up. Both sides feature serious forms of coercion that would also not comply with Friedman’s minimal account of autonomy. From a minimal perspective, autonomy would only have been established if the girls would reflect on their headscarves and decide to take it off, which would in turn reaffirmed the new law. However, this will certainly not be the case for all affected parties.

Nussbaum’s understanding of liberal values featured in her capabilities approach is in accordance with Rawl’s account of *Political Liberalism* (1993). He urges theorists identifying as ‘liberals’ to develop political principles capable of accommodating a wide range of convictions. According to his *Political Liberalism* all citizens need to accept the core values of political justice. On the other hand, they do not need to agree upon any comprehensive religious or moral value system. Two of these core values are the freedom and equality of women and the freedom of religion (Rawls, 1999), both of which are also manifested in the European Convention on Human Rights. In that

sense, Political Liberalism emphasis the unlimited acceptance of women as equal citizens no matter their religious, ethnical or philosophical background (Nussbaum, 1999).

Nussbaum suggests that if a woman chooses to lead a more traditional life, she should do so with certain economic and political opportunities to her disposal. With her approach she does not aim at eliminating more traditional life formats, but she wants so secure a form of authentic choice for women. This allows her to also closely examine the systemic possibilities for autonomous action women have and gives rise to important points regarding these (Nussbaum, 2000).

Nussbaum (2000) notably adds an important point to the quest of finding a new concept of autonomy. That is, she questions the system, as well as the state, which is meant to ensure the identified basic capabilities. Her authentic choice approach goes beyond answering the question of which cultural or religious traditions a liberal state should not tolerate in order to protect women. Instead of focusing on possible state interventions and restrictions, she also asks, which capabilities a state has to actively ensure in order to enable women to lead an autonomous life in the first place.

An important question, especially as it relates to women with an immigration background, who often face bigger obstacles when it comes to communicating their wants and needs. Even though Nussbaum (2000) mostly seems to have “developing countries” in mind when she asks this question, it can be applied to a liberal state as well. With a focus on minorities within a liberal state it is necessary to ask, if the state not only protects or tolerates them, but also enables them to live an autonomous life. Nussbaum takes an important step here, highlighting that autonomy does not only need to be protected, but also enabled.

Moreover, she does not only defend the protection of choice, but also of the necessary economic redistribution to create the appropriate material preconditions. If a girl is for example free from coercion considering her education, but her family does not have the economic means to pay for her education, what worth has this freedom of choice? According to Nussbaum:

> The state that is going to guarantee people rights effectively is going to have to recognize norms beyond the small menu of basic rights: it will have to take a stand about the re-distribution of wealth and income, about employment, land rights, health and education (2000, p. 10).

Another thing she reminds us of is that redistribution that is aimed at bringing all citizens to the same level of educational attainment, will require the spending of a considerable amount of money on groups that face higher obstacles. As previously illustrated, women are usually one of these groups. Therefore, it will cost more to ensure the literacy of women in comparison to that of men in many regions.

Nussbaum (2000) acknowledges that it may be problematic to use concepts that originate in one culture to assess another. Even more so in cases where the former has colonialized the later and might still profit from economic exploitation. In reference to Narayan, she questions whether the applied concepts are actually “Western”. This perception also results in women immediately being criticized for assimilating with the West, when they question their native cultures. She condemns it as quite arrogant to view values like choice and economic agency as Western values. She speaks out against cultural essentialism that identifies the West as dynamic, critical and modernizing, while the East is identified with its oldest elements as if it was never contested or changing. Therefore, she does not see cross-cultural norms as problematic or inherently an imperialist and paternalistic move.

The capability approach she argues, gives space to different forms of life as long as someone freely chooses it. Since many cultures and value systems are highly paternalistic, especially towards women, she sees it as justified to apply cross-cultural norms to protect the freedom and choice of all people (Nussbaum, 2000). Here, she is in line with other multiculturalist theorists, such as Benhabib (2002) and Mookherjee (2005) who share the conviction that the tensions between multiculturalism and feminism do not arise from cultural practices not complying with liberal values. To that end, the focus should not be on different value interpretations of practices but on the capacities of at-risk females. Mookherjee (2005) states that while many traditional practices actually are oppressive towards women, it is crucial to understand their location in different systems of power.

The capabilities established by Nussbaum can be seen as an account of what is necessary for a human to be a dignified free being capable of shaping her own life. She presents her list as the result of years of cross-cultural discussions. It features separate necessities that are not able to compensate for each other and are each of great importance. Two capabilities stand out because they are necessary to make all the others possible: *(6) Practical reason* and *(7) Affiliation.*

Furthermore, her capabilities can be categorized into “basic capabilities” that are necessary to develop more advanced ones and “internal capacities”, which feature capabilities that are a part of oneself. As an example, Nussbaum (2000) suggests that a woman that has suffered genital mutilation is not in the possession of the capability of sexual pleasure. Finally, the catalogue features “combined capabilities”. These feature capabilities that are only of value in combination. A person that is internally capable of critical thought and speech, but lives in a state that does not provide free speech to its citizens for example does not have political control over her life.

It is important to stress that the list consists of capabilities, not obligations. For example, every human being should have the capability of bodily health, which includes being adequately nourished. However, they can decide to fast in a more or less extreme way, if they wish to. The same can be applied to the capability of experiencing sexual pleasure. The capability does not include the exclusion of choosing a celibate life for one self (Nussbaum, 2000). Thus, Nussbaum’s account of autonomy can more accurately be described as content-neutral in comparison to Friedman’s account, since it does not judge results but the preconditions they are based on.

I want to argue that the guarantee of Nussbaum’s capabilities is vital to ensure that migrant women have the possibility to truly live autonomously in a majority culture and this needs special attendance by the (liberal) state. Often capabilities that are ensured for women of the majority culture are not assessable to the same extent to women from minority cultures. Social policies, which are aimed at ensuring autonomy for these women should also be assessed in reference to the necessary capabilities established by Nussbaum. Her approach is especially attractive, since it establishes universality but remains content-neutral. It can be categorized as an account in the Universalist tradition, because it establishes the same rules for everyone and is not flexible to the social justice concepts of the contextual cultures in specific cases.

Friedman’s and Nussbaum’s models are strongly based in the belief that desires and preferences cannot be formed authentically under unjust conditions. Despite this, the authors both have a strong focus on leaving room for women’s choices, values and also cultural attachments. When oppressive social conditions can motivate women to value or seek similar situations, a strategy capable of securing the necessary background conditions to make authentic choices seems adequate (Baumeister,

2012). Comprehensive authentic choice catalogues like Nussbaum's capability approach help to establish the basic conditions a woman needs to have in order to be able to lead an autonomous life. This step is important since it leads us away from simply asking how to assess minority cultures, the oppression of women and counter measures in the form of restrictions. It starts the question whether the majority culture or/and the liberal state actually provide women with the possibilities to act autonomously.

While these are important aspects and advantages of a universal account of autonomy, authentic choice models have been criticized especially for their universal character by democratic multiculturalists. These concerns shall be clarified in the following discussion of participation theories.

6.2 Participation Theories

Participation theorists introduce accounts that seek to empower women by creating new processes and institutional mechanisms, which accommodate fruitful and inclusive discussions about cultural norms and practices (Baumeister, 2012). This section deals with the basic conception of participation models, as well as their more distinct advantages and disadvantages. Rather than introducing each model proposed by the authors separately, an entangled reflection is conducted, which is aimed at integrating their findings. In this way the most important features a participation model should integrate, as well as shortcomings of the approach are highlighted. To achieve this, the following participation models will be considered particularly: Monique Deveaux' *Deliberation Model* and Monica Mookherjee's *Affective Citizenship*.

These models have been chosen since they are handled as quite promising in the representative, feminist literature around Okin's dilemma. In addition, they both feature valid points that will be helpful when practical participation processes shall be designed as the source of policy measures. In their texts these authors frequently refer to one another and highlight similarities and differences, as well as helpful outcomes and challenges that can be drawn from these approaches. Hence it is reasonable to portray their proposition entangled, rather than separate in order to assess the participation approach. While there is a certain emphasis on the introduced approaches, insights of other feminist multiculturalists, such as Saba Mahmood brought forward in her text, *Politics of Piety* will also be included.

Monique Deveaux raised some excellent points that should be taken into account when questions of autonomy are being discussed, which also received significant attention in the recent discourse regarding Okin's dilemma. Her deliberation model was thoroughly reviewed and discussed in the respective field. Numerous authors, such as Monica Mookherjee, refer to her as the initial concept when constructing and evolving participation models. Therefore her approach is introduced as the basis and challenges and additions brought forward by other authors to extend her initial model and meet its potential problems are included.

The authentic choice models introduced in the previous chapters aim at defining a universally valid account of what constitutes autonomous choice. This subsequently should help a liberal state to decide whether certain actions should be outlawed as oppressive towards women (Baumeister, 2012). Cultural practices are still measured by their conformity to liberal values. Nussbaum (2000) questions, in reference to post-colonialist author Narayan, whether certain liberal values are actually Western values and argues for the feasibility of a sensitive Universal approach that is not based in Western, but truly universal values. The consciousness Nussbaum pays to post-colonial discourse makes her theory well-founded and the universality of her approach is mitigated by establishing content-neutrality when it comes to the outcome of this assessment.

Despite this content-neutrality that relieves some of the tensions between Western and other worldviews, liberal values are still applied to these conflicts. Moreover, Deveaux (2003) argues that while they asses cultural practices and their compatibility to liberal values, they do not conform to democratic principles when this decision is made. The outcome is not based on a democratic process that reflects the need, wants and perspectives of those who are affected most by the practices in question. Democratic theorists, such as Deveaux propose a process of intercultural dialogue to resolve these issues.

6.2.1 Participation, Democratic Legitimacy and Liberalism

Multicultural Feminists such as Monique Deveaux, Saba Mahmood and Monica Mookheerje who are among the most renown agents of participation models and integrative dialogue, argue that the solution to Okin's dilemma can be found in deliberative procedures and contextualized policy-making that are based on

democratic principles (Lépinard, 2011). Participation can realize discursive agency and hence equip the subject with a higher self-worth, contributing to a more grounded self-concept and identity. Being able to add a perspective to the discussion of one's own values and culture will produce a sense of dignity and acceptance through others. This adds a level of autonomy that differs significantly from the structural autonomy highlighted by authentic choice approaches (Honneth, 1992).

In her book, "Gender and Justice in Multicultural Liberal States" Monique Deveaux (2006) introduces her participation approach as a key to establish female autonomy in cases of Okin's dilemma. Within participation approaches in general, there is a higher degree of incorporation of the lessons learned from post-colonial studies in comparison to authentic choice models. They aim at including the subalterns' voices into the dialogue on contested cultural practices and potential legal reliefs. Deveaux is sensitive towards these issues and questions the liberal, western perspective on cultural practices that seemingly oppress women. Since 50 percent of the communities defending the rituals in question are made up by women, Deveaux concludes that it is impossible to be pro-women and against culture. In addition, Mookherjee (2005) suggests that participation has to engage with feminist, as well as post-colonial concerns in order to lead to true recognition of the women in question. To design an inclusive account of autonomy, it is necessary to acknowledge the historic marginalization of non-Western value-systems through dominant liberal norms. This insight is also in accordance with an emphasis on content-neutrality, which is aimed at establishing no hierarchy when it comes to differing values of social justice.

In addition, Deveaux' (2006) approach goes beyond the liberal "tolerating" of certain practices. Her approach aims at democratically mediating the tensions between the cultural and religious claims of minorities. She asks for a solution that respects women's rights and roles, as well as the requirements of a liberal democratic state. She argues that when mediating a cultural dispute by legal adjustments, fundamental democratic principles are ignored by not including representatives of the culture in question in the decision. To establish democratic legitimacy, it is necessary to listen to those affected by the questioned practices. According to Deveaux:

> Deliberative dialogue and decision making that focuses on participants' interests and needs can produce democratically legitimate- though crucially, not necessarily 'liberal' – outcomes that both protect and

> empower vulnerable group members (such as women) in tangible ways… Insofar as liberal states fail to centrally include cultural group members in deliberations about the future status and possible reform of their community's customs and arrangements, they ignore the demands of democratic legitimacy (2003, p. 2)

Furthermore, Deveaux pleads for a wider definition of democratic activity. She does not see it as confined to parliaments and other political institutions. All sights of human interaction such as schools, homes and other community centers, as well as social institutions like marriage and initiations into adulthood can accommodate democratic expression. These come in many forms and are often invisible. Nonetheless, they need to be seen as part of the political life. By overseeing these processes, instances of cultural resistance and transformation are frequently overseen as well. Intracultural conflicts usually focus on the interpretation, meaning and legitimacy of certain cultural practices. By including the spaces of negotiation into democratic activities, the basis for democratic legitimacy is expanded. She further argues that liberal institutions should expand and support these instances by providing safe public spaces for the articulation of cultural concerns (Deveaux, 2003).

The establishment of democratic legitimacy through participation approaches is an interesting point that deserves further attention. Their democratic character is frequently highlighted and presents one of their notable advantages. Deveaux (2003) further wants to break up the often as mutually inclusive perceived couple 'liberal' and 'democratic'. She argues that the outcomes of a deliberative approach will be democratically legitimate, but do not necessarily have to conform to liberal values.

Rawls (1993) criticized the understanding of liberal values in this context. Theorists identifying as 'liberals' should develop political principles capable of accommodating a wide range of convictions. According to his text, "*Political Liberalism",* all citizens need to accept the core values of political justice. On the other hand, they do not need to agree upon any comprehensive religious or moral value system. Two of these core values are the freedom and equality of women and the freedom of religion (Rawls, 1999), both of which are also manifested in the European Convention on Human Rights. In that sense Political Liberalism emphasis the unlimited acceptance of women as equal citizens no matter their religious, ethnical or philosophical background (Nussbaum, 1999). In the light of the established importance of content-neutrality in

outcomes, it can be argued that liberal values are important and should be applied in the design of the process, leading to set outcome. In turn liberal values do not have to be reflected in the result of this process.

In accordance with Rawls (1999), Mookherjee (2005) brings forward a slightly different standpoint towards liberalism. While Deveaux breaks with liberal values and does not aim at respecting them considering the outcome of a deliberative process, Mookherjee's affective citizenship does not reject the classic liberal values of freedom and autonomy. She merely seeks to re-negotiate the conditions under which their realization is possible. Moreover she wants to go beyond the perceived mutual exclusiveness of traditional and liberal values, which leads to an unproductive opposition between 'liberalism' and 'other cultures'. She defines the core value of liberalism as an open attitude towards different cultures and religions. Therefore, a liberal state should meet with minority cultures to be heard as it related to their structural autonomy and entitlement.

However, this entitlement to structural autonomy does not lead to a universal acceptance of any cultural or religious practice. To some extent in compliance with Nussbaum, Mookherjee argues that there should be a universalistic standard that allows distinctions in order to pursue the resolution of intragroup inequalities. However, this universalistic standard is only applied after the structural and discursive autonomy of the citizens, including minority groups, has been achieved (Mookherjee, 2005). Mookherjee in conclusion creates an account that can be located in-between Nussbaum's universal approach and Deveaux' relativist participation model. Not everything should be accepted, but everyone should be heard. To cite Deveaux:

> Political deliberation about contested practices should, in the first instance, aim to provide an accurate description of the lived form of contested cultural practices (for this is often what is precisely in dispute), as well as some account of what the concrete, practical interests of diverse participants are. These understandings are then used to develop relevant policy reforms and generate negotiated political compromises (2003, p. 10).

An important feature of Deveaux' deliberative proposition is the prevention of unjust outcomes other approaches suggested by liberals often accompany. According to her these approaches pose the danger of outcomes that comply with liberal principals, but

contribute to undemocratic solutions since they do not pay enough attention to the practical impact on various people produced by contested practices (Deveaux, 2003).

A just compromise needs to include a diverse range of voices and perspectives from within the cultural group, whose practice is being examined. Not only established leaders should be heard, but also critical voices from within the group need the chance to present their perspective. It is crucial to listen to all sides involved, those who seek change and those who defend the status quo. In cases of disputes in the sense of Okin's dilemma with the equal rights of women at the center, women's groups should be included into the discussion, as well as scholars and government policy makers (Deveaux, 2003).

With the inclusion of this variety of voices a democratic inclusion of all members into formal spaces will take place. Democratic contestation that often happens in private rather than public forums will be included in political decisions. In this way the approach forces cultural groups to change their decision-making structures and democratizes them from the outside. This produces the critical argument that non-liberal groups are required to democratize, which may be interpreted as patronizing (Deveaux, 2003).

The inclusion of social activists, as well as government representatives and politicians from the outside can provide helpful political pressure and support for cultural dissenters. Through discussions and integrated consultations a clearer picture of the practice and the different interests at stake should be produced. Here the democratic tools of negotiation, bargaining and compromise come in handy. It is important to prevent one participant or a group from dominating the discussion and in conclusion its outcome. Deveaux further suggests that three normative principles have to be adhered to in any case: *non-domination, political equality and revisability* (2003, p. 13).

Non-domination implies that there have to be established mechanisms ensuring that no person or interest group is able to dominate the debate or its outcomes. It should be rendered impossible to coerce other parties in the discussions. Less powerful participants and their view should not be excluded by the manipulation of others. *Political equality* refers to the true opportunities for all citizens to participate in the debate and the decision making process. Power and wealth, as well as other preexisting social inequalities should have no influence in the deliberative process. *Revisability* suggests that no outcome or compromise is final. Much like culture is constantly re-negotiated and contested, that outcomes of a deliberative process should

be open for future discussion and modification to ensure these features means to secure a maximum support of democratic legitimacy and a just outcome (Deveaux, 2003).

6.2.2 Intercultural versus Intracultural conflicts

While many theorists such as Bhikhu Parekh (2000) and Seyla Benhabib (2002) have designed methods that can achieve of a fruitful dialogue between majority and minority cultures at their cores, Deveaux (2006) builds her theory on different foundations. She shares the conviction that dialogue and democratic principles should lie at the heart of a new approach. Nevertheless, she actually sees the conflict in question rooted in different dynamics than many others suggest. Deveaux brings forward the theory that most of the cultural disputes in question are wrongly framed as *intercultural* conflicts. On the contrary, she designs the hypothesis that most cultural conflicts are actually *intracultural* conflicts. This means that mediation does not need to take place between the majority and the minority culture. Potentially oppressive cultural practices are usually also contested from within, but these voices get frequently overheard. Similar to Narayan (1993; 1998), she argues that culture is something fluid that is constantly contested and re-negotiated. Consequently, communities themselves are not homorganic towards questionable practices and the state should put a focus on hearing these voices instead of judging from the outside. Here she incorporates the lessons learned from authors, such as Bhikhu Parekh (1999) who argues that culture does not have an essence and suggests that a general feature of cultural traditions is that they can be interpreted in numerous ways.

While most conflicts in the tradition of Okin's dilemma are partly intracultural conflicts, Deveaux definition leaves out an important aspect of these conflicts. To illustrate this reference will be made to the Austrian headscarf ban proposition for girls under the age of ten years, which was introduced in the section, '*Legal Responses: Protecting oppressed Migrant Women*'.

Since the peak of the refugee crisis, the overall public sentiment towards immigrant cultures in Austria, especially those rooted in Islam, has shown a negative trend. This has been shown in numerous media studies and analysis reflecting on the portrayal of immigrants in media (see Hafez, 2009; Pickel, 2018). Today many Austrians see it as a given, that the headscarf is a violation of female autonomy and its sole purpose is

the oppression of women. The fact that there can be numerous reasons do admit oneself to Muslim veiling is ignored. Moreover, it is seen as an unwillingness to integrate and assimilate into the majority culture (Sauer, 2009; 2016).

Therefore, even if these arguments are based on cultural essentialist assumptions, the situation represents an 'inter-' as well as an 'intra- cultural' conflict. The intracultural aspect is added, since it would be false to assume that all Muslims are on one side of this conflict. As there are numerous reasons to wear a headscarf, there are numerous reasons not to wear it within Muslim minority cultures. However, to deny the intercultural aspect of the conflict would result in omitting of an important aspect, which is the misrepresentation of certain practices in the majority culture and the exclusion of minority cultures from their discussion. This will often result in racist stereotypes and potentially discriminating laws.

Mookherjee (2005) addresses this problem in her account of 'affective citizenship'. Her account is rooted in an intercultural dialogue, where she asks why the majority culture should acknowledge the value of certain traditions of the minority culture and their emotional perspective on them. Her conception of structural autonomy is rooted in the personal commitment of citizens to numerous intersecting communities. Young Muslim women in Europe probably do not only identify with the community surrounding their parents. They will also identify with their friends, who are probably not all of Muslim belief, as well as other groups in their lives. Mookherjee argues that this approach unsettles the strict distinction between minority and majority culture. This unsettling hybridity is central to all citizens and therefore, every citizen should be activated to feel responsible to cope with unequal group relations. She suggests that the emphasis needs to be on citizen's discursive autonomy rather than on their assumed consensus on certain ethical values (Mookherjee, 2005).

While Mookherjee (2005) does not suggest a common understanding of values within minority groups, she assumes a common interpretation of the past especially of incidents of discrimination. Denying them a right to participate in political discourse thus undermines the structural autonomy of members of minority groups. Groups sharing experiences of disadvantage share emotional bonds that distance them to other more privileged groups. Mookherjee (2005) suggests that these inequalities stem from prevailing misconceptions of their value systems. These misconceptions in conclusion need to be resolved though inclusive public strategies. To enable this

process she offers two important features for participation approaches, in specific: *group representation* and *democratic communication*. The first enables minorities to introduce their interpretation of the practices in question. It gives them the means to challenge stereotypes that the majority culture applies to them. The second ensures democratic legitimacy as Deveaux (2005) suggested. Additionally, by the promotion of discursive autonomy, the capability to contest intra-group oppressions is also strengthened.

Mookherjee puts a stronger focus on the multilayered identities of citizens who are formed by various yet overlapping discourses. To resolve intercultural conflicts she suggests enriching group representation with democratic communication of the discovered meanings across different communities. Her approach puts an emphasis on the transformation of group relations (Mookherjee, 2005) and therefore seems especially notable in the context of conflicts such as the Austrian headscarf discussion. This conflict is at least partly rooted in misinterpretations of the reasons for veiling. By resolving these misinterpretations and the resulting stereotypes the actual quest to enable female autonomy can be stripped of any cultural essentialist framings.

A benefit of this transformation through the communication and exchange of reasons is that it is not one-sided. It can also influence the perception of practices frequently appearing in the majority culture by minority cultures (Mookherjee, 2005). When the sexualization of girls through a headscarf is being discussed for example, should it not also be discussed their sexualization through items of clothes prevailing in the majority culture? Girl's clothing in popular department stores like H&M are often cut tighter and shorter than Boys clothes. Doesn't this represent similar signs of female oppression and sexualization like a headscarf for a ten year old?

A quick trip to H&M can show that girl's clothing is often cut tighter and shorter than boy's clothes, in addition to a selection of more 'feminine' color schemes. Objectification theory suggests that girls and women in Western cultures are widely perceived as objects through a dominantly portrayed male perspective. This leads to self-objectification, when this view is in turn internalized by females (Fredrickson and Roberts, 1997).

There are numerous studies confirming the higher sexualization of young girls' clothes in comparison to clothes designed for boys. A study conducted on the basis of the findings from the APATF (American Psychological Association Task Force) on the

sexualization of girls (2007) shows that the relation of self-objectification in preteen girls and clothing (Goodin et al., 2011). The study also shows that the body ideal for women is increasingly thin and 'sexy' in Western cultures. The researchers assessed girl's clothing on the websites of 15 popular US based stores, from GAP to Nordstrom and Target, and looked for evidence of sexualization. Evidences of sexualization were the following indicators: emphasize on a sexualized body part, characteristics associated with sexiness, and written sexualized content. They came to the conclusion that about 29.4 percent of the assessed clothes had sexualizing characteristics. Studies further suggest that adolescent girls internalized the belief that sexual attractiveness is an important part of their personality (McKenny and Bigler, 2016).

In facilitating an intercultural exchange on such issues, a mutually beneficial discourse can be started that might improve the reflective strength of citizens, as well as further higher degrees of autonomy in the sense of authentic choice and structural autonomy (Mookherjee, 2005).

This could for example involve the discussion of these issues in schools and workplaces, where representatives from minority cultures, who are actually effected by this practice, exchange reasons and perspectives with representatives of the majority culture. In such cases the emphasis should be on strengthening the capabilities of citizens rather than creating laws focusing on the content. Exposing all citizens to prevailing Muslim values can bring the benefits of both multicultural education and mutual understanding. Multicultural settings and discussions of values can have a positive impact on critical thinking on ethical diversity and benefits a sense of public solidarity and mutual understanding (Spinner-Havlev, 2000). The implementation of such deliberative debates on smaller community levels, for example in schools, would further the reflection on similarities and a more fruitful discussion of cultural practices that should be altered for the sake of female autonomy.

Rawls (1993) pleaded for a comprehensive education of children when it comes to their constitutional and civic rights. They should know their rights in order to become fully co-operating members of society and self-supporting citizens. Even Okin (1998) demanded a liberal education that included reflection on various religions and secular beliefs. Otherwise, she claims it will never be possible to judge whether girls are acting truly autonomously when adopting their parent's religious or cultural convictions and traditions. An exchange of such reasons for and against veiling will demonstrate

different feelings. While Mookherjee (2005) does not suggest a common understanding of values within minority groups, she assumes a common interpretation of the past especially of incidents of discrimination by the majority culture. Accounts of girls feeling alienated by the majority culture as a result of the prohibition of their religious symbols would be an important step towards broader intracultural understanding (Galeotti, 2002). The majority culture might be able to understand how confusing and threatening such a ban can be for the identities of young Muslim girls (Parekh, 2000).

6.2.3 Underlying Motives: Power versus Culture

Deveaux second hypothesis is that cultural conflicts are usually political conflicts, which essentially originate in power structures and disputes. The underlying motives are often struggles over decision-making authority and power distribution and therefore the debates should focus on these issues. Therefore, it is important to question the power dynamics at stake and their influence on affected subjects.

Deveaux (2003) illustrates her hypothesis with some examples. One of the cases was South Asian Marriages in Great Britain. When it came to light that they often were forced marriages, the state started to discuss legal options to regulate these marriages. While traditionalists argued that forced unions were not the majority and interference was unnecessary, some groups of the community welcomed the idea of closer monitoring by government agencies to ensure the voluntary nature of the unions. They were also fond of the prospect of support for people who wanted to leave such unions or avoid them. The resulting conflict is an intracultural conflict questioning power distributions, as traditionalists did not want to give up the power they had in the community to government agencies.

Deveaux (2003) therefore argues that the discussions of cultural practices are often wrongly focused on normative claims and beliefs. They would be more productive, when taking into account the concrete interests of affected group members, which are often considerations of power distribution. To give arguments based on power distribution validity, avoids their encryption through cultural identity claims. Cultural identity nowadays has an increasing sales value in political discourse. Groups are often rewarded with success, when framing their cause in cultural identity terms. Deveaux (2003) suggests a departure from this hierarchy. A cultural identity argument should

not be taken more seriously than an argument that is concerned with financial or power distribution. Many other theorists, like Benhabib (2002) argue that a moral or normative argumentation is necessary. This focus on power distribution as an underlying motive constitutes a significant novelty of Deveaux's participation approach. She also defends this novelty in arguing that disputes in the matter of cultural identity are usually harder to resolve through compromise. The same group identity can be used to seek various different outcomes.

While recovering the power dimension of such disputes should definitely be a central aim of a deliberative process, it would be unwise to disregard any moral or normative argumentation. As previously discussed, cultural rituals and practices can be interpreted with a wide range of meaning. For example, a veil can be an expression of a dominant husband who sees his wife as his property. In the same instance, it can be seen as a symbol of piety and self-realization as described by Mahmood. What is important to take away from Deveaux's input is that power-questions are certainly imbedded in intra-cultural conflicts and need to be tended to. Once the power structures are openly discussed, it will certainly be easier to strike a compromise.

6.2.4 Two practical examples

In her essay, *"A Deliberative Approach to Conflicts of Culture",* Deveaux (2003) introduces a case from South Africa that shows the successful application of a deliberative, democratic process to alter cultural practices. The practices in question were Customary Marriages, which through the Customary Marriage Act from 1998 were granted equal status with civil marriages. The Act was put into practice in 2000 as the result of a culmination of deliberative and consultative hearings, eager to represent and consider all views of affected parties. The process was started to bring the practices constituting customary marriages in line with the South African constitution, which is considered to be one of the most liberal and progressive ones in the world. It includes the commitment to non-racialism and non-sexism, as well as extensive protections considering individual rights.

These principals were clashing with many long-standing traditions in connection to customary marriages. The customary law governed marriage, divorce and inheritance. Women had just ceased to have the legal status of minors. Before they were not able to inherit land, enter into contracts or initiate divorces. When they married under

customary law they went from living under their father's authority to their husband's. Usually a *lobolo* (dowry) was paid to the brides' family. Until this payment was received a marriage was invalid. If a divorce followed, the lobolo had to be repaid an act that was often impossible, trapping women in abusive marriages. In addition, the custody of children was automatically awarded to the fathers. Of course these features were in clear contradiction with the South African constitution (Deveaux, 2003).

While African traditional leaders began to lobby against the applicability of the Constitution in the realm of Customary Marriage, there were women's rights activists and groups, who wanted to ensure that the equality clauses were extended to the realms of customary law. In 1996 a compromise was recognized as it related to the customary law. Customary Marriages were allowed as long as it was consistent with the rights guaranteed by the constitution. However, in the following years, African communities did not magically alter themselves considering the prescribed gender equality. They often found ways to deny women inheritance and force them to enter polygynous marriages, leaving them in poverty after their husband died or they were divorced. As a consequence, the South African Law Commission sponsored consultations and hearings in 1998 to resolve these issues. They invited various community members, legal reform groups, women's associations, traditional chiefs and scholars of constitutional law, as well as customary law (Deveaux, 2003).

The association of traditional leaders wanted to prevent further involvement of the government into customary law and any further interference for that matter. A customary law specialist stated that in meeting the traditional leaders, they had a tendency to hide behind the notion of culture as explanation for their argumentation against reforms. Women's equality activists in favor of reform demanded a single civil marriage code that would protect all women from certain inequalities. It was pointed out that the role of women had actually already changed in the traditional societies over the past decades and that the chiefs misrepresented realities. For example, women often had taken on economic responsibilities and were not simply cared for by their husbands and fathers. All in all, numerous views were taken into account and heard (Deveaux, 2003).

In the end, a political compromise was the outcome of the process that differed in some aspects from the expected result. Wives received an equal status, at least formally, to their husbands and were able to enter contracts and own properties. All marriages

were deemed to be in community of property. Women were entitled with the ability to initiate divorces, as well as have equal custody rights of their children. Traditional chiefs no longer held the capacity to administer divorces and custody matters; only family law courts were now able to handle these matters. However, chiefs were still allowed to try to mediate relationship disputes in the future. While the chiefs lost power in this instance, they were relieved that lobolo was not banished, despite the expectation that is would be outlawed as offensive towards women. The dialogues brought wide support for the practice to light. Similarly, polygyny was not abolished due to wide support of the tradition. Another factor was that the abolishment of the tradition would leave women in polygynous marriages essentially unprotected. Nevertheless the rules were altered. When a man wants to enter another marriage he needs to have a written contract with the consent of his first wife. Also an equitable distribution of his assets must be in place in such cases (Deveaux, 2003).

Deveaux (2003) declares the importance of certain openness during such processes, which could be interpreted as content-neutral aspects. She points out that in the exemplary process from South Africa, reforms were concluded that did not seem necessary beforehand and others were dropped, which was expected with high certainty. The openness of the process gave the participants the opportunity to highlight issues that were the most problematic in the context of customary marriages. On the other hand, it was possible to determine which practices were based on a wide range of appreciation among different sides of the argument. This inclusive form of debate and decision-making makes it possible to consider all sides of a cultural dispute. While not everyone was pleased with every aspect of the compromise that resulted, most sides saw it as a fair and legitimate outcome (Deveaux, 2003).

While this is a positive example showcasing how deliberative dialogue can lead to feasible compromises when it comes to intracultural conflicts, Lébinard (2011) exemplifies concerns by a Canadian debate concerning Sharia law. Minority groups and women had been consulted in the matter of a potential ban of faith-based arbitration procedures. Feminist and women's groups were mobilized and lobbying for both sides of the argument. The Muslim women who participated in the held debates, were holding up different visions of autonomy. Some wanted to ban religious arbitration to protect minority women from unfair settlements, while others argued for their continuance.

Lébinard (2011) asks who should be upheld as the true voice of minority women in such a conflict and indeed this is a difficult question to answer. She concludes that deliberative formats in such dilemmas are crucial but do not render a form of agency unneeded.

Similar difficulties might occur when the Austrian headscarf discussion would be content of a deliberative dialogue. There are numerous studies highlighting the various reasons Muslim women bring forward to explain their practice of veiling in the European context. Madeleine Chapman (2016) engaged in depth in the study of the Muslim practice in the United Kingdom (UK) and Denmark. In her text, *"Feminist dilemmas and the agency of veiled Muslim women: Analyzing identities and social representation"*, she summarizes her findings and those of her fellow researchers, such as Dwyer (2000) and Jacobson (2011) building on Saba Mahmood's *Politics of Piety*. These studies resulted in a wide range of reasons to veil or not to veil.

Since there is such a wide range of reasons and minority cultures affected by laws like public bans of Muslim veiling, it seems rather impossible to reach an agreement that is a respectable compromise for every party involved. It would lead to a very unbalanced and one-sided reflection, since similar habits in the majority culture would be ignored. The important lesson that can be taken away from participation models is that all voices should be heard, especially those who contest cultural practices from the inside and are directly affected by them. This way cultural essentialist stereotypes leading to potentially racist laws can be mitigated. A productive, democratic and intercultural dialogue should also be supported by social policies. However, it should be noted that this dialogue does not relieve the necessity for a final assessment and judgment.

6.2.5 How to interpret the Outcomes of Participation

Participation models bring forward the concrete suggestion that women whose voices are frequently silenced should be able to participate in the discussions leading up to legal adjustments that will influence their life. In countries facing Okin's dilemma, these discussions are often lea in governmental institutions that are situated far from the real life repercussions that such decisions will have on women from minority cultures. This indeed seems quite undemocratic and can produce unjust solutions. Then again, there are concerns that need to be taken into consideration. As such, a deliberative

procedure does not eliminate the need for a normative evaluation of the practice in question. In deliberative discussions opposing visions of autonomy can reproduce Okin's dilemma (Lébinard, 2011).

Mookherjee (2005) suggests that there are two dimensions to personal autonomy, namely, a structural and a discursive. To assess if a legal response to a contested practice is justified, Mookherjee suggests two steps to test the contested practice in a minimalist, Universalist tradition:

> *The first contends that legal intervention is appropriate only when there is strong reason to believe that the identity-related goods, or the contrasting benefits, of the practice are outweighed by its extreme physical consequences. Put differently, legal intervention is justified if the practice generates disproportionate internalization costs for the individual. Investigating the contrasting benefits of a practice involves a democratic engagement with the thick values supporting the practice, in order to understand the advantages that the tradition might bring to the individual's structural autonomy. However, if, in the general case, its outcome is physically or psychologically extreme, legal institutions have reason to conclude that this mode of transmitting and sustaining cultural values is excessively anti-democratic (2005, p. 16).*

To illustrate her point, Mookherjee (2005) continues to compare the practices of veiling and widow-immolation. Even if veiling is intra-culturally contested and there are Muslim women supporting a ban of the practice, there are no extreme psychological or physical outcomes. On the contrary, widow-immolation has a tendency to end in death or a high degree of disability. Cases of women choosing this practice due to the benefits of enlightenment may exist. However, the often fatal consequences of the practice suggest that the women live in conditions lacking structural autonomy denying them the ability to renegotiate their own interests.

In the case of veiling on the contrary, the benefit of protecting women who are under genuine social pressure to conform to the practice does not outweigh the cost of undermining Muslim girls' general autonomy and taking away the chance to choose from enjoying freedom to social cohesion in this decision. To cite Mookherjee:

> Affective citizenship also requires a second test, namely that the legal prohibition should be a 'last resort' measure. That is to say, other forms

> of social intervention should be insufficient to address the harm caused by the practice (2005, p. 17).

The transformation of distributive inequalities leading to the view cases of present widow-immolation would be to time intensive to address the need for immediate action. Therefore, a legal response is justified in this case. In the case of veiling it is reasonable to first asses the social conditions that cut into the capabilities of Muslim girls to choose rather than to attempt to protect them by further cutting into their range of choices. A ban therefore fails both tests and as such, Mookherjee (2005) suggests for such cases. She further suggests that at-risk individuals' discursive agency demands the support for feminist organizations that address these issues. For example, organizations campaigning that woman, who unveil, should not lose their status as decent women in Muslim communities.

Mookherjee (2005) therefore agrees with the Amnesty International's (2017) assessment of the Austrian Burka ban. Women who wear the targeted coverings do so either out of free will or because they are forced to do so. Either way, the law negatively affects both, since it constitutes a violation of their basic rights to freedom of mind and religion. Moreover, women who are actually forced to wear them by their husband or their family members will suffer from this law since it will make it even more difficult for them to participate in social life outside of their homes. Therefore, such laws indirectly affect the structural autonomy of women.

In her attempt to resolve the question whether states should intervene when it comes to oppressive religious practices Sarah Song (2006) brings forward a similar approach. Her account takes the civic right to religious freedom and gender equality seriously in weighing the state's interest against the burden the law imposes upon the religion in question. Here she suggests that the more central the practice is to a religion, the higher the infringement on religious liberty has to be considered. On the other hand the interest of the state has to be judged. This interest can be upholding public order of the protection of the rights of other citizens. For Song, eliminating sexual discrimination is a valid interest of the state, which can lead to justified legal interventions. However, as it relates to these cases it must be certain that the practices are actually discriminating.

7 Conclusion

In the conceptualization of this thesis the main research question was, *"What concept of autonomy is capable of resolving Okin's dilemma?".* The answer to this question is not easily established. Witnesses to this are countless theorists and researchers contributing to resolving this question for the past two decades since Okin asked, "*Is multiculturalism bad for women?"*

Since conflicts that can be categorized as instances of Okin's dilemma can cumulate a sheer variety of perspectives and interpretations, as exemplified by the Austrian case, this thesis argues that there is no 'one size fits all' solution. The lessons learned from this discourse that stretches over two decades since Okin published her text, give important insights when it comes to the solution of these societal conflicts and should be consulted by politicians, when integrative measures are taken.

Okin's original hypothesis is built on a substantial account of autonomy. Since defenders, as well as critics of her work had the autonomy of women at heart, this original concept of autonomy and its legitimacy was questioned by the early 2000s. Thus began the search for a new concept of autonomy that acknowledges the diversity of women's preferences. To do so, the lessons learned from post-colonial feminism have to be taken into account. Narayan gives the practical advice to picture culture as something fluid, constantly re-negotiated and contested from within. While Okin selects examples for male oppression in certain cultures, she ignores feminist values and contestation that are also part of these same cultures. Recognizing that there is feminism in these communities breaks down the controversy of multiculturalism versus feminism to some extent.

Consequently, it was argued that questioning similar practices in one's own culture, maybe even looking for similarities, will enable a deeper analysis of the powers at play when it comes to the rituals in minority cultures that Okin depicts as being strictly motivated to serve patriarchal structures. Questioning the causes for these gendered instances of difference and the power dynamics leading to them will be a helpful process to understand similar dynamics in foreign cultures. This could allow a more thorough analysis of gendered power relations, as well as a common feminist agenda to uncover them. As feminists we have to be careful not to fall into the pit falls of perceived objectivity, when it comes to different perceptions of cultural norms, which dominate gender relations since centuries. At this point I want to stress that content-

neutrality is necessary, if an account should be designed that successfully prevents any form of prejudices or/and cultural/gender essentialism from influencing the assessment of autonomy. Otherwise prevailing prejudices of the onlooker, who was raised in a certain culture him/herself that influences his/her judgment, can be replicated.

A universal authentic choice catalogue like Nussbaum's offers certain advantages in comparison to participation approaches. In participation migrant women are included in the dialogue and asked for their wishes and desires to improve their lives. These wishes can be impaired by their surroundings. Friedman's and Nussbaum's models are strongly based on the belief that desires and preferences cannot be formed authentically under unjust conditions. Preferences based on participation can reinforce inequalities, especially those that have been imprinted on people so heavily that they are reflected in their desires. To make preferences a useful indicator for public policies, they must be built on a sufficient amount of education and information, something that is often denied to certain groups, especially women. This theoretical step was important since it leads away from simply asking how to assess minority cultures' oppression of women and counter measures in the form of restrictions. It starts the question whether the majority culture or/and the liberal state actually provide women with the possibilities to act autonomously. It should be noted that autonomy does not only need to be protected, but also enabled.

Therefore, a universal catalogue like Nussbaum's can be helpful, when assessing whether minorities are enabled to live autonomously by the state. It is the obligation of a liberal state to ensure this and social policies should be targeted at providing autonomy. In this way, structural autonomy can be secured for all citizens. However, there are more levels to a thorough concept of autonomy. Deveaux's deliberative participation account pays tribute to the importance of discursive agency, establishing a higher self-worth contributing to a more grounded self-concept and identity. Being able to add a perspective to the discussion of one's own values and culture will produce a sense of dignity and acceptance through others. This adds a level of autonomy that differs significantly from the structural autonomy highlighted by authentic choice approaches. In addition, it can actually establish democratic legitimacy of the outcomes.

Participation specifically incorporates the lessons learned from post-colonialists like Spivak, by designing deliberative processes that include the subaltern's voice in the discussion. The important lesson that can be taken away is that all voices should be heard, especially those who contest cultural practices from the inside and are directly affected by them. This way cultural essentialist stereotypes leading to potentially racist laws can be mitigated. This is vital since an integrative dialogue does not relief the necessity for a final assessment and judgment. To establish the democratic legitimacy of such a judgment, all voices have to be heard.

Another key thing to remember are inter- and intracultural aspects of instances of Okin's dilemma. Both aspects have to be taken into account when designing political responses to minority culture's practices that oppress women. Contesting and alerting voices from the inside of minority groups have to be heard when considering state interventions. This should not however lead the focus away from the intercultural level of these conflicts. In the current political sentiment and public discourse of refugee related issues in Europe, it is important to pay attention to prevailing misconceptions of minority cultures. As highlighted by Mookherjee (2005), an intercultural dialogue can help to relief these tensions and should be promoted by social policies. To resolve intercultural conflicts she suggests enriching group representation with democratic communication of the discovered meanings across different communities. Her approach places emphasis on the transformation of group relations and therefore seems especially notable in the context of conflicts such as the Austrian headscarf discussion.

The example of the Austrian headscarf debate has highlighted the complexity of such an instance of Okin's dilemma that includes a sheer variety of perceptions and reasons for and against a cultural practice. With all this in mind, I argue that it is necessary to differentiate when it comes to the intracultural level of such conflicts. A conflict such as the headscarf debate should, and can probably not be resolved through a simple 'ban' or 'right to' decision. This conflict is at least partly rooted in misinterpretations of the numerous reasons for veiling. By resolving these misinterpretations and the resulting stereotypes, the actual quest to enable female autonomy can be stripped of any cultural essentialist framings. In facilitating an intercultural exchange on such issues, a mutually beneficial discourse can be started, which may improve the reflective

strength of citizens and therefore further higher degrees of autonomy in the sense of authentic choice and structural autonomy.

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