

Appeals to Choice and Sexual Equality
in the Controversy over the Hijab and the Niqab

by

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Calls to restrict or regulate certain gendered customs¹ associated with cultural and religious minority communities in liberal democracies – notably Muslim women’s veiling – often appeal to the norm of sexual equality. While the precise content of this norm is rarely spelled out, those in favour of restricting such practices typically point to the rights of girls and women to live a self-directed life free from strong social constraints, and to be regarded as having value and dignity equal to that of boys and men. In this familiar narrative, proponents of restrictions on the hijab (headscarf) and/or the niqab (face veil) see sexual equality as closely intertwined with the norm of personal autonomy. Yet, paradoxically, those who object to such restrictions, including women from the affected groups, also reach for ideals of choice and freedom to oppose state interference. In this chapter, I suggest that this dual appropriation is made possible by the contrasting conceptions of autonomy that undergird these opposing positions.

Proposals to restrict gendered practices of religious and cultural minorities rely upon an ideal of substantive autonomy that requires not only that one live a self-directed life relatively free from excessive socialization, but that the content of one’s choices be compatible with the liberal value of personal autonomy. Conversely, those who defend such customs – and/or women’s right to practice them – ground their position in a thinner, more procedural account of

Author’s note: This chapter draws some material from my chapter ‘Regimes of Accommodation, Hierarchies of Rights’, in Chantal Maillé, Greg Nielsen and Daniel Salée (eds), *Revealing Democracy: Secularism and Religion in Liberal Democratic States* (Peter Lang 2013) 77.

¹ In using the term *gendered* to refer to customs like veiling that have come under the scrutiny of governments in liberal democracies, I do not mean to suggest that only minority groups (not the majority society) reinforce sex-differentiated norms – this would of course be false.

autonomy. According to this conception, one acts autonomously in so far as one makes important decisions according to certain criteria, such as reflexivity or authenticity. These different accounts of what autonomy requires in turn shape contrasting understandings of what sexual equality entails. I argue that while proponents and critics of restrictions on veiling share a common commitment to women's legal and political equality, they disagree on whether such equality is compatible with extensive sex-role differentiation. Not surprisingly, then, rhetorical appeals to ideals of choice and women's equality do little to reduce normative conflict over Muslim veiling practices. Respectful and productive political dialogue about putatively competing commitments to sexual equality and cultural/religious accommodation has therefore been rendered difficult or, at worst, impossible.²

In what follows, I argue that moving past this impasse would require, as a first step, that these divergent conceptions of personal autonomy and sexual equality be made more explicit in public debates about controversial customs. In particular, stakeholders in disputes over the status of sex-differentiated practices ought to say (and defend) what they think autonomy requires, and what role it plays in sexual equality. A deliberative democratic approach to resolving disagreements over whether to legislate against controversial customs could help to bring into relief underlying disagreements about the value and demands of both autonomy and sexual equality. It would also reveal inconsistencies in key normative claims surrounding these principles.

² In most liberal constitutional democracies, *sexual equality* and *gender equality* are used interchangeably in the legal instruments that refer to the state's commitment to the equality of women and men. As a consequence, I use both terms here without distinguishing them in the way that scholars of sex and gender frequently do.

I urge that these principles be made the subject of democratic deliberation whenever public proposals are made to regulate or restrict gendered practices. Nevertheless, I will argue that the conception of autonomy most suited to a highly diverse liberal society is a minimalist version of procedural autonomy supplemented by the insights of relational-autonomy feminist thinkers. By engaging in public deliberation about the contested meanings of key norms of sexual equality and autonomy, we may come to better understand competing appeals to choice, freedom and women's equality in the controversies over Muslim veiling in liberal democracies.

Appeals to Sexual Equality

When France banned 'conspicuous signs' of religion from state schools in 2004 (in a move widely understood to target the Muslim headscarf), lawmakers invoked the ideals of sexual equality and *laïcité* (secularism). Feminist activists and public intellectuals joined with politicians in citing the need to protect girls from family pressures to wear the hijab, which they saw as symbolically separating girls from fellow students and preventing them from taking up a range of activities and career paths. In the years that followed, legislation was also passed in Belgium, and in a number of European municipalities (including Barcelona and several Swiss cantons) and regions (such as Russia's Stavropol region). These laws banned women from wearing the face-veiling niqab and burqa (a full-body outer garment incorporating a face veil) in public places, such as in hospitals, schools, government offices, and on public transport.

Asked by the French National Assembly to determine the constitutionality of a law banning face coverings, the Constitutional Council replied in the affirmative, stating that the face veil was at odds with French republican norms of civic life and that women who wore it 'find themselves placed in a situation of exclusion and inferiority clearly incompatible with the

constitutional principles of freedom and equality’.³ The council argued, in other words, that ‘religious freedom considerations were outweighed by the arguments concerning sociability and gender equality’.⁴ This assertion of the primacy of sexual equality over other values (like religious freedom) arguably signalled a hierarchy of rights that required greater normative defence. But such a defence was not seen as necessary, in the French context, because sexual equality was seen as both as a core aspect of citizenship and as constitutively secular.

Citizenship, Religion and Sexual Equality

Liberal democracies conceive of citizenship in terms of universal values, including secularism. As sexual equality came to be seen as part of this universal civic identity, it too became linked with the ideal of religious neutrality, especially in states with a strong republican tradition – such as France, where headscarf politics first emerged. In France, as Joan Scott explains, ‘*laïcité* means the separation of church and state through the state’s protection of individuals from the claims of religion. (In the United States, in contrast, secularism connotes the protection of religions from interference by the state.)’⁵ From this point of view, sexual equality, as one dimension of a secular, civic identity, therefore requires detachment from explicit signs of religious affiliation. If the content of the religion in question draws attention to sexual differences in a particular way, then the removal of symbols of that religion from the public sphere becomes a matter of urgency. The close relationship between *laïcité* and gender equality thus has to do with the (symbolic) assurance of the universality of women’s citizenship: ‘Within

³ John R. Bowen, ‘How the French State Justifies Controlling Muslim Bodies: From Harm-Based to Values-Based Reasoning’ (2011) 78(2) *Social Research* 325, 328.

⁴ *ibid* 328.

⁵ Joan Scott, *The Politics of the Veil* (Princeton University Press 2007) 15.

the prevailing narrative of French republicanism, women are recognized as free and equal citizens because their citizenship or public identity is abstracted both from their gender identity, but also from any religious identity that might be assigned to them through a politics of recognition'.⁶

Public discourse linking sexual equality to ideals of both religious and gender neutrality is not limited to the French republican context. In Québec, Canada, legislation that would have banned the niqab from public places was introduced in 2010 and again in 2013. While neither piece of legislation passed, both treated the principles of sexual equality and secularism as fundamentally intertwined. The first of these, Bill 94, stated that religious 'accommodations' (in public domains) must be consistent with the right of gender equality and the principle of religious neutrality.⁷ A key aim of the later proposed legislation (Bill 60, known as the Charter of Values⁸) was to amend Québec's Charter of Human Rights and Freedoms⁹ so as to make clear that the principles of secularism and gender equality limit the right of religious freedom and

⁶ Eoin Daly, 'Laïcité, Gender Equality and the Politics of Non-Domination' (2012) 11 *European Journal of Political Theory* 292, 293.

⁷ An Act to Establish Guidelines Governing Accommodation Requests Within the Administration and Certain Institutions National Assembly Bill (2010), II(4).

⁸ Bill 60: Charter Affirming the Values of State Secularism and Religious Neutrality and of Equality Between Women and Men, and Providing a Framework for Accommodation Requests National Assembly Bill (2012–2014).(Québec Charter of Values).

⁹ 1976.

therefore the kinds of ‘accommodations’ that can be made to individuals in respect of their faith.¹⁰

The singling out of Muslims as a racialized community in need of a lesson and directive in Québec’s liberal values was a common theme in the media coverage as well as much public sentiment surrounding both bills. Not surprisingly, women’s centres in province reported a dramatic rise in the public harassment of women wearing the hijab and the niqab following the introduction of the proposed Charter in the legislature.¹¹

Sexual Equality and Difference

It is worth taking a closer look at the connection that proponents of veiling regulations in Québec, France and other liberal democracies draw between the Muslim headscarf and women’s inequality in that religion. The core belief expressed in the rhetoric surrounding the introduction of such proposed legislation was that head and face veiling effects women’s physical separation from men (for religious or other purposes), and that this in turn reflects their sexual subordination.¹² Separateness, in this view, denotes difference, and difference inescapably denotes inferior status. The lack of both sexual and cultural integration signalled by the niqab in

¹⁰ Feminists from the majority Québec society in general applauded this clarification: the Conseil du statut de la femme du Québec (CSF) had previously urged the government to add a second sexual equality clause to the existing Charter so as to ensure that sexual equality would be understood to *trump* religious freedom. See the CSF’s *Gazette des femmes* (September/October 2007) 23.

¹¹ ‘Violence against Muslim Women on the Rise, Group Says’ CBC News (2 October 2013) <www.cbc.ca/news/canada/montreal/violence-against-muslim-women-on-the-rise-group-says-1.1876564> accessed 16 March 2015.

¹² Sirma Bilge, ‘La patrouille des frontières au nom de l’égalité en genre dans une “nation” en quête de souveraineté’ (2010) 42 *Sociologie et Société* 197, 220.

particular (but even, for some critics, the hijab) is seen as an impediment to the realization of the universal rights guaranteed by citizenship (in France or Québec, for example). In the French context, sameness was not only about gender integration and women's parity with men but also about access to French civic identity:

Ascriptions of difference, conceived as irreducible differences, whether based on culture or sex or sexuality, are taken to preclude any aspiration to sameness. If one has already been labelled different on any of these grounds, it is difficult to find a way of arguing that one is or can become the same.¹³

Yet the belief that sexual equality (like civic equality generally) requires gender integration in the sense of sameness, is, to say the least, controversial. More importantly, it is in a sense illusory, or only rather selectively applied, given that in liberal democracies women's bodies are (typically) highly differentiated from men's. As feminist sociologists, anthropologists and cultural studies theorists (amongst others) have amply demonstrated, a wide range of feminine bodily practices in the West, sustained by the fashion and beauty industries, cosmetic surgery and advertising generally, serve to uphold bodies that are marked as female. Yet these are not seen, in the main, as incompatible with the principle of gender equality. The sexual sameness demanded by proposed bans on headscarves and niqabs, thus, is perhaps better understood in terms of a gendered ideal of autonomy for women, rather than genuine sex blindness. As Wendy Brown explains,

The equation of secularism with women's freedom and equality often traffics in the tacit assumption that bared skin and flaunted sexuality is a token if not a measure of women's freedom and equality. Sexual difference is already written

¹³ Scott (n 5) 13.

into this assumption ... since the equation of freedom with near nakedness in public is itself a gendered rather than generic sign of freedom: rarely is it suggested that men in loincloths are free whereas those in three-piece suits lack autonomy and equality.¹⁴

Brown's insight – that there is a covert expectation of sexual differentiation built into the Western conception of gender equality invoked by antiveiling laws – highlights the lack of evenhandedness of many political appeals to sexual equality. Whether viewed as an expression of female modesty or as a different manner of sexualizing women ('sexualization that is robed, secreted from public view'¹⁵), the hijab is taken to be incompatible with a normative commitment to gender equality in ways that Western women's sexualized self-presentations are not. The neutrality and universality of this conception of sexual equality, at least as it is invoked in political discourses about minority women, is thus doubtful. This recognition is in part what gives rise to the suggestion that discussions of the gendered practices of minority religions or cultures should also ask about comparable mainstream social practices.¹⁶

Formal, Substantive or Symbolic Equality?

The inconsistency of the gender-sameness ideal also reveals that appeals to sexual equality are very often calls for formal rather than substantive equality. That is, the kind of

¹⁴ Wendy Brown, 'Civilizational Delusions: Secularism, Tolerance, Equality' in Chantal Maillé, Greg Nielsen and Daniel Salée (eds), *Revealing Democracy: Secularism and Religion in Liberal Democratic States* (Peter Lang 2013) 52.

¹⁵ *ibid* 52.

¹⁶ Avigail Eisenberg, *Reasons of Identity* (OUP 2009) 49; Anna Galeotti, 'Relativism, Universalism, and Applied Ethics: The Case of Female Circumcision' (2007) 14/1 *Constellations* 91; Geoffrey Brahm Levey, 'Liberal Autonomy as a Pluralist Value' (2012) 95/1 *The Monist* 103; Anne Phillips, *Gender and Culture* (Polity 2010) 25.

equality demanded by antiveiling laws is same (or similar) treatment for men and women vis-à-vis the law, but not substantive, equal freedom in economic, social and political life. The frequent references to the hijab (and its variants) as a so-called symbol of women's subordination and oppression evince this preoccupation with merely formal and symbolic dimensions of equality. In the Canadian context, the sexual-equality defence of legislation to ban religious garb from public places is arguably on a collision course with the substantive sexual equality guarantees stipulated by the *Canadian Charter of Rights and Freedoms*.¹⁷ This is because legislation that prohibits women from wearing the veil in public places may be interpreted as jeopardizing their (substantively) equal access to education and employment, social and political participation, and critical public services (such as health care or child care). Legal challenges to the proposed niqab ban on the grounds of its discriminatory impact on women are therefore likely.¹⁸ For example, the 2011 Ministry of Immigration policy prohibiting women from wearing the niqab in Canadian citizenship ceremonies¹⁹ has recently been challenged. Some evidence suggests that countries with strong anti-sex-discrimination laws are reluctant to introduce veiling

¹⁷ *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.

¹⁸ Beverly Baines, 'Bill 94: Quebec's Niqab Ban and Sex Equality' (Women's Court of Canada 12 May 2010) <<http://womenscourt.ca/2010/05/bill-94-quebec%E2%80%99s-niqab-ban-and-sex-equality/>> accessed 16 March 2015; a recent example is Zunera Ishaq's successful challenge (in a Federal Court ruling in February 2015).

¹⁹ *Ishaq v. Canada (Citizenship and Immigration)* [2015] FC 156 [2015] < <http://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/108049/index.do>> accessed 16 March 2015.

restrictions precisely because of the prospect of legal challenges on grounds of sexual discrimination.²⁰

The emphasis on formal rather than substantive equality implied by antiveiling legislation did not sit well with many Muslim women in Québec in the wake of attempts to ban public wearing of the niqab²¹ as well as the hijab.²² Rather than target ostensibly symbolic markers of their subordination, many asked why the government did not redress the tangible inequalities they faced in economic and social life. For example, immigrants (both men and women) from North and West Africa have much higher rates of unemployment than the general population, despite their higher levels of educational attainment on average. Moroccan and Algerian immigrants experience 17.5 per cent and 27.2 per cent unemployment, as opposed to 8.2 per cent for the general population; for those who immigrated to Québec less than five years ago, these figures jump to 33.6 per cent and 35.4 per cent.²³ Structural barriers to Muslim women's access to education, employment, social programs, legal services and housing were, however, not part of the public conversation about the niqab as discussed by media and politicians.

Québec's political leaders have arguably sought to mark the province's transition to a modern, secular society by appealing to an ideal of citizenship that uses recent immigrants – especially Muslims – as a cultural and racial foil. Similarly, in France, Scott writes:

²⁰ Brigitte Sauer 'Headscarf Regimes in Europe: Diversity Policies at the Intersection of Gender, Culture and Religion' (2009) 7 *Comparative European Politics* 75.

²¹ Baines (n 18).

²² Québec Charter of Values.

²³ Annick Lenoir-Achdjian et al., *Les difficultés d'insertion en emploi des immigrants du Maghreb au Québec: Une question de perspective* (Report by the Institute for Research on Public Policy 2009).

The headscarf controversies were largely an affair of those who defined themselves as representatives of a true France, with North Africans, Muslims, and ‘immigrants’ consigned to the periphery ... The veil became a screen onto which were projected images of strangeness and fantasies of danger – danger to the fabric of French society and to the future of the republican nation.²⁴

Pointing to gender equality as a reason to oppose the hijab and/or niqab in liberal states also fits within a broader trend – namely, using women’s equality to justify the ‘current retreat from multiculturalism’.²⁵ By contrast, the justification offered for similar bans adopted in the past by Syria, Egypt and Turkey highlight political and security concerns related to Islamic fundamentalism. In portraying Muslim women as thoroughly saturated by religion in debates over religious clothing,²⁶ the rhetorical appeal to gender equality also depends upon an essentialist and static view of culture, at least in connection with the roles of women.²⁷ That the definition of gender roles and status play a pivotal role in national identity-building exercises should not surprise us, of course; many a commentator has noted the way that women have historically been seen to ‘embody the nation’ as well as to represent particular aspects of cultural otherness: ‘Women ... become the signifiers of national differences in the construction, reproduction and transformation of national categories ... It is women who come to “embody”

²⁴ Scott (n 5) 10.

²⁵ Anne Phillips and Sawitri Saharso, ‘The Rights of Women and the Crisis of Multiculturalism’ (2008) 8(3) *Ethnicities* 292.

²⁶ Brown (n 14) 50–52.

²⁷ Anne Phillips, *Multiculturalism without Culture* (Princeton University Press 2007) 8.

the nation as such'.²⁸ Women's equal status – understood as women's legal and political equality, combined with parity of gender roles – therefore becomes a focal point in the process of national identity formation, especially when that identity is under threat.

Yet if legal challenges to veiling regulations can be made using sex discrimination laws, then clearly even legal sexual equality is not reducible to a single meaning (even within a single society). The demand that gender equality be given automatic legal precedence over other important principles, such as religious freedom, is thus problematic not least because of the contested and multivalent character of this norm. Feminist organizations have sometimes seen it as politically advantageous to insist that there is indeed a hierarchy of rights, with sexual equality at the top. For instance, Eisenberg²⁹ discusses the strategic decision, by the feminist campaign opposed to sharia religious arbitration in Ontario, to steer clear of issues of religious freedom and pluralism and focus exclusively on women's equality. According credence to religious freedom and pluralism was thought to weaken or even jeopardize the gender justice message.

While feminists may understandably be reluctant to open up a conversation about the meaning and application of sex equality in diverse societies, this is arguably a conversation we can no longer ignore. What legal and political commitments to sexual equality consist in; how these are to be balanced with other values, like cultural and religious freedom; and what policies best further goals – these large questions need to be revisited in light of the demands of diversity. Yet increasingly, questions about the meaning and demands of sexual equality in plural societies are only raised in connection with the practices of minority women, thus relegating this

²⁸ Nasar Meer, Claire Dwyer and Tariq Modood, 'Embodying Nationhood: Conceptions of British National Identity, Citizenship, and Gender in the "Veil Affair"' (2010) 59 *The Sociological Review* 84, 85.

²⁹ Eisenberg (n 16) 49.

important issue to a crisis frame of gender equality'.³⁰ This crisis framing encourages ad-hoc decision making because it 'explicitly restricts gender equality issues to minority groups, and sets aside policies initiated to approach these "minority-specific" problems from the broader equality agenda'.³¹

The Role of Autonomy in Assessing Gendered Customs

As noted in the introduction, an overly narrow notion of sexual equality as sameness (selectively understood) is undergirded by a substantive conception of autonomy. According to this conception, individuals are autonomous if their lives proceed on the basis of projects and commitments that they and they alone actively choose. The ideal of a self-directed life expressed by a substantive notion of autonomy might be thought to lead to an affirmation of difference, not sameness. After all, following John Stuart Mill's argument, different individuals surely want different things, resulting in diversity of beliefs and lifestyles, do they not?

Yet group-based diversity is not especially encouraged by a normative ideal of substantive or strong autonomy, for the concept of valorizes expressions of independence from one's social and cultural milieu and views with skepticism choices that appear to align with those of one's families and peers. The selective gender integration valued by the French and Québec governments in their appeals to sexual equality find their analogue in substantive autonomy's affirmation of an idealized agent who is independent and self-choosing, with a coherent and distinct life plan. This conception of the autonomous person as self-determining and sovereign has of course been widely challenged by a wide range of thinkers of many theoretical stripes,

³⁰ Mari Teigen and Trude Langvasbraten, 'The "Crisis" of Gender Equality: The Norwegian Newspaper Debate on Female Genital Cutting' (2009) 17 *Nordic Journal of Feminist and Gender Research* 257.

³¹ *ibid* 257.

from communitarian to poststructuralist, postmodern to psychoanalytic. Even some Kantians object to a caricatured ideal of autonomy as precluding particularistic attachments or relationships of mutual dependence. Onora O'Neill has argued that in invoking an idealized account that reduces autonomy to independence and 'mere sheer independent choice',³² we overlook 'the deeper reasons for valuing autonomy',³³ which have more to do with living one's life in accordance with one's deepest moral beliefs, rather than mere preferences, and what one holds dear.

Autonomy and Independence

Multicultural theorists have been particularly concerned to challenge an idealized conception of autonomy as independence, on the grounds that such a conception is incompatible with a commitment to cultural group rights. In so far as multiculturalism affirms the importance of group-based identities and arrangements to the well-being of many citizens in liberal societies, it cannot readily endorse the belief that people are free if they have managed to resist strong socialization. In earlier work,³⁴ I argue that neither the strong conception of autonomy as requiring evidence of reflectively chosen, independent options,³⁵ nor the more moderate 'self-definition' account that is ostensibly content-neutral and emphasizes individuals' capacities for leading authentic lives,³⁶ are appropriate ideals for adjudicating disputes about religious or

³² Onora O'Neill, *Bounds of Justice* (Cambridge University Press 2000) 39.

³³ *ibid* 49.

³⁴ Monique Deveaux, *Gender and Justice in Multicultural Liberal States* (OUP 2006).

³⁵ Such as Robert Young's conception; see Robert Young, 'Autonomy and Socialization' (1980) 89 *Mind* 565; Robert Young, *Personal Autonomy: Beyond Negative and Positive Liberty* (St. Martin's Press 1986).

³⁶ Such as Diana Meyers, *Self, Society and Personal Choice* (Columbia University Press 1989).

cultural practices in a multicultural society. Both conceptions overemphasize authenticity and view strong forms of socialization as incompatible with individual agency. This is particularly problematic when considering women's lives, for it leads to the conclusion that women who practice sex-differentiated customs have little or no agency. Uma Narayan notes that strong accounts of autonomy as independence and authenticity lead us to imagine only two possibilities: 'In the prisoner of patriarchy model, the veil is entirely imposed on the woman – she veils because she must. In the dupe of patriarchy model, she veils because she completely endorses all aspects of the practice'.³⁷ That the idealized account of autonomy that figures in the dupe and prisoner of patriarchy models is politically limiting has been amply evident in debates over veiling legislation. Many of those on both sides of the conflict insist that autonomy is the trumping value: sceptics of veiling insist that the lack of autonomy expressed by this custom justifies its prohibition (at least in public places); and religious/cultural group members insist that their decision to veil validates it. In insisting that headscarves, niqabs and/or burqas necessarily symbolize women's lack of autonomy and their subordination to men, veiling legislation in Québec and elsewhere succumbs to a substantive ideal of autonomy as requiring a fully self-directed life free from overt socialization. Following Narayan, I suggest that Muslim women are seen by proponents of veiling bans as either submitting to the headscarf/veil (because they have no choice), or else falsely thinking that they 'choose' it. Notably, such explanations cannot

³⁷ Uma Narayan, 'Minds of Their Own: Choices, Autonomy, Cultural Practices, and Other Women', in Louise Antony and Charlotte Witt (eds), *A Mind of One's Own: Feminist Essays on Reason and Objectivity* (Westview Press 2002) 419.

readily account for examples of legal and political activism by women defending their access to the hijab and the niqab.³⁸

Minority religious or cultural group members also often emphasize the language of choice in opposing state restrictions on practices that have come under scrutiny, though it is not clear that this serves them especially well. In so doing, they may lock themselves into a position that denies problematic aspects of customs as well as the possibility of internal transformation. At the level of political rhetoric, it also raises problems: in the case of veiling, calling the hijab or niqab a woman's choice stands in some tension with the claim that covering one's head is required by Islam (and therefore, in so far as she is devout, not a choice). While the normative currency of autonomy within liberal democracies seems to demand this framing, it arguably fails to capture the more complex realities of human agency as well as the way that social practices evolve and are sustained.

Among feminist thinkers in particular, there is a longstanding and widely shared worry that substantive and thick procedural accounts of autonomy do not capture the complexities of women's agency within 'oppressive social environments'.³⁹ For instance, the language of free choice tends to individualize the story of how customs evolve – some women choose to wear the hijab, and others choose not to wear it. Similarly, we may be led to be automatically suspicious

³⁸ There have been challenges in both Québec and Ontario, where recently a woman successfully appealed a lower court decision requiring her to remove her niqab in order to present testimony (cases in the Superior Court and the Ontario Court of Appeal).

³⁹ Catriona Mackenzie and Natalie Stoljar, 'Introduction: Autonomy Refigured' in Catriona Mackenzie and Natalie Stoljar (eds), *Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self* (OUP 2000) 22.

of ‘given’ relationships and attachments (especially those with dimensions of dependence) as possible sources of pressure and socialization. Thus, one consequence of employing strong autonomy in debates over contested social practices is that it may lead us to assume that agency is nearly impossible in some coercive social contexts; it is ‘as if the measure of how much agency we have is how little coercion has been exercised’.⁴⁰

Disempowering circumstances such as economic dependency, being demeaned and intimidated in one’s intimate relationships, and facing ongoing abuse and violence can of course immobilize individuals and make it hard for them to exit. The claim that disempowering circumstances are tantamount to coercion, and so block all agency, may be a strategically useful stance when advancing certain political struggles. Feminist advocacy around domestic violence and sexual assault has frequently taken this approach. But the dichotomy between agency and coercion is otherwise unhelpful for understanding the dynamics of gendered religious and cultural practices in diverse liberal societies. There is a real ‘risk of effectively locating coercion as unique to specific “non-Western” contexts’,⁴¹ as argued by postcolonial feminists like Narayan. Moreover, the ideal of substantive autonomy may encourage the blanket assumption that girls growing up in families that are religious and even patriarchal in structure are completely incapable of shaping any significant aspects of her life, such as decisions about schooling, work and relationships. But this seems patently false. Equally unsatisfying is the

⁴⁰ Sumi Madhok, Anne Phillips and Kalpana Wilson, ‘Introduction’ in Sumi Madhok, Anne Phillips, Kalpana Wilson and Clare Hemmings (eds), *Gender, Agency, and Coercion* (Palgrave Macmillan 2013) 5.

⁴¹ Kalpana Wilson, ‘Agency as “Smart Economics”: Neoliberalism, Gender, and Development’ in Sumi Madhok, Anne Phillips, Kalpana Wilson and Clare Hemmings (eds), *Gender, Agency, and Coercion* (Palgrave Macmillan 2013) 97.

belief, implied by some strong accounts of procedural autonomy, that girls or women who undergo traditional gender role socialization can only ever exercise ‘episodic’ or ‘programmic’ autonomy at best.⁴²

Kimberly Hutchings has argued that when feminists employ an agency/coercion binary, it has the effect of casting women as either ‘chooser’ or ‘loser’; free, or else utterly determined.⁴³ Proponents of legislation prohibiting women from wearing religious headscarves and face veils in public settings have portrayed the hijab as a custom that is imposed on women and functions as an enduring symbol of their subordinate status. The insistence by hijabis in liberal democracies that they ‘choose’ the veil is readily dismissed as reflective of their false consciousness. One problem with this view, however, is that it implicitly equates personal autonomy with the rejection of religious or cultural practices. Saba Mahmood has suggested that by locating women’s agency in visible portrayals of resistance to social and religious strictures, we overlook the possibility of embedded agency, which can be exercised in a wider range of contexts.⁴⁴ Women can and do reflect upon their lives and make choices even within quite constraining circumstances: they redefine and renegotiate the strictures they face, as feminist anthropologists and sociologists like to say.

⁴² As suggested, for example, by Meyers (n 36).

⁴³ Kimberly Hutchings, ‘Choosers or Losers? Feminist Ethical and Political Agency in a Plural and Unequal World’, in Sumi Madhok, Anne Phillips, Kalpana Wilson and Clare Hemmings (eds), *Gender, Agency, and Coercion* (Palgrave Macmillan 2013) 23.

⁴⁴ Saba Mahmood, *The Politics of Piety: The Islamic Revival and the Feminist Subject* (Princeton University Press 2005) 167.

This is not to say that these circumstances are unproblematic or do not need changing, however. To assume that evidence of embedded agency or explicit choice signals the absence of unequal or coercive relationships and structures that need to be challenged would be foolish. Accordingly, the idea of ‘agency as inequality’s opposite’⁴⁵ must be resisted. Accounting for the exercise of autonomy – or if we prefer, ‘agency’ – amidst conditions of gender subordination and oppression is a difficult but nonetheless important undertaking. In my view, autonomy still has a role to play in conversations about contested social practices, as do the concepts of choice and consent. I do not go so far as those who advocate a Foucauldian-inspired ‘postagency’ position, according to which ‘the liberal grammar of consent and self-determination’ is swept aside, and ‘the vocabulary of consent and choice becomes irrelevant’.⁴⁶ Nevertheless, an idealized account of autonomy is surely overemphasized in debates about the religious and cultural practices of minorities, most especially those associated with recent immigrants and members of religious minorities.

One can, of course, reject an idealized view of autonomy as, essentially, independence marked by complete freedom of will, without abandoning the concept altogether:

That one is autonomous does not mean that one’s choices are uninfluenced or uncaused, for it is doubtful that such a notion is even coherent. Autonomous

⁴⁵ Claire Hemmings and Amal Treacher Kabesh 2013, ‘The Feminist Subject of Agency: Recognition and Affect in Encounters with “the Other”’ in Sumi Madhok, Anne Phillips, Kalpana Wilson and Clare Hemmings (eds), *Gender, Agency, and Coercion* (Palgrave Macmillan 2013) 31.

⁴⁶ Eléonore Lépinard, ‘Autonomy and the Crisis of the Feminist Subject: Revisiting Okin’s Dilemma’ (2011) 18 *Constellations* 205, 214.

agency does not imply that one mysteriously escapes altogether from social influence but rather that one is able to fashion a certain response to it.⁴⁷

Of the alternative conceptions of autonomy developed in response to criticisms of more idealized conceptions, two are especially useful for discussions about contested religious and cultural practices: procedural approaches to autonomy, which deny that autonomous lives must have any particular content and instead emphasize the importance of capacities for reflection and choice; and the idea of ‘relational autonomy’,⁴⁸ which insists that ‘persons are socially embedded and [that] agents’ identities are formed within the context of social relationships and shaped by a complex of intersecting social determinants, such as race, class, gender, and ethnicity’.⁴⁹ In my view, procedural and relational accounts of autonomy are not mutually exclusive. Both offer resources for rethinking autonomy in ways that do not depend upon binaries (such as coercion and agency, or coercion and equality), or privilege idealized versions of independence and choice. Whereas substantive autonomy subjects the content of individuals’ life choices to scrutiny, procedural accounts, broadly speaking, place the spotlight on individuals’ capacities and opportunities to live a life in keeping with their own reflective values and attachments.

Neither procedural nor relational accounts of autonomy require that one’s choices depart dramatically from those endorsed by one’s family or community, because they do not conflate

⁴⁷ Linda Barclay, ‘Autonomy and the Social Self’ in Catriona Mackenzie and Natalie Stoljar (eds), *Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self* (OUP 2000) 54.

⁴⁸ Catriona Mackenzie and Natalie Stoljar (eds), *Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self* (OUP 2000); Jennifer Nedelsky, *Law’s Relations: A Relational Theory of Self, Autonomy, and the Law* (OUP 2011); Jennifer Nedelsky, ‘Reconceiving Rights as Relationship’ (1989) 1 *Review of Constitutional Studies* 1.

⁴⁹ Mackenzie and Stoljar (n 48) 4.

autonomy and ideals of self-determination or individual sovereignty.⁵⁰ Instead, both begin from a broader account of agency allowing us to see that reflecting on one's values and attachments may come in a variety of forms, and may consist not only in rejecting, but also affirming, those values. Nor need the exercise of autonomy require overt actions: one's agency in the context of social and cultural practices may relate to internal, psychological processes, as well as to one's capacities for reflection, criticism and reimagining.⁵¹ Theorists of relational autonomy are particularly attentive to the internal dimensions of autonomy, and can enrich and complicate our understanding of key aspects of procedural autonomy: 'recognizing that agents are both psychically internally differentiated and socially differentiated from others calls for a reconceptualization of certain notions ... such as integration, identification, critical reflection, and self-realization'.⁵²

Seeking a way to capture the complexities of, and limits to, women's agential possibilities in so-called traditional religious and cultural settings in the West, Marilyn Friedman has advanced a content-neutral approach that stresses women's capacities and competencies for acting in ways that reflect their 'wants, desires, cares, concerns, values, and commitments'.⁵³ Friedman is attentive to the relational dimensions of autonomy: she recognizes that our very capacities for autonomy are constituted through our social relationships, some of which have

⁵⁰ Deveaux (n 34) 160.

⁵¹ *ibid* 177; see also Sumi Madhok, 'Action, Agency, Coercion: Reformatting Agency for Oppressive Contexts' in Sumi Madhok, Anne Phillips, Kalpana Wilson and Clare Hemmings (eds), *Gender, Agency, and Coercion* (Palgrave Macmillan 2013) 108.

⁵² Mackenzie and Stoljar (n 48) 21.

⁵³ Marilyn Friedman, *Autonomy, Gender, and Politics* (OUP 2003) 6.

constraining and even oppressive dimensions. With this social backdrop in mind, she argues that ‘autonomy competency is the effective capacity, or set of capacities, to act under some significant range of circumstances in ways that reflect and issue from deeper concerns that one has considered and reaffirmed’.⁵⁴ Following Friedman, I argue that paying attention to women’s capacities for autonomy even amidst strong sociocultural constraints serves as an important corrective to stereotypes that reinforce the image of women of certain minority religions and cultures as largely lacking in agency.

Concern about these stereotypes is partly what has led to the emergence of a ‘post-agency’ perspective,⁵⁵ whose adherents worry that critical or revised conceptions of autonomy that reveal the agency of disempowered subjects fail to challenge familiar oppositions at a deep level. They propose that we focus instead on how structures of power give rise to particular expressions of subjectivity – a notion that encompasses what we may recognize as agency – but drop the normative baggage associated with autonomy.

Although it is tempting to heed the call to abandon discussions of the agential capacities of individuals, fraught as these are, I think it would be a mistake. We need, in my view, to ask about the degree to which, in any given circumstance or context, women are able to reflect upon, and possibly renegotiate and redefine – or indeed refuse – particular expectations, roles and activities.

As relational autonomy feminists remind us, the internal and external processes that mark our relationships with particular norms and arrangements are always mediated through a set of social relationships. Our capacity for critical reflection on these norms is limited or constrained

⁵⁴ *ibid* 13.

⁵⁵ Lépinard (n 46) 214.

by a range of relationships and social structures, such as those with particular gender scripts. Although it is not a simple matter, it is nonetheless possible for individuals to identify possibilities for responding to and renegotiating different aspects of their lives in a variety of contexts. Some of the most insightful descriptions of women's capacities for agency in constrained, even oppressive, circumstances emerge in discussions of economic empowerment initiatives in the global South. For example, reflecting on empowerment-building work with women in Afghanistan and Bangladesh, Naila Kabeer writes:

However socially embedded women – and men – may be in the ascribed relationships of family, kin and community, it is in principle possible for them to attain a reflexive distance from these relationships, to become simultaneously observers of, and participants in, their own society. If it is through the 'given' relationships of family and kinship that women gain their sense of identity and personhood, then it is through participation in other 'chosen' forms of associational life that they may be able to acquire a reflexive vantage point from which to observe and evaluate these relationships.⁵⁶

the post-agency view rejects this emphasis on capacity for procedural autonomy on the grounds that it still relies upon a flawed view of the relationship between human agency and structures of power. In my view, however, a thin procedural approach to autonomy that stresses agents' capacity for reflection and action can provide valuable tools for asking about agency in unequal and even coercive contexts. The availability of tangible alternative options is also important when assessing individuals' procedural autonomy: 'for choice to be meaningful there

⁵⁶ Naila Kabeer, 'Empowerment, Citizenship and Gender Justice: A Contribution to Locally Grounded Theories of Change in Women's Lives' (2012) 6 *Ethics and Social Welfare* 216, 223.

have to be alternatives, the possibility of having chosen otherwise'.⁵⁷ Such options ought to be assessed in terms of the sociocultural norms and strictures of one's own identity or community – such as asking what an ultra-orthodox Jewish woman living in a particular setting may be 'permitted' to do. Of course, they also need to be assessed in relation to the broader social, economic and political structures that condition our abilities and opportunities to act. As noted, North African Muslim women in Québec face a high rate of unemployment, structural racism and discrimination in other areas of social life, factors which arguably limit the options open to them, such as whether to leave an abusive relationship, to have or not have additional children, or to undertake higher education. Particularly in the case of economically disadvantaged women, we need, as O'Neill says, to take 'seriously the ways in which their effective capacities and their opportunities for action (in Sen's terms, their capabilities and entitlements) constrain their possibilities for refusal and renegotiation'.⁵⁸

Adaptive Preferences Theory

The ways in which economic deprivation and constrained social circumstances may limit and shape women's choices takes us into the difficult territory of adaptive preferences theory. Adaptive preferences are thought to be formed under conditions of unfreedom – whether economic, social, political or a combination of these, and are therefore not thought to be authentic choices. How free are girls to choose to wear the hijab in Western countries? Some critics of veiling suggest that Muslim women in the West, at least in some settings, are not genuinely at liberty to form authentic preferences and so to make free choices.

⁵⁷ *ibid* 218.

⁵⁸ O'Neill (n 32) 167.

It is tempting to simply dismiss the charge of adaptive preferences as invalid by virtue of the obvious fact that non-Muslim women's preferences, tastes and choices are also shaped by their peer groups, families and society at large. But suppose a more neutral case were to be made in support of critically scrutinizing all gendered practices that seem to be reflective of highly adaptive preferences. My response to this is threefold. First, it is surely the case that the place to contest gendered cultural practices that do not violate core rights is in the social sphere/civil society, not the courts. Second, if we think of adaptive preferences as problematic in so far as they are incompatible with a person's basic flourishing – as, say, Martha Nussbaum and Serene Khader have argued – then it is not at all clear that Muslim women's veiling triggers the adaptive preferences designation: surely it is not the case that wearing a hijab prevents a woman from developing capabilities, or flourishing, in key areas of her life. And finally, the charge that the hijab and/or niqab reflect the adaptive preferences of women who claim to choose it entails the suggestion that they lack autonomy in important areas of their lives. But this is not something that can be assumed in advance of extensive consultation and deliberation. More generally, while adaptive preferences surely do pose important problems from the vantage point of social justice, it is not clear that we should see them as 'autonomy deficits' at all, as Khader argues: 'If the problem with adaptive preferences is that they are unchosen, we should think that all unchosen preferences are worthy of public interrogation ... [but] we do not'.⁵⁹ Indeed, the suggestion that Muslim women who wear the hijab or niqab in a Western society suffer from adaptive preferences should lead us to question customs common to Western women that are arguably harmful, such as extensive body modification surgeries, say; but these do not attract the scrutiny of lawmakers.

⁵⁹ Serene Khader, *Adaptive Preferences and Women's Empowerment* (OUP 2011) 75.

The adaptive preferences framework also pivots on a notion of authentic preferences that in itself is difficult to defend. A similar problem besets some procedural approaches to autonomy, especially when applied to the problem of women's agency in oppressive contexts. For example, the background conditions for determining the validity of women's choices stipulated by Friedman strike me as too demanding in some circumstances. In addition to the presence of explicit consent, she cites two conditions for women's procedural autonomy:

First, women's choices would have to be made under conditions that promoted the general reliability of their choices. This would require that women be able to choose among a significant and morally acceptable array of alternatives and that they be able to make their choices relatively free of coercion, manipulation, and deception. Second, women must have been able to develop, earlier in life, the capacities needed to reflect on their situations and make decisions about them.⁶⁰

Despite Friedman's willingness to acknowledge that women in traditional gender roles might nonetheless be procedurally autonomous, given adequate competencies for self-reflection, I suspect that many religious and cultural arrangements would fall afoul of her conditions – including some that arguably ought not to be restricted, such as, say, arranged marriage, or religious education. It is useful to recall here Mahmood's warning of the danger of conflating autonomy and resistance, and in so doing, neglecting more embedded forms of agency. In making a similar criticism of Friedman (as well as Nussbaum), Andrea Baumeister writes:

Because it may be difficult to establish whether women who continue to endorse traditional practices and life-styles genuinely had the opportunity to develop a more autonomous life, there is a danger that only the rejection of such a life-style

⁶⁰ Friedman (n 53) 188.

will be taken as conclusive proof that the women indeed had, in Nussbaum's language, the opportunity to develop the relevant capabilities or in Friedman's terms enjoyed the conditions for the exercise of procedural autonomy.⁶¹

Friedman rightly takes a dim view of practices that prevent women from developing the capacity for reflection and action. However, it is less obvious that she is in fact urging a heavy-handed response to all such situations, in statements such as: 'If positive evidence reveals cultural conditions that impede the development of autonomy competencies in women or that prevent its exercise, then the consent of women living under those conditions does not justify the rights-violation practices'.⁶² The operative term in this sentence, in my view, is 'rights-violation': provided that we are talking about violations of existing rights, and not simply customs that appear sexist, then it seems to me that Friedman is correct. But were we to extend this requirement more broadly, to any practices or arrangements that appear to subordinate women, even if no actual rights violations have occurred, this would arguably require equal scrutiny of a wide range of customs of both mainstream and minority cultures. It is not clear that this would advance the causes of women's equality and agency.

The Procedural Approach to Autonomy

I have argued that a more pared-down version of a procedural account of autonomy, one informed by the insights of relational theories of autonomy, provides the best array of tools for thinking about women's agency in constraining circumstances. But might such an account lack the critical capacity to help in adjudicate disputes over controversial – and possibly harmful –

⁶¹ Andrea Baumeister, 'Empowering Minority Women: Autonomy Versus Participation' (2012) 11 Contemporary Political Theory 285, 289.

⁶² Friedman (n 53) 192.

practices? I have argued elsewhere that this conception directs us to ask about the concrete supports for women's agency in diverse contexts, and to develop policies accordingly:

Formal respect for the procedural autonomy of women in traditional communities would mandate certain protections against such harm, and support services funded by the liberal state whose aim would be to empower vulnerable women. If they are to resist, revise, and reform aspects of their cultural traditions, women's procedural autonomy therefore must be respected and protected.⁶³

Again, however, the background conditions that shape women's capacity to negotiate aspects of the expectations and demands they face are not limited to structures within minority communities. Rather, they extend far beyond, to the local, regional, national and even, arguably, global social and economic structures that impact their lives. This is why even suitably revised principles of autonomy and sexual autonomy by legislators or citizens seeking to regulate contested practices ought to give serious consideration to the broader structures that condition minority women's capacities and opportunities for agency. To fully consider these structures in the course of policy debates about contested practices, however, requires the meaningful inclusion of affected women in processes of fair political deliberation.

Conclusion: Contesting Norms in Democratic Deliberation

In earlier work, I have defended a deliberative democratic approach to contested religious and cultural practices in liberal states. This approach (which I do not flesh out fully here) stresses the importance of creating a variety of deliberative processes and spaces in which affected stakeholders can discuss and make decisions about social practices that are in tension with existing laws or core liberal values. I argue that these procedures of political deliberation, which

⁶³ Deveaux (n 34) 174.

are not required to yield deep moral consensus, ought to be bound by principles of nondomination, political inclusion and revisability.⁶⁴ Political deliberation about contested practices can take the form of extensive, democratically structured government consultation with different community groups that have valuable perspectives on a particular custom, including hands-on knowledge of its benefits or harms. But in many instances, it will also need to include deliberative decision-making forums organized by communities themselves, which in turn feed into broader legislative processes. Strategic compromises are encouraged, in this model of democratic deliberation.

A deliberative approach to resolving conflicts of culture poses certain risks, especially as there are no guarantees of liberal outcomes. But for now I would like to note the benefits. As an overriding concern, we need to make it possible to tell more complicated stories about these practices: Why do some community members participate in them and why others do not? What different meanings and purposes are attributed to them? What benefits are claimed on their behalf? Are these practices different in some contexts? Do the people who participate in them wholly endorse them, and what concerns or qualms do they have about them? The efficacy of case law is not at all clear in answering such questions. Instead, we need to move to political deliberation – the legislative realm – as a means of evaluating controversial practices.

To propose that we approach disputes about contested practices through public deliberation is also to invite debate about contrasting understandings of what sexual equality and autonomy entail, rather than using these principles as mere trump cards in wedge politics. As I have argued, these norms, so important to debates about women's status, are multifaceted and frequently contested: do we endorse formal/legal, or substantive sexual equality? If the latter,

⁶⁴ *ibid.*

what precisely must it consist in? What aspects and expressions of personal autonomy are critical, and how are they best supported and protected? None of these questions can be answered a priori, in my view, without wide consultation with the affected communities. In so far as cultural, religious and racial/racialized minorities are barred from processes of multicultural policy formation, subsequent legislation fails the normative test of democratic legitimacy and is arguably unlikely to be effective in practice.

It may be difficult, of course, to protect democratic deliberation about contested social practices from power asymmetries and entrenched stereotypes about cultural and religious groups. Moreover, whether we are talking about informal community consultation over proposed government legislation, open public hearings or specially designed community political dialogues, valid concerns arise in connection with different agents' capacity and opportunities for political participation and influence. Depending on how inclusive the process is and how it is structured, some voices may be weighted too heavily and some may be muffled.

There are challenges to fair political participation, whether we are talking about government consultations with religious and cultural communities or closed forums that are open to group members alone.⁶⁵ Still, it is important to remember that in many cases of legislative initiatives to regulate cultural practices (from veiling restrictions to laws preventing forced

⁶⁵ I agree, with Baumeister, that much more work needs to be done to 'define the background conditions that need to be met for women to make effective use of the opportunities for participation and voice that [deliberative] models aim to facilitate' (Baumeister [n 61] 286). I also note Eisenberg's reminder that where cultural conflicts specifically concern the unequal political status of some members, such as membership disputes within Indigenous groups, the insistence on fair and equal terms of deliberation may seem no different than the requirement that cultural groups adhere to the norm of sexual equality (Eisenberg [n 16] 78).

marriage), affected women who have sought to be heard have been blocked by legislators and bureaucrats – those who are in positions of power outside of their ‘own’ communities. Those of us who urge that minority communities themselves must play a central role in assessing whether contested practices ought to be reformed or prohibited clearly need to keep thinking about how to avoid ‘simply re-inscribing existing power relations’.⁶⁶ Critics may still object to public deliberation about contested practices on the grounds that it singles out minority arrangements for special scrutiny and reinforces the impression that integration is wholly the responsibility of these communities.⁶⁷ But a limited procedural account of autonomy, informed by a relational understanding of how our capacities for agency come to be shaped, can provide a helpful orientation to these challenges, including focusing our thinking about what political agency minimally requires.

Legislative attempts to prohibit or regulate controversial practices, which are frequently antidemocratic and frankly racist in tone, often have to do more with wedge politics and national identity building than with genuine concerns about minority women. But when particular practices or arrangements do come to the attention of legislators and become the subject of legislation, some response on the part of the broader society (and minority communities in the spotlight) is surely required. Ideally, that response will include a demand for deliberative forums in which members of the affected communities – most especially women, in the case of the hijab and the niqab – play a leading role.

⁶⁶ Baumeister (n 61) 293.

⁶⁷ This assumption is made in media commentaries about contested practices, as Meer, Dwyer and Modood suggest (n 28) 100.

Extensive inclusion of diverse stakeholders in political deliberation about contested practices help to complicate the story in important ways and pave the way for political compromises, for three reasons. In the first place, invited consultations as well as forums for public deliberation help to bring to light the issues and problems that different sectors of the affected communities perceive as important. The picture that emerges may and often does contrast sharply with the one that politicians imagine, as the example of antiveiling legislation in Québec showed. Second, democratic consultation and deliberation can go a long way towards restoring broken trust and exposing false stereotypes and assumptions. The inclusion of affected communities signals respect for minority citizens' values and perspectives, and, arguably, is thus vital to the legitimacy of any subsequent proposed legislation. Finally, on pragmatic grounds, an inclusive, deliberative democratic approach to dealing with conflicts of culture can help policymakers draw on the expertise and long experience of minority community organizations that have often grappled with the problems at hand for much longer.

My argument that we ought to move to a democratic and deliberative framework for dealing with the status of gendered customs like the niqab is not meant to lend credibility to opportunistic controversies generated in the course of wedge politics. We absolutely need to acknowledge the danger of according legitimacy to structures that are permeated by stereotypes about minority communities, unexamined attitudes of entitlement, and institutionalized power asymmetries. Having said this, there have some surprising outcomes where broadly democratic deliberation has been used as a means to shape policy responses to a disputed custom.⁶⁸ Nor is it the case – to anticipate another objection – that formal deliberation and government consultations would necessarily replace the grassroots political activism that has been so

⁶⁸ For examples, see Deveaux (n 34).

instrumental in bringing forward gender issues in immigrant and minority communities. While the hijab is, notably, not one of the issues that Muslim women's groups in liberal democracies have pressed, women's groups have nonetheless mobilized in impressive ways against proposed veiling regimes, in many cases forging cross-cultural links and solidarities.⁶⁹ What is crucial is that deliberative conversations about contested customs must not reduce to over-simple appeals to the multivalent norms of sexual equality and autonomy. Instead, public deliberation about disputed customs and corresponding policy proposals can offer ways to explore and debate the different meaning of these contested yet critical liberal principles.

⁶⁹ In Belgium, according to one report, 'the hijab affair has to some extent ... provoked the "interculturalization" of white feminist organizations that had not previously addressed the issue of cultural and religious diversity among women in Belgium. Some organizations inspired by the philosophy of active pluralism, are gradually engaging in intercultural dialogue and incorporating principles such as inclusive neutrality into their visions and activities'. Gily Coene and Chia Longman, 'Gendering the Diversification of Diversity: The Belgian Hijab (in) Question' (2008) 8 *Ethnicities* 302.